

APPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, September 15, 2009 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Conference Room #3, Henrico, Virginia.

CALL TO ORDER

Mr. Minter, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 9:07 a.m.

BOARD MEMBERS PRESENT

Randolph T. Minter, FSP, President
Michael Leonard, FSP, Vice President
Billie Watson-Hughes, FSP
Blair Nelsen, FSP
Willard. D. Tharp, FSP
Barry Murphy, FSP
Walter Ball, Citizen Member

BOARD MEMBERS ABSENT

Robert B. Burger, Jr., FSP, Secretary
Rev. Yvonne Jones Bibbs, Citizen Member

DHP STAFF PRESENT

Lisa R. Hahn, Executive Director
Sandra W. Ryals, DHP Agency Director
Elaine J. Yeatts, Senior Policy Analyst
Anne Artis, Licensure Operations Manager
Jeanette Meade, Licensing Administrative Assistant

BOARD COUNSEL

Amy Marschean, Senior Assistant Attorney General

QUORUM

With 7 members present a quorum was established.

GUESTS PRESENT

Steve Wooddell, Metropolitan Funeral Service
Michael Nicodemus, CANA & Hollomon-Brown Funeral Home
William Burrell, Richmond Funeral Directors Association
Barry D. Robinson, Virginia Morticians Association
Meredyth Partridge, Regulatory Support Services, Inc.
Bo Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association
Keith Whitt, Virginia Funeral Directors Association
Bob Oman, Virginia Funeral Directors Association
David Anderson, Virginia Funeral Directors Association

ORDERING OF AGENDA

Upon a motion by Mr. Leonard, the Board voted to accept the amended agenda. The motion was properly seconded by Ms. Hughes. The vote carried unanimously.

ACCEPTANCE OF MINUTES

Upon a motion by Ms. Hughes, the Board voted to accept the amended minutes. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

PUBLIC COMMENT PERIOD

There were no public comments.

AGENCY DIRECTOR'S REPORT - SANDRA WHITLEY RYALS

Sandra Ryals, Director of the Department of Health Professions was pleased to inform the Board that the Virginia Performs-Key Performance Measures were met in our agency with a clearance rate of 100% during the fourth quarter of this fiscal year 2009. She expressed that the staff in our board office as well as throughout the agency has worked hard on managing the age of pending case load to be closed within the 250 business days. The percent of cases resolved within 250 business days increased to 92% during the most recent quarter, exceeding the goal for a second consecutive quarter. She also indicated that the boards are achieving a 100% goal on licensing within 30 days of receipt of a completed application.

EXECUTIVE DIRECTOR'S REPORT

Expenditure and Revenue Summary

Ms. Hahn stated that the cash balance as of June 30, 2009, was \$(26,017). The revenue received for FY 09 was \$540,665, less the direct and allocated expenditures totaled \$494,850, and ending cash balance as of June 30, 2009 was \$19,797. Ms. Hahn indicated

that the Finance Division will be conducting a fiscal analysis of the department's expenditures and revenues once the calendar 2009 has ended and they will advise accordingly.

Licensee Statistics

Ms. Hahn reported that there are 1,465 Funeral Service Providers, 140 Funeral Interns, 494 Funeral Establishments, 5 Embalmers, 84 Funeral Directors, 15 Branch Establishments, 80 Crematories, 26 Continuing Education Providers, 92 Courtesy Card Holders and 51 Surface Transportation and Removal Services.

Discipline Statistics

Ms. Hahn stated we have 45 open cases (case load down from 22 in March); 30 cases are in the Enforcement Division at the Investigative stage; 9 cases are in the Probable Cause stage; 3 cases are in the Administrative Proceedings Division stage; 1 case is at the Informal stage and 2 cases are at the Compliance stage.

Virginia Performs

Ms. Hahn reported for the fourth quarter ending March 30, 2009, that we have achieved a 100% rating for issuing licenses in less than 30 days and we achieved a 100% rating for patient care cases closed within 250 days. We did not have any customer satisfaction survey returned this cycle.

Miscellaneous Board Business

Ms. Hahn included an FTC opinion on the Funeral Rule regarding providing prices by telephone to anyone who calls seeking such information. The letter was sent to Mr. Duffey, President of Everest Funeral Package, LLC from Craig Tregillus, FTC.

Attachment I. FTC Opinion on the Funeral Rule



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Ms. Hahn reviewed her organizational structure and acknowledged the recent staff changes for the Funeral Board. She indicated that Ms. Meade is the licensing specialist and she has been instrumental in improving the licensing processes. Ms. Artis remains the licensure operations manager and ensures that our licenses for all the boards are done in a timely and accurate manner. Ms. Hahn stated she was pleased with her entire staffs' performances in handling their individual boards, backing each other up and working together as a team.

Ms. Hahn thanked Blair Nelsen, FSP, for taking time out of his busy day to allow the Funeral Directors and Embalmers staff visit and tour his funeral home and crematory. He

gave us an overview of the operations and provided the staff a chance for questions and answers.

Ms. Hahn developed a proclamation to Meg Mountcastle and asked the Board to make a motion to adopt the resolution. Upon a motion made by Mr. Tharp, the Board voted to accept the adoption of the resolution for Meg Mountcastle. The motion was properly seconded by Ms. Hughes. The vote carried unanimously.

Calendar

Ms. Hahn discussed with the Board that they will need to have at least 4 board meetings a year. We discussed beginning our meetings in January 2010.

