

UNAPPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS MINUTES OF LEGISLATIVE/REGULATORY COMMITTEE

Wednesday, March 22, 2006
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230
Conference Room 1

Department of Health Professions

CALL TO ORDER

A meeting of the Virginia Board of Funeral Directors and Embalmers was called to order at 9:06 a.m.

PRESIDING

Willard D. Tharp, Chair

MEMBERS PRESENT:

Walter S. Ball
Robert Burger
Joseph Jenkins, Jr.

OTHER BOARD MEMBERS PRESENT:

Billie Watson Hughes
Michael Leonard

COMMITTEE MEMBERS ABSENT:

Randolph T. Minter

COUNSEL:

Jack E. Kotvas, Assistant Attorney General

STAFF PRESENT:

Elizabeth Young, Executive Director
Elaine Yeatts, Senior Policy Analyst
Annie B. Artis, Operations Manager

QUORUM:

With six members present, a quorum was established.

GUESTS PRESENT:

Bruce Keeney, Independent Funeral Homes of Virginia, Inc.
David Partridge, Regulatory Support Services, Inc.
Susan Motley, Virginia Funeral Directors Association

ORDERING OF THE AGENDA:

In addition to the agenda as written, Ms. Young stated that after the review of the regulations, the Board needs to address various conflicts in the law. Ms. Yeatts further stated that if time permits, she would like to review the preneed regulations.

PUBLIC COMMENT:

There was no public comment.

REVIEW OF MINUTES

Ms. Young informed the committee that the full Board has already approved the Legislative/Regulatory committee minutes of July 12, 2005. She stated the minutes were provided for review only.

CONTINUED REVIEW OF THE GENERAL REGULATIONS

Ms. Yeatts led the Board through a review of the regulations with the recommended changes and asked for any changes, deletions and discussion regarding the changes.

Part I. General Provisions.

18VAC65-20-10. Definitions.

Words and terms used in this chapter shall have the definitions ascribed in §54.1-2800 of the Code of Virginia and in 16 CFR Part 453, Funeral Industry Practices, of the Federal Trade Commission, which is incorporated by reference in this chapter. In addition, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

Ms. Yeatts stated that if these sections and agencies are to be incorporated with the regulations, the documentation must be included with the regulations.

~~“Establishment manager” means a funeral service licensee or licensed funeral director designated as the manager or record who is responsible for the direct supervision and management of a funeral service establishment or branch facility.~~

“Manager of record” means a funeral service licensee or licensed funeral director who is responsible for the direct supervision and management of a funeral service establishment or branch facility.

18VAC65-20-15. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

- B. Criteria for delegation. Cases that may not be delegated to an agency subordinate are those that involve:

8. Felony conviction by an applicant.

18VAC65-20-60. Accuracy of information.

- A. All changes of mailing address, name, ~~place of employment~~, or change in establishment ~~ownership, manager~~, or name shall be furnished to the board within 30 days after the change occurs.

B. Any change in ownership or manager of record for an establishment shall be reported to the board within 14 days of the change.

- ~~B:~~ **C.** All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, establishment, or firm of obligation to comply.

Part II. Renewals and Reinstatement.

18VAC65-20-120. Expiration dates.

- A. A funeral service establishment license, crematory registration, or surface transportation and removal service registration shall expire on ~~January~~ ~~March~~ **31** of each calendar year.
- C. Courtesy cards expire on ~~December~~ **March 31** of each calendar year.

18VAC65-20-130. Renewal of license; registration.

- A. A person, establishment, crematory, courtesy card holder or surface transportation and removal service that desires to renew its license or registration for the next year shall, not later than the expiration date as provided in 18VAC65-20-120, submit the renewal application and applicable fee.

1. In order to renew an active funeral service, director or embalmer license, a licensee shall be required to comply with continuing competency requirements set forth in 18VAC65-20-151.

2. The board shall not renew a license for any licensee who fails to attest to compliance with continuing competency requirements on the renewal form.

- B. A person who or entity which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in 18VAC65-20-120 shall be deemed to have an invalid license, registration, or courtesy card and continued practice may subject the licensee to disciplinary action by the board.

18VAC65-20-151 Continued competency requirements for renewal of an active license.

Ms. Young stated that Delegate Alexander asked the Board to review its current regulations regarding the continuing education. Delegate Alexander had his bill killed during this year's session in hopes that the Board would reexamine its current continuing education regulations and procedures. I.

Ms. Young stated the Board has several options: continue sponsor approval, begin course approval, or only have a certain number of sponsors; therefore any new programs would be approved by current sponsors. She reminded the Committee that the review process is very labor intensive. Ms. Yeatts stated that a good option would be for the board to hire a P-14 employee or possibly use the subordinate of the board to review the courses and make recommendations. Mr. Kotvas reminded the board that they have the authority to write to current sponsors and request that they send their courses and descriptions in to the board for further review. The committee recommended Mr. Kotvas' suggestion. There was discussion regarding the carrying over of continuing competency hours from one renewal to the next. A motion was made to propose the carrying over of hours from one renewal year to another. A poll vote was taken as follows: Mr. Ball – no; Mr. Leonard – no; Mr. Burger – yes; Mr. Jenkins – no; Ms. Hughes – no and Mr. Tharp – yes. The motion died.

18VAC65-20-153. Documenting compliance with continuing education requirements.

