UNAPPROVED

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, July 16, 2013 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia.

BOARD MEMBERS PRESENT
Blair Nelsen, FSP, President
Junius Williams, Citizen Member, Vice-President
Christopher P. Vincent, FSP, Secretary-Treasurer
Michael J. Leonard, FSP
Randolph T. Minter, FSP
Robert B. Burger, Jr., FSP
Robert Oman, FSP
Eric V. Wray, II, FSP
Walter Ball, Citizen Member

DHP STAFF PRESENT FOR THE MEETING
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

BOARD COUNSEL
None were present

QUORUM
With 9 members present a quorum was established.

GUESTS PRESENT
Paul Harris, Regulatory Support Services, Inc.
Karen McPherson, Virginia Morticians Association
Bo Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association
Scott Johnson, SCI
Barry D. Robinson, Virginia Morticians Association
Robert Baker, Virginia Morticians Association
Curtis L. Cunningham, Virginia Morticians Association
Sasha Bonet, VSAP
Wesley Gregory, DHP, Finance Division

CALL TO ORDER

Blair Nelsen, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:04 a.m.

ORDERING OF AGENDA

The agenda was accepted as written.

ACCEPTANCE OF MINUTES

Upon a motion by Mr. Leonard and properly seconded by Mr. Oman, the Board voted to accept the following Meeting Minutes:

- Board Meeting – April 23, 2013
- Formal Hearing – April 24, 2013

The motion carried unanimously.

INFORMAL CONFERENCES HELD

Mr. Nelsen shared that informal conferences were held and that the minutes are located on the board's website and on regulatory Townhall.

- (2) – held on April 24, 2013

PUBLIC COMMENT PERIOD

Mr. Barry Robinson, President of the Virginia Morticians Association (VMA) thanked Ms. Hahn and Ms. Helmick for their participation and sharing of information at the VMA Conference held in Short Pump.

Mr. Robinson also mentioned the confusion in the usage of Funeral Service Licensee (FSL) and Funeral Service Provider (FSP).

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn

Expenditure and Revenue Summary

Ms. Hahn then gave the most recent financial numbers for FY13 beginning with the cash balance as of June 30, 2012 of $(64,321); revenue received YTD FY 13 was $529,105; less the direct and In-Direct expenditures of $616,140; leaving the cash balance as of May 31, 2013 of $(151,356).

Discipline Statistics

Ms. Hahn stated the board has 44 open cases; 26 of the cases are in the Enforcement Division at the Investigative stage; 10 cases are in the Probable Cause stage, 5 cases at the APD level; 1 case is in the informal stage; and 2 cases were at the formal stage. Ms. Hahn added that 20 funeral board Orders are being monitored for compliance by Missy Currier.

Licensee Statistics

Ms. Hahn reported that there are 1,479 Funeral Service Providers, 159 Funeral Interns, 444 Funeral Establishments, 5 Embalmers, 58 Funeral Directors, 371 Funeral Service Supervisors, 63 Branch Establishments, 99 Crematories, 27 Continuing Education Providers, 68 Courtesy Card Holders and 48 Surface Transportation and Removal Services.

Ms. Hahn provided the following historical statistics regarding "new" licenses issued:

New Licenses Issued Report	CY2009	CY2010	CY2011	CY2012	YTD 2013
Branch Establishment	0	9	40	5	2
CE Providers	2	1	3	1	1
Courtesy Card	5	6	10	6	5
Crematories	4	5	3	5	2
Funeral Establishment	4	5	4	5	2
Funeral Service Intern	27	35	50	62	38
Funeral Service Provider	50	43	41	60	26
Funeral Supervisor	38	51	41	41	26
Surface Transport & Removal	11	4	7	7	6
Total	141	159	199	192	108

Virginia Performs

Ms. Hahn gave the following report for the 3rd Quarter 2013:

- Licensing Standard less than 30 days – 100%
- Customer Satisfaction (Goal is 95%) – 100%
- Clearance Rate-125%

- Pending Caseload older than 250 days- 8% (patient care cases)
- % of cases closed within 250 days- 100%
- Caseloads Qtr1 2013:
    - Received = 4, Closed = 5
    - Pending over 250 days = 1
    - Closed within 250 days - 5

Presentations

Ms. Hahn reported on the following presentations:

- **January:**
    - VFDA Summit Meeting– Omni Richmond –Lisa Hahn
- **February:**
    - VFDA Traveling Caravan -Tidewater District – Eric Wray
- **March:**
    - VFDA Traveling Caravan –Fredericksburg & John Tyler CC, Chester - Lynne Helmick
    - Career Fair at John Tyler – Vicki Saxby
- **June:**
    - VMA Conference – Short Pump – Lisa Hahn, Lynne Helmick
- **July:**
    - VFDA Convention – VA Beach – Lisa Hahn, Lynne Helmick

BOARD BUSINESS

Virtual Funeral Homes

Ms. Hahn shared that the Virtual Funeral Homes Committee began their initial work yesterday and did not have anything to report at this time.

