

UNAPPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF TASK FORCE ON THE INSPECTION PROCESS

Tuesday, October 11, 2005
Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Conference Room 1

Department of Health

CALLED TO ORDER

Mr. Robert Burger, Jr., Chair, called the quarterly meeting of the Task Force on the Inspection Process to order at 9:05 a.m., on Tuesday, October 11, 2005 in Board Room #1, at 6603 West Broad Street, 5th Floor, Richmond, Virginia.

PRESIDING

Robert Burger, Jr.

MEMBERS PRESENT

Willard D. Tharp
Walter S. Ball
Barry Murphy
Randolph T. Minter

MEMBERS ABSENT

Michael J. Leonard

STAFF PRESENT

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

COUNSEL PRESENT

Jack E. Kotvas, Assistant Attorney General

GUESTS

Gayle Miller, Administrative Proceedings Provision
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
Meredyth Partridge, Regulatory Support Services, Inc.
Michael Linkous, Regulatory Support Services, Inc.
Rusty Spencer, Assurant Pre-Need

QUORUM

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

INTRODUCTION OF BOARD AND DHP STAFF

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

ORDERING OF THE AGENDA

Mr. Tharp made a motion to accept the agenda as written. The motion was properly seconded by Mr. Minter. The vote carried unanimously.

PUBLIC COMMENT

There was no public comment.

REVIEW OF PREVIOUS MEETINGS

Ms. Young stated that information from the Board Retreat on October 5, 2004 and from the meeting today will be collapsed into a Guidance Document which would be helpful to the inspectors and board staff. Mr. Johnson stated that he enjoyed having dialogue with the board because he felt that it improved the quality of the inspections.

CHANGES IN LAW AND REGULATIONS

Ms. Young stated that a major change in the law was in §54.1-2806. The amendment allows convicted felons to apply for licensure. Also, a similar change was codified in §54.1-2817. The amendment allows convicted felons to apply for a resident traineeship except in the cases where the applicant was convicted of embezzlement or of violating subsection B of §18.2-126.

Ms. Young stated another amendment to 54.1-2817 grants the Board the authority to deny any subsequent resident traineeship after the initial period was not completed.

Ms. Young stated that the Board is currently in the periodic review of all of its regulations; therefore discussions here today will help make necessary changes to the regulations. Mr. Johnson asked if an applicant answered yes on his application to a felony conviction what would happen to his application. Ms. Young responded that she would request from the Enforcement Division a criminal history report for that applicant.

QUESTIONS FROM INSPECTORS

The Enforcement Division and the Compliance Division were invited to attend the Task Force meeting on the Inspection Process. A number of questions were posed by them to the group:

Questions from participants:

1. §54.1-2820 of the Code of Virginia regarding preneed contracts. Should the contract revision date and the date of the Board amending the pre-need regulations correspond?

The Committee and inspectors agree that the dates should correspond. Also, Ms. Yeatts directed the Board that 18 VAC 65-30-60 needs to be amended to reflect the correct code section: 54.1-2820 (C.).

2. Lynn Helmick, Tidewater Inspector: If the insurance agent's license number is the same as his social security number, should the notation of the SS# be placed on the contract or the DMV control number? Refer to 18 VAC 65-30-180 (4.)

The Committee recommends that the agent's license number, even if it is the social security number, be placed on the insurance contract. Ms. Tiller stated that the number is especially needed for collection and monitoring purposes of fines and other monetary penalties.

3. Skip Tharp, Board Member: How does new next of kin interpretation from Board counsel effect the inspection process? Mr. Kotvas, Board's legal counsel, provided an overview of his recent interpretation. Mr. Kotvas stated that inspectors do not need to address the next of kin discussion.

3. Marta Ishmael, Northern Virginia Inspector: Is signature of contracting party needed for telephone authorizations of funeral arrangements:

The Committee recommends that signature of contracting party is not necessary, but the name of the licensee is necessary and the name of the licensee of the out of state transaction.

