

AFFILIATED FAMILY FUNERAL SERVICE
206 Winter Street, Fall River, MA 02720
(508) 676-2454

June 22, 2015

Via email yadl.rivera@state.ma.us

Board of Registration in Embalming and Funeral Directing
1000 Washington Street
Boston, MA 02118

Re: Executive Order No. 562

Dear Board Members:

Thank you for this opportunity to submit written comments regarding possible changes to your regulations in light of the Governor's Executive Order No. 562.

1. While we strongly agree that all funeral establishments should be accessible to all persons, we believe that accessibility is best addressed by the Architectural Access Board, whose core mission is to ensure accessibility for individuals with disabilities, and not by the Board in Embalming and Funeral Directing. The Board in Embalming and Funeral Directing's accessibility standards not only duplicate but exceed those of the Architectural Access Board, which imposes undue financial burdens on Massachusetts funeral establishments. As such, the accessibility requirements in 239 CMR Section 3.06 be eliminated.
2. The ownership requirements under 239 CMR Section 3.02(4)(a) and Section 3.04(1)(a) are inconsistent, leading to confusion. The former requires a Type 3 Funeral Director to own at least 10% of the **issued and outstanding** stock of a funeral establishment, whereas the latter requires that a majority of the **authorized** stock of a funeral establishment must be owned by one or more Type 3 Funeral Directors. This leads to further confusion regarding what constitutes a change of ownership under Section 3.04(3)(b) which states that "A change of ownership shall be deemed to occur whenever the Type 3 Funeral Director and Embalmer(s) originally owning or holding more than a fifty percent stake in an entity owning the establishment are transferring ownership in the [entity] such that he/she/they no longer hold more than a fifty percent controlling interest in the [entity]." A controlling interest in a corporation is more than 50% of the issued and outstanding stock, because authorized but unissued stock does not vote. However, in our dealings with the Board, it has interpreted this section to mean that there is a change in ownership if the "original" owners (an undefined term) do not own more than 50% of the authorized stock of the corporation including unissued shares. These regulations are not only confusing but are unduly restrictive and intrusive into the ownership structure of private funeral establishments. Therefore, the regulations should be revised to be internally consistent and to reflect that control in a corporation is based a majority of **issued and outstanding** stock, not a majority of the authorized stock.


3. 239 CMR Section 4.03(2) states that in the event of a change of ownership the funeral establishment is required to send a written notice to the buyer and beneficiary of every pre-need funeral contract, informing them that they have the right to transfer that contract to the new owners of the establishment, transfer it to another funeral establishment, or cancel it (if revocable). This written notice does not make sense in the context of a deemed change of ownership under Section 3.04(3)(b), and causes undue confusion and distress to the consumer.

These "deemed" changes of ownership typically are triggered by the natural process over time of Funeral Directors retiring, dying, leaving for other employment and/or new Funeral Directors joining the establishment, and there is no substantive change to the business establishment. In our experience, our customers who have received these notices in "deemed" change of ownership situations become alarmed and upset because they think that the funeral home is closing; this emotional distress is heightened by the requirement in the regulations that the notice be sent via certified mail with return receipt requested. In the past five years we have sent over 3100 letters to consumers. We have received several hundred calls from families who are concerned that something is wrong. They are alarmed when they call. They have shared with us that this is confusing and upsetting. To the best of our knowledge, only one family transferred their pre-need to another funeral establishment and that was due to the beneficiary moving away from Massachusetts. We request that this requirement of the notice to pre-need customers be eliminated where there is any continuity of Funeral Directors, even if less than a majority, and that where notice is required, that the regulations be changed to allow delivery by first class US mail.

4. We would suggest that the term "Apprentice" be replaced in the regulations with the term "Intern" as we believe it projects a more professional and dignified image to consumers.

5. We believe that the prohibition on Funeral Directors also engaging in the crematory and cemetery businesses is an unnecessary and unwarranted restraint on an individual's right to work, and that the regulations should be changed accordingly.
Thank you for your consideration of these comments.

Sincerely,



Kim L. Perry

\\SCIN\036\LTR\10D480303.DOCX