

D North American Death Care Regulators Association Phone: (515) 281-5705
C 340 Maple Street Facsimile: (515) 281-3059
R P.O. Box 6101
A Des Moines, Iowa 50309-6101

October 18, 2010

The Honorable Bobby L. Rush
2416 Rayburn House Office Building
Washington, D.C. 20515-1301

SENT VIA FACSIMILE: (202) 226-0333

The Honorable Joe Barton
2109 Rayburn House Office Building
Washington, D.C. 20515

SENT VIA FACSIMILE: (202) 225-3052

Regarding: **The Bereaved Consumer's Bill of Rights Act of 2009**
H.R. 3655

Dear Representative Rush and Representative Barton:

The Executive Committee of the North American Death Care Regulators Association has reviewed H.R. 3655 and wishes to comment on the proposed legislation.

1. State regulators are mindful that consumer protection is the most important part of our mission. Some acts are criminal conduct and should be treated as such. Of course, disclosure requirements will not address all types of misrepresentations and unfair or deceptive industry practices. Nonetheless, we believe meaningful disclosure should be the core method of protecting consumers. Inadequate knowledge, the general lack of sophistication regarding funeral, cemetery and cremation merchandise and services, remains the key problem facing consumers, as these purchases occur infrequently during a person's lifetime and do not become routine or common.

DCRA Executive Committee

President - Richard Fishman, New York
President- Elect - Stephen Gobbo, Michigan
Vice-President - Tom Reichard, Missouri
At-Large - Mark LaPlante, Texas
Executive Director - Dennis Britson, Iowa

Secretary - Karen Carruthers, Alberta
Treasurer - Theodore Hornyak, Ohio
Past-President - Mac Stagner, Alabama
At-Large - Lucy McCann, Louisiana
At-Large - Patricia Tress, Maryland

2. We support the existence of minimum standards and guidelines in certain areas, but we recommend the addition of an opt-out provision for instances where an overall level of protection to consumers exists in a state which is equal to or greater than the protection set forth in the legislation. We believe that the regulation of cemeteries and death care should be at the local level. It is our general observation that the vast majority of issues involved with funerals and burials tend to be local in nature. As a result, local regulation will be the most effective and more targeted, to accomplish the intended results. That said, we understand a comparable level of consumer protection doesn't exist in all states.
3. Various states have significant regulatory laws and government oversight in place that should not be displaced by federal legislation. Although an opt-out provision would greatly reduce our concerns, we hope every effort will be taken to assure that the provisions of H.R. 3655 will not pre-empt state provisions or create conflict and overlapping requirements. The language limiting preemption is appreciated. However, the implementing rules are likely to be specific and detailed. The possibility of overlapping or conflicting provisions needs to be considered. It is possible that the implementing rules would include mandatory disclosures, for example. Some state laws have mandatory disclosure language. Will the result be preemption of the state disclosures (as "inconsistent") or duplicative but different disclosure items that will lengthen documents and weaken rather than strengthen consumer understanding of transactions? Your attention to this concern is appreciated.
4. Enforcement is the key ingredient in regulating inappropriate industry practices. As regulators, we are aware of the scandals and consumer harm at Burr Oak Cemetery in Alsip, Illinois, Menorah Gardens Cemetery in Palm Beach, Florida, and the Tri State Crematory in Noble, Georgia. Much of the noted abusive conduct was criminal and it is somewhat unclear how the legislation targets the abusive practices involved in these cases. A federal system of examinations and investigations that would discover such conduct is unlikely. Absent a large appropriation of funds and staff, the Federal Trade Commission will be severely challenged to establish a large enough footprint in this area to be effective from an enforcement standpoint. A significant number of individual states already have greater resources and staff than the proposed federal staff level. If federal legislation regulating the death care industry is adopted, we encourage Congress to focus on provisions that will strengthen existing state regulation of the industry and encourage regulatory growth at the state level, where needed.
5. We also raise a question about the approach used to define a "cemetery" for purposes of the Bereaved Consumer's Bill of Rights Act of 2009. The definition is forward-looking in nature. As a result, although cemeteries do tend to have a certain range of sales and services, it would be impossible to know for certain whether certain cemeteries will be subject to the statutory provisions in any given year. Determining applicability would involve a factual inquiry. Finally, a regulatory structure in which certain cemeteries could regularly move in and out of the statutory requirements would seem undesirable.

The North American Death Care Regulators Association (DCRA) is an Iowa non-profit corporation. Our membership consists of governmental units vested by law with the authority or duty to administer or enforce a law regulating the preneed sale of merchandise or services in the death care industry or having for its purpose the regulation or supervision of cemeteries. We appreciate the opportunity to comment on the provisions contained in H.R. 3655 and hope that you will find our comments helpful.

Best Regards,



Richard Fishman, President



Dennis Britson, Executive Director

Copies to:

The Honorable Parker Griffith
417 Cannon House Office Building
Washington, D.C. 20515

The Honorable Mike Ross
2436 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Shadegg
436 Cannon House Office Building
Washington, D.C. 20515

The Honorable Anna G. Eshoo
205 Cannon House Office Building
Washington, D.C. 20515

The Honorable Lois Capps
1110 Longworth House Office Building
Washington, D.C. 20515

The Honorable Jane Harman
2400 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Doris O. Matsui
222 Cannon House Office Building
Washington, D.C. 20515

The Honorable Jerry McNerney
312 Cannon House Office Building
Washington, D.C. 20515

The Honorable Mary Bono Mack
104 Cannon House Office Building
Washington, D.C. 20515

The Honorable George Radanovich
2410 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Henry A. Waxman
2204 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
2335 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Christopher S. Murphy
412 Cannon House Office Building
Washington, D.C. 20515

The Honorable Cliff Stearns
2370 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Phil Gingrey
119 Cannon House Office Building
Washington, D.C. 20515

The Honorable John Shimkus
2452 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steve Buyer
2230 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Ed Whitfield
2411 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steve Scalise
429 Cannon House office Building
Washington, D.C. 20515

The Honorable Edward J. Markey
2108 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bart Stupak
2268 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Roy Blunt
229 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Lee Terry
233 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Kathy Castor
317 Cannon House Office Building
Washington, D.C. 20515

The Honorable John Barrow
213 Cannon House Office Building
Washington, D.C. 20515

The Honorable Jan Schakowsky
2367 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Baron P. Hill
223 Cannon House Office Building
Washington, D.C. 20515

The Honorable Bruce L. Braley
1019 Longworth House Office Building
Washington, D.C. 20515

The Honorable Charlie Melancon
404 Cannon House Office Building
Washington, D.C. 20515

The Honorable John P. Sarbanes
426 Cannon House Office Building
Washington, D.C. 20515

The Honorable John D. Dingell
2328 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Fred Upton
2183 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Mike Rogers
133 Cannon House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
237 Cannon House Office Building
Washington, D.C. 20515

The Honorable L. Engel
2161 Rayburn
Washington, D.C. 20515

The Honorable G. K. Butterfield
413 Cannon House Office Building
Washington, D.C. 20515

The Honorable Zachery T. Space
315 Cannon House Office Building
Washington, D.C. 20515

The Honorable John Sullivan
434 Cannon House Office Building
Washington, D.C. 20515

The Honorable Joseph R. Pitts
420 Cannon House Office Building
Washington, D.C. 20515

The Honorable Marsha Blackburn
217 Cannon House Office Building
Washington, D.C. 20515

The Honorable Gene Green
2372 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Ralph M. Hall
2405 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim Matheson
2434 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Rick Boucher
2187 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jay Inslee
403 Cannon House Office Building
Washington, D.C. 20515

The Honorable Anthony D. Weiner
2104 Rayburn
Washington, D.C. 20515

The Honorable Sue Wilkins Myrick
230 Cannon House Office Building
Washington, D.C. 20515

The Honorable Robert E. Latta
1531 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike F. Doyle
401 Cannon House Office Building
Washington, D.C. 20515

The Honorable Tim Murphy
322 Cannon House Office Building
Washington, D.C. 20515

The Honorable Bart Gordon
2306 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Charles A. Gonzalez
303 Cannon House Office Building
Washington, D.C. 20515

The Honorable Michael C. Burgess
229 Cannon House Office Building
Washington, D.C. 20515

The Honorable Peter Welch
1404 Longworth House Office Building
Washington, D.C. 20515

The Honorable Donna M. Christensen
1510 Longworth House Office Building
Washington, D.C. 20515

The Honorable Tammy Baldwin
2446 Rayburn House Office Building
Washington, D.C. 20515