

**Pennsylvania Funeral Directors Association**

**Testimony of Christopher Calvey, F.D. , President regarding HB 1364**

**March 18, 2024**

Good Morning/Afternoon Mr. Chairman and members of the Committee:

My name is Christopher Calvey, Jr. from the Jennings Calvey Funeral Home and Cremation Services, Inc. in Clarks Summit, Pa. I am the current President of the Pennsylvania Funeral Directors Association.

Our Association was founded in 1882 and currently represents the overwhelming number of rooftops in Pennsylvania.

We are here today to advocate for the passage of HB1364 which would enable the various licensing Boards to provide advisory opinions to their respective licensees.

Funeral service nationwide has experienced dramatic changes in practice and procedures over the past decade. Traditional forms of disposition; i.e. burial have been replaced with cremation. This is a trend that has historically risen and will continue to rise as years go on. The cremation rate nationally is 59% (2022) and in Pennsylvania is 57% (2021); expected to grow to 80% by 2030. With this significant increase comes many challenges for the practitioner.

The funeral director law was written in the mid-20<sup>th</sup> century. Amendments over the years have been sparse and woefully inadequate vis-à-vis current practices.

There is a provision in the Funeral Law (49 Pa. Code Section 13.184) that requires State Board permission to hold remains for more than 10 days. During Covid, Funeral Director's were often required to retain remains for more than 10 days due to the influx of deaths and back up at crematories and cemeteries. Practitioners didn't know if after a first request, a second one was mandated if the body had to be held longer than the initial request stated. Moreover, there is no guidance as to acceptable reasons for allowing any

extension. This is a scenario that without guidance could potentially result in serious penalties.

During the Covid pandemic, funeral directors were constantly faced with situations with respect to care of the deceased, the restrictions on attendees at services and disposition issues. Questions arose with no guidance to be gleaned from the State Board.

Some current issues that could easily be solved with an advisory opinion versus guessing and risking prosecution include:

- 1) There is a provision in the funeral statute 63 P.S. Section 13 (d) that allows for unlicensed individuals to make funeral arrangements after a death has occurred in the event “the licensed funeral director is temporarily absent.” This provision was added on July 31, 1968 long before the days of cell phones and the ability for electronic communication. Some funeral homes/directors have interpreted this section to allow unlicensed persons to meet with families, make arrangements and have the Statement of Funeral Goods and Services “ratified” within 48 hours. What is “temporarily absent”? At the cemetery, upstairs in the living quarters, on vacation??
- 2) There is a section in the statute (63 P.S. Section 479.11(a)(8)) that prohibits the paying of a commission or agreement to pay a commission to any person for soliciting or for business secured. The applicable regulation (49 Pa. code, Section 13.202 (5) considers it unprofessional conduct for “[p]aying or extending an offer to pay or give to a person, agency or group a commission or a valuable consideration for the solicitation or procurement of clientele.” Many funeral homes in Pennsylvania use third party marketers to secure business and use their insurance agents to fund preneed contracts. Commissions from those sales are often paid to the funeral home or split with the funeral home. Does this section prohibit this practice?
- 3) Section 11 (a)(4) of the statute prohibits the “use of misleading advertising”. This section is complimented by a regulation (49 Pa.

Code, Section 13.194) which clearly states that “names used in advertising shall be living and hold active licenses “. . . with the exception of those deceased licensed members of a funeral home may be listed with the notation ‘deceased’”. Many funeral directors have websites within which they list all of their staff, including unlicensed family and staff members. This practice may not be limited to websites. It has been speculated that the State Board does not consider websites a means of advertising and therefore this provision with respect to listing unlicensed persons is acceptable. If that is indeed a policy of the Board, then it should be listed as such and if not, this is one more example of why an advisory opinion would be helpful.

- 4) The regulations (49 Pa. Code, Sec. 13.161 (b)) states that “In the event of termination of the permanent supervisor through death, resignation, retirement and the like, the Board will grant approval of a temporary supervisor for 30 days.” Since the law also requires that funeral homes have a full-time supervisor, can a funeral home that has lost their supervisor through death continue to operate during the void between the death and approval from the Board of a temporary supervisor? If so, may that funeral home hold the funeral of the deceased supervisor or must it shut down until approval from the Board has been granted?

These scenerios and others put the practitioners in a no-win situation. They could proceed with a practice and hope that it complied with the law or risk potential prosecution. Any of these issues have the potential to result in disciplinary actions up to and including revocation. If there were advisory opinions available, not only would the practitioner be at less risk, but resources of time and money would be saved by the staff of the Board for needless investigations and prosecutions. This in turn, would allow them to focus on major violations of the law such as missing preneed money or mishandling and/or abuse of human remains.

I want to thank the Chairman and the Committee for the opportunity to speak today on this very important issue.

Calvey testimony