

Cooper, Kathy

From: Kevin Bean [Kevin@beanfuneralhomes.com]
Sent: Monday, October 01, 2007 5:17 PM
To: IRRC
Subject: Proposed Funeral Pre Need Regulation 16A-4815

2639

Mr. Arthur Coccodrilli, Chairman

Independent Regulatory Review Commission

333 Market Street, 14th Floor,

Harrisburg, PA 17101

Dear Chairman Coccodrilli,

Attached please find my comments addressed to The Honorable P. Michael Sturla, Chairman House Professional Licensure Committee, in **opposition** to Proposed Pre-Need Regulation # 16A-4815 (Pre-Need Funeral Arrangements) published 8.25.07

Thank you for your kind consideration in this matter.

Sincerely,

Kevin M. Bean

Bean Funeral Homes & Crematory

129 East Lancaster Avenue

Shillington, PA 19607

610 376-1120

484 955-6900 (Cell)

Kevin@BeanFuneralHomes.com

www.BeanFuneralHomes.com

Because A Family's Love Lasts Forever

Hampden Heights - Shillington- Sinking Spring - Exeter Township

<<07.10.01LetterToPrfLicCommChairPMichaelSturla.pdf>>

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October 1, 2007

2007 OCT -2 AM 9:59

The Honorable P. Michael Sturla
Chairman, House Professional Licensure Committee
333 Main Capitol Building
Harrisburg, PA 17120
Via E Mail and Federal Express

INDEPENDENT REGULATORY
REVIEW COMMISSION

RE: PA State Board of Funeral Directors Proposed Regulations

Dear Representative Sturla;

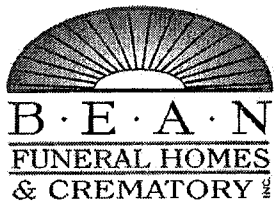
In order to clarify information contained in a letter dated September 27, 2007 from PFDA President Thomas G. Kukuchka to you, a copy of which is enclosed for your convenience, please be aware of the following:

The proposed preneed regulations are anti consumer.

First and foremost, consumers today have the option of entering into a preneed contract that can be revoked or changed at the choosing of the consumer. The proposed regulation merely eliminates one consumer option that is available today, that of having the option of entering into an irrevocable prepaid funeral contract.

Multitudes, in fact, I believe that the majority of future preneed consumers, would be horrified to learn that a regulation is being considered that would allow a disingenuous survivor to unilaterally revoke their preneed contract, even immediately *following* their death, change the terms of the agreement and / or the funeral service provider, contract for entirely different services and merchandise, and pocket the difference.

Mr. Kukuchka accurately points out that I testified that in 22 years of practicing as a funeral director, I had only been asked four times to move a pre-arrangement to another funeral director. Indeed, this is a compelling argument that the regulation is not necessary and that there is no compelling governmental interest in promulgating the regulation. However, one must consider the testimony in the proper context, that being the following:



Bean Funeral Homes & Cremation Services, Inc.

North 16th & Rockland Sts.
Hampden Heights
Reading, PA 19604
Robert E. Bean, Supv.
(610) 376-0985

129 East Lancaster Avenue
Shillington, PA 19607
Norman E. Connors, Supv.
(610) 376-1120

Bean Funeral Homes & Crematory, Inc.

3825 Penn Avenue
Sinking Spring, PA 19608
Terrence J. Shannon, Supv.
(610) 376-1129

6 Fairlane Road
Exeter Township
Reading, PA 19606
Joseph G. McCullough, Supv.
(610) 779-2800

www.beanfuneralhomes.com

On or about July 15, 2002, PFDA, through its in house counsel and others, began to circulate information, purportedly because of "changes made to come into compliance with recent rulings by the State Board of Funeral Directors"¹ leading funeral directors to believe that funeral prearrangements were transferable at the "whim" of the consumer. In fact, UniChoice Executive Vice President and Chief Operating Officer Ted Nielsen urged funeral directors to "Please throw away all of your old trust packets! Yes, throw them out!"

