

APPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, March 24, 2009 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Conference Room #2, Henrico, Virginia.

The following Board members were present:

Willard D. Tharp, FSP
Walter S. Ball
Billie Watson Hughes, FSP
Michael Leonard, FSP
Randolph T. Minter, FSP
Barry Murphy, FSP
Blair Nelsen, FSP
Robert B. Burger, Jr., FSP

The following Board member was absent:

Rev. Yvonne Jones Bibbs

DHP staff present for all or part of the meeting included:

Lisa R. Hahn, Executive Director
Emily O. Wingfield, Chief Deputy Director
Elaine J. Yeatts, Senior Policy Analyst
Rashaun K. Minor, Discipline Operations