

TESTIMONY OF STACY BERGENDAHL
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DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
In opposition to L.D. 867
An Act Regarding Pre-need Funeral Insurance
Presented by Rep. Morris
Before the Joint Standing Committee on Health Coverage,
Insurance & Financial Services
March 13, 2025 at 10:00am

Senator Bailey, Representative Gramlich, and members of the Committee, I am Stacy Bergendahl, Senior Staff Attorney at the Bureau of Insurance. I am here today to testify in opposition to LD 867.

To begin with, consumers can already purchase a life insurance policy and assign the proceeds to a funeral establishment through a life insurance mortuary trust agreement. The bill would only change how these products may be marketed. Section 2176 of the Maine Insurance Code currently prohibits funeral directors and funeral establishments from selling pre-need policies on behalf of insurance companies. This bill would remove that prohibition. Not only would it authorize licensed funeral directors to sell pre-need life insurance policies; it would give them the exclusive marketing right to sell these products. The dual-licensing requirement proposed in the bill would be outside the usual licensing procedures

and requirements for insurance producers and would require Maine to implement a unique licensing category for the sale of this product. Of note, New Hampshire had a similar requirement, and due to logistical problems, they eliminated the restriction that only funeral practitioners can sell pre-need insurance and simplified it so that any licensed producer with life authority can sell it.

The bill requires certain disclosures to be made at the time of the sale of a pre-need insurance contract, but the requirements mentioned in the disclosures are not reflected in substantive provisions governing the actual pre-need insurance policies, with the exception of the requirement that the proceeds may not exceed the amount of goods and services. This means many of the mandated disclosures would be vague and open-ended: for example, "The nature of the relationship among the soliciting producer, the provider of the funeral or cemetery merchandise or services, the administrator and any other person."

The bill allows a pre-need insurance contract to be either an individual policy or a certificate under a group policy. It is not clear what kind of group policy might be used, because the bill does not include any provision authorizing a funeral establishment to be a group policyholder.

The bill makes changes to the ability of funeral practitioners and funeral establishments to perform certain actions related to contact and advertising that go far beyond the scope of addressing pre-need insurance. The current statute prohibits solicitation. The proposed statute removes that prohibition and would allow direct or indirect contact for the purpose of soliciting a prearranged funeral plan if the person contacted has specifically requested the contact, to include contact by telephone if requested by the person contacted or a family member of

the person contacted. It would also allow funeral practitioners to engage in general advertising and solicit an individual who responds to general advertising.

A similar bill was considered in the 125th Regular Session, LD 1717. The bill failed to pass, but the Bureau was asked to hold stakeholder meetings and produce a report to the legislature with recommendations. The stakeholders had widely divided opinions and no consensus was reached. Areas of contention included:

- Limited licensing—addressed in this bill, as discussed previously, by requiring both a full producer license with life authority and a funeral director license.
- Commission—this bill allows commission to be paid to the funeral practitioner, which some stakeholders viewed as a conflict of interest. We believe those conflict of interest concerns are still valid.
- Disclosures—which are vague in this bill and leave the substantive provisions up to individual funeral practitioners.
- Solicitation—the bill goes further than what seems necessary just to allow funeral directors to sell this product.

Consumers can now and should remain able to buy a life insurance policy from an insurance agent to cover funeral service needs and have those proceeds assigned to a funeral establishment, with no changes to the law.

Thank you, I would be glad to answer any questions now or at the work session.