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August 16, 2012

Funeral Services Consultation
Service Nova Scotia and Municipal Relations
P.O. Box 1003, Halifax, NS B3J 2X1

funeral@gov.ns.ca

Dear Sirs and Mesdames:

RE: Nova Scotia Funeral Services Consultation

We are pleased to provide our comments in response to the Nova Scotia Funeral Services Consultation.

Advocis: Who We Are

Advocis is the association of choice for financial advisors and planners. With more than 11,000 members across the country, Advocis is the definitive voice of the profession, advocating for professionalism and consumer protection. Our members are provincially licensed to sell life and health insurance, mutual funds and other securities, and are primarily owners and operators of their own small businesses who create thousands of jobs across Canada. Many of our members are dually licensed to sell both life and health insurance, and mutual funds and other securities.

As a voluntary organization, Advocis is committed to professionalism among financial advisors. Advocis members adhere to an established professional Code of Conduct, uphold standards of best practice, participate in ongoing continuing education programs, maintain appropriate levels of professional liability insurance, and put their clients' interests first.

Our members in Nova Scotia provide financial advice and services to thousands of families and small businesses in the province. They operate in accordance with the requirements of Nova Scotia's financial services legislation.

Across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than ours. Advocis advisors are committed to educating clients about financial issues that are directly relevant to them, their families and their future.

Comments

We propose to limit our comments to the issues relating to the sale of insurance-funded prepaid funeral services in funeral homes (in the Consultation Document as Issues 1-1- through 1-9).

Issue 1-1 Licensing to sell insurance-funded pre-arranged funeral plans

- 1. Do you agree that funding options for the sale of pre-need funeral services should be expanded to include funeral insurance?**
- 2. Are there licensing concerns respecting this proposal that are not otherwise addressed here?**

We agree with the proposals outlined under Issue 1-1. (viz., Leave funeral insurance licensing requirements to the Office of the Superintendent of Insurance; Require that an individual arranging a guaranteed pre-arranged funeral plan regardless of how it is funded, be either a licensed funeral director or licensed as a salesperson under the Cemetery and Funeral Services Act; Allow both products to be sold in the same funeral home; Require that pre-arranged funeral plans be clearly marked as funded either by funds held in trust, or via insurance.)

We believe individuals who sell insurance-funded pre-arranged funeral plans should either be licensed insurance professionals, or should be a funeral director who is appropriately licensed as a funeral director and affiliated with a funeral home that works with an insurance provider that allows a funeral director to enroll individual clients.

Funeral homes are an obvious place where consumers should be able to obtain advice about insurance-funded pre-arranged funeral plans from individuals who are suitably knowledgeable, professional and accountable.

We agree that the law should permit the sale of insurance for pre-arranged funeral plans in funeral homes by individuals who meet the licensing requirements of the Office of the Superintendent of Insurance. The nature of the licensing requirements that funeral industry professionals should meet in order to be permitted to sell such insurance, is something that the Office of the Superintendent of Insurance will need to determine.

While we do not believe that funeral industry professionals should be required to hold a “full” insurance license in order to be able to sell funeral insurance, we do believe that the licensing requirements should ensure that they are knowledgeable regarding the products and are subject to appropriate oversight and accountability.

In our view, funeral industry professionals who offer insurance for pre-arranged funeral plans should be required to hold a restricted or limited license as an insurance agent, pass prescribed educational courses to demonstrate proficiency, be subject to limited continuing education requirements and be personally subject to regulatory discipline.

We believe that the sale of “incidental” insurance products by individuals who are not fully licensed as insurance agents, such as the selling of travel insurance and credit insurance, should be subject to appropriate regulation so that consumers are protected. The sale by funeral industry professionals of insurance for pre-arranged funeral plans would be another

instance of the selling of incidental insurance, where consumers should be protected by making sure that sellers are appropriately proficient and accountable. We note that, given the cost of funerals, the amounts of money involved in the purchase of a typical pre-arranged funeral plan is likely to be much more substantial than is the case with other types of incidental insurance.

Examples of restricted licensing requirements for the sale of particular insurance products include the requirement for travel agents in British Columbia to hold a restricted insurance license in order to sell travel insurance, and a similar requirement in Saskatchewan. In British Columbia, travel agents seeking to obtain the restricted license must pass an annual exam, and must also complete a minimum of two hours of continuing education each calendar year.

We also believe that insurance providers should be responsible for ensuring that the funeral directors whom they permit to enroll clients are qualified to sell the products they are authorized to sell. The insurance providers should be responsible to ensure that funeral directors understand those products that they authorize them to sell, are able to explain the products to the client and are able to assess the suitability of the products to the needs of the client.

Issue 1-2 Disclosure to consumers

1. What information should sellers of insurance to fund pre-arranged funeral plans be required to disclose to consumers?

We agree with the proposals: (1) to require that each insurance contract made at a funeral home be accompanied by a purchase agreement for a guaranteed pre-arranged funeral plan; (2) to require that the agreement include the specified information; and (3) to require that an explanatory brochure be provided.

We believe that the funeral insurance that is permitted to be sold in a funeral home should be required to be accompanied by a purchase agreement for the guaranteed pre-arranged funeral plan that the insurance is intended to cover.

