

APPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF TASK FORCE ON THE INSPECTION PROCESS

Tuesday, October 16, 2007
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463
Conference Room 4

Department of Health Professions

CALLED TO ORDER

Mr. Blair Nelsen, F.S.L. Chair, called the quarterly meeting of the Task Force on the Inspection Process to order at 9:10 a.m., on Tuesday, October 16, 2007 in Board Room #4, at 9960 Mayland Drive, Richmond, Virginia.

PRESIDING

Blair Nelsen, F.S.L.

MEMBERS PRESENT

Willard D. Tharp, F.S.L.
Randolph T. Minter, F.S.L.
Billie Watson Hughes, F.S.L.

MEMBERS ABSENT

Rev. Yvonne Jones-Bibbs

OTHER BOARD MEMBERS PRESENT

Walter S. Ball, Citizen
Robert B. Burger, Jr., F.S.L.
Michael J. Leonard, F.S.L.
Barry Murphy, F.S.L.

STAFF PRESENT

Elizabeth Young, Executive Director
Jeanette Meade, Administrative Staff Assistant
Pam Horner, Administrative Staff Assistant

COUNSEL PRESENT

Jack E. Kotvas, Assistant Attorney General

OTHER DHP STAFF

Samuel Johnson, Enforcement Division
Marta J. Ishmael, Enforcement Division
Keith Dressler, Enforcement Division
Jennifer Challis, Enforcement Division
Lynne Helmick, Enforcement Division
Leith Ellis, Enforcement Division
Loretta Hopson-Bush, Compliance Division
Ann Tiller, Compliance Division

GUESTS

Meredyth Partridge, Regulatory Support Services, Inc.
Rusty Spencer, Assurant Pre-Need
Barry Robinson, VMA

QUORUM

With four members of the Committee present, a quorum was established.

INTRODUCTIONS

There were brief introductions of the Board, DHP staff and visitors.

ORDERING OF THE AGENDA

The agenda was voted unanimously as presented.

PUBLIC COMMENT

There was no public comment.

REVIEW OF PREVIOUS MEETINGS

There was a review of the minutes from the October 10, 2006 Task Force Meeting on the Inspection Process.

REVIEW OF CURRENT INSPECTION REPORT

There was a brief review of the inspection report currently used. Due to changes in the regulations, Ms. Young and Ms. Yeatts stated that a revision of the inspection report was necessary.

BRIEF BACKGROUND

Ms. Young thanked all participants for attending the meeting to discuss the inspection process and related issues and concerns to the Board. She stated that she welcomed the opportunity to dialogue with everyone regarding the inspection process.

CHANGES IN LAW AND REGULATIONS

Future Changes in Law

Ms. Young stated that the regulations are changing again, but since they are not finalized they would not affect today's meeting. When major changes in the regulations are promulgated, she will inform all necessary parties.

REVIEW OF GUIDANCE DOCUMENT

§18VAC 65-20-50(B) – Posting of license.

Guidance: The establishment license shall be posted in a place conspicuous to the public, such as the lobby, main hallway or lounge during business hours.

Ms. Ishmael stated again that she has found that licensees continue to post licenses in areas that are not used by the public. She suggested that the Board may consider requiring placing licenses in places more conspicuous to the public. Mr. Dressler stated that in some establishments, the only place to post a license is in the arrangement room. The Board agreed to leave "conspicuous to the public" in the regulations.

Ms. Young stated that the issue of not posting a contract embalmer's license was cited in an inspection that Ms. Helmick conducted. Mr. Minter stated that he has a person who comes into his establishment and performs embalmings once or twice a year. Mr. Kotvas stated that when you engage a person to embalm, they should still adhere to the regulations that are in place and post the licenses of the contract embalmers. Ms. Young stated that there have been many instances occurring regarding unlicensed activity. She stated that the main concern was whether everyone had a clear understanding of what the board requires as far as posting of licenses. Ms. Young stated that the responsibility of posting of the

licenses was that of the funeral establishment manager. She stated that if further questions arose, contact the board for clarification.

Guidance: Inspectors may utilize the internet to verify current licenses.

§18VAC65-20-540(A) Preparation room requirements.

The regulations require that any operating funeral home must have a prep room in at least one of its establishments. Ms. Young stated that if there are prep rooms in more than one establishment and one is not in use, it still must be inspected.

Guidance: If an application is received for a new funeral establishment, there must be an operable. The main establishment is not required to have an operable preparation room if the branch establishment's is operable.

§18VAC65-20-570(B) – Condition of preparation room.

This regulation will change with the new regulations.

§18VAC65-20-580(A) (1) – Preparation room equipment.

Guidance: A ventilation system must operate and is appropriate to the size and function of the room.

Ms. Ishmael stated she finds it difficult in determining whether or not the ventilation system was working. She stated she would hold a sheet of a paper in front of the system and if the paper draws inward, she would deem it operational. Mr. Dressler agreed and stated that he would cite a deficiency if ventilation system is inadequate. Mr. Tharp stated that the paper test was probably the most practical way to determine whether the ventilation system was operational. Ms. Partridge stated that OSHA tests ventilation systems and issues the establishment's certificates to post in their prep rooms if systems are deemed operational and adequate. Someone comments that there is ventilation system named alligator.

§18VAC65-20-580(A) (2) – Preparation room equipment.

Running hot and cold water.

