



ASSURANT
Solutions

2639

260 Interstate North Circle SE
Atlanta, Georgia 30339

Writer's Direct Dial: 770-763-2504
Email: barbara.hollonquest@sssurant.com

October 26, 2007

Michelle T. Smey, Board Administrator
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

Re: Pennsylvania Administrative Code Title 49, Part I, Subpart A, Chapter 13 - No. 16A-4816 (Preneed activities of unlicensed employees)

Dear Ms. Smey:

Assurant Solutions – Preneed Division is a major preneed life insurance and annuity underwriter in the United States and Canada. The Preneed Division includes American Memorial Life Insurance Company, a South Dakota corporation and the pre-need operations of Union Security Insurance Company, an Iowa Corporation.

Thank you for the opportunity to comment on the proposed regulation regarding the preneed activities of unlicensed persons. Assurant remains deeply concerned with provisions of the rule. We urgently request that proposed Title 49, Part I, Subpart A, Chapter 13 of the Pennsylvania Administrative Code (No. 16A-4816) concerning preneed activities of unlicensed employees not be adopted in its current form.

The State Board of Funeral Directors has once again chosen to approve and propose a regulation that ignores the federal court decision in *Walker v. Flitten*, 361 F. Supp.2d 503 and that is clearly not in the best interests of Pennsylvania consumers.

Section 13.206a(a)(1) of the proposed rule uses the term “unlicensed employee”. The term is not defined. Some licensed funeral directors and entities may wish to retain the services of independent contractors to provide assistance to the funeral director or funeral entity.

Section 13.206a(a)(4) states: *A licensed funeral director of the funeral entity employing the unlicensed employee in this capacity shall consult face to face with each customer*

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before entering into or offering to enter into a preneed funeral contract. This section is unduly restrictive and very consumer unfriendly. Are we to suppose that it is in the best interest of consumers with restricted mobility, health issues or simply with busy lives, to be asked to take the time, expense and burden of transporting themselves to the funeral directors place of business to even consult about funeral planning? How does this serve the interests of consumers? There appears to no real justification for forcing the consumer to take the time and effort of making a visit to the funeral director's establishment for a face-to-face meeting. It makes even less sense to have the licensed funeral director visit the residence of each consumer who wishes to prearrange the financing of funeral services. The consumer may communicate directly with the licensed funeral director by telephone, facsimile machine, email or mail. Surely one or more of these alternative methods of communication should be available for the consumer's convenience.

Section 13.206a(a)(5) requires a notice in 20-point type, which should be deleted in its entirety. The reference to "any document" is too broad and could have unintended consequences for the consumer and for the licensed funeral director. The notice itself is confusing and implies that unlicensed persons acting at the direction, instruction and under the close supervision of the licensed funeral director is either undependable or untruthful. This does service to no one.

Sections 13.206a(c) contains the list of activities that may be performed by employees that do not have a funeral directors license. We feel this list is overly broad and again very unfriendly to consumers.

Section 13.206a(c)(1) requires that an unlicensed employee be permitted to act for only one funeral entity. There may be situations where multiple funeral homes, that are incorporated separately, operate under a common ownership. In this situation an unlicensed employee should be permitted to act for more than one funeral entity.

This ability is also very important for smaller funeral entities where the "unlicensed employee" or independent contractor could be acting for more than one funeral entity. This permits funeral entities to reduce the cost of their operations while enabling them to compete in the marketplace.

Section 13.206a(c)(2) requiring that only licensed funeral directors be allowed to prepare certain information pieces such as, worksheets, presentations and proposals should be deleted. The idea that a funeral director's license is needed to perform such ministerial tasks is patently ridiculous. We can only presume that under this section a funeral director's secretary or administrative assistant could not participate in the preparation of worksheets, presentations and proposals.

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Section 13.206a(c)(3) prohibits discussions about merchandise that is incidental to funeral services. This should be deleted. Restricting the sale of funeral merchandise to licensed funeral directors serves only to limit access. This is not in the best interests of the consumers of such merchandise.

For reasons stated above we firmly believe the proposed rule to be so flawed and against the interests of the consuming public that it must not be adopted. We note that this proposed regulation persists in the restriction of who may circulate funeral information. We continue to object to this overly restrictive "solution" to a plainly undocumented and unsubstantiated "problem".

In conclusion, the proposed regulations are not necessary or proper to safeguard the interests of the public and standards of the profession; and, thus not in accordance with the Board's statutory grant of authority to adopt regulations. We appreciate the opportunity to comment. Please contact me using the information on letterhead if you have any questions.

Barbara J. Hollonquest


Regional Director
Government Relations

Cc: Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission