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KIM KAUFMAN, EXECUTIVE DIRECTOR
LESLIE A. LEWIS JOHNSON, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 21, 2010

Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
2601 North Third Street
Harrisburg, PA 17110

Re: Regulation #16A-47 (IRRC #2761)
Bureau of Professional and Occupational Affairs
Schedule of Civil Penalties - Funeral Directors and Funeral Establishments

Dear Commissioner Merenda:

On October 21, 2010, the Independent Regulatory Review Commission disapproved the board's report and revised regulation, filed pursuant to section 7(c) of the Regulatory Review Act. 71 P.S. § 745.7(c). A copy of our order is enclosed.

The Commission's disapproval bars final publication of the regulation for 14 days. If either the Senate Consumer Protection and Professional Licensure Committee and House Professional Licensure Committee reports out a concurrent resolution, the bar will continue until the General Assembly completes its review pursuant to Section 7(d) of the Act. 71 P.S. § 745.7(d).

If you have any questions on this regulation, please contact me at 783-5417.

Sincerely,

Kim Kaufman
Executive Director

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Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Michael P. McGeehan, Majority Chairman, House Professional Licensure Committee
Honorable Julie Harhart, Minority Chairman, House Professional Licensure Committee

**INDEPENDENT REGULATORY REVIEW COMMISSION
SECOND DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held October 21, 2010

Arthur Coccodrilli, Chairman
George D. Bedwick, Vice Chairman
S. David Fineman, Esq.
Silvan B. Lutkewitte, III
John F. Mizner, Esq.

Regulation No. 16A-47 (#2761)
Department of State
Bureau of Professional and Occupational
Affairs
Schedule of Civil Penalties - Funeral Directors
and Funeral Establishments

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Bureau of Professional and Occupational Affairs (Bureau). This rulemaking amends 49 Pa. Code §43b.6. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 25, 2010. At its August 5, 2010 public meeting, the Commission voted to disapprove the final-form regulation. On September 22, 2010 the Bureau resubmitted the final regulation without revision under Section 7(b) of the Regulatory Review Act (71 P.S. § 745.7(b)) along with its report to the Committees and the Commission.

This final regulation would establish a civil penalty schedule for violations of the continuing education requirements of the State Board of Funeral Directors (Board). This regulation is the companion piece to Regulation #16A-4818 (IRRC #2760) from the Board entitled: "Continuing Education Enforcement."


At the August 5, 2010 public meeting, Counsel for the Department of State represented that he was authorized to request disapproval given that the companion Regulation #16A-4818 (IRRC #2760) had been disapproved at the same public meeting. Without support from the promulgating Bureau, this Commission determined that the regulation did not meet the reasonableness criterion set forth in the Regulatory Review Act and was not in the public interest.

At the October 21, 2010 public meeting, the Commission disapproved Regulation #16A-4818 (IRRC#2760) for the second time. Without approval of Regulation #16A-4818 and since the Bureau made no changes to Regulation #16A-47 upon resubmittal, the Commission affirms its original finding that this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest.

BY ORDER OF THE COMMISSION:

The regulation # 16A-47 (IRRC # 2761) from the **Bureau of Professional & Occupational Affairs - Schedule of Civil Penalties - Funeral Directors and Funeral Establishments**

was disapproved on October 21, 2010.


Arthur Coccodrilli, Chairman

