

OPINION NO. 2001-029**Syllabus:**

1. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who provides a person with general price lists of funeral services and goods available from several funeral homes does not violate R.C. 4717.13(A)(1) or (3) when he sells that person a life insurance policy with a face amount of five thousand dollars.
2. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C. 4717.13(A)(1) or (3) when he sells a person a life insurance policy the benefits of which are payable to a funeral home for the payment of the estimated cost of a funeral calculated by referring to the funeral home's general price list.
3. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C. 4717.13(A)(1) or (3) when he contacts a licensed funeral director and informs the funeral director that the agent has sold a person a life insurance policy, the benefits of which are payable to the funeral home, for the estimated cost of a funeral that is calculated by referring to the funeral home's general price list.
4. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who is employed by or affiliated

with a funeral home violates R.C. 4717.13(A)(1) when he negotiates, prepares, and sells on behalf of the funeral home a preneed funeral contract for funeral services and goods.

To: Pernel Jones, Sr., Board of Embalmers and Funeral Directors, Columbus, Ohio
By: Betty D. Montgomery, Attorney General, July 24, 2001

You have requested an opinion concerning the involvement of licensed life insurance agents in the pre-funding of funerals. By way of background, you state:

In the past twenty years, many Ohio consumers have pre-planned their funerals with funeral homes. In most cases, the pre-planning also involved pre-funding the costs of the funeral. In the funeral industry, this arrangement is referred to as a preneed contract.¹

There are generally two options when funding a preneed contract. In the first option, the consumer pays the cost of the funeral to the funeral home and the funeral home places those funds in trust in accordance with Section 1111.19 of the Ohio Revised Code. That section requires the funds to remain in trust until the funeral services are conducted by the funeral home.

The second option is to fund the preneed contract with a life insurance policy on the life of the contract beneficiary. When the beneficiary dies, the proceeds of the insurance policy are paid to the funeral home which provides the funeral goods and services according to the preneed contract.

When insurance policies are used to fund preneed contracts, funeral directors who are licensed life insurance agents will often sell the life insurance policies to fund the preneed contracts. In other cases, a life insurance agent who is not a licensed funeral director will sell the policies. (Footnote added.)

Your letter sets forth five different examples of situations in which a licensed life insurance agent, who is not licensed as a funeral director, participates in the pre-funding of a funeral.² You wish to know whether the actions of the licensed life insurance agent described in each example constitute a violation of R.C. 4717.13(A)(1) or (3).

¹In Ohio, "[a] preneed funeral contract that includes funeral services may be sold only by a funeral director licensed pursuant to [R.C. Chapter 4717]." R.C. 1111.19(A)(2). For purposes of R.C. 1111.19, a "[p]reneed funeral contract" means "a written agreement, contract, or series of contracts to sell or otherwise provide any funeral services, funeral goods, or any combination thereof, to be used in connection with the funeral or final disposition of a dead human body, where payment for the goods or services is made either outright or on an installment basis, prior to the death of the person purchasing them or for whom they are purchased." *Id.*; see, e.g., 1987 Op. Att'y Gen. No. 87-111.

²Pursuant to R.C. 3905.16, "[a] life insurance agent is a person who solicits, negotiates for, places, or renews policies or agreements of life insurance for a consideration or compensation given, paid, or promised by any insurance corporation or association or any firm or person." R.C. 3905.17 provides that the Superintendent of Insurance "may issue, as provided by [R.C. 3905.18], to any natural person who is a citizen of the United States, or who is a resident of the United States and has filed a declaration of intention to become a citizen, a

The provisions of law regulating the business or profession of funeral directing are set forth in R.C. Chapter 4717 and 11 Ohio Admin. Code Chapter 4717-1. As a general matter, except as provided in R.C. 4717.12,³ no person may engage in the business or profession of funeral directing or advertise or otherwise offer to provide or convey the impression that he provides funeral directing services unless he is licensed under R.C. Chapter 4717 by the Board of Embalmers and Funeral Directors. R.C. 4717.13; *see* R.C. 4717.05(C)-(E). In this regard, R.C. 4717.13 provides in pertinent part:

(A) No person shall do any of the following:

(1) *Engage in the business or profession of funeral directing unless the person is licensed as a funeral director under this chapter, is certified as an apprentice funeral director in accordance with rules adopted under [R.C.*

life insurance agent's license." In addition, R.C. 3905.18(C) authorizes the Superintendent of Insurance to issue a life insurance agent's license to a corporation that qualifies therefor. The Superintendent of Insurance is also vested with the authority to regulate the activities of licensed life insurance agents. *See* R.C. 3905.18; R.C. 3905.482; R.C. 3905.49. Accordingly, the power to license life insurance agents and supervise their activities is bestowed upon the Superintendent of Insurance. *See generally* R.C. Chapter 3905.

As a creature of statute, the Board of Embalmers and Funeral Directors has only such authority as is expressly conferred upon it by statute, or as may be necessarily implied in order to effect the exercise of an express power. *Burger Brewing Co. v. Thomas*, 42 Ohio St. 2d 377, 379, 329 N.E.2d 693, 695 (1975); 1983 Op. Att'y Gen. No. 83-056 at 2-226. A review of the powers and duties of the Board of Embalmers and Funeral Directors discloses that it has the authority to, *inter alia*, regulate the business and profession of funeral directing, but no authority to generally regulate the activities of licensed life insurance agents. *See* R.C. Chapter 4717 (embalmers, funeral directors, crematories); 11 Ohio Admin. Code Chapter 4717-1 (Board of Embalmers and Funeral Directors). This opinion, therefore, does not address whether a licensed life insurance agent who undertakes any of the actions described in your opinion request thereby violates a provision of the insurance laws set forth in R.C. Title 39 or an administrative rule adopted and promulgated by the Superintendent of Insurance. *See generally* 1983 Op. Att'y Gen. No. 83-056 at 2-229 (the Board of Embalmers and Funeral Directors is not responsible for investigating and enforcing R.C. 1107.33 (now R.C. 1111.19), and thus, the Attorney General will not provide the board with an analysis of the specific duties that other state or local officials may have to investigate and enforce R.C. 1107.33).

³R.C. 4717.12 exempts the following persons from the licensing provisions of R.C. Chapter 4717:

(1) An officer or employee of the department of health or any board of health, who, in compliance with rules or orders of the department of health or board of health, is preparing the body of a person whose death was caused by a virulent communicable disease;

(2) An officer, employee, or licensed physician of a medical college, when any of these are acting on behalf of a medical college;

(3) Any person carrying out sections 1713.34 to 1713.39 of the Revised Code, prescribing the conditions under which the bodies of indigent persons are held subject for anatomical study.

4717.04] and is assisting a funeral director licensed under this chapter, or is a student in a college of mortuary sciences approved by the board and is under the direct supervision of a funeral director licensed by the board;

....

(3) *Advertise or otherwise offer to provide or convey the impression that the person provides funeral directing services unless the person is licensed as a funeral director under this chapter and is employed by or under contract to a licensed funeral home and performs funeral directing services for that funeral home in a manner consistent with the advertisement, offering, or conveyance.... (Emphasis added.)*

Accordingly, except as provided in R.C. 4717.12, unless a person is licensed as a funeral director in accordance with the provisions of R.C. Chapter 4717, he may not engage in the business or profession of "funeral directing," R.C. 4717.13(A)(1), nor may he advertise or otherwise offer to provide or convey the impression that he provides "funeral directing services," R.C. 4717.13(A)(3). *See generally Board of Embalmers and Funeral Directors v. Lee*, No. 91AP-389, 1991 Ohio App. LEXIS 3666, at *11 (Franklin County August 1, 1991) ("a licensed funeral director must be the principal participant representing the funeral home in making arrangements for the funeral service and interment, or final disposition of a decedent"). None of the provisions of R.C. 4717.12, *see note three, supra*, exempt a licensed life insurance agent from complying with these licensing requirements.

As used in R.C. Chapter 4717, "[f]uneral directing" is defined in R.C. 4717.01(C) as follows:

"Funeral directing" means the business or profession of directing or supervising funerals for profit, the business or profession of preparing dead human bodies for burial by means other than embalming, the disposition of dead human bodies, the provision or maintenance of a place for the preparation, the care, or disposition of dead human bodies, the use in connection with a business of the term "funeral director," "undertaker," "mortician," or any other term from which can be implied the business of funeral directing, or the holding out to the public that one is a funeral director or a disposer of dead human bodies.

[2000-2001 Monthly Record, vol. 1] Ohio Admin. Code 4717-1-01 at 934 further defines what constitutes the "business or profession of directing or supervising funerals for profit" for purposes of the rules of the Board of Embalmers and Funeral Directors. As defined by the board:

The "business or profession of directing or supervising funerals for profit," means the removal of the body of the deceased and the preparation of the body of the deceased and the preparation of the body for final disposition; obtaining necessary permits; filing death certificates and other necessary forms; recording of vital statistics; preparation of necessary notices; making of funeral arrangements;⁴ the selling or soliciting of funeral service; coordinating and directing the ceremony or funeral service; and directing the final ceremony or funeral service at the cemetery, crematory, mauso-

⁴[2000-2001 Monthly Record, vol. 1] Ohio Admin. Code 4717-1-01(H) at 935 defines "funeral arranging" or "the process of making funeral arrangements" as follows:

leum, etc. provided, however that such directing does not conflict with the administrative or operational authority of the cemetery operator at the cemetery, crematory, mausoleum, etc., and that the cemetery operator who arranges for the final disposition at the cemetery, crematory or mausoleum has not engaged in the business or profession of directing or supervising funerals for profit. (Footnote added.)

Rule 4717-1-01(D).

R.C. 4717.01(C) and rule 4717-1-01(D) thus specify the activities and services that constitute "funeral directing" for purposes of R.C. 4717.13(A)(1) and (3). Such activities and services include directing or supervising funerals for profit; making funeral arrangements; selling or soliciting funeral services; obtaining necessary permits; filing death certificates and other necessary forms; and recording vital statistics. They also include preparing necessary notices; preparing dead human bodies for burial by means other than embalming; disposing of dead human bodies; maintaining a place for the preparation, the care, or disposition of dead human bodies; coordinating and directing the final ceremony or funeral service; using the term "funeral director," "undertaker," "mortician," or any other term from which can be implied the business of funeral directing; and holding out to the public that one is a funeral director or a disposer of dead human bodies. Accordingly, a person who is not licensed as a funeral director pursuant to R.C. Chapter 4717 that engages in one of these activities or that advertises or otherwise offers to provide or convey the impression that he provides such services violates R.C. 4717.13(A)(1) or (3), respectively.

Let us now examine the following five examples set forth in your letter and determine whether the actions of the licensed life insurance agent described in each example constitute "funeral directing" or "funeral directing services," for purposes of R.C. 4717.13(A)(1) and (3), respectively:

1. An agent who is not employed by or affiliated with a funeral home gathers general price lists from several funeral homes in the community. The agent then meets with a consumer and using the general price lists explains to the consumer that a typical funeral may cost up to \$5,000. The agent then sells the consumer a life insurance policy with a face amount of \$5,000. No preneed funeral contract is entered into.
2. An agent who is not employed by or affiliated with a funeral home gathers general price lists from several funeral homes in the community. When meeting with a consumer, the agent asks the consumer which funeral home the consumer intends to use. The consumer selects a funeral home and refers to the funeral home's general price

"Funeral arranging" or "the process of making funeral arrangements["] means[] the process whereby the funeral director who in good faith meets with the person or persons who arrange for the services or final disposition of a dead human body to determine method of final disposition, the services and total cost, and to provide the person making arrangements with a written statement of price disclosures at the conclusion of arrangements; provided, however, that a cemetery operator who meets with the person or persons to arrange the final disposition or method of final disposition is not "funeral arranging" or performing the "process of making funeral arrangements."

list to estimate the cost of a funeral at the funeral home. The agent then sells the consumer a life insurance policy to cover the estimated cost of the funeral. Although no preneed funeral contract is entered into between the consumer and the funeral home, the funeral home is designated as the beneficiary in the life insurance policy.