D.Compliance with continuing education requirements, including the subject and purpose of the courses as prescribed in 18VAC65-20-151B, the maintenance of records and the relevance of the courses to the category of licensure is the responsibility of the licensee. The board may request additional information if such compliance is not clear from the transcripts or certificates.

Part III. Requirements for Licensure.

18VAC65-20-170. Requirements for an establishment license.

B.Except as provided in §54.1-2810 of the Code of Virginia, every funeral service establishment and every branch or chapel of such establishment, regardless of how owned, shall have a separate ~~establishment~~ manager of record who has responsibility for the establishment as prescribed in 18VAC65-20-171.

Ms. Hughes made a motion to add an additional section in the regulations to include language regarding the responsibilities of the manager of record. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

18VAC65-20-171. Responsibilities of the manager of record.

- A. **The manager of record shall be employed full time by the establishment for at least 40 hours a week.**
- B. **The manager shall be fully accountable for the operation of the establishment as it pertains to the laws and regulations governing the practice of funeral services, to include but not be limited to:**
 - 1. **Maintenance of the facility within standards established this chapter;**
 - 2. **Retention of reports and documents as prescribed by the board in 18VAC65-20-700 during the period in which he serves as manager of record; and**
 - 3. **Reporting to the board of any changes to information as required by 18VAC65-20-60.**

The Committee discussed adding a section owner issue related to funeral service. A discussion will continue at one of the next meetings.

The Committee recommended adding a section to 18 VAC 65-700 (B) which addresses the manager's responsibility for proper records retention.

18VAC65-20-240. Requirements for funeral service licensure by examination.

- A. Application requirements.
 - 2. An individual applying for the state examination shall submit the application package ~~within six months and not less than 45~~ **30** days prior to an examination date. The board may, for good cause shown by the applicant, waive the time for the filing of any application.

18 VAC 65-20-350. Requirements for licensure by ~~reciprocity or~~ endorsement.

~~as follows:~~

- ~~1. Reciprocity. Licenses may be granted by reciprocity provided that the same privileges are granted by the other jurisdiction to Virginia funeral service licensees by the establishment of~~

~~substantially similar licensure requirements and reciprocity agreements between the two jurisdictions; or~~

~~2. Endorsement.~~

18 VAC 65-20-420 is recommended for appeal.

18 VAC 65-20-435. Registration of crematories.

Crematories

Ms. Young asked the Board if there was anything further that should be covered in an inspection of the crematory other than what is currently in place. Mr. Tharp suggested that standards be adopted to perform a more comprehensive inspection of the crematories. Ms. Yeatts informed the Board the issue was too complex to tackle at this meeting. However, Ms. Yeatts suggested that there be a task force developed regarding crematories. The Committee recommended creating the Task Force on Cremation with Mr. Tharp, as chair. Other members are:

- Michael Leonard, Board Member
- Robert Burger, Board Member
- Mike Nicodemus, Holloman Brown Funeral Home
- Steve Waddell of Metropolitan Funeral Service
- A DEQ representative.
- Trade Association representatives

Part V. Issuance of Courtesy Cards.

18VAC65-20-440. Courtesy Card

B. An applicant for a courtesy card shall submit:

2. Verification of a current **funeral service** license in good standing from the applicant's licensing authority.

Part VII. Standards for Embalming.

18VAC65-20-510. Embalming report.

Every funeral establishment shall record and maintain a separate, identifiable report ~~on a form as prescribed in Appendix IV of this chapter~~ for each embalming procedure conducted **which shall at a minimum include the following information:**

1. **The name of the deceased and the date of death; and**

2. The date of the embalming, the name of the embalmer and the Virginia license number of the embalmer.

18VAC65-20-590. Disposal of waste materials.

Disposal of all waste materials shall be in conformity with local, state, and federal law and regulations to avoid contagion and the possible spread of disease. Upon inspection, the establishment shall provide evidence of compliance, such as a copy of a contract with a medical waste disposal company.

Part VIII. Pricing Standards and Forms

Funeral providers shall make all required disclosures and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of the FTC and shall contain the information included in Appendices I, II, and III of this chapter ~~on forms provided by the board.~~

18VAC65-20-700. Retention of documents.

B. ~~The establishment manager~~ manager of record shall be responsible for retention and maintenance of all required documents.

Funeral Merchandise

It was suggested that caskets be listed under merchandise. Ms. Motley stated that the decision to have caskets sold by persons other than a funeral service licensee has been upheld in Oklahoma and two other states. Ms. Young stated she would research other states for any lawsuits.

Statutory Conflict

Next of Kin

There was discussion regarding next of kin. Ms. Yeatts stated there seemed to be a conflict in §54.1-2825. She stated that the board may wish to add the language: "whoever was designated by written agreement, shall be responsible for the disposition of remains." Ms. Yeatts further suggested that §54.1-2825 should specifically state that the person so designated supersedes the next of kin as stated in the definitions of the Code of Virginia, Chapter 28 of Title 54.1.

OTHER MEETING DATES

Ms. Young stated that the next meeting scheduled is the Legislative/Regulatory Committee meeting to discuss Preneed issues on April 19, 2006 at 9:00 a.m.

ADJOURNMENT

With no further business, Mr. Burger made a motion to adjourn the meeting at 12:00 noon. The motion was properly seconded by Ms. Hughes. The vote carried unanimously.

Willard D. Tharp, Chair

Elizabeth Young, Executive Director
