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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on Insurance, Securities and
Corporate Policy...**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 3-25-96
 Moved by Underheim Seconded by Lasee
 AB 868 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
~~A/S Sub Amdt _____~~
 A/S Amdt 1 4826/11 to A/S Sub Amdt 1
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich	✓			
5.	Rep. Mary Lazich	✓			
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
14.					
15.					
16.					
17.					
18.					
	Totals	13			

MOTION CARRIED MOTION FAILED

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 3-25-96

Moved by Murkin Seconded by Hover

AB 868 SB _____ Clearinghouse Rule _____

AJR _____ SJR _____ Appointment _____

A _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

1 or amended

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection
- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich		✓		
5.	Rep. Mary Lazich		✓		
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
14.					
15.					
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17.					
18.					
	Totals	11	2		

MOTION CARRIED

MOTION FAILED

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE Under
 Moved by Under Seconded by Lorge
 AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage of bill as amended
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich		✓		
5.	Rep. Mary Lazich		✓		
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
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18.					
	Totals	11	2		

MOTION CARRIED MOTION FAILED



November 15, 1994

State of Wisconsin
Department of Regulation & Licensing
Funeral Directors Examining Board
PO Box 8935
Madison, WI 53708-8935

Greetings:

I am writing you in support of the position of the Wisconsin Pre Need Coalition. Insurance funded pre need and the services provided by companies that offer it have been of an invaluable service to consumers across the country for a number of years.

In the past 5 years, our company has provided advanced funeral planning services for over 50,000 families. In the process of making appointments to talk with those families on behalf of our client funeral homes, we have spoken directly with over 1,500,000 consumers. I am happy to report that our complaint ratio has been less than .1% (one tenth of one percent) which is well below any accepted insurance industry standard for this type of public contact. The point is that it is almost impossible to measure, quantitatively, the value of our service to the families and the survivors of the families we have served. The product our company offers is first and foremost peace of mind. Yes, we offer preplanning services and yes, we offer a prefunding option, but our primary product is peace of mind. We provide this by offering sympathetic, professionally planned funeral services. All of our post contact interviews with families served reinforce this point.

We strongly believe that insurance funding offers those families who select the prepayment option with a superior choice for many reasons. The tax exemption on the growth, the value of the death benefit and the security of the insurance provider are reasons why almost 95% of our families choose the insurance funding option over other methods. Eliminating or restricting this option would be a serious disservice to the consumer.

We strongly feel that insurance funded pre need should be governed by the same laws that apply to other insurance companies and agents, including the rights of receiving commissions for the services provided. To eliminate the commissionability of the insurance product would have very

negative effects. If an insurance service is provided, it seems discriminatory not to provide a commission stream to compensate the individual providing the service, particularly when other insurance agents do receive commissions for services rendered. I can foresee a situation where commissioned agents could enter this market and thereby misserve the market. Further, our company provides careers for a large number of professionally trained counselors, many of whom are the primary breadwinners of their respective families. These people are highly trained specialists who bring excellent credit to their profession. It would be a terrible mistake to enact legislation that would single them out of the insurance universe and eliminate their opportunity to earn a livelihood.

The fact of the matter is that insurance companies and third party marketing companies have been of an invaluable service to the funeral service industry, the consumer and their own agents. There is very little factual evidence to support any type of consideration that would restrict the services all of us provide the general public. For the betterment of the consumer in the State of Wisconsin, I urge you to consider these points carefully before you determine the future direction of pre need in your state. We are not suggesting that Wisconsin adopts a precedent setting position relative to pre need regulation. Rather, we are suggesting that you review what has become a standard and accepted practice in the many states where pre need flourishes and embrace those methods for your residents.

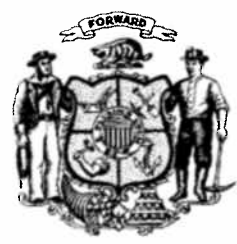
Sincerely,

Steven W. Whitehead
SWW/mr

cc: William Krause, Wisconsin Pre-Need Coalition



WISCONSIN STATE LEGISLATURE





WISCONSIN FUNERAL DIRECTORS ASSOCIATION

2300 N. Mayfair Rd., Suite 595 • Wauwarosa, WI 53226 • (414) 453-3060

Wilma Morris - Executive Director

January 15, 1996

Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Dear Board Members:

Thank you for providing the association an opportunity to comment on LRB-3677/P3, the latest draft of the Funeral Directors Examining Board on insurance-funded burial agreements. After reviewing the draft, I would like to share with the examining board my personal belief that your board and the association's Board of Directors appear to be very close to agreement on how this issue should be regulated in Wisconsin. If I am interpreting your intent correctly, this draft goes a long way in maintaining the integrity of funeral service practice and the protection of the public by permitting only licensed funeral directors to make funeral arrangements in both preneed and at need settings. This is a position that the association strongly believes must be an integral part of any legislative effort.

The examining board's meeting on January 23 precedes the next meeting of the WFDA Board of Directors by several days. Therefore, at this time, I would like to make the following recommendations on a few specific points on LRB-3677/P3 and then, very shortly after our board meeting on January 25, submit any further comments the Board of Directors may have:

1. Irrespective of the method used to fund it, a burial agreement under s. 445.125, Stats., is a written contract between a person and a licensed funeral service practitioner in which the licensed practitioner agrees to provide, upon the person's death, certain funeral and burial merchandise and services.

Other provisions in current law on burial agreements specify requirements for burial agreements funded by monies deposited in trust accounts. The legislative task now is simply to specify requirements relating to another method of funding a burial agreement; i.e., insurance. This legislation is needed to provide equal protection under the law to persons who fund their burial agreements with insurance, rather than trust deposits.

It is unnecessarily confusing and potentially misleading, the association believes, to coin new terms and definitions for burial agreements funded other than by trust deposits. Therefore, WFDA strongly recommends that s. 445.125 be expanded to accommodate standards and requirements relating to burial agreements funded by insurance. The proposed term, "prearranged funeral plan" in all instances and references can be dropped.

The association believes that this change will simplify and clarify the fact that the primary purpose and scope of the proposed legislation is to set standards on insurance products to be used to fund funeral burial agreements; and, to set standards on insurance intermediaries who would be authorized to sell and to solicit the sale of insurance products designed specifically for this purpose.

