

APPROVED

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

**Wednesday, July 19, 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 Task Force on Cremation Laws and Regulations was called to order at 9:10 a.m.

PRESIDING

Willard D. Tharp, Chair

MEMBERS PRESENT:

Mike Leonard
Barry Murphy

TASK FORCE MEMBERS:

Mike Doherty, Virginia Cemetery Association
Sheri Douglas, Regulatory Support Services Inc.
Meredyth Partridge, Regulatory Support Services, Inc.
James Stuart, Virginia Cemetery Association
Susan Motley, Virginia Funeral Directors Association
Craig Washington, Virginia Morticians Association
Mike Nicodemus, Holloman and Brown Funeral Homes
Steve Woodell, Metropolitan Funeral Service

COUNSEL:

Jack E. Kotvas, Assistant Attorney General

STAFF PRESENT:

Elizabeth Young, Executive Director
Pam Horner, Administrative Assistant
Elaine Yeatts, Senior Policy Analyst

QUORUM:

With three 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

The minutes were approved as amended.

CURRENT CREMATION LAWS AND REGULATIONS

Ms. Young stated that the current cremation laws and regulations were provided for review.

Current Cremation Laws and Regulations

The task force discussed the current cremation laws and what changes they thought should be made. Mr. Nicodemus stated that doctors not signing death certificates are a major problem in Tidewater. He further stated that medical examiners are not allowing cremations without signed death certificates.

Best Practices

Discussion regarding refrigeration:

Mr. Woodell stated that refrigeration is rarely needed up to three hours, but waiting for a death certificate may precipitate a longer holding time. He further stated that the Board needed to be careful in placing a specific waiting time for death certificates to be signed. He stated that, in most normal cases, 24 hours is a reasonable time to wait before refrigeration is necessary.

Mr. Murphy stated that we should not consider a requirement that is more stringent on crematories as opposed to funeral homes, i.e. need for refrigeration. He suggested that a refrigeration site is needed at all crematories. The subject of "holding areas" at crematories needs to be discussed and regulations adopted addressing these areas.

Ms. Partridge added that with the lack of refrigeration there would be odors, problems with infection control and decomposition, regardless of where the body is held. Mr. Washington stated that requiring refrigeration causes small funeral homes and/or funeral homes with no refrigeration, to take the body to the crematory sooner or ask the family for permission to embalm if the body must be held for a longer period.

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Ms. Douglas stated that West Virginia does not require refrigeration, but does require the funeral home to have some type of refrigeration available through another means.

Mr. Leonard asked if the new law could address that a crematory may accept a body prior to the 24 hour rule? The answer to the question was tabled for a future meeting agenda item.

Definitions for the new law:

Ms. Yeatts stated that definitions will be created as the law is drafted.

Licensure and Crematory Authority:

The task force recommended that every crematory be licensed with the Board. Also, the crematory operator will be licensed and certified by standards established by the Board. Manufacturers of retorts have certification programs also. The process of licensing includes the submission of an application approved by the Board. The group recommended that the certified persons should not train other employees. The group was divided on the need for the crematory operator to be certified. Mr. Woodell reminded the task force that the certification process needs to be clearly defined. The task force recommended that no person, cemetery, funeral establishment, etc, shall cremate any human remains except in a crematory licensed for this express purpose and under the limitations provided in this Act. The task force recognizes that CANA (Cremation Association of North America) has established, and endorses, uniform "best practices" that are recognized nationally.

Composition of the Board:

Mr. Doherty reminded the task force of the suggestion of adding a crematory operator to the Board or creating an advisory committee for the Board. Another suggestion was to change the composition of one current member to a certified crematory operator with at least five years of experience. No decision was made with regard to this matter.

Pet Cremations:

Ms. Yeatts stated that the prohibition to cremate pets in the same retort should be added to the law.

Authorizing Agent.

The term "Authorizing Agent" needs to be properly defined.

It was stated that the following four items should be provided to the crematory by the funeral home: 1) CME #5 (Authorization for Cremation or Burial at Sea) forms signed by the medical examiner 2) family's (authorizing agent's) authorization to cremate 3) signed identification form and 4) release of cremains.

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Authorization for cremation was discussed and an Authorization to Cremate form was suggested. No crematory can cremate without an Authorization to Cremate form completed as prescribed by the regulations. CANA recommends waiting a certain number of hours after the time of death as well as positive identification process.

Hierarchy for next of kin includes the authorizing agent, or the next of kin, which should be listed in the regulations.

Positive identification was discussed and it was suggested that a visual identification should be necessary. It was also discussed whether identification should be the responsibility of the funeral home or the crematory. The task force felt that identification should be physically attached to the body. Ms. Yeatts said the burden of misidentification of the deceased is on the authorizing agent.

Ms. Douglas shared that West Virginia has a hierarchy and is based on Minnesota's laws. After three years in use, Ms. Douglas stated that it has been received positively by licensees and has helped them to guide those who truly have the final rights. The group decided to also examine North Carolina's law.

The Task Force asked Mr. Kotvas and Ms. Young to research other states' laws regarding the hierarchy of the next of kin.

Ms. Partridge stated that CANA recommends a 48 waiting period after time of death. The group decided to add to the draft law number 4(A.)1. of the CANA laws addressing the authorization to cremate. Mr. Woodell believes that visual identification is necessary. Mr. Murphy shared, and the task force agreed, that the identification of the body should occur at the funeral home. Also, Mr. Woodell stated that the identification should be physically attached to the body. Mr. Washington asked the group if a physical identification can be made via e-mail. Mr. Nicodemus stated digital pictures can be taken. The task force stated that, in that instance, the Authorizing Agent assumes responsibility. Mr. Kotvas suggested examining the Mass Fatalities Report and the Governor's authority to waive the waiting period. Mr. Leonard suggested a waiting period of 24 hours after the signature of Authorizing Agent.

The task force recommended the current statute of 54.1-2818.1 to remain with the 24 hour waiting period.

Recordkeeping:

The Task Force stated the needed items for a cremation are: medical examiner's authorization, family identification and authorization, signed identification and a release of cremated remains. Records should be maintained for five to ten years.

Cremation Containers:

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The group recommends that the human remains should be delivered to a crematory in an alternative container as recommended by CANA model law: 6(B.). Also, the cremation procedures were recommended from the CANA model law; 7(A.-C.).

The Committee reviewed the Workplan that was included in the agenda. The Review of inspection programs will be discussed at the September meeting.

Devices:

The CANA Model Law Section B. states that radioactive devices should be removed such as pacemakers or other potentially hazardous implant devices.

Cremation of Body Parts, Funeral Home Immunity from lawsuits, the Medical Examiner's Role and Preneed Laws:

The Task Force recommended adding sections addressing the cremation of body parts, Funeral Home Immunity from lawsuits, the Medical Examiner's Role, and Preneed Laws.

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.

Willard D. Tharp, Chair

Elizabeth Young, Executive Director

Date

Date