

APPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF TASK FORCE ON THE INSPECTION PROCESS

Tuesday, October 10, 2006
Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Conference Room 3

Department of Health

CALLED TO ORDER

Mr. Robert Burger, Jr., F.S.L. Chair called the yearly meeting of the Task Force on the Inspection Process to order at 9:10 a.m., on Tuesday, October 10, 2006 in Board Room #3, at 6603 West Broad Street, 5th Floor, Richmond, Virginia.

PRESIDING

Robert Burger, Jr., F.S.L.

MEMBERS PRESENT

Willard D. Tharp, F.S.L.
Walter S. Ball
Barry Murphy, F.S.L.
Randolph T. Minter, F.S.L.
Blair Nelsen, F.S.L.

MEMBERS ABSENT

Billie Watson-Hughes, F.S.L.
Rev. Yvonne Jones-Bibbs

STAFF PRESENT

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

COUNSEL PRESENT

Jack E. Kotvas, Assistant Attorney General

OTHER STAFF PRESENT

Samuel Johnson, Enforcement Division
Pamela Twombly, 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

GUESTS

Meredyth Partridge, Regulatory Support Services, Inc.
Rusty Spencer, Assurant Pre-Need
Rob Richardson, WWBT 12 News
Matt Nuese, WWBT 12 News

QUORUM

With six members of the Board present, a quorum was established.

INTRODUCTIONS

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

ORDERING OF THE AGENDA

The agenda was ordered as written.

PUBLIC COMMENT

There was no public comment.

REVIEW OF PREVIOUS MEETINGS

There was a review of the minutes from the October 11, 2005 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 everyone in attendance for attending the Board's yearly meeting to discuss the inspection process and for bringing issues of concern from the Board members, the inspectors, compliance and other entities. She stated that she welcomed the opportunity to dialog with everyone regarding the inspection process every year.

CHANGES IN LAW AND REGULATIONS

Changes in 2006 Law (Funeral Service Intern)

Ms. Young stated that on July 1, 2006, the only change in the funeral law was the term "resident trainee" was changed to "funeral service intern". She stated the board is currently reviewing the general regulations; however, no major changes have been implemented regarding inspections. Ms. Young stated that if major changes are made; she will notify every one of such changes. She stated all changes should be final in late 2007.

Changes in 2005 Regulations (Funeral Service Intern)

Ms. Young stated that the only amendment in the 2005 regulations was the change in the term "resident trainee" to "funeral service intern".

REVIEW OF GUIDANCE DOCUMENT

§18VAC 65-20-50(B) – Posting of license. The establishment license shall be posted in a place conspicuous to the public, such as the arrangement room.

Ms. Ishmael stated 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. Burger agreed that the prep room is not conspicuous. 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 a recent 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. Yeatts further added that licenses should be placed in every location. Ms. Young stated that there have been many

instances occurring regarding unlicensed activity. She stated that the main concern was whether or not everyone had a clear understanding of what the board requires as far as posting of licenses. Ms. Young stated that regular contract embalmers must have their licenses posted; however, occasional embalmers are not required to do so. Mr. Ball suggested that a copy of the embalmers' licenses be placed in the facility file rather than post them. 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, the inspectors need to call the Board office for clarification.

Guidance: A private business office shall not be acceptable as a place conspicuous to the general public. A public lounge is acceptable.

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

Ms. Helmick asked if the branch establishments were assigned new numbers. Ms. Young stated that this process requires that each file is reviewed to determine main or branch status. The process is very labor-intensive, and as when establishment licenses are issued, the board has to determine whether the facility is a new establishment or a branch facility.

Guidance: If licensed as a main funeral service establishment, the preparation room, even if not used, shall be inspected, contain requirements and must be operable.

18 VAC 65-20-540(B) (2)-Preparation room requirements. The floor and wall surfaces shall be of a material impervious to water.

Guidance: Enamel based paint is considered impervious to water and is an acceptable material for the floor and wall surfaces.

18 VAC 65-20-570(A) - Condition of preparation room. The preparation room or rooms shall be kept in a clean and sanitary condition at all times subject to inspection.

Guidance: Normal permanent or irreversible stains due to embalming procedures are acceptable and shall not be cited as a deficiency.

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

Ms. Yeatts stated that this regulation has changed from an older document; therefore, this guidance item should be removed and one should refer to the regulations. Ms. Young stated that she will rewrite this item since the regulations have changed.

Guidance and regulation: Inventories of embalming and preparation materials shall be stored in a container and in a manner that makes them impervious to water and protects them from contamination.

18 VAC 65-20-570(C) - Condition of preparation room. Any items or supplies not directly used in an embalming procedure shall not be stored in the preparation room.