Funeral Directors Examining Board

January 15, 1996

Page 2

2. The Board of Directors continues to oppose the liberalization of solicitation with respect to door-to-door solicitation and telemarketing. In a recent statement of the U.S. Justice Department, it was reported that millions of people annually are adversely affected by these marketing techniques. Most of us are familiar with or have personal experiences that illustrate the serious problems these marketing methods have created for too many of our clients and, unfortunately, there is no proven method available to enforce these practices effectively. I believe the WFDA board would be very hesitant to support any legislation which contained provisions permitting this type of marketing activity in funeral service. The association, therefore, urges the examining board to reconsider its position on these questionable marketing techniques and eliminate them from its draft.

3. The examining board's broad rulemaking authority in s. 445.03(2)(a), Stats. is sufficient for the board to promulgate rules on preneed insurance plans. WFDA recommends, therefore, that proposed s. 445.127(5) be deleted from the draft. This language is not only unnecessary, it is also potentially problematic: Because explicit rulemaking authority is not cited for any other specific practice or conduct, citing it explicitly in this instance may ultimately serve to limit the board's authority to adopt rules on other practices unless explicit authority to do so is specified.

4. The removal of guarantee provisions will also be of concern to board members. They may, however, be willing to revisit this point.

With these exceptions and some technical and language changes, I believe the examining board's draft is very close to a draft envisioned by the association. It is my sincere hope that the examining board will seriously consider WFDA's suggestions in your deliberations and that WFDA will be able to offer you our assistance and support in moving a mutually acceptable proposal through the legislature.

Any further comments of the Board of Directors on LRB-3677/P3 will be forwarded as soon as possible following its meeting.

Thank you for your consideration.

Sincerely,

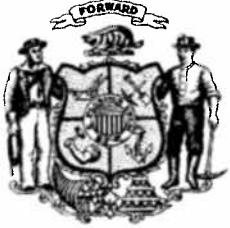


Wm. T. Schneider
President

WTS:cp



WISCONSIN STATE LEGISLATURE





Life Insurance Company

Paula E. Bonds
Assistant Vice President &
Senior Staff Attorney

January 19, 1996

230 John Wesley Dobbs Avenue
Atlanta, Georgia 30303-2427
404-588-9400 x441
1-800-801-0800 x441
Fax: 404-577-3989

Ms. Pat Reuter, Director
Bureau of Business & Design Professions
Wisconsin Department of Regulation & Licensing
1400 E. Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Dear Ms. Reuter:

**COMMENTS OF UNITED FAMILY LIFE INSURANCE COMPANY TO
DEPARTMENT OF REGULATION AND LICENSING FUNERAL DIRECTORS
EXAMINING BOARD JANUARY, 23, 1996.**

United Family Life, domiciled in Atlanta, Georgia, was originally founded by funeral directors fifty years ago. The Company continues to specialize in insurance-funding of pre-need funeral arrangements and offers final expense insurance in a few states such as Wisconsin, which do not allow the insurance policy to be tied to a preneed contract.

United Family Life is licensed to do business in forty-eight (48) states, and is actively conducting business in the District of Columbia and forty-two states, including Wisconsin. As a subsidiary of Fortis, a worldwide group of companies with one hundred billion dollars (\$1,000,000,000.00) in assets, we are the sister company of Time Insurance Company in Milwaukee.

Our Company received an "A" (Excellent) rating by A.M. Best. This rating organization is well-known throughout the life insurance industry as a reliable reporter of the financial strength and stability of life insurance companies.

United Family is in support of the general goal of the legislation to facilitate the funding of preneed contracts with life insurance in Wisconsin. Legislation toward this end is sorely needed to eliminate the current confusion in this area of the law and to keep pace with new trends and marketing approaches in the industry.

The legislation at hand takes a well-seasoned and balanced view toward the solicitation of preneed arrangements. The included provisions recognize the need to place parameters on solicitation activity to protect consumers from unprofessional, insensitive or inappropriate

Page 2
January 19, 1996

appeals. At the same time, it provides funeral firms and insurance intermediaries considerable freedom to fashion effective solicitation and advertising programs. We are in complete agreement regarding these provisions.

Another area of strong agreement is the provision clarifying that policy proceeds for policies to fund funeral arrangements be assigned to funeral directors or funeral establishments. This provision resolves any ambiguity which may currently exist among the various Attorney General Opinions.

In addition to areas of commonality in approach, there are two areas where we have a significant divergence of viewpoint.

First, in Section 7 (445.127 (2) (b)), the legislation requires a funeral director license to prepare a prearrangement. This requirement is unduly restrictive. Planning a prearrangement is not funeral directing. It simply involves making the appropriate use of price lists that the Federal Trade Commission makes available to any person requesting such information. Therefore, a funeral director's license should not be required to engage in this activity.

While it is understandable that a link exists between the funeral establishment or funeral director, and the contract and the policy created, it is possible to create that link in less burdensome ways. We agree that the use of insurance intermediaries who are not affiliated with the funeral establishment providing the prearrangement contract might provide the opportunity for abuse. However, not all funeral establishments can afford funeral director licensed staff to offer prearrangements. Consequently, they will not be in a position to compete with firms who can.

Any legitimate interest in creating ties between the agent and the contract is achieved through the disclosure in Section 7 (2m) (b) (2) if additional ties are necessary, this can be accomplished a variety of ways including: 1) requiring a licensed funeral director to ratify each prearrangement made for the funeral establishment or 2) requiring the insurance intermediary to be an agent of the funeral establishment.

Our second area of concern is with a few of the disclosures in Section 2 (4) which treat insurance funding unfairly as compared with other funding mechanisms. For example, 3 and 4 of that section focus on disclosures for life insurance which have no counterpart in the statutes governing trust funding. In all fairness, these should be eliminated.

We are extremely excited and pleased to know that the Board is proposing legislation in this area. We congratulate the Board on its diligence and the progress it has made on this issue in the last few years. We appreciate this chance to comment on this draft and welcome future opportunities to discuss this issue further.

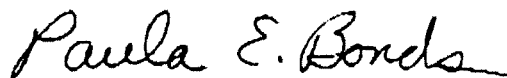
Page 3
January 19, 1996

We are confident that the final product will be fair and acceptable to all involved interests.

Pat, because of the concerns I have expressed, I can't support the document as is. However, I think with a couple of changes, this could be a very good document.

