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INDEPENDENT REGULATORY
REVIEW COMMISSION

Michelle T. Smey, Administrative Officer
State Board of Funeral Directors
P.O. Box 2649
Harrisburg, Pa. 17105-2649

#2639

Via email: st-funeral@state.pa.us and mismey@state.pa.us

Re: No. 16A-4816 - Preneed activities of unlicensed employees

Dear Ms. Smey:

I too am writing in opposition to the proposed rulemaking no. 16A-4816 - Preneed activities of unlicensed employees. I emphasize "too" because I had the privilege of reading a copy of the letter Harry Neal sent regarding this matter.

I whole-heartedly agree with Harry that these regulations should not be approved for the same three reasons he stated and so proficiently explained in detail. I would however, like to ask your indulgence to further consider the legislator's intent of Section 13(c) since it is the interpretation of that intent that causes the greatest divide between the stakeholders.

To begin, please note the title of Section 13; **Practice without a license: Exceptions**. This section is a listing of exceptions to practicing without a license. For instance, it is here we find legislative permission for someone other than a funeral director to make tentative funeral arrangements in the event of a death. Thirteen (d) reads; "*Tentative funeral arrangements after a death has occurred can be made by an unlicensed member of the funeral home staffing in the event the licensed funeral director is temporarily absent*". Since legislators found it permissible for someone other than a funeral director to make arrangements after a death occurred, the intent surely would not have been to prohibit personnel from the funeral home in making tentative arrangements with those seeking information while decisions were not clouded by grief.

With that said let's look at 13(c), "*No person other than a licensed funeral director shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed*". The intent of this statement can quickly be determined by simplifying the subject: **No person other than a licensed funeral director** could have been written as **Only a licensed funeral director** or **Nobody but a licensed funeral director**. These simpler versions of Section 13(c) clearly show the legislative intent: **Only a licensed director** shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed. **Nobody but a licensed funeral director** shall directly or indirectly, or through an agent, offer to or enter into a contract with a living person to render funeral services to such person when needed. This would be consistent with 13(d) and the title of the Section.

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Further sentence dissection continues to clarify:

- **Only a licensed funeral director shall directly offer to or enter into...**
- **Only a licensed funeral director shall indirectly offer to or enter into...**
- **Only a licensed funeral director shall through an agent offer to or enter into...**
- **Nobody but a licensed funeral director shall directly offer to or enter into...**
- **Nobody but a licensed funeral director shall indirectly offer to or enter into...**
- **Nobody but a licensed funeral director shall through an agent offer to or enter into...**

After this brief exercise one can now read the original version with more clarity:

- **No person other than a licensed funeral director shall directly offer to or enter into...**
- **No person other than a licensed funeral director shall indirectly offer to or enter into...**
- **No person other than a licensed funeral director shall through an agent offer to or enter into...**

One last observation, if the legislator's intent was to prohibit *anyone* from assisting a funeral director during the course of a prearrangement, the phrase, "directly or indirectly, or through an agent" would have been omitted just as it was in 13(b). The statement would have simply read; **No person other than a licensed funeral director shall offer to or enter into a contract with a living person to render funeral services to such person when needed.**

Thank you for taking the time to consider this matter.

Sincerely,



Robert S. Rae

CC: via Email:

Arthur Coccodrilli, Chairman IRRC

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Fiona E. Wilmarth, Director of Regulatory Review, IRRC

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