On August 22, 2002, The Honorable Michael Hanna in an e mail message² wrote to then Board Counsel Thomas Blackburn:

"Tom, I've now had an opportunity to review the statute and the code. I don't see anything that expressly says that the trust must be transferable to another funeral home, other than in the case of the buyer moving out of state. Am I missing something? Mike"

To which Board Counsel Thomas Blackburn replied to Representative Hanna:

"No, you are not missing anything. That conclusion is what the Board draws from the statute and the Board's regs."

At about this same time, based on the information distributed by PFDA, funeral directors began running newspaper advertisements in an attempt to pirate other funeral home's preneed contracts.³ Thus, began "an open season" on consumer's preneed contracts and the requests for transfers at the urging of PFDA member funeral directors. Since the Commonwealth Court ruling that irrevocable preneed contracts are indeed irrevocable, I have not had even one consumer request to transfer a preneed contract, the reason being that other funeral directors are not *presently* interfering in our respective contractual relationships.

1 Please refer to copy of enclosed UniChoice letter dated July 15, 2002

2 Please refer to enclosed copy of Rep. Hanna / Counsel Blackburn email correspondence transcript

3 Please refer to copies of enclosed newspaper advertisements of Sanders, Lutz and Snyder Funeral Homes

Mr. Kokoschka further states that "tens of millions of dollars are funded each year through preneed insurance" Please consider this statement with regard to the actual PA Code, as follows:

§ 13.224. Funding and reporting of prepaid burial contracts.

- (a) **A funeral director shall deposit in escrow or transfer in trust to a banking institution in this Commonwealth, the entire amount of monies received by the funeral director under a prepaid contract for funeral services or merchandise, including additional service fees or arrangement fees.**

PA Code states that "A funeral director shall deposit in escrow or transfer to a banking institution the entire amount of monies received".

Furthermore, the actual PA Statute; Section 479.13(c) states (in part):

If any such licensed funeral director shall accept any money for such contracts, he shall, forthwith, either deposit the same in an escrow account in, or transfer the same in trust to, a banking institution in this Commonwealth, conditioned upon its withdrawal or disbursement only for the purposes for which such money was accepted.

Neither the Code nor the Statute states that a funeral director ought to, or is supposed to, deposit the monies in escrow or in trust. The Code and the Statute clearly state that a funeral director "Shall" deposit the monies in escrow or in trust. How is it then possible that as PFDA President Mr. Kokoschka states "tens of millions of dollars are funded each year through preneed insurance"? While I do not know the reasons that the State Board of Funeral Directors has chosen to ignore this portion of the PA Code and the Statute, I am aware that PFDA's handsomely profitable SecurChoice™⁴ pre-need program offers a Pre-Need Insurance Funding Program that pays generous commissions to funeral directors who chose to "fund" their preneed programs with insurance products rather than to deposit in escrow or transfer to a banking institution monies received as consideration for a prearranged funeral contract, as is required by law.

⁴ Please refer to enclosed SecurChoice advertisement.

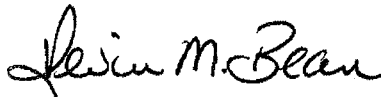
Similarly, PFDA's SecurChoice Trust Funding Program pays "dividends" to funeral director's that place monies in their trust program. How is this possible when the PA Statute states in part that trust monies are to be held in trust or escrow **"conditioned upon its withdrawal or disbursement only for the purposes for which such money was accepted."**

Presumably, the more contracts that PFDA and SecurChoice secure for their Trust and Insurance funding programs, the more profitable PFDA and SecurChoice become and the more "dividends" are paid to participating PFDA members.

I urge you to unilaterally reject these proposed regulations for the reasons that I have stated above and for the same reasons that I have previously stated in a March 11, 2005 letter to Board Administrator Ms. Michelle Smey, a copy of which I have enclosed for your convenience. In addition, I hope that the information that I have presented to you gives you a glimpse into some of the dynamics that are persistently endeavoring to bring about self serving regulations divergent to Pennsylvania Law and the intent of the General Assembly and to the detriment of the unknowing consumer.

Thank you for your kind interest in this matter.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Bean". The signature is written in a cursive, flowing style.

Kevin M. Bean

CC: *Via E Mail*

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