FAX NO. 4045773989

Respectfully submitted,



Paula E. Bonds
Senior Staff Attorney &
Assistant Vice President



United Family Life

HOME OFFICE
P.O. Box 2204
ATLANTA, GEORGIA 30301

FAX PHONE: (404) 577-3989
FOR LEGAL USE ONLY

TELEPHONE: (404) 588-9400 X 347
(800) 801-0800

DATE: 1-19-96

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Pak Reuter, director

COMPANY: WI Dept. of Regulation & Licensing

FAX NUMBER: _____

FROM: Paula Bonds / Jean Guinjo

MESSAGE: _____

Comments - PN Funeral
arrangements Legislation

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 5

NOTE: PLEASE NOTIFY US IMMEDIATELY AT (404) 588-9400, EXT., # 347,
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Life Insurance Company

Paula E. Bonds
Assistant Vice President &
Senior Staff Attorney

230 John Wesley Dobbs Avenue
Atlanta, Georgia 30303-2427
404-588-9400 x441
1-800-801-0800 x441
Fax: 404-577-3989

January 19, 1996

Ms. Pat Reuter, Director
Bureau of Business & Design Professions
Wisconsin Department of Regulation & Licensing
1400 E. Washington Avenue
P.O. box 8935
Madison, WI 53708-8935

Dear Ms. Reuter:

Please find enclosed our comments on the draft of the Preneed Funeral Arrangements Legislation. Thank you.

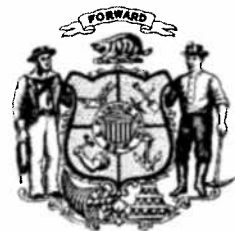
Sincerely,

A handwritten signature in cursive script that reads "Paula E. Bonds".

Paula E. Bonds
Senior Staff Attorney &
Assistant Vice President



WISCONSIN STATE LEGISLATURE



The Dickinson Family Funeral Homes

19 January 1996

Pat Reuter, Director
Bureau of Business and Design Professions
Room 290
1400 East Washington Avenue
Madison, Wisconsin 53703

Dear Ms. Reuter:

I am writing with reference to the draft of the preneed funeral arrangements legislative proposal which will be reviewed and discussed at the Funeral Directors Examining Board meeting on Tuesday, January 23, 1996.

Obviously this bill, despite some shortcomings, stands in sharp contrast to the "banning" legislation that the board considered, and then set aside, in the fall of 1994.

I am substantially in agreement with those provisions that:

- A. Allow the use of an insurance policy for the funding of a pre-need funeral contract.
- B. Allow a licensed funeral director to be licensed as an insurance intermediary for the purposes of providing the insurance policy that funds the pre-need funeral contract.
- C. Require those disclosures that are represented at the bottom of page 5 and continue through page 6 and conclude on page 7.
- D. Deal with the question of solicitation in Section 3. 445.12 (3g) (a) 1., 2, 3 (b) 1 and 2.

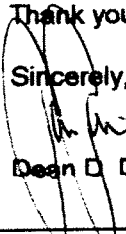
Having said that, I must take exception to those required disclosures on page 4, line 22 and extending to line 12 on page 5. In some instances those disclosures are redundant in that they are included in the mandated disclosures which are a part of the contract itself. I simply find the disclosures, and the mandated timing of the disclosures, to be awkward and as such they might tend to confuse, rather than inform and thereby protect the purchaser of the insurance funded preneed plan.

I am opposed to that part of, paragraph (2) (b) which reads "only after the prearranged funeral plan has been prepared by the licensed funeral director and agreed to by the person purchasing the prearranged funeral plan." I would accept "prepared by, or ratified in writing by, a licensed funeral director. This section obviously intends to retain the function of preparing the funeral services contract only to the licensed funeral director. I feel that this part of the legislation needs to be discussed with both pre-need and funeral service industry representatives. It smacks of "fence me in" legislation which would be the wrong message to send either to the consumer, or to the legislature.

Lastly, I sincerely hope that when the bill is ready for introduction that it will be positive, enabling and enforceable. It seems that we have more than enough laws on the books that we can't enforce.

Thank you for allowing me to share my thoughts on this draft proposal.

Sincerely,


Dean D. Dickinson





**DEWITT
ROSS & STEVENS.**
LAW FIRM

Capitol Square Office
Two East Millikin Street
Suite 600
Madison, WI 53703-2865
Fax 608-252-9243
Tel. 608-255-8891

West Office
Firststar Financial Centre
8000 Excelsior Drive, Suite 401
Madison, WI 53717-1914
Fax 608-831-2105
Tel. 608-831-2100

January 19, 1996

Please respond to: Capitol Square Office

Ms. Pat Reuter, Director
Bureau of Business and Design Professions
Room 290
1400 East Washington Avenue
Madison, WI 53703

Via Facsimile

RE: Funeral Directors Examining Board Legislation on
PreNeed Funeral Arrangements

Dear Ms. Reuter:

Thank you for the opportunity to comment on the Funeral Directors Examining Board legislation on preneed funeral arrangements. As you know, DeWitt Ross & Stevens, S.C. represents the Wisconsin Pre-Need Coalition ("Coalition") on this issue. In general, the Coalition is pleased with this draft with the exception of the five comments noted below.

Comment 1: Page 3, line 21 includes a definition of "prearranged funeral plan", however, it does not define the terms "agent", funeral merchandise, funeral services, or "cash advance items." The term "agent" is important since this is not previously defined in the statute, and the funeral terms clearly define what is included in the phrase "funeral services and merchandise." A definition of "cash advance items" needs to be included to be consistent with the definition contained in the Federal Trade Commission (FTC) Funeral Rule (16 CFR 453). By including the FTC definitions, it provides consistency and clearly excludes cash advance items from the scope of funeral services and merchandise.

Comment 2: Page 4, lines 10-15 appear to restrict the solicitation of prearranged funeral contracts to funeral directors only. The Wisconsin Pre-Need Coalition does not agree with this restriction. The Coalition supports the ability of a funeral director to use an agent in conjunction

**DEWITT
ROSS & STEVENS.**
LAW FIRM

Pat Reuter
January 19, 1996
Page 2

with the offering of prearranged funeral plans funded by life insurance or bank trusts.

Comment 3: Page 5, lines 1-12 require several disclosures which are objectionable. Particularly disclosure #3 which requires the life insurance agent to advise the purchaser of funding through other agents. In fact, this may not be correct. A funeral establishment which is offering a price guarantee may not be willing to accept the type of products offered through another agent, especially if the death benefit is not designed to grow with inflation. Additionally, this provides no service or protection to the consumer. The consumer is best protected by dealing with an agent specifically working with a funeral establishment rather than one which may have no knowledge, nor reflect the professional demeanor of a specifically designated agent.