Guidance: Telephones, telephone books and radios are acceptable. Any items or supplies necessary in the preparation of a body or related to an embalming procedure are acceptable.

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

A ventilation system which operates and is appropriate to the size and function of the room.

Ms. Ishmael stated she found it difficult to determine 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 was drawn in, she would deem it operational. Mr. Dressler agreed and stated that he would cite a deficiency as ventilation system 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 establishments' certificates to post in their prep rooms if systems are deemed operational and adequate.

Guidance: The preparation room must have a ventilation system, which operates and is appropriate to size and function of the room, and takes the air from the inside to the outside of the room. Also holding a piece of paper near the vent will usually provide an adequate test for an operable ventilation system.

§18VAC65-20-580(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.

18 VAC 65-20-580(3) - Preparation room equipment. Flush or slop sink connected with public sewer or with septic tank where no public sewer is available;

Guidance: A drainage tube may be connected to the embalming table and run straight into the sewer.

18 VAC 65-20-580(8) - Preparation room equipment. Disinfectants and antiseptic solutions;

Guidance: Disinfectants and antiseptic solutions may be contained in other properly labeled containers; also Clorox is acceptable.

18 VAC 65-20-580(11) - Preparation room equipment. A hydro aspirator or hydro aspirators equipped with a vacuum breaker

Guidance: An electric or hydro aspirator equipment shall be acceptable and a back flow instrument shall be necessary.

18 VAC 65-20-580(12) - Preparation room equipment. Eye wash station shall be readily accessible.

Guidance: The eye wash station is required in the preparation room.

18 VAC 65-20-580(13) - Preparation room equipment. A standard first aid kit which is immediately accessible outside the door to the preparation room.

Guidance: The standard first aid kit shall not be inside the preparation room, but shall be outside the preparation room door.

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

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. Mr. Tharp stated that if this 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.

Guidance: The funeral service establishment shall provide evidence of an annual current contractual agreement with or services provided by a licensed medical waste disposal provider. Also, if the funeral home uses hospitals, it is only allowed to transport no more than three closed boxes to the hospital. Also, the funeral home must provide a copy of the contract with the hospital.

The remainder of the guidance document remains the same.

QUESTIONS

License Number of Preeed Agents

Ms. Young stated that she was contacted by Mr. Spencer from Assurant Preeed regarding a change at the Virginia Bureau of Insurance regarding license numbers. Mr. Spencer stated that all agents have been assigned a National Producer Number (NPN) that will appear as their license number instead of the social security number. He stated the licensees may call the Bureau of Insurance to acquire their NPNs.

APPENDIXES

Ms. Yeatts stated that the requirement for the Appendix IV regarding the embalming report will be eliminated. She stated all information will be eliminated except all pertinent data. Ms. Yeatts stated that separate identifiable information will remain on the embalming report such as name of deceased, date of death name of embalmer and date embalmed. Ms. Ishmael asked if the signature of the embalmer and funeral service intern could be included also on the embalming report.

Retention of Records

Ms. Yeatts stated that there is a recommendation to retain records for three years instead of one year. Ms. Ishmael asked a question as to when is the proper time to add a name to the chronological list. Mr. Minter stated the proper time to add a name to the chronological list was when the preneed contract is signed. Mr. Murphy also stated that names should be added when the funding mechanism has been added.

Question from Compliance

Ms. Hopson-Bush asked if an establishment is under a board order and the licensee sells the business should the board be notified or the compliance division or both. The Board responded that the board or compliance does not have to be notified if the establishment is sold.

Ms. Hopson-Bush also asked if a board order has stated that licensee can work, may he/she be only employed in the state of Virginia or can he/she outside of the state. Ms. Young responded if not specified in the board order, he can work in or out of state; however, she did note that from henceforth, board orders should be made more specific.

Board Calendar

Ms. Young stated that the meeting of November 16, 2006 has been moved to November 30, 2006 for the Task Force Meeting on Cremation. She stated that the formal administrative hearing scheduled for October 11, 2006 will be held at 11:00 a.m. with the following board members attending: Mr. Ball, Mr. Leonard Rev. Jones-Bibbs and Ms. Hughes. Ms. Young stated Special Conference Committees will be held on November 2, 2006 and November 30, 2006 at 1:00 p.m. She further stated that a Board meeting will be held on December 5, 2005 at 9:00 a.m. with a reinstatement hearing to follow at 1:00 p.m.

ADJOURNMENT

With no further business, the meeting was adjourned at 11:23 a.m.

Robert Burger, Jr., Chair

Elizabeth Young, Executive Director

Date

Date