3. Assume the same facts as Scenario No. 2 above, but in this scenario the agent contacts the designated funeral home and informs a licensed funeral director that the funeral home is designated as the beneficiary in the consumer's life insurance policy. The funeral director later contacts the consumer and enters into a preneed funeral contract for specific funeral services and goods that are selected by the consumer after consultation with the funeral director.
4. An agent that is employed by or affiliated with a particular funeral home meets with a consumer and shows the consumer the funeral home's general price list. The consumer then selects funeral services and goods from the general price list and the agent records those selections in a preneed funeral contract. The agent sells the consumer a life insurance policy with the face amount of the policy equal to the price of the funeral services and goods selected. The consumer signs the preneed funeral contract and the agent takes the preneed funeral contract to the funeral home where it is countersigned by the licensed funeral director who supervises the agent's activities.
5. An agent that is employed by or affiliated with a particular funeral home meets with a consumer and shows the consumer the funeral home's general price list. The consumer then selects funeral services and goods from the general price list and the agent records those selections in a preneed funeral contract. The agent sells the consumer a life insurance policy with the face amount of the policy equal to the price of the funeral services and goods selected. The preneed funeral contract is then signed by the consumer, and by the agent on behalf of the funeral home.

It is reasonably apparent that in none of these examples does the licensed life insurance agent engage in the business or profession of preparing dead human bodies for burial, dispose of dead human bodies, maintain a place for the preparation, care, or disposition of dead human bodies, coordinate and direct the final ceremony or funeral service, obtain necessary permits, file death certificates and other necessary forms, or record vital statistics. In none of these situations does he prepare necessary notices, or advertise or use the term "funeral director," "undertaker," "mortician," or any other term that implies that the agent engages in the business of funeral directing or holds himself out to the public as a funeral director or a disposer of dead human bodies. *See* R.C. 4717.01(C); rule 4717-1-01(D). Therefore, the pertinent issue raised in each example is whether the actions of the licensed life insurance agent either constitute "making funeral arrangements," "selling or soliciting of funeral services," or "directing or supervising funerals for profit," or "convey the impression that the [agent] provides funeral directing services." *See* R.C. 4717.01(C); R.C. 4717.13(A)(1) and (3); rule 4717-1-01(D) and (H).

In your first example the licensed life insurance agent sells a person a life insurance policy. From the facts you have provided, it does not appear that the agent states or conveys the impression that he will arrange or provide any funeral services or goods to the purchaser

of the life insurance policy. The agent merely provides the person with general price lists of funeral services and goods available from several funeral homes for the purpose of informing the person about the costs of typical funeral services and goods in the community. By providing such information, the agent helps the person determine an appropriate face amount for the life insurance policy.

The price lists provided by the agent are readily available to the potential customer from the funeral homes themselves. The agent provides these price lists as a convenience. In our opinion, the provision by a licensed life insurance agent of general price lists of funeral services and goods available from several funeral homes to a purchaser of a life insurance policy does not, in and of itself, constitute making funeral arrangements, selling or soliciting funeral services, directing or supervising funerals for profit, or convey the impression that the agent provides such services. Accordingly, a licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who provides a person with general price lists of funeral services and goods available from several funeral homes does not violate R.C. 4717.13(A)(1) or (3) when he sells that person a life insurance policy with a face amount of five thousand dollars.

In your second example the situation is the same as that described in your first example, except that the person selects a funeral home and refers to the funeral home's general price list to estimate the cost of a funeral at the funeral home. The life insurance agent then sells the person a life insurance policy to cover the estimated cost of the funeral. The funeral home selected by the person is also designated as the beneficiary in the life insurance policy.