Likewise, disclosure #4, page 5, line 10 is discriminatory to the life insurance industry. This is a competitive market, and the State should not give favorable treatment to competitive industries. Nowhere in the statutes is a funeral director using bank trusts required by law to inform the purchaser of the availability of life insurance funding. The disclosure also discriminates against funeral directors who may wish to offer only life insurance products with their preneed program. It would effectively cause them to either use funding which is contrary to their business interests or lose the business to a competitor.

Comment 4: Page 7, lines 10-12 expands the recommended disclosures contained in the NAIC model preneed law. We strongly object to the disclosure in (i) as it requires inclusion of information on the preneed funeral contract which (1) duplicates information which will be contained on the insurance application, and (2) is not appropriate to the preneed funeral contract. With regard to placing the information on the preneed contract, the draft fails to recognize the distinct difference between the preneed contract and the life insurance contract. The preneed contract is entered into between the consumer and the funeral establishment. The life insurance contract is entered into between the consumer and the life

**DEWITT
ROSS & STEVENS**
LAW FIRM

Pat Reuter
January 19, 1996
Page 3

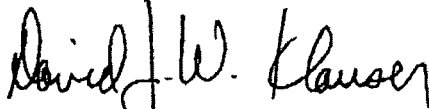
insurance company. Consequently, although the two contracts are related (generally through a contingent assignment of the death benefit of the life insurance) the life insurance company is not a party to the preneed contract, and it should not contain any premium payment information, any more than the life insurance contract would contain information concerning the funeral merchandise and services. This provision should be deleted.

Comment 5: Page 8, lines 4-5 require notification of a change in the beneficiary to the currently named beneficiary. Life insurance law is well settled throughout the country that a named beneficiary has no rights in a life insurance policy until after death of the insured. To place a written notice requirement upon the policyowner violates their rights of ownership, and imposes an obligation on them which, in addition to being contrary to law, could cause personal problems without justification. If the provision was intended to give notice to a funeral home of a change, most companies use a contingent assignment rather than naming the funeral home as beneficiary.

Once again, thank you for this opportunity to comment on the Funeral Directors Examining Board legislation on preneed funeral arrangements.

Sincerely,

DEWITT ROSS & STEVENS s.c.



David J. W. Klausner

DJK:cpk



**DEWITT
ROSS & STEVENS**
LAW FIRM

Capitol Square Office
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Madison, WI 53703-2865
Fax 608-252-9243
Tel 608-255-8891

West Office
First Financial Centre
8000 Excelsior Drive, Suite 401
Madison, WI 53717-1914
Fax 608-831-2106
Tel 608-831-2100

Please respond to: Capitol Square Office

FAX TRANSMITTAL

TO: Pat Reuter

Fax No.
267-3816

From: David J.W. Klauser

Total Pages: 4
(including this page)

Date: January 19, 1996

Time Sent: 3:50

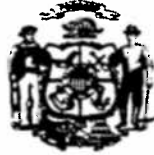
Respond To: David J.W. Klauser at 608-255-8891 (tel) / 608-252-9243 (fax)

MESSAGE

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Bot



MEMORANDUM
OFFICE OF BOARD LEGAL SERVICES
WISCONSIN DEPARTMENT OF REGULATION & LICENSING

TO: Pat Reuter, Bill Dusso
FROM: Jacquelynn B. Rothstein
DATE: February 7, 1996

Analysis of Assembly Bill 868

Annuities as a Funding Source/Types of Plans Page 6, Line 8 allows for the sale or solicitation of both life insurance plans and annuities. The Board has not previously considered annuities as a funding option for preneed plans, nor has there ever been any substantive discussion about it. In addition, the draft does not contain any guidelines as to the types of annuities or particular life insurance plans that would be permissible or acceptable in Wisconsin. That issue should likely be addressed to the Commissioner of Insurance.

Automated Telephone Contacts Page 4, Line 6 prohibits contacting prospective consumers by "automated" telephone calls. Automated is not defined so it is unclear what exactly it means. For instance, does it mean that computerized telephone services are impermissible? Or does it mean that live persons are not permitted to make such calls? Or would both types of communications be prohibited?

Selling and Soliciting by Agents Page 4, Lines 8-11 permit an agent of a licensed funeral director or an agent of a funeral establishment to *solicit* the sale of a prearranged plan. Page 6, Lines 5-8, permit an agent to also *sell* these plans. To date, the Board has rejected the proposal that agents be allowed to solicit or sell these types of plans. It has been the Board's intent to *only* allow the sale of life insurance through licensed insurance intermediaries, and to allow *only* licensed funeral directors to make funeral arrangements. Accordingly, the Board believes that insurance agents should not be allowed to make funeral arrangements with a potential consumer unless they are also licensed as funeral directors. Hence, sales of life insurance policies would only occur *after* prearrangements had been made with a licensed funeral director.

Cash Advance Items Page 5, Lines 13-16 define the term "cash advance item." This list is *all inclusive* and would not include anything other than what is currently enumerated.

Funeral Merchandise and Funeral Services Page 5, Lines 17-25 address "Funeral merchandise or funeral services." The definition includes caskets, outer burial containers, monuments, grave markers, and cremation urns. Under the current law, caskets and outer burial containers are subject to 100% trusting, unless they are preplaced into a grave. If this merchandise is funded through a life insurance plan, the trusting requirements would not be met. Additionally, if monuments, grave markers, and cremation urns are sold as preneed items, they too are subject to the trusting requirements in Chapter 440, Wis. Stats. Likewise, individuals who sell or solicit those items must be registered under Chapter 440, Wis. Stats. AB 868 does not address these conflicts.

Agency Contracts Page 6, Lines 17-20 indicate that an agent of a funeral establishment must have an established contract with the establishment before he or she may act as an agent. However, there is no requirement that such a contract be in writing, or that copies of it be provided to a consumer if so requested. If the contracts must be written, should copies of them be kept by the agent? by the funeral establishment? by the Department? These concerns should be addressed so that potential consumers are adequately protected.

Ratification Page 7, Lines 14-18 provide for ratification of prearrangements by a licensed funeral director or operator of the establishment. The Board has rejected the concept of ratification preferring instead that all prearrangements occur directly with a licensed funeral director to ensure that the proper disclosures and price rates are given, and to prevent any misinformation from being disseminated.

