

APPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS MINUTES OF THE TASK FORCE ON CREMATION LAWS AND REGULATIONS

Thursday, November 30, 2006

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230
Conference Room 1

CALL TO ORDER

A meeting of the Virginia Board of Funeral Directors and Embalmers Task Force on Cremation Laws and Regulations was called to order at 9:00 a.m.

PRESIDING

Willard D. Tharp, Chair

MEMBERS PRESENT:

Mike Leonard
Barry Murphy
Blair Nelsen

TASK FORCE MEMBERS:

Mike Doherty, Virginia Cemetery Association
Meredyth Partridge, Regulatory Support Services, Inc.
Mike Nicodemus, Holloman and Brown Funeral Homes
Steve Woodell, Metropolitan Funeral Service
Bruce Keeney, Independent Funeral Homes of Virginia

STAFF PRESENT:

Elizabeth Young, Executive Director
Elaine Yeatts, Senior Policy Analyst
Jeanette Meade, Administrative Assistant

QUORUM:

With 9 task force members present, a quorum was established.

ORDERING OF THE AGENDA:

The agenda was accepted as written.

PUBLIC COMMENT:

There was no public comment

REVIEW OF MINUTES

Mr. Leonard made a motion to approve the minutes as amended. With a properly seconded motion by Mr. Nicodemus, the minutes were approved.

DRAFT PROPOSAL

Ms. Young prepared a draft proposal for review by the Task Force.

Authorizing Agent versus the Next of Kin

Mr. Nicodemus provided information about the New York law regarding crematories. He stated that the law defines "authorizing agent" as the person that has the control of the final disposition.

Ms. Partridge suggested adding a "next of kin" term to the definition. Mr. Dougherty reminded that Committee that the industry will discuss the terms forever and the industry needs to continue to study the use of the terms. Ms. Partridge offered to research other state law definitions of "next of kin" and "authorizing agent". She will provide a report at the next meeting. Mr. Keeney questioned whether the term "authorizing agent" is needed.

Crematory or crematorium

The committee suggested deleting cremator and crematory authority from the definitions. It suggested that the term crematory or crematorium should mean a facility containing a furnace for cremation of dead human bodies which is licensed by the Board to operate.

Crematory operator

The Committee suggested that each crematory have a registered crematory operator who is responsible for the operations of the retort. He should be certified by CANA or another certifying agent. Mr. Nicodemus stated that New York will require that each operator be certified by CANA beginning in 2007. Mr. Wooddell believes that there should be a manager of record for each crematory and everyone who operates the retort be certified. Mr. Leonard reminded everyone that with being a manager of record, professional judgment is required. The Committee recommended that the crematory be licensed and the crematory manager be registered. Mr. Wooddell recommended that the crematory manager should also be trained in OSHA regulations along with CANA training.

The Committee suggested adding polymerization to the regulations.

54.1-2808.1 - Disposition of cremains.

The Committee recommends revising to note funeral director or funeral service licensee.

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Ms. Partridge suggested using term "cremated remains" instead of "cremains". The Committee agreed. Also, the Committee suggested adding the term to definitions section.

54.1-2814.1 Licensure of Crematory

"A." should read no person or entity shall cremate a dead human body without having been licensed as a crematory.

The Committee recommends deletion of section B. Also, a section on air quality policies should be added. Also, to section C., the committee recommends adding that each crematory licensed with the Board must have a manager of record who meets the requirements of the Board and holds the overall responsibility for laws and regulations. Section D. should reference that the certification shall be as specified by the Board in regulations, that operator training should occur within a reasonable time or one year. Lastly, the Committee recommends that for a specified period of time, a certified person shall be on staff.

Ms. Yeatts stated that a specific exemption may need to be created to allow a provisional exemption for six months to allow an individual to work under supervision of certified trainer until he/she receives the training.

54.1-2818.1 Prerequisites for cremation

The Committee suggests changing "visual" to "positive" identification of physical character. Also, a definition for positive identification needs to include but not limited to foot tags, tattoos, DNA, dental regulation. The identifiers should be placed in regulations. Here is the suggestion for the first paragraph with changes:

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 by the next of kin to make positive identification to make arrangements~~ by the next of kin to make positive identification 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~~ and (iii) a twenty-four-hour waiting period between the time of death and the cremation.

Also, the Committee suggests adding a religious exemption provision to the section along with children and immunization requirements.

The following sections were revised as provided below:

B. Except as otherwise provided in this law, a crematory shall not cremate human

remains until it has received from the funeral establishment: (i) documentation of permission from the medical examiner and positive identification as required by subsection A; and (ii) a cremation authorization form signed by the next-of-kin or any person designated to arrange final disposition pursuant to § 54.1-2825. The next-of-kin may authorize another person to make the positive identification and may execute the cremation authorization form electronically in a manner that provides a copy of an original signature of the next-of-kin.

C. Human remains shall be delivered to a crematory in a cremation or alternative container as defined by the Board in regulation. Human remains shall not be removed from the cremation container and the cremation container shall be cremated with the human remains, unless the crematory has been provided with written instructions to the contrary by the next-of-kin.

54.1-2818.2 Cremation Procedures.

The Committee recommended that the procedures be outlined in regulations, i.e. retort, transportation of dead human remains, and housing of remains until cremation.

Regulations may include the following:

Standards for crematories:

Evidence of air quality permit available at the time of inspection

Maintenance of records – authorization form, documentation of positive identification, ME form, other

Equipment and facility standards

Qualifications and responsibility of crematory manager as manager of record:

CANA or other certification specified by the Board

Certificate of OSHA training

Qualifications of crematory operators - CANA or other certification specified by the Board

Specified content of authorization and other forms:

Attestation from funeral establishment of due diligence in naming the next-of-kin as defined in 54.1-2800.

Definition of cremation contained or alternate container

Standards for cremation:

Maintenance of remains prior to cremation, such as “if the crematory is unable to cremate the human remains immediately upon taking custody, the crematory shall place the human remains in a refrigeration facility at 40 degrees Fahrenheit or less, unless the human remains have been embalmed”

Transportation of remains

Other - No body shall be cremated with a pacemaker or other potentially hazardous implant in place

TIMELINE

The Committee recommended the following timeline:

December 12, 2006- to submit formal request to Board for 2008 Legislation

March 13, 2007- Task Force meeting from 8-10:00 a.m.

June 2007- Board adopts legislative proposal

The Committee asks Ms. Young to send a notice to crematories and funeral homes soliciting comments about need to strengthen the law. Request comments by March 3, 2007.

NEXT MEETING

Ms. Young stated that the next Task Force meeting on cremation laws and regulations will be held after a draft cremation law proposal is written in the early fall of 2006:

ADJOURNMENT:

With no further business, the Task Force adjourned at 12:15 p.m.

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Willard D. Tharp, Chair

Elizabeth Young, Executive Director

Date

Date