As in the case of the first example, the agent in this second example neither states nor conveys the impression that he will arrange or provide any funeral services or goods to the person to whom he sells a policy of life insurance. Instead, the agent provides the person with general information that enables the person to make an informed decision regarding the cost of funeral services and goods. After reviewing the price lists of the various funeral homes provided by the agent, the person chooses a particular funeral home. The person then uses the funeral home's general price list to estimate the cost of a funeral at the funeral home. The agent then sells the person a life insurance policy the benefits of which are payable to the funeral home to cover the estimated cost of the funeral. *See* R.C. 3911.09(A) (a creditor of a person may be designated as the beneficiary in a policy of life insurance issued upon the person's life); *see also* R.C. 3905.45 (no benefits from an insurance policy may be paid to a funeral director or funeral home for the cost of funeral services or goods until the insurer is provided with a certified copy of the certificate of death of the insured and a certificate of completion).

The life insurance policy thus serves as the means of paying for the estimated cost of the person's funeral. The life insurance policy is not a contract for funeral services and goods since the person is not guaranteed any specific funeral services and goods. *See generally* R.C. 3905.451 ("[t]he sale of a life insurance policy the benefits of which are payable to the provider of funeral or burial goods or services as payment for these goods or services is not the sale of a preneed funeral contract as defined in [R.C. 1111.19]"). Accordingly, a licensed life insurance agent who sells a life insurance policy the benefits of which are payable to a funeral home for the payment of the estimated cost of a funeral that is calculated by referring to the funeral home's general price list does not thereby make funeral arrangements, sell or solicit funeral services, direct or supervise funerals for profit, or convey the impression that he provides such services and goods. Therefore, a licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C.

4717.13(A)(1) or (3) when he sells a person a life insurance policy the benefits of which are payable to a funeral home for the payment of the estimated cost of a funeral calculated by referring to the funeral home's general price list.

The facts of your third example are the same as in your second example. However, after the sale of the life insurance policy, the licensed life insurance agent informs the funeral home that the funeral home is designated as the beneficiary of the benefits of the person's life insurance policy. The funeral home's funeral director then contacts the policy owner and enters into a preneed funeral contract for specific funeral services and goods that are selected by the person after consultation with the funeral director.

As in the previous two examples, the agent in your third example neither states nor conveys the impression that he directs or supervises funeral services for profit or that he will arrange or provide any funeral services or goods to the person to whom he sells a policy of life insurance. The agent provides the person with general information pertaining to funeral services and goods and then uses that information to calculate the estimated cost of a funeral at a funeral home selected by the person. The agent then sells the person a life insurance policy to cover the estimated cost of the funeral. The agent also contacts the funeral home to inform its licensed funeral director that the funeral home is designated as the beneficiary of the benefits of the life insurance policy.⁵ By communicating this information to the licensed funeral director, the agent has not, in any way, indicated that he will provide funeral services or goods to the life insurance policy owner.

Instead, the agent merely informs the funeral home of the person's intent to have that funeral home provide funeral services and goods. The funeral home's licensed funeral director then contacts the person and enters into a preneed funeral contract for specific funeral services and goods that are selected by the person after consultation with the funeral director. The funeral director, rather than the licensed life insurance agent, thus is responsible for selling or soliciting funeral services to, and arranging and providing funeral services and goods for, the policy owner. Accordingly, a licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C. 4717.13(A)(1) or (3) when he contacts a licensed funeral director and informs the funeral director that the agent has sold a person a life insurance policy, the benefits of which are payable to the funeral home, for the estimated cost of a funeral that is calculated by referring to the funeral home's general price list.

Your fourth example presents a licensed life insurance agent who is employed by or affiliated⁶ with a particular funeral home. The agent meets with a person and has the person select funeral services and goods from the funeral home's general price list. The agent records the selections of the person in a preneed funeral contract and sells the person a life insurance policy with a face amount sufficient to cover the total price of the funeral services and goods listed in the contract. After the person signs the preneed funeral contract, the

⁵Whether it is proper for a licensed life insurance agent to contact a funeral home and inform its funeral director that the funeral home is the beneficiary of the benefits of a life insurance policy is a question that should be referred to the Superintendent of Insurance. See note two, *supra*.