Premium Payments Page 7, Lines 14-18 provide that certain disclosures must occur before a consumer may pay any premiums or make any other deposits. This implies, but does not state directly, that a licensed funeral director or the operator of the establishment may only accept those payments after the appropriate disclosures are made. I suspect the Board would favor language which clearly states that payments may be accepted *only* after such disclosures are made. Clarifying language should also be added to indicate to whom premium payments must be made.

Nature of the Relationship Page 8, Lines 8-11 require that the nature of the relationship between the insurance intermediary and the funeral director be disclosed. "Nature of the relationship" is not defined under this provision. Accordingly, it is conceivable that the only item requiring disclosure is the fact that an "agency" relationship exists between the funeral home and the life insurance agent. This section also fails to indicate *who* would be required to make these disclosures.

Unforeseen Circumstances Although Lines 3-6 on Page 9 indicate that a funeral home must disclose "any restrictions or penalties relating to the inability of the funeral home to

perform," it does not specifically address what would occur if a funeral home goes out of business prior to the consumer's death.

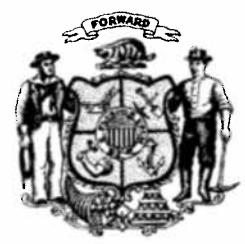
Impoverishment Provisions/Implications This draft does not address WI Stats. §445.125, the section involving burial agreements. This section may need amending before preneed funding through life insurance can occur. Additionally, this has potential implications for the impoverishment provisions under, for example, Medicaid and Medicare. Consequently, special attention should be given to this section.

OCI The draft does not include a provision for the Office of the Commissioner of Insurance to promulgate rules regarding these funding mechanisms. Unless the drafter believes that OCI has inherent rulemaking authority in this area, a rulemaking provision ought to be included.

Receipt of Proceeds The Board believes that the proceeds of a life insurance policy should be made payable only to a licensed funeral establishment, not to an individual funeral director. AB 868 does not reflect that position.



WISCONSIN STATE LEGISLATURE



ASSEMBLY BILL 868
Testimony of Rep. Sheryl Albers
February 8, 1996

Each of us knows that the worst time to make a financial decision is when we are faced with a crisis.

So we purchase auto insurance, and health insurance, and of course, life insurance...to protect ourselves, and to assure ourselves some stability in times of crisis.

The idea of introducing Assembly Bill 868 first appealed to me after I imagined a widow, having recently lost her spouse of many years, making funeral arrangements and facing expenses she may not be prepared for. Had she and her husband been given more information about purchasing prearranged funeral plans through their life insurance policies, they could have calmly made burial arrangements...together.

Now, however, all these decisions are hers to make.

Assembly Bill 868 would permit funeral home representatives to counsel families on pre-arranged funeral plans if that representative is a licensed insurance agent, and would allow for the funding of funeral services through the proceeds of a life insurance policy or annuity.

Assembly Bill 868
Rep. Albers

This is not an original idea --- this bill does not make changes to the status quo. Rather, the practice of funding pre-arranged funeral plans through life insurance policies is now quite common. Several Attorney General opinions create uncertainty among upstanding funeral directors and funeral homes. This uncertainty is furthered by questions raised by the Wisconsin Department of Regulation and Licensing.

Assembly Bill 868 will clarify for all what is acceptable, and will codify current practice so that legitimate, law-abiding funeral home representatives can be assured what they're doing is right and proper, and consumers can take full advantage of a practice that will undoubtedly ease the crisis normally associated with the making of funeral arrangements.

It is the consumer who stands to benefit the most from this legislation. Not only does AB-868 provide for a greater number of available options, but incorporates requirements that protect consumers from undue distress.

For example, AB-868 aids consumers because pre-need insurance products can be designed to protect the consumer from cost increases due to inflation. In the past, pre-need arrangements were funded solely through a bank trust. Funding funeral

Assembly Bill 868
Rep. Albers

plans through life insurance policies or annuities can provide consumers with a number of options which bank trusting can not.

Trusts, unfortunately, must be purchased in full in order to cover funeral expenses. However, life insurance policies are available under installment payment programs, and yet the policy would cover all costs in the event of an untimely death.

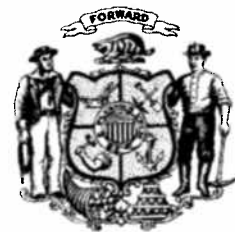
Consumers will also benefit from AB-868 in that it prohibits knowingly contacting a relative of a person whose death is imminent or someone in a hospital or health care facility for the purpose of soliciting funeral arrangements. AB-868 also prohibits door-to-door solicitation or automated telephone calls.

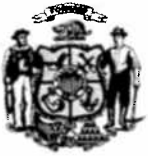
Again, AB-868 requires that these pre-arranged plans must be provided by either a licensed funeral director or an agent under the direct supervision of the funeral director. The bill also continues the consumer protection functions of the Department of Regulation and Licensing and of the Office of the Commissioner of Insurance.

In the end, I believe Assembly Bill 868 will clarify regulations to the degree that consumers will be able to take full advantage of options which will help them in their greatest times of need.



WISCONSIN STATE LEGISLATURE





Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

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*Testimony on Assembly Bill 868
before the
Assembly Committee on Insurance,
Securities and Corporate Policy
Thursday, February 8, 1996
225 Northwest
State Capitol*

Good afternoon Chairperson Albers and members of the Committee. My name is Bruce Carlson. I am Chairman of the Funeral Directors Examining Board and protector of Wisconsin consumers. First of all, I am disappointed it has come to this.

- a. We have been working diligently with all interested parties on the issue before you.
- b. We have been open with all parties involved in sharing all information.
- c. We have provided all pertinent information to all interested parties.
- d. We have provided opportunities for both written and spoken responses to all information regarding our proposed drafts.

In fact we have scheduled a whole day-only 20 days from now to discuss this issue. One half of the day - the first half I might add is even delegated to an open forum for all parties involved to express their opinions, and, therefore, be a part of shaping this most important legislation.

With that in mind, it becomes obvious that the cooperation among interested parties has not gone both ways.

The same people that are proposing/supporting this bill in front of you today, have not extended the same courtesies to the others involved.

They were present at our last Board meeting, as they are at all of the meetings and yet nothing was said to any of us about this bill or hearing.