Next of Kin & Surface and Transportation

Ms. Hahn reiterated from her last meeting that this subject needs to be reviewed and addressed to broaden the regulations and that the committee plans to meet during the October meeting if not before.

Randolph Lane Appeal

Ms. Hahn stated that the Circuit Court upheld the board's decision made during the formal hearing however; we have been notified that he is appealing the matter to the Court of Appeals.

Calendar

Ms. Hahn concluded her report by stating that the next board meeting was scheduled for October 22, 2013.

NEW BUSINESS

Legislative/Regulatory Reports – Elaine Yeatts

Status of Regulations

Ms. Yeatts reported on the status of the following Regulatory Actions:

18VAC65-20:

- Fee Increase – re-proposed remain at the Secretary's Office.
- Identification of human remains – Emergency regulations are in effect from 10/1/12 to 9/30/13. Ms. Yeatts explained that the board needed to adopt a request to the Governor for an extension of 6 months.

Proposed Regulations on Identification of Human Remains (Attachment #1)

Upon a motion by Mr. Burger and properly seconded by Mr. Leonard, the board voted to request to extend the Emergency Regulations regarding Identification of Human Remains for a period of up to 6 months. The motion passed unanimously.

Funeral Service Licensee (FSL) vs. Funeral Service Provider (FSP)

Ms. Yeatts and Ms. Hahn followed up on Mr. Robinson's public comment regarding Funeral Service Licensee (FSL) vs. Funeral Service Provider (FSP). They pointed out that Virginia Law defines a "Funeral Service Licensee" but does not define a "Funeral Service Provider".

The Board requested that staff make changes to all printed references and materials from Funeral Service Provider (FSP) to Funeral Service Licensee (FSL). The Board also wanted the record to reflect that any materials already printed with FSP including licenses, renewals, funeral brochures and the like, would be acceptable to the board.

Change in Branch Establishment Regulations

Ms. Yeatts reminded the Board that the new law regarding the change in distance from 35 to 50 miles or less for a branch establishment went into effect on July 1, 2013.

Definition of Embalming

Ms. Hahn stated that she had received an email from Rick Sikon indicating that many funeral homes are not refrigerating bodies but sprinkling them with disinfection instead and saying that it fits the current definition of embalming. Ms. Hahn stated that a change in defintion would have to be a legislative. Mr. Nelsen appointed Chris Vincent and Bob Oman to research the issue and bring information to the next meeting.

Alternate Embalming/Training Sites – Lisa R. Hahn

Ms. Hahn shared that Mr. Leonard, Mr. Oman, Ms. Currier and she worked on developing a draft guidance document at the board's recommendation to establish standards to the proposed regulatory change in section B. of 18VAC65-40-220. Ms. Hahn further stated that this was just a working draft following the April 2013 board meeting and that no further action is necessary until the Governor approves the following proposed regulation:

> **18VAC65-40-220. Qualifications of training site.**
>
> A. The board shall approve only an establishment or two combined establishments to serve as the training site or sites which:
>
> 1. Have a full and unrestricted Virginia license;
>
> 2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
>
> 3. Have 50 or more funerals and 50 or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the funeral service intern may seek approval for an additional training site.
>
> B. The board may grant approval for a resident trainee to receive all or a portion of the embalming training at a facility of state or federal government or an accredited educational institution.

Probable Cause Review – Lisa R. Hahn, Executive Director

Ms. Hahn provided guidance in the process involved when reviewing cases for Probable Cause and the elements involved in making sound decisions. Key points Ms. Hahn discussed in her review included:

- Probable Cause Determination
- Who Conducts the Review
- Review of the Probable Cause Form & How to Complete it
- 5 Probable Cause Elements
- Making Recommendations

Ms. Hahn emphasized that in order for there to be a violation there must be a citation and how important it is to ensure that evidence exists in order to make the determination.

Election of Officers

Upon a motion by Mr. Leonard and properly seconded by Mr. Minter, the board nominated the election of Eric V. Wray, II as Board Secretary-Treasurer effective July 16, 2013. The motion carried unanimously.

Upon a motion by Mr. Oman and properly seconded by Mr. Wray, the board nominated the election of Christopher P. Vincent as Board Vice-President effective July 16, 2013. The motion carried unanimously.

