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October 8, 2007

Michelle Smey, Administrative Officer
State Board of Funeral Directors
Harrisburg, PA

Via e-mail only to: ST-FUNERAL@state.pa.us

IN RE: Proposed rulemaking concerning preneed activities of unlicensed-employee(s)
Pennsylvania State Board (the Board) of Funeral Directors Reference No. 16A-4816
Link: <http://www.pabulletin.com/secure/data/vol37/37-39/1793.html>

Dear Michele and Members of the Board

Homesteaders Life Company is an Iowa based mutual insurer specializing in the administration of life insurance and annuity products marketed through the funeral industry to fund formal preneed contracts. We are a national leader and innovator in this niche of both industries and we have considerable concerns about Pennsylvania consumer's and their opportunities regarding funeral planning respective to the Board's regulation.

We have previously appeared before you and provided testimony and comments on previous drafts of rules on this subject matter.

We see funeral home operations in many, many states similar to what we here propose. In fact, it is our observation that in most of the other states funeral regulations regarding the activities of unlicensed persons are now more liberal than those in force in Pennsylvania.

The Board should find some comfort regarding the liberalization of controls on unlicensed person from the stellar track record of the funeral industry in providing the utmost in terms of consumer satisfaction. Since it relies on the complete satisfaction of not only its immediate customers but also on successive future generations of those customers, the funeral industry makes sure that it conducts itself with the highest of standards. From this position of self-conduct the funeral industry stands in good stead to merit more self-control over its activities.

We have also observed a great deal of unwarranted over-regulation in the funeral and insurance industries. We hope that the Board takes this opportunity to acknowledge that a move toward liberalization is due in the Pennsylvania preneed market.

We look forward to working with the Board and the members of the funeral industry in preserving the value of funeral service. We hope you will give these items your thoughtful consideration.

1. Since some funeral providers wish to engage persons to act for them who may not be employees we suggest the term "employee" throughout this proposal be revised to read "employee or agent". There should be no valid reason to require these persons to be employees so long as they operate under the close supervision of a licensed funeral director and under the terms of a formal engagement or authorization agreement with the funeral entity.
2. In conformance with the suggestion above the "employment" agreement should be renamed an "engagement" agreement or "authorization" agreement.
3. The transaction of the funeral agreement should be considered a distinctly separate act from the transaction of the sale of insurance. Given that distinction, any licensed insurance agent involved in the insurance transaction should be permitted to receive a commission, irrespective of licensure or lack of licensure of any other type.

Both funeral providers and other persons not licensed as funeral directors, so long as they have a valid insurance license, should be permitted to receive insurance commissions. The funeral entity can adequately control the actions of both funeral directors and unlicensed persons through the engagement agreement and their supervisory procedures to the extent that any concerns associated with insurance commissions should be negated.

4. In today's world of electronic commerce the requirement that each customer must consult face-to-face with a licensed funeral director is overly restrictive. Unlicensed persons should be permitted, within the terms of their engagement agreement and under the close supervision of a licensed funeral director, to perform all of the activities involved in preneed contracting.

If the individual funeral entity wishes to further restrict these activities then they can be controlled at the individual funeral home level under the terms of the engagement agreement. The individual funeral entity could then chose how liberally or restrictively to control the activities of unlicensed persons.

Some jurisdictions, including our home state, Iowa, require that if funeral services are provided in the contract a licensed funeral director must sign the contract. These types of variations in controlling these activities need not be controlled by regulation however, since they can be adequately controlled individually by the funeral entity. This permits much wider flexibility by the funeral entity and the regulator.

5. The requirement that any document provided to the consumer by the unlicensed person contain the proposed 20-point type disclosure seems an unwarranted burden on funeral entities. The practice would have many unintended consequences including alarming

families about the actions of unlicensed persons in handling documents that are now routinely handled by unlicensed persons but have nothing to do with the funeral contract.

We favor consumer disclosure but feel this part of the proposal has not been well considered. The disclosure seems partially appropriate for situations where the parties may decide not to contract formally, such as when only a worksheet is prepared. The portion that discloses the need for the face-to-face meeting with a licensed funeral provider seems inappropriate, especially for situations where no contract is transacted.

We recommend the proposed disclosure requirement be deleted in its entirety.

6. The permitted activities of unlicensed persons under the proposal should be expanded to include the authority to contract for the funeral entity as permitted under the terms of the engagement agreement.
7. Unlicensed persons should be permitted to act for more than one funeral entity so long as the supervision and engagement agreement requirements are met. This is particularly important for smaller funeral entities and communities where the unlicensed persons may be now acting for more than one funeral entity.

Please let me know if you have questions or need more information.

Sincerely

Gerry Kraus