⁶As used in your letter, the term "affiliated," is to be understood as referring to a business arrangement or relationship between a licensed life insurance agent and a funeral home whereby the licensed life insurance agent, for a commission, agrees to promote to prospective life insurance policyholders the funeral services and goods provided by the funeral home.

agent takes the contract to the funeral home where it is countersigned by the funeral home's licensed funeral director.

Unlike the previous examples, the licensed life insurance agent in this fourth example does more than provide the person with general information pertaining to funeral services and goods, and sell the person a life insurance policy to pay for the costs of such services and goods. The agent, as an employee or affiliate of the funeral home, represents the funeral home, and negotiates, prepares, and sells on behalf of the funeral home a preneed funeral contract for funeral services and goods.

As explained previously, R.C. 4717.13(A)(1) provides that, except as provided in R.C. 4717.12, unless a person is licensed as a funeral director in accordance with the provisions of R.C. Chapter 4717, he may not engage in the business or profession of "funeral directing." For purposes of R.C. 4717.13, "[f]uneral directing" includes, *inter alia*, "the business or profession of directing or supervising funerals for profit." R.C. 4717.01(C). The Board of Embalmers and Funeral Directors, which is vested with the authority to administer and enforce the provisions of R.C. 4717.13(A)(1), has, in turn, adopted and promulgated rule 4717-1-01(D), which defines the "business or profession of directing or supervising funerals for profit" as including, *inter alia*, "the selling or soliciting of funeral service[s]."

Because "[r]ules issued by administrative agencies pursuant to statutory authority have the force and effect of law[.]" *Parfitt v. Columbus Corr. Facility*, 62 Ohio St. 2d 434, 436, 406 N.E.2d 528, 530 (1980), *cert. denied*, 449 U.S. 1061 (1980), a person who sells or solicits funeral services engages in the business or profession of funeral directing. Accordingly, pursuant to R.C. 4717.13(A)(1), a licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 may not sell or solicit funeral services.

The word "sell" means "to have or offer regularly for sale; ... to make or try to make sales in or to ... to bring about, help in, or promote the sale of." *Webster's New World Dictionary* 1293 (2d college ed. 1986). *See generally* R.C. 1.42 (in statutory construction, words are to be accorded their common meaning). In the situation presented in your fourth example, it is readily apparent that the licensed life insurance agent brings about and promotes the sale of funeral services. The licensed life insurance agent has initial contact with the person and explains all the funeral services and goods provided by the funeral home and the costs of such services and goods. The agent negotiates and prepares on behalf of the funeral home a preneed funeral contract for the sale of funeral services and goods to be used in connection with the person's funeral. The agent also obtains the person's signature on the preneed funeral contract. The funeral home's licensed funeral director neither meets with the person nor participates in the negotiations or the preparation of the preneed funeral contract. The licensed funeral director only signs the preneed funeral contract prepared by the agent.

Accordingly, the licensed life insurance agent, rather than the funeral home's licensed funeral director, brings about or promotes the sale of the funeral services that are to be used in connection with the person's funeral. Because the agent brings about and promotes the sale of funeral services, the agent engages in the business or profession of funeral directing.⁷ As stated earlier, none of the provisions of R.C. 4717.12, *see* note three, *supra*,

⁷It might be asserted that, since the licensed life insurance agent sells the preneed funeral contract for funeral services and goods on behalf of a licensed funeral director, the agent does not engage in the business or profession of funeral directing. *See generally* 1925 Op. Att'y Gen. No. 2741, p. 547 at 548 ("[i]t is believed that it is not necessary that all the work of

exempt a licensed life insurance agent from complying with the licensing requirements of R.C. Chapter 4717. A licensed life insurance agent thus must be licensed as a funeral director in accordance with R.C. Chapter 4717 before he may negotiate, prepare, and sell a preneed funeral contract for funeral services and goods. Therefore, a licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who is employed by or affiliated with a funeral home violates R.C. 4717.13(A)(1) when he negotiates, prepares, and sells on behalf of the funeral home a preneed funeral contract for funeral services and goods.