2. Would it assist if the Province developed the information brochure for consumers or should this be left to the funeral and insurance sectors?

We believe the information brochure for consumers should be left to the funeral and insurance sectors to produce, with insurance and funeral regulators providing guidance.

Issue 1-3 Under/over payments made on insurance policies

- 1. Who should receive surplus funds from insurance policies?**
- 2. Who should be responsible for shortfalls?**
- 3. How else could shortfalls or surpluses be addressed?**

We agree that pre-arranged funeral plans in Nova Scotia should continue to be restricted to those which guarantee the price of the plan. There is too much risk of consumer confusion if the price is not guaranteed.

Issue 1-4 Record keeping, disclosure to government

- 1. What records of insurance-funded pre-arranged plans should funeral homes be required to maintain?**
- 2. Are there any barriers to providing this information that we have not foreseen?**

We have no comments on Issue 1-4.

Issue 1-5 Restricting solicitations for the sale of funeral insurance

- 1. Are the current restrictions sufficient? Should they be expanded? If so, how?**

We believe the current restrictions soliciting a person in any hospital, home for special care, nursing home or senior citizens home, should be clarified, as proposed, so that the restrictions will apply to pre-arranged services that are funded by insurance.

Issue 1-6 Compensation scheme for insurance funded funeral plans

- 1. Should further restrictions on incentives be considered?**

We agree with the suggestion made by the Canadian Council of Insurance Regulators, that funeral service providers should be required to disclose any actual or potential conflict of interest associated with a transaction or recommendation, and that the recommended product be suitable for the funeral expense funding needs of the consumer.

We also agree with the Proposed Solution, to the effect that no additional legislation is required, and that existing provisions under the Insurance Act provisions that restrict the payment of commissions to persons who are licensed under the Insurance Act (and also) require disclosure of referral arrangements, are sufficient.

Issue 1-7 Cooling off period

- 1. Is it appropriate to extend the cooling off period provisions that exist for trust-funded pre-arranged funeral plans to purchasers of insurance-funded pre-arranged funeral plans?**
- 2. Is it appropriate to remove the limitation that would see the cooling off period apply on where the plan is purchased outside the home, or a place other than the seller's business premises?**
- 3. Is 10 days an appropriate cooling off period?**

We agree that the 10-day cooling off period provisions that exist for trust-funded pre-arranged funeral plans should also apply to purchases of insurance-funded prearranged funeral plans in a funeral home.

We are uncertain about the proposal to “(r)equire that it be made clear to the consumer that the consumer canceling his or her insurance contract would nullify the pre-arranged funeral plan.” In some cases, a consumer may wish to cancel the insurance contract and to fund the pre-arranged funeral plan through a trust, and we believe it would be desirable to permit funding arrangement to be changed from insurance to trust-based or from trust to insurance-based without nullifying the pre-arranged funeral pan.

Issue 1-8 Types of insurance products offered for sale at funeral homes

- 1. Should restrictions be placed on the types of insurance products that can be sold at funeral homes?**
- 2. What restrictions are reasonable?**
- 3. Should there be a requirement that the funeral insurance product guarantee growth over the life of the certificate to meet the needs of the pre-arranged plan purchased by the consumer?**
- 4. Is it appropriate that insurance plans be sold only with a guaranteed pre-arranged funeral plan? Why or why not?**

We believe that funeral industry professionals should only be permitted to sell funeral insurance in conjunction with the purchase of a guaranteed pre-arranged funeral plan that the insurance is intended to finance. We also agree with the proposal to require that funeral insurance plans sold with pre-need funeral services plans guarantee growth for the life of the certificate so that death benefit meets the needs of the pre-arranged plan purchased by the consumer.

As we have noted under Issue 1-1, we believe that funeral industry professionals should only be permitted to sell products the insurance provider authorizes them to sell, with the insurance provider being responsible for making sure that they understand the products, are able to explain the products to the client and are able to assess the suitability of the products to the needs of the client.

Issue 1-9 Converting trust-funded pre-arranged plans to insurance-funded pre-arranged plans

- 1. Should converting trust-funded pre-arranged funeral plans to insurance-funded pre-arranged funeral plans be permitted? Why or why not?**
 - a. In all cases?**
 - b. Only if not fully paid?**
- 2. What methods are appropriate when approaching contract-holders to suggest a conversion to an insurance-funded plan?**
- 3. If it is not permitted, what are the alternatives?**

We believe the conversion of trust-funded pre-arranged funeral plans to insurance-funded pre-arranged funeral plans should be permitted.

Advocis appreciates this opportunity to provide comments on the Nova Scotia Funeral Services Consultation. Should you have any comments or questions, please do not hesitate to contact the undersigned, or contact Ed Skwarek, Vice President Regulatory and Public Affairs at eskwarek@advocis.ca, or by calling 416-342-9837.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'G' followed by a long horizontal line that ends in a small arrowhead.

Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO

A handwritten signature in black ink, featuring a large, looped 'D' followed by 'Owen' and a long horizontal line.

Dean Owen, CLU, CH.F.C.
Chair, National Board of Directors