

# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency:

**Department of State, Bureau of Professional and Occupational Affairs,  
State Board of Funeral Directors**

(2) Agency Number:

Identification Number: **16A-4818**

IRRC Number: **2760**

RECEIVED  
200 APR 22 PM 3:47  
INDEPENDENT REGULATORY REVIEW COMMISSION

(3) Short Title:

**Continuing education enforcement**

(4) PA Code Cite:

**49 Pa. Code §§ 13.231, 13.401**

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: **Thomas A. Blackburn, Regulatory unit counsel, Department of State;  
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@state.pa.us**

Secondary Contact: **Joyce McKeever, Deputy Chief Counsel, Department of State  
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; jmckeeper@state.pa.us**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5: **State Board of Funeral Directors**

**(717)783-3397; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)705-5540; st-funeral@state.pa.us**

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

**This proposed rulemaking would amend the regulations of the State Board of Funeral Directors to provide that a licensee who has not completed the required amount of continuing education may renew, subject to being issued a citation and making up the deficient credits within six months.**

(9) Include a schedule for review of the regulation including:

- |   |                            |
|---|----------------------------|
| A. The date by which the agency must receive public comments:                               | <b>June 2, 2009</b>        |
| B. The date or dates on which public meetings or hearings will be held:                     | N/A                        |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <b>By 2/1/2010 renewal</b> |
| D. The expected effective date of the final-form regulation:                                | <b>Upon publication</b>    |
| E. The date by which compliance with the final-form regulation will be required:            | <b>Upon publication</b>    |
| F. The date by which required permits, licenses or other approvals must be obtained:        | N/A                        |

(10) Provide the schedule for continual review of the regulation.

**The Board continually reviews the efficacy of its regulations, as part of its annual review process pursuant to Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the first Wednesday of each month. More information can be found on the Board's website ([www.dos.state.pa.us/funeral](http://www.dos.state.pa.us/funeral)).**

## SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

**The proposed rulemaking would be adopted under Sections 10(b)(1) and 16(a) of the Act (63 P.S. §§ 479.10(b)(1) and 479.16(a)).**

## Regulatory Analysis Form

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

**The proposed rulemaking is not mandated by any federal or state law or court order.**

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

**Under the Board's current regulations, a licensed funeral director who did not complete the required amount of continuing education is not permitted to renew. The licensee would either not practice until completing the required amount of continuing education (and deprive clients of professional services) or continue to practice without renewing (in violation of law). The proposed rulemaking would permit the licensee to renew and practice legally, but would also require the licensee to pay a civil penalty and make up the continuing education deficiency. The proposed rulemaking would promote the goal of continuing education by still requiring a licensee to complete the required amount of continuing education.**

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

**This proposed rulemaking is not based upon any scientific data, studies, or references.**

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

**The Board has not identified any group of individuals or entities that will be adversely affected by the rulemaking.**

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

**The rulemaking would apply to all licensees of the Board, but it would only be applicable to those licensees who either fail to timely complete the required amount of mandatory continuing education or practice after failing to renew licensure. There are approximately 3,300 licensed funeral directors in this Commonwealth, with active licenses.**

## Regulatory Analysis Form

### SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no costs to members of the regulated community associated with compliance with the rulemaking. Those few members of the regulated community who do not complete the required amount of continuing education on time will have a savings by being permitted to continue practicing for up to six months while completing the required amount of continuing education. Additionally, the Board and the Bureau and those few members of the regulated community who are charged with failing to complete the required amount of continuing education will enjoy a savings as a result of compliance with this proposed rulemaking, as a result of the summary Act 48 citation process rather than full formal disciplinary action.**

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no costs or savings to local governments associated with compliance with the proposed rulemaking.**

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

**There are no costs or savings to state government associated with implementation of the proposed rulemaking.**

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A

## Regulatory Analysis Form

<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3 (FY 05-06)	FY-2 (FY 06-07)	FY-1 (FY 07-08)	Current FY (FY 08-09)
<b>Pa. State Board of Funeral Directors</b>	\$740,332	\$851,657	(projected) \$986,024	(budgeted) \$928,000

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

**No adverse effects or costs have been associated with compliance with the rulemaking. Therefore, the above-identified benefits would outweigh any cost.**

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

**The Board did not solicit input for an exposure draft. The Board discussed this proposed rulemaking in public session during the Board's meetings in April and May, 2008.**

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**No alternative regulatory schemes were considered.**

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**The proposed rulemaking does not overlap or conflict with any federal requirements.**

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

**In New York, a funeral director who fails to complete required continuing education has a 120-day grace period in which to complete the required amount of continuing education after the triennial renewal period. In Delaware, a funeral director who did not timely complete continuing education may, in the discretion of the licensing board, be permitted to renew the license and practice and obtain the continuing education credits in a time period specified by the board. Except for waiver of the continuing education requirement in specific cases, Maryland, New Jersey, Ohio and West Virginia have no provisions that permit a licensed funeral director who has not met the continuing education requirements to renew and continue to practice.**

**The proposed regulation will not put Pennsylvania at a competitive disadvantage with other states.**

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**This proposed rulemaking would have no effect on other regulations of the Board or other state agencies.**

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**The proposed rulemaking would not change any existing reporting, recordkeeping or other paperwork requirements.**

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.**

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.