The facts of your last example are identical to the fourth example, except that the licensed life insurance agent, rather than the licensed funeral director, signs the preneed funeral contract. As in the fourth example, the agent negotiates, prepares, and sells the preneed funeral contract for funeral services and goods. The fact that the agent signs the preneed funeral contract on behalf of a licensed funeral director only strengthens the conclusion that the agent is responsible for selling funeral services.

Thus, as in the fourth example, the licensed life insurance agent engages in the business or profession of funeral directing. Accordingly, the answer to your fifth example is the same as the answer to your fourth example.⁸

preparing a body for burial, etc., must necessarily be made by a licensed embalmer, but that such preparation shall be made under the direction and supervision of a licensed embalmer"). While it is reasonable to assume that licensed funeral directors are permitted to delegate tasks or responsibilities to unlicensed persons, the notion of delegation must be viewed within the statutory scheme governing the business or profession of funeral directing. *See* 2000 Op. Att'y Gen. No. 2000-023 at 2-158. As a general matter, neither the General Assembly nor the Board of Embalmers and Funeral Directors has provided clear or comprehensive direction regarding the nature of tasks or responsibilities within the business or profession of funeral directing that may be delegated, or the extent to which or persons to whom tasks within the business or profession of funeral directing may be delegated. However, the General Assembly has expressly declared that, "[a] preneed funeral contract that includes funeral services may be sold *only* by a funeral director licensed pursuant to [R.C. Chapter 4717]." R.C. 1111.19(A)(2) (emphasis added). In light of the plain language of R.C. 1111.19(A)(2), a licensed funeral director is prohibited from delegating the task of selling preneed funeral contracts for funeral services to unlicensed persons. *See generally Board of Embalmers and Funeral Directors v. Lee*, No. 91AP-389, 1991 Ohio App. LEXIS 3666, at *11 (Franklin County Aug. 1, 1991) ("a licensed funeral director must be the principal participant representing the funeral home in making arrangements for the funeral service and interment, or final disposition of a decedent").

⁸A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who performs the activities set forth in your fourth and fifth examples also violates R.C. 1111.19(A)(2), which states that, "[a] preneed funeral contract that includes funeral services may be sold only by a funeral director licensed pursuant to [R.C. Chapter 4717]." *See* note seven, *supra*. *See generally* R.C. 1111.99 ("[w]hoever purposely violates [R.C. 1111.19] is guilty of a felony of the fourth degree"). In each of the Board's last two examples the licensed funeral director may also face sanctions under R.C. 4717.14(A)(5). This statute provides, in pertinent part, that the Board may refuse to grant or renew, or may suspend or revoke, any license issued under R.C. Chapter 4717 because a licensee knowingly permitted an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of funeral directing under the licensee's supervision.

Therefore, based upon the foregoing analysis, it is my opinion, and you are hereby advised as follows:

1. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who provides a person with general price lists of funeral services and goods available from several funeral homes does not violate R.C. 4717.13(A)(1) or (3) when he sells that person a life insurance policy with a face amount of five thousand dollars.
2. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C. 4717.13(A)(1) or (3) when he sells a person a life insurance policy the benefits of which are payable to a funeral home for the payment of the estimated cost of a funeral calculated by referring to the funeral home's general price list.
3. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 does not violate R.C. 4717.13(A)(1) or (3) when he contacts a licensed funeral director and informs the funeral director that the agent has sold a person a life insurance policy, the benefits of which are payable to the funeral home, for the estimated cost of a funeral that is calculated by referring to the funeral home's general price list.
4. A licensed life insurance agent who is not licensed as a funeral director pursuant to R.C. Chapter 4717 and who is employed by or affiliated with a funeral home violates R.C. 4717.13(A)(1) when he negotiates, prepares, and sells on behalf of the funeral home a preneed funeral contract for funeral services and goods.