I would further caution anyone saying they represent a majority of opinion in regards to their own. I do not believe that anyone has come far enough in this most important legislation, to say they have majority support.

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer, Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

February 12, 1996

Page 2

As has been mentioned several times at our meetings of the Funeral Directors Examining Board involving this issue, the most important consideration in regard to this proposed legislation must be given to the consumers of this state.

The Board has felt that time must be taken to insure that we propose suitable legislation that both provides options and protection to the consumers of our state.

I personally am in my second 4-year term on this board and will admit that we have been working on this most of that time.

We are not alone, however, most states throughout this country have or are experiencing the same in their efforts in this area. This is not an easy problem and, therefore, does not deserve a simple resolution. I do believe we are getting closer to a final draft and I might add that it is a mixture of ideas of all parties involved. In fact, in reading the proposed bill in front of us today, it is obvious a great deal of time and thought was put into it.

It still does, however, contain some areas of concern for the Board. But I might also add that I believe we are much much closer than even four months ago, to a workable solution for all parties involved.

I personally feel it would be a mistake to forward legislation that the principles involved would have great difficulty living by.

We have witnessed within our own Board what quick legislation accomplishes -- nothing. In fact, it often times creates more difficulties than we had before.

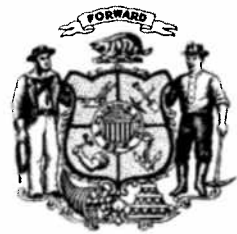
It is our hope that more time can be given to this issue with all parties involved, which I mentioned before is planned: We then can come back to you with a general consensus of what is appropriate.

PR:deh

BDP-COT1743



WISCONSIN STATE LEGISLATURE





Tommy G. Thompson
Governor

Josephine W. Musser
Commissioner

State of Wisconsin / Office of the Commissioner of Insurance

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**Testimony relating to Assembly Bill 868
before the
Assembly Committee on Insurance, Securities, and Corporate Policy
offered by
Peter C. Farrow, Insurance Administrator
on February 8, 1996**

Good morning. Thank you Representative Albers and members of the committee for the opportunity to provide information regarding Assembly Bill 868 (AB 868). I am Peter Farrow, Insurance Administrator for the Office of the Commissioner of Insurance (OCI).

It is my understanding that the Department of Regulation and Licensing is providing testimony describing the relationship between funeral directors, prearranged funeral plans, insurance intermediaries (agents) and the issues involved in this market. In the interest of avoiding duplicative testimony, I am providing limited comments on the bill from OCI's perspective.

Anytime a market deals with the sale of an insurance product primarily to an elderly population, such as in the Medicare supplement market, a greater level of consumer protection is necessary. This greater level of protection is necessary to prevent unscrupulous players from taking advantage of a lack of information or understanding by customers. It has been OCI's concern throughout our discussions on this issue that such an environment exists in the sale of prearranged funeral plans linked to life insurance policies.

With that concern in mind, OCI is requesting that AB 868 be amended to give the Commissioner of Insurance rule-writing authority to establish standards for life insurance policies used to fund prearranged funeral plans. OCI recognizes the need to create standards that don't inhibit innovation in the market, but

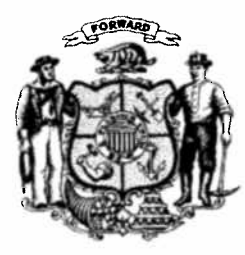
do provide insurance consumers with a level of standards in order to compare policies and promote informed purchasing.

In addition, the bill allows for a new level of relationship between insurance intermediaries (agents) and funeral directors. Intermediaries would be allowed, under this bill, to be designated as agents for a funeral director in order to sell prearranged funeral plans funded by life insurance policies or annuity contracts. This relationship parallels that which exists between an insurer and an agent. Under insurance law, the insurer is responsible for the acts of the designated agent(s). This accountability provides a further means of consumer protection. OCI recommends that the bill be amended to provide accountability by the funeral director for the actions of any agents acting under the funeral director's authorization. This additional accountability will lessen the chance of high-pressure sales tactics being employed by agents of the funeral director.

Thank you for the opportunity to discuss OCI's support for AB 799. I would be pleased to answer any questions you might have at this time.



WISCONSIN STATE LEGISLATURE





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Secretary

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TESTIMONY OF
William Dusso, Representing the
DEPARTMENT OF REGULATION AND LICENSING
Before The
**ASSEMBLY COMMITTEE ON
INSURANCE, SECURITIES & CORPORATE POLICY**
Concerning
1995 Assembly Bill 868
February 8, 1996
Room 225 Northwest, State Capitol

Chairperson Albers, members of the Committee, thank you for the opportunity to present information concerning 1995 Assembly Bill 868. I am William Dusso and serve as the legal counsel for the Department of Regulation and Licensing. Department Secretary Marlene Cummings is unable to attend this hearing today and asked me to appear today to provide information to the Committee.

Current Wisconsin law permits life insurers to write policies that provide for payment of burial expenses. However, an insurance policy may not provide that the insurance benefits are payable to a funeral director or any other person in the burial business.¹ The reason given for this restriction is to prohibit the sale of an insurance policy which ties a specific funeral director or funeral establishment operator into the life insurance contract. Historically, tying arrangements have been found to violate antitrust laws because they limit competition on the merits

¹ Section 632.41, Stats. "Prohibited provisions in life insurance. * * *(2) Burial insurance. No contract in which the insurer agrees to pay for any of the incidents of burial or other disposition of the body of a deceased may provide that the benefits are payable to a funeral director or any other person doing business related to burials."

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

of the tied product. Purchasers are forced to give up their free choice to select competing services.² Tying arrangements may also conceal costs to the purchaser.

The restriction on insurance in sec. 632.41, Stats. has been the source of some confusion.³ The confusion may be because, in practice, "prearranged" funerals are sometimes funded by an assignment of life insurance proceeds to a funeral director or funeral establishment through a contract separate from the life insurance policy.

The Department of Regulation and Licensing supports the current efforts of the Funeral Directors Examining Board to develop a legislative proposal which clarifies the law in this area, makes insurance funded funeral plans more readily available to the public, protects consumers and meets the needs of the funeral service and insurance businesses. The Board seems near the point of developing a bill draft which meets its criteria and has scheduled a public forum on its most recent draft of legislation for February 28.