4. Lynn Helmick: For indigent cases, is a contract needed and what form should it be?

The Committee recommends complying with FTC regulations that require an itemized statement. The invoice from the contracting party, i.e. locality, shall be attached to the itemized statement. If a family member is available, try to have that individual sign.

The exception to the above rule 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.

5. Ms. Young stated that the Board has received numerous inquiries and two complaints regarding casket stores. She stated there was an interpretation given in 1997 by the Board's previous board counsel regarding casket stores.

A motion was made by Mr. Tharp requesting an Assistant Attorney General opinion on whether non-licensed entities may sell funeral service goods such as caskets. The motion was properly seconded by Mr. Ball. The vote carried unanimously.

6. Question to inspectors from Committee: What is the true necessity of the chronological listing of preneeds?

Mr. Dressler and Ms. Ishmael confirmed that the lists are helpful in reviewing contracts from one inspection to the next. Ms. Helmick stated that she does not believe that it is necessary to create a regulation to help inspector do their jobs and she is unsure if any type of list is needed. Ms. Challis expressed the positive effect of using the list especially in light of a recent preneed case.

7. A question was asked by Ms. Partridge of RSS, Inc.: Is it acceptable to the Board to have a cover sheet stating that 100% of the contract belongs

to the contract buyer and that the funeral home does not store any goods?
18 VAC 65-3-70 (A.)

The Committee recommends that the procedure described is acceptable.

8. On the chronological lists, when the pre-need contract becomes an at-need, should the name be deleted from the pre-need chronological list?

The Committee recommended that a line may be drawn across the preneed contract name on the chronological list, once it becomes an at-need contract.

9. Guidance Document - Appendix I – General Price List, Item VI – Immediate Burial (B), if an alternate container is not offered, should it be listed on the general price list?

The Committee recommends to refer to (B) under Immediate Burial. If an alternate container is not offered, this line item may be omitted.

10. Guidance Document - Appendix IV - Embalming Record, would the Board require that the printed name as well as the signature is required on the last page of the embalming report? If the signature is legible, she will accept it; however, if it is not, she will write it up as a violation.

The Committee recommends adding a line on the report for a printed name along with the signature of the embalmer

11. Infectious waste question: 18 VAC 65-20-590

The Committee recommends including information in newsletter to remind licensees that proper waste disposal is needed not only for infectious waste. Also, staff will research what the federal, state and local laws require for waste disposal. Ms. Yeatts stated that our regulations should be more specific and direct.

12. Can an inspection be conducted without licensed personnel present?

The Committee recommends that an inspection may be conducted without licensed personnel at the funeral home. The inspectors commented that they do not conduct any routine inspections on the weekends and may also make calls about an inspection on a Sunday.

13. May a facility offer an urn price list in lieu of a casket price list due to only providing cremations?

The Committee will recommend to the Board to amend regulations to all urn price lists in lieu of casket price lists for crematories. Also, the Board

suggested adding a question about branch establishment information on the crematory inspection form.

PRENEED FUNERAL PLANNING REGULATIONS AND LAW

Ms. Young asked while looking at amending the pre-need laws, what problems the inspectors were experiencing, and if they thought that a lot of the problems were due to a lack of knowledge of the laws. Ms. Ishmael stated that when doing a routine inspection, she had difficulty finding pre-need contracts. After January 2006, the Committee will recommend that the inspectors verify the funding source for the preneed contract.

The Committee and staff discussed what occurs to the preneed funeral contracts after a funeral home closes. A suggestion was made to require funeral homes to submit quarterly reports from funding sources.

Lastly, an inspector suggested that the Board may wish to place an ad in local papers when it revokes or suspends the license of a funeral home.

Ms. Young stated that the Board recommended that the inspectors review the pre-need contracts and the insurance policy from the funding company.

Ms. Young thanked the inspectors, Mr. Johnson, the Compliance Division, and Gayle Miller from the Administrative Proceedings Division for attending the meeting.

ADJOURNMENT

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

Robert Burger, Jr., Chair

Elizabeth Young, Executive Director

Date

Date