Upon a motion by Mr. Leonard and properly seconded by Mr. Minter, the board nominated the election of Junius H. Williams, Jr. as Board President effective July 16, 2013. The motion carried unanimously.

Congratulations

Mr. Nelsen congratulated Mr. Williams on his new board position and handed over his board gavel and chair to him.

Mr. Leonard and Ms. Hahn thanked Mr. Nelsen for all his hard work as Board President.

ADJOURNMENT:

Mr. Williams closed the meeting by thanking the members for the great opportunity, how much he had learned and how ready he was to learn more.

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

_____	_____
Blair Nelsen, President	Lisa R. Hahn, Executive Director
_____	_____
Date	Date

ATTACHMENT #1

Proposed Regulations

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Identification of human remains

18VAC65-20-436. Standards for registered crematories or funeral establishments that operate a crematory.

A. Authorization to cremate.

1. In accordance with § 54.1-2818.1 of the Code of Virginia, a crematory shall require a cremation authorization form executed in person or electronically in a manner that provides a copy of an original signature of 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 of the Code of Virginia; an agent named in an advance directive pursuant to § 54.1-2984; or a sheriff, upon court order, if no next-of-kin, designated person, or agent is available.

2. The cremation authorization form shall include an attestation of visual identification of the deceased from a viewing of the remains or a photograph signed by the person making the identification. Visual identification my be made by viewing unique identifiers or markings on the remains. The identification attestation shall either be given on the cremation authorization form or on an identification form attached to the cremation authorization form.

3. In the event visual identification is not feasible, a crematory may use other positive identification of the deceased in consultation with law enforcement, a medical examiner or medical personnel as a prerequisite for cremation pursuant to § 54.1-2818.1 of the Code of Virginia.

B. Standards for cremation. The following standards shall be required for every crematory:

1. Every crematory shall provide evidence at the time of an inspection of a permit to operate issued by the Department of Environmental Quality (DEQ).

2. A crematory shall not knowingly cremate a body with a pacemaker, defibrillator or other potentially hazardous implant in place.

3. A crematory shall not cremate the human remains of more than one person simultaneously in the same retort, unless the crematory has received specific written authorization to do so from the person signing the cremation authorization form.

4. A crematory shall not cremate nonhuman remains in a retort permitted by DEQ for cremation of human remains.

5. Whenever a crematory is unable to cremate the remains within 24 hours upon taking custody thereof, the crematory shall maintain the remains in refrigeration at approximately 40° Fahrenheit or less, unless the remains have been embalmed.

C. Handling of human remains.

1. Human remains shall be transported to a crematory in a cremation container and shall not be removed from the container unless the crematory has been provided with written instructions to the contrary by the person who signed the authorization form. A cremation container shall substantially meet all the following standards:

a. Be composed of readily combustible materials suitable for cremation;

b. Be able to be closed in order to provide complete covering for the human remains;

c. Be resistant to leakage or spillage; and

d. Be rigid enough for handling with ease.

2. No crematory shall require that human remains be placed in a casket before cremation nor shall it require that the cremains be placed in a cremation urn, cremation vault or receptacle designed to permanently encase the cremains after cremation. Cremated remains shall be placed in a plastic bag inside a rigid container provided by the crematory or by the next-of-kin for return to the funeral establishment or to the next-of-kin. If cremated remains are placed in a biodegradable container, a biodegradable bag shall be used. If placed in a container designed for scattering, the cremated remains may be placed directly into the container if the next-of-kin so authorized in writing.

3. The identification of the decedent shall be physically attached to the remains and appropriate identification placed on the exterior of the cremation container. The crematory operator shall verify the identification on the remains with the identification attached to the cremation container and with the identification attached to the cremation authorization. The crematory operator shall also verify the identification of the cremains and place evidence of such verification in the cremation record.

D. Recordkeeping. A crematory shall maintain the records of cremation for a period of three years from the date of the cremation that indicate the name of the decedent, the date and time of the receipt of the body, and the date and time of the cremation and shall include:

1. The cremation authorization form signed by the person authorized by law to dispose of the remains and the form on which the next-of-kin or the person authorized by § 54.1-2818.1 of the Code of Virginia to make the identification has made a visual identification of the deceased or evidence of positive identification if visual identification is not feasible;

2. The permission form from the medical examiner;

3. The DEQ permit number of the retort used for the cremation and the name of the retort operator; and

4. The form verifying the release of the cremains, including date and time of release, the name of the person and the entity to whom the cremains were released and the name of the decedent.