The Department's involvement in insurance funded prearranged funeral plans was initially with administrative rules drafted by the Office of the Commissioner of Insurance. These rules were developed following investigations which identified sharp practices in the sales of prearranged funeral plans funded by life insurance. The deceptive practices included such things as failure to explain the product being sold, making claims that insurance proceeds were on deposit in a bank, signing documents on behalf of the purchaser and using

² See 54 Am Jur 2d, *Monopolies, Restraints of Trade, and Unfair Trade Practices*, sec. 59, et. seq.

³ 71 OAG 7 (1982), 76 OAG 291 (1987), 78 OAG 182 (1989)

certain life insurance policies which were inappropriate for funding prearranged funeral plans.⁴

Because a prearranged funeral plan combines both the terms of a contract for funeral arrangements and a contract for life insurance, terms of the plan are often confusing to purchasers. That there are pitfalls for the consumer in these plans is evident from some of the questions asked: What are the specific costs of certain goods and services? What funeral expenses are paid by the plan? Does any money stay with the funeral home? If money is paid by the customer to the funeral home as payment for premiums, how am I guaranteed that the funeral director will make the payments for the insurance policy? Is the insurance company authorized to sell insurance in Wisconsin? What happens if I cancel the plan or stop making premium payments? Will the insurance benefits cover the costs of the funeral? What if the funeral home closes or if I move to Arizona? Answers to these questions should be clear to the purchaser in the plan documents.

Assembly Bill 868 changes current insurance restrictions by (a) amending the current statute which restricts insurance benefits and (b) establishing a structure in ch. 445 for regulating prearranged funeral plans. The bill amends sec. 632.41, Stats. to permit an insurance policy or annuity to provide for the assignment of proceeds to a funeral establishment if the assignment is contingent on the provision of funeral merchandise or funeral services as provided for in a prearranged funeral plan that meets the requirements of s. 445.127, Stats.

⁴ For example, policies with benefits that decrease over time and which lapse at a certain date and annuities which, because of the variability in interest rates, increase in value so slowly that death benefits do not cover the costs of the funeral until several years after the policy is issued.

The major consequences of AB 868 are:

1. The scope of practice statute for funeral directors⁵ is amended to specifically permit agents of funeral directors and funeral establishment operators who are also licensed insurance agents to sell prearranged funeral plans funded with life insurance proceeds.
2. The bill restricts the type of sales solicitations that can be used to sell prearranged funeral plans. [However, the extent of the restriction in the bill on door-to-door solicitation and telephone solicitation is unclear. See lines 5-7 and 17-21 on page 4 of the bill, proposed sec. 445.12 (3g) (a) 3., and (c), Stats.]
3. Agents may not sell prearranged plans unless they represent funeral establishments. Agents must disclose the identity of the funeral establishment they represent. The plan must be ratified by a funeral director acting for the funeral establishment that will provide the funeral services.
4. A plan must identify the funeral director or funeral establishment that will provide the services and merchandise and set forth the nature of any price guarantee for merchandise and services;
5. Before accepting a premium, the seller must disclose, in writing, that insurance or an annuity is part of the plan, the type of insurance, the effect on the plan of changing insurance, penalties for failing to make payments or cancellation, the nature of the relationship between the insurance company and the funeral services provider, a list of merchandise and services and prices, whether the price is guaranteed, a description of what occurs if life insurance proceeds are insufficient to fund the funeral plan, restrictions and penalties relating to performance,

⁵ Section 445.12, Stats.

and a statement whether a sales commission is being paid to the selling agent. [However, are these disclosure requirements effective?

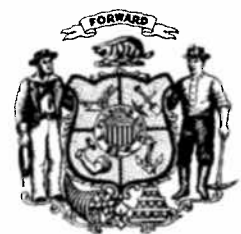
Compare the disclosure requirements in this proposal with the more rigorous disclosures required in the statutes regulating preneed sellers of cemetery merchandise.⁶]

The Department can attest that there is potential for abuse in the sale of prearranged funeral plans. State regulation in this area is difficult and controversial. The Funeral Directors Examining Board has done commendable work in bringing forth proposals and arranging for public meetings to discuss the issues. Secretary Cummings continues to offer the support of the Department of Regulation and Licensing and her own assistance in attempting to bring interested parties together to reach a resolution which will protect and serve Wisconsin residents.

⁶ 440.92(2)(k) "A preneed sales contract shall include the following language in not less than 10-point boldface type: **'SECTION 440.92 (2) OF THE WISCONSIN STATUTES SPECIFIES THE RIGHTS OF THE PURCHASER UNDER THIS CONTRACT. DEPENDING ON THE CIRCUMSTANCES, THESE MAY INCLUDE THE RIGHT TO VOID THE CONTRACT AND RECEIVE A REFUND OR THE RIGHT TO ASSIGN AN INTEREST IN THE CONTRACT TO ANOTHER PERSON.'**"



WISCONSIN STATE LEGISLATURE





ALBERS
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WISCONSIN FUNERAL DIRECTORS ASSOCIATION

2300 N. Mayfair Rd., Suite 595 • Wauwatosa, WI 53226 • (414) 453-3060

Wilma Morris - Executive Director

**TESTIMONY OF THE
WISCONSIN FUNERAL DIRECTORS ASSOCIATION
AT THE
PUBLIC HEARING ON ASSEMBLY BILL 868
BEFORE THE
ASSEMBLY COMMITTEE ON INSURANCE, SECURITIES AND POLICY
ROOM 225 NW - STATE CAPITOL
THURSDAY, FEBRUARY 8, 1996**

My name is William T. Schneider. I operate a funeral home in Janesville and am currently president of the Wisconsin Funeral Directors Association. The association has in its membership about 90 percent of the funeral homes and licensed funeral directors in Wisconsin and, on average, our members conduct over 95% of the funeral services held in Wisconsin each year. I am here today to register the association's strong opposition to Assembly Bill 868.

This bill is about regulating the sale and marketing of insurance products created specifically to fund funeral arrangements that are made in advance. In the jargon of the funeral service industry, these products are generally called "preneed insurance plans" and the insurance agents, who sell them, often call themselves "preneed counselors" or "funeral counselors."

Before I comment on the serious anti-consumer aspects of the bill, I'd like to express my deep concern about the way this bill is being promoted; and, the fact that it is even being heard today. I understand it was introduced yesterday and tacked on late to today's public hearing notice.

In effect, there was no notice given to the public or to AARP or the Coalition on Aging or others who advocate on behalf of consumers most affected by the bill - the segment of the senior citizen population that sometimes needs our help; and, anyone else in the general population who is susceptible to high pressure sales tactics.