State Board of Funeral Directors

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

(AGENCY)



BY: \_\_\_\_\_

APR 13 2009

DOCUMENT/FISCAL NOTE NO. 16A-4818

Andrew C. Clark  
MAR 18 2009

DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

(Deputy General Counsel  
~~Chief Counsel,~~  
~~Independent Agency~~  
(Strike inapplicable title)

BY: Michael J. Yeosock  
Michael J. Yeosock, FD

[ ] Check if applicable  
Copy not approved.  
Objections attached.

TITLE: Chairman  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable.  
No Attorney General approval  
or objection within 30 day  
after submission.

PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF FUNERAL DIRECTORS

49 Pa. Code §§13.231, 13.401  
CONTINUING EDUCATION ENFORCEMENT

The State Board of Funeral Directors (Board) proposes to amend §§ 13.231 and 13.401 (relating to biennial registration; unregistered status and inactive status; failure to renew; and credit hour requirements), to read as set forth in Annex A.

#### Effective date

The amendment will be effective upon publication of the final regulation in the *Pennsylvania Bulletin*.

#### Statutory Authority

This proposed rulemaking is authorized by sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P.S. §§ 479.10(b) and 479.16(a)).

#### Background and Need for the Amendment

Section 10(b)(2) of the act (63 P.S. § 479.10(b)(2)) requires licensees to complete six hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. Under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)), the Board may take disciplinary action against any licensee who fails to comply with any provision of the act or Board regulations. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposes to utilize the more streamlined procedures under section 5(a) of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (63 P.S. § 2205(a)) (Commissioner of Professional and Occupational Affairs, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs, may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards).

#### Description of the Proposed Amendments

Under proposed § 13.401(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty, through 49 Pa. Code § 43b.6 (related to schedule of civil penalties – funeral directors and funeral establishments). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rulemaking package. Second or subsequent offenses will subject the licensee to discipline under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)), which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within the first six months of the renewal period.

The proposed rulemaking would also revise the requirement of § 13.231(a) (unless excused for good cause, the Board will not renew a funeral director's licensee unless the licensee has certified that the licensee completed the required amount of continuing education). Instead, the licensee would only be required to certify that the licensee has complied with the continuing education



requirements “in accordance with §§ 13.401-13.406 (relating to continuing education).” As discussed above, the proposed rulemaking would revise those provisions to permit renewal by a licensee who has not completed the required amount of continuing education, conditioned upon paying a civil penalty and making up the deficient hours of continuing education within the first six months of the renewal period.

#### Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector.

#### Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

#### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

#### Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, at P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4818 (continuing education enforcement), when submitting comments.

Michael J. Yeosock, FD  
Chairman  
State Board of Funeral Directors

## 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

\* \* \* \* \*

#### LICENSE RENEWAL

**§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.**

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(b)(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has [completed the amount of continuing education required by § 13.401 (relating to credit hour requirements)] complied with the continuing education requirements mandated by section 10(b) of the act (63 P.S. § 479.10(b)) during the biennial period immediately preceding the application for renewal in accordance with §§ 13.401-13.406 (relating to continuing education).

\* \* \* \* \*

#### CONTINUING EDUCATION

**§ 13.401. Credit hour requirements.**

\* \* \* \* \*

(d) Unless otherwise excused as authorized by the act or this chapter, failure to complete the

minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 17(b) of the act (63 P.S. § 479.17(b)) in accordance with the schedule of civil penalties at 49 Pa. Code § 43b.6 (relating to schedule of civil penalties – funeral directors and funeral establishments). A second or subsequent violation will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses during the previous biennial registration period as required by § 13.402 (relating to reporting completion of continuing education). In addition to any civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period in which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)).



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF FUNERAL DIRECTORS

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-3397

April 22, 2009

The Honorable Arthur Coccodrilli, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Funeral Directors  
16A-4818

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Board of Funeral Directors pertaining to Continuing Education Enforcement.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Yeosock".

Michael J. Yeosock, Chairperson  
State Board of Funeral Directors

MJY:CMcN:apm

Enclosure

cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Peter V. Marks, Sr., Executive Deputy Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel & Senior Counsel in Charge  
Department of State  
Christopher McNally, Counsel  
State Board of Funeral Directors  
State Board of Funeral Directors

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-4818  
 SUBJECT: CONTINUING EDUCATION ENFORCEMENT  
 AGENCY: DEPARTMENT OF STATE  
 STATE BOARD OF FUNERAL DIRECTORS

**TYPE OF REGULATION**

X Proposed Regulation  
 Final Regulation  
 Final Regulation with Notice of Proposed Rulemaking Omitted  
 120-day Emergency Certification of the Attorney General  
 120-day Emergency Certification of the Governor  
 Delivery of Tolloed Regulation  
 a. With Revisions                      b. Without Revisions

RECEIVED  
 2009 APR 22 PM 3:49  
 NOT RECORDED  
 COMMUNICATIONS

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
4-22-09	<i>K. Muller</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <i>Michael McGeehan</i>
4/22/09	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <i>Robert Tomlinson</i>
4/22/09	<i>J. Belnett</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only)
4/22/09	<i>M. Lathrop</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)