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House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

November 14, 2007

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

RE: Proposed Regulation 16A-4816  
State Board of Funeral Directors  
Preneed Activities of Unlicensed Employee

Dear Mr. Kaufman:

The House Professional Licensure Committee on this date voted to take no formal action on Regulation 16A-4815 until final regulation is promulgated and submit the following comments:

1. The Committee notes that according to the board's Regulatory Analysis Form at question 14, the board found that no funeral directors or other group of individuals would be adversely affected by this new regulation. However, the committee notes at least two different groups of individuals would most likely be impacted: the unlicensed employee currently engaged in the sales aspect of preneed contracts and the consumer.
2. Currently, unlicensed personnel secure pre-need contracts. The Committee would like to know the extent to which this proposed regulation will limit the number of sales people that will retain their employment or cause a reduction in salary due to the restrictions contained in the regulation.
3. The regulations would allow only funeral directors to conduct pre-need sales presentations. If, as a result of the regulations, a funeral entity would need to hire licensed funeral directors to take the place of the unlicensed salespeople that were employed to conduct these tasks. The higher pay scale of the licensed funeral director versus the unlicensed salesperson would currently result in the funeral entity needing to charge more for its services. Based on this observation, the committee would like to know how there will be a cost savings to the public, as indicated in the answer to question 13 of the Regulatory Analysis Form.
4. The Committee notes that there are instances in which a person residing out the area or unable to travel to the funeral entity would enter into a preneed contract utilizing means other than face to face contact. The committee also notes that the funeral director would not have any alternative means to utilize when working with a customer who may be from out of the area or unable to travel to the funeral home. Considering this, the committee questions why a face-to-face meeting is necessary with a preneed contract. The committee suggests the use of a brief consultation and final approval of the funeral director, without the face-to-face requirement.

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5. The Committee notes that unlicensed employees working in funeral entities in less populated areas may be adversely affected by §13.206a(c). This provision provides that an unlicensed employee may be affiliated with only one funeral entity. There may be funeral entities in rural areas that have very few funerals each year, and as a result, unlicensed employees may be employed at more than one funeral entity out of necessity. Vice versa, a funeral director may not have the resources for a full time unlicensed employee and would like to utilize a person familiar with the industry. This would not permit an unlicensed employee to work for more than one funeral entity and, as a result, could reduce their income.
6. Further, section 13.206a(d) states that nothing in this regulation shall alter the scope of practice of the insurance agent. However, it is unclear if the limit on employment to one funeral entity in § 13.206a(c) would also apply to insurance agents. The committee requests clarification on this point.
7. The Committee would also like further information regarding the impact the regulation will have on attorney's, financial planners, etc. who may be involved with the preneed contracts but appear to be limited by the regulation.
8. Although the Committee has been trying to expand the scope of practice for many licensee's throughout the Commonwealth, this regulation as a whole appears to severely limit the ability of a funeral director to utilize an unlicensed employee or cooperate with insurance agents, attorneys, and financial planners; and would require a licensed funeral director for almost every function within a funeral home. If a funeral entity only employs one funeral director, it appears as though the funeral director will need to conduct all sales business in addition to embalming, transporting the deceased, performing the funeral services, writing price worksheets, conducting sales presentations, advising prospective and current customers of pricing and supervising interment. The committee questions this change as being too dramatic.
9. The Committee suggests that some restrictions in the regulation could put consumers at a disadvantage and lead to consumer complaints because of the lack of attention a funeral director can give any one client when spread among the many tasks in a busy funeral home.
10. The Committee requests information on the number of consumer complaints that have been filed with the board regarding the topics contained in this regulation.

Sincerely,



P. Michael Sturla  
Chairman, House Professional Licensure Committee