Ms. Hahn will work with Mr. Minter, President, to set the 2010 calendar.

NEW BUSINESS

Adoption of Exempt Action to correct agency's address and telephone numbers

18VAC65-30-220. Content of preneed contracts

III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by Chapter 28 (§54.1-2800 et seq.) of Title 54.1 of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to: *The Board of Funeral Directors and Embalmers, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1717, Telephone Number 804-662-9907*

- Upon a motion by Mr. Tharp, the Board voted to adopt an exempt action to change the Board's address and phone number in Regulations for Preneed Funeral Planning (Chapter 28). The motion was properly seconded by Ms. Hughes. The vote carried unanimously.

Adoption of Exempt Regulation

HB 1969 Administrative Process Act; required review of feasibility of electronic submission.

- Upon a motion by Ms. Hughes, the Board voted to adopt an exempt action to eliminate conflicts with electronic submission of renewals and applications in Chapters 20 and 40. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Legislative Proposals – Draft Legislation

§54.1-2818.1. Prerequisites for Cremation

No dead human body shall be cremated without (i) permission of the medical examiner as required by § 32.1-284 and ~~either~~ (ii) visual identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to § 54.1-2825 or an agent named in an advance directive pursuant to § 54.1-2984 or ~~(iii) a twenty four hour waiting period between the time of death and the cremation.~~ When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation. (1998, c. 867.)

- Upon a motion by Mr. Tharp, the Board voted to amend and reenact Section 54.1-2818.1 pertaining to prerequisites for cremation for the visual identification. The motion was properly seconded by Mr. Nelsen. The vote carried unanimously.

Issuance of Courtesy Cards

§54.1-2801. Exemptions

A. The provisions of this chapter shall not apply to any officer of local or state institutions or to the burial of the bodies of inmates of state institutions when buried at the expense of the Commonwealth or any of its political subdivisions.

B. Any person holding a license as a funeral director or embalmer or an equivalent in another state, having substantially similar requirements as the Board, may apply to the Board for courtesy card privileges to remove bodies from and to arrange funerals or embalm bodies in this Commonwealth. However, these privileges shall not include the right to establish or engage generally in the business of funeral directing and embalming in Virginia **and shall only be granted licensees of another state that grants similar courtesy card privileges to licensees of Virginia.**

- Upon a motion by Mr. Tharp, the Board voted to amend and reenact §54.1-2801, pertaining to the issuance of courtesy cards to licensees of other states. The motion was properly seconded by Mr. Nelsen. The vote carried unanimously.

Discussion regarding Refunds on Irrevocable Trusts- Preneed Rules and Regulations

18VAC65-30-110. Cancellation or transfer of contract.

D. If the contract buyer uses an irrevocable trust as the funding source and terminates the contract after 30 days of its execution, the contract buyer may be eligible for a refund only with the agreement of the contract buyer, the contract beneficiary, and the trustee.

18VAC65-30-230. Content of disclosure statements.

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

- Mr. Tharp offered to contact the various funding companies and it was suggested that he contact the Department of Social Services for their guidelines with regards to this matter. Therefore, this matter was tabled and it will be reviewed at another board meeting.

Recommendation from the Adhoc Committee regarding Refrigeration, Storage and Transportation to issue a NOIRA

18VAC65-20-611 Standards for proper handling of dead human remains

A. Refrigeration. Upon taking custody thereof, a funeral establishment shall ensure that a dead human body is embalmed or maintained in refrigeration at 40 degrees Fahrenheit or less if it is to be stored for more than 48 hours.

B. Storage of remains. If a dead **unembalmed** human body is to be stored for more than 48 hours, it shall be maintained in a container that substantially meets following:

1. Be able to be closed in order to provide complete covering for the human remains;
2. Be resistant to leakage or spillage.

C. If a dead human body is to be stored at a location other than at the funeral establishment that has taken custody thereof, the funeral establishment shall disclose to the contract buyer the location where the body is stored and the method of storage.

D. Handling of animal remains. Funeral establishments, crematories or transportation services shall not transport animal remains together with dead human bodies nor refrigerate animal remains in a unit where dead human bodies are being stored.

- Upon a motion by Mr. Leonard, the Board voted to adopt a Notice of Intended Regulatory Action to amend regulations adding requirements for the standards for proper handling of dead human remains in accordance with recommendations of the Ad Hoc Committee, with the exception that subsection B of a new section 611 would set out requirements for storage of unembalmed human body. The motion was properly seconded by Mr. Nelsen. The vote carried unanimously.

Discussion regarding Manager of Record for Crematory

- Can it be the same manager as the MOR for the Funeral Establishment
- If stand alone crematory, is a licensed FSP/MOR required
- Upon a motion by Mr. Leonard the Board voted to adopt a fast-track action to specify that the manager of a crematory does not have to be a licensed funeral service provider, the manager of record of a funeral establishment can be the same

for the crematory at the same site, and that managers and operators must be recertified at least every five years and also create a definition for a crematory manager of record. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Discussion regarding Manufacturer Cremation Certification Training

- Approval Process
- One time training or repeated training required after a specified duration
- Upon a motion by Mr. Leonard, the Board voted to withhold approval of any additional certifications for crematories until such certification programs can be reviewed for comparability with requirements of CANA and ICCFA certification programs. Also included in the motion was that managers and operators must be recertified at least every five years. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 11:30 a.m.

Randolph T. Minter, President

Lisa R. Hahn, Executive Director

Date

Date