Mr. Dressler stated during inspections, he has seen a few faucets with only dripping hot water. He stated the managers would normally respond by saying there were plumbing problems.

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

Guidance:

Disposal of all waste materials shall be in conformity with local, state, and federal law to avoid contagion and the possible spread of disease.

Ms. Partridge stated that facilities may transport waste materials to hospitals for disposal; however, there must be a limit of only three bags.

Guidance: If hospital disposal method is used, the establishment must have a current letter in their files stating that there is a contract with the hospital and it should be renewed annually.

18 VAC 65-20-700(1) - Retention of documents.

Guidance: All funeral service establishments shall maintain a General Price List and Itemized Statements of Goods and Services. The Board shall accept electronic copies of past forms.

18 VAC 65-20-700(2) - Retention of documents.

Guidance: No change.

18 VAC 65-20-700(3) - Retention of documents.

Guidance:

Retention requirement will change to three years when the new regulations go into effect.

18 VAC 65-20-700(4)- Retention of documents.

Guidance: No change.

Appendix I. - General Price List

Guidance: The physical location, if different from the mailing address, shall be placed on the general price list.

IV. Embalming

Guidance: If there is only one charge for embalming, the facility will not be cited for a deficiency. If there is the same charge for both normal remains and autopsy remains, it is only necessary to list the charge once.

VI. Immediate Burial

Guidance: The price range shall contain the highest price casket on the casket price list.

VII Direct Cremation

Guidance: An alternative container or highest price casket that's acceptable for cremation. With the direct cremation, the casket or crematable item should be included in the range.

XII Funeral Merchandise

Guidance: The casket and outer burial container price range shall match the Casket and Outer Burial Price Lists. The price does not include tax on the merchandise.

18 VAC 65-30-70(A)- Record Reporting. A contract provider shall keep a chronological listing of all preneed contracts.

Guidance: The list may have a blanket statement indicating whether 10% of the funds are retained and if funeral merchandise is stored on the premises. The preneed chronological list must be separate from the insurance company's list and contain the required information stipulated in the Board's Preneed Regulation, 18 VAC 65-30-70.

APPENDIX II. - Outer Burial Container Price List

Guidance: The required disclosure shall be required on the Outer Burial List and on the General Price List. (According to FTC, if the required disclosure is on the Outer Burial Container Price List, then it is not necessary to have it on the General Price List). Although FTC does not require the manufacturers' names on the price lists, the Board does require this as means to identify the caskets and outer burial containers.

APPENDIX III. – Itemized Statement of Goods and Services

Guidance: With telephone authorizations, the signature of contracting party is not necessary, but the name of the licensee (in or out of state) is necessary.

Guidance: An itemized statement of goods and services is needed for indigent cases in compliance with FTC regulations. The invoice from the contracting party, i.e. locality, shall be attached to the itemized statement. If a family member is available, a licensee should have them sign. The exception to this guidance is contracts with the federal government. The contract is between the funeral service licensee and the federal agency, not the licensee and the family. The contract is also itemized. Two signatures are required with a funeral service intern selling the funeral arrangement: intern and supervisor.

The question was asked may a burial plot be considered a cash advance

Guidance: No.

APPENDIX IV. – Embalming Report:

Guidance: The major changes will be shared after the regulations have been promulgated.

- 1. If the embalming occurs within another state, the embalming record is not required to be maintained by the receiving Virginia funeral service establishment.*
- 2. The embalming record form shall be maintained at the funeral service establishment where the embalming occurs.*
- 3. The funeral service establishment name, address and telephone number shall be listed on the Embalming Record.*

Regulatory Review

It was decided to review definitions of main establishment and branch establishment.

18 VAC 65-30-70(A)

Also the Board had a discussion on preneed regulations. Mr. Dressler asked about quarterly statements with preneed. It was determined that quarterly statements need to be verified and required to remain on premises for three years from the last date of receipt. Also the Board needs to review the receipt from that company; per verification of funding source.

Guidance:

18 VAC 65-30-70(A)- Record Reporting. A contract provider shall keep a chronological listing of all preneed contracts.

Guidance: The list may have a blanket statement indicating whether 10% of the funds are retained and if funeral merchandise is stored on the premises. The preneed chronological list must be separate from the insurance company's list and contain the required information stipulated in the Board's Preneed Regulation, 18 VAC 65-30-70.

There should be evidence of funding in the preneed file with a copy of the check and the policy in the file. Also a copy of the check that the funeral homes send to the funding company.

Guidance: At the time of receipt by the client, need to discern whether by insurance or trust company.

Mr. Tharp made a motion that the Board shall submit a NOIRA for preneed regulations; to recommend to the full Board. The motion was properly seconded by Ms. Hughes. It was carried unanimously.

2009 Legislation

The Board discussed inspectors not being allowed to complete the inspections on day of arrival and sometimes not allowed to conduct inspections on the second or third trip to the funeral home. The Board discussed issuing a search warrant or a Cease and Desist Order. The Board needs to strengthen Section 54.1-2506.2 of the Code in order to make changes.

Ms. Young stated she would confer with Ms. Wingfield, Deputy Director of DHP regarding sending a certified letter to licensees who refuse to allow inspections.

AJOURNMENT

With no further business, the meeting was adjourned at 12:00 noon.

Blair Nelsen, Chair

Elizabeth Young, Executive Director

Date

Date