Further, only 11th hour notice was given to the Funeral Directors Examining Board and the association, who have been working together over the past several years in search of good public policy on this issue. We are getting close to a solution and the association hopes a mutually-acceptable bill will be introduced early next year. The proponents of this bill are aware of and have participated in that effort. Their representatives attend all examining board meetings.

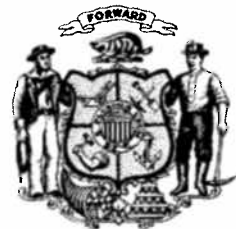
It begs the questions, why the rush? and, whose interests are being served in this bill?

If there is a demand for preneed insurance plans, it is a demand created by the preneed insurance industry itself. We don't believe that the state owes the proponents of this bill a marketing plan to increase their profit margin at the expense of Wisconsin residents' privacy. The public doesn't need a new breed of telemarketers or boiler room tactics.

The association requests, therefore, that the committee indefinitely postpone action on this bill. Thank you for your consideration. I'll try to answer any questions the committee may have.



WISCONSIN STATE LEGISLATURE



FEB 14 1996

to: Representative Sheryl Albers,

From: Clifford A. Crandall - Wis Funeral Director License #3994
Crandall Funeral Home - Funeral Establishment License #1153
Mauston, Wis 53948
608-847-6657

Regarding Assembly Bill AB - 868

I find it necessary to stress the difference between selling an Insurance Policy designed to fund a Pre-need Funeral Agreement and the actual conference arriving at the agreement. The one-on-one interaction that occurs between an individual deciding to arrange their own funeral and the Licensed Funeral Director they have come to for consultation, advice, and guidance is NOT the same as walking into a car dealership and picking out a car. A person goes through many cars in a lifetime but, with rare exceptions, has only one funeral. The levity displayed by the Committee when even theoretically discussing their own funeral illustrates the tendency to avoid or make light of the subject of funerals as a possibility or reality. The decision to actually make funeral arrangements for ones self, or a loved one in advance of the occurrence, is not a step lightly taken. When this decision has been made, a person wants to talk with a familiar knowledgeable professional in these matters that understands both their need to accomplish the task of making the arrangements and their apprehension in doing so. This is not the time for a SALESMAN to pitch a "Pre-Need Insurance Plan" to them. The time to fund the arrangements is AFTER the arrangements have been made and the person is confident in their decisions. The funding provisions of the Pre-need funeral arrangement are secondary to the actual arrangements. Until this time there is a possibility that trusts may be more appropriate or that insurance is not the funding vehicle of choice for the person making the arrangements. The Pre-Need Funeral Agreement between a licensed Funeral Director and the person seeking to make those arrangements is just as important to the person making them as it would be if there had been an actual death(possibly more so because most times it is "ME" the funeral is for. Their desire to do it right and with their best interests in mind is paramount.

The decision to make funeral arrangements for oneself, or a loved one prior to the actual death, is very rarely precipitated by an advertisement or even a solicitation. It is something done after much soul-searching and contemplative reflection. Usually an illness, the death of a relative or close friend, or financial necessity are the reasons individuals approach a licensed funeral director seeking information about or actually wanting to make pre-need funeral arrangements. Even though their ultimate goal is to pre-pay those arrangements, taking the financial burden off their relatives, the actual arrangements are very important to them. Many times the financial elements are technicalities to them and are dealt with only because the law requires it. Their intention is to plan their funeral, and if funding it is a part of that plan, so be it.

I have had pre-need arrangement conferences consume two or more hours discussing service location, officiant, music, memorial folders, clothing, jewelry, cemetery plot, floral arrangements, relatives, obituary notices, cosmetics, pallbearers, fraternal organizations, memorial donations, and miscellaneous items. The public expects this type of accomodation from "MY UNDERTAKER" and most of us in the profession are honored to assist them with their needs. I would feel negligent in my duty to the people I serve if I were to send an insurance salesman in my place for a pre-need conference even if they expressed an interest in funding their agreement with insurance. I would have a licensed insurance intermediary accompany me to a pre-need conference and have that individual perform their proper and legal function at the appropriate time. If trusts are appropriate then a Banking professional is called upon for their expertise and to perform their regulatory functions. The proper licensed professional operating under the laws and regulations governing their activities provides the consumer with the best service, professional advice and safety. This is the reason for licensure. I may not authorize an unlicensed agent to represent me at a cemetery, a funeral service, a hospital morgue, or a nursing home, and I feel the same rules should apply to pre-arrangement conferences.

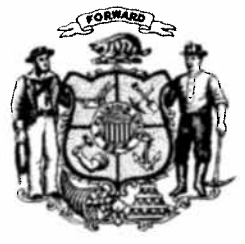
If the Pre-Need Funeral arrangements are made by an insurance intermediary acting as an Agent for a funeral director and, upon the death of the insured, the plan is carried to fruition without a separate arrangement made at the time of need, then the actual funeral arrangements of the deceased were made by a person not licensed as a funeral director, and would be illegal.

I appreciate your interest in this matter. Thank you.





WISCONSIN STATE LEGISLATURE





State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

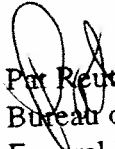
Marlene A. Cummings
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Tommy G. Thompson
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(608) 266-2112

DATE: February 13, 1996

TO: Assembly Committee on Insurance, Securities and
Corporate Policy

FROM:  Pat Reuter, Director
Bureau of Business and Design Professions
Funeral Directors Examining Board

SUBJECT: 1995 Assembly Bill 868 pertaining to pre-arranged funeral plans

As a follow-up to the Committee hearing held on Thursday, February 8, 1996, I have enclosed a copy of Chair Bruce Carlson's testimony that he presented. Our analysis of the bill was distributed to each of you at the hearing.

As you recall, Mr. Carlson mentioned during his testimony that the Funeral Directors Examining Board has been working on this issue for quite some time. The Board has held public forums during their Board meetings to give everyone the opportunity to express their ideas and concerns. We have scheduled another public forum for *Wednesday, February 28, 1996, at 9:00 a.m., Room 179A, at the Department's offices at 1400 East Washington Avenue.* I have enclosed a copy of the agenda for this meeting as well as the latest draft and any comments we have received from the interested parties. Please note that this draft is still a working document.

If you have any questions please feel free to contact us.

Thank you.

Enclosures

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

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