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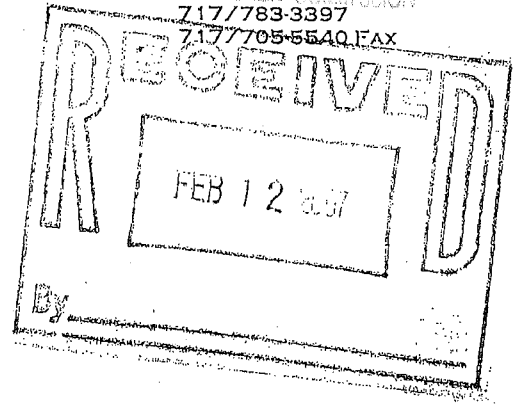
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF FUNERAL DIRECTORS
P. O. Box 2649
HARRISBURG, PA 17105-2649

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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MICHELLE T. SMEY
BOARD ADMINISTRATOR

February 6, 2007

James J. Kutz, Esquire
Post & Schell
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601

Dear Mr. Kutz, Esquire:

The State Board of Funeral Directors is continuing its efforts to promulgate regulations concerning preneed activities by unlicensed employees. The Governor's Executive Order 1996-1 requires the Board to solicit pre-draft commentary from statewide organizations that might be interested in the Board's rulemaking. Please consider the attached rulemaking and submit any comments to my attention at the address listed above.

The shaded areas indicate changes from the Board's prior draft. The strikethroughs indicate deletions from the prior draft.

Comments must be received by March 10, 2007. The Board will be discussing this regulation, and any comments received, at its regular board meeting on April 4, 2007. The meeting location is One Penn Center, 2601 North Third Street, Harrisburg, Pennsylvania, 17110. The meeting will begin at 9:30 a.m. As per the Sunshine Act, all board meetings are open to the public.

If you have any questions, please contact me.

Sincerely,

Michelle T. Smey
Michelle T. Smey

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. Professional and Occupational Affairs

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

GENERAL PROVISIONS

§ 13.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * *

Funeral entity – A restricted business corporation, professional corporation, pre-1935 corporation, partnership, sole proprietorship, widow, widower, or estate authorized by the Board to practice the profession of funeral director.

* * *

Preneed activity – Any activity on behalf of a funeral entity concerning the provision of funeral service or merchandise upon the death of a specifically identified person living at the time of the activity.

Preneed funeral contract – An agreement under which a funeral entity promises or agrees to provide funeral merchandise or render services upon the death of a person living at the time the contract is made, whether or not the funeral entity receives preneed funeral funds.

* * *

§ 13.206a. Utilization of unlicensed employees by a funeral entity.

(a) A licensed funeral director or funeral entity may permit an unlicensed employee of the funeral entity to interact with customers concerning preneed activity in accordance with this section.

(1) The funeral director or funeral entity utilizing an unlicensed employee shall be professionally responsible for the actions of the unlicensed employee.

(2) The funeral entity utilizing an unlicensed employee shall execute a written employment agreement with the unlicensed employee and shall retain a copy of that agreement for at least one year after the employee has left employment.

(3) The unlicensed employee shall operate only in the name of and on behalf of the employing funeral entity and under the close supervision of a licensed funeral director.

(4) The funeral director or funeral entity may not pay or agree to pay a commission to the unlicensed employee for soliciting business or for business secured by the unlicensed employee.

(5) A licensed funeral director of the funeral entity employing an unlicensed employee in this capacity shall consult face-to-face with each customer before entering into or offering to enter into a preneed funeral contract.

(6) Any document presented by the unlicensed employee to the customer for signature or acknowledgment must bear in 20-point or larger print the following notice completed with the name of the funeral entity:

THIS DOCUMENT DOES NOT CONSTITUTE A CONTRACT OR
AN OFFER TO CONTRACT. THIS DOCUMENT IS NOT
BINDING ON YOU (THE CUSTOMER) OR [name of funeral

entity], BUT IS MERELY FOR INFORMATION PURPOSES TO
INFORM YOU OF THE SERVICES AND MERCHANDISE
AVAILABLE AND THE COST THEREOF, AS WELL AS
FUNDING OPTIONS. ANY NEGOTIATIONS WITH A VIEW TO
ENTERING INTO A CONTRACT WITH [name of funeral entity]
MUST TAKE PLACE IN A FACE-TO-FACE MEETING WITH A
LICENSED FUNERAL DIRECTOR OF [name of funeral entity].

(b) An employee not licensed under the act acting in accordance with this section may:

(1) Distribute general price lists of the employing funeral entity only.

(2) Prepare worksheets, proposals or other presentations for funeral services and merchandise incidental to such services.

(3) Engage in discussions or other communications with customers regarding the selection of funeral services and merchandise incidental to such services.

(4) Engage in discussion or other communications with customers regarding financial arrangements for the rendering of funeral services and merchandise incidental to such services.

(5) Provide general assistance to the employing funeral entity by engaging in activities, including communications with customers, not otherwise prohibited by the act or this chapter.

(c) An employee not licensed under the act who engages in the activity described above may not:

(1) Be associated with Engage in preneed activity on behalf of any other funeral entity.

(2) Prepare worksheets, proposals or other presentations for funeral services.

(3) Engage in discussions or other communications with customers regarding the actual selection of funeral services and merchandise incidental to such services.

(4) Make financial arrangements for the rendering of funeral services and merchandise incidental to such services.

(5) Offer to or enter into a preneed funeral contract with any customer on behalf of the funeral director or funeral entity.

(6) Engage in any activity that would cause a customer to believe that the unlicensed employee is skilled in the knowledge, science or practice of funeral directing.

(7) Engage in any activity that constitutes the practice of funeral directing under the act.

(d) Nothing in this section shall be construed to alter the scope of practice of a licensed insurance agent acting pursuant to licensure from the Department of Insurance, so long as the insurance agent is not acting as a funeral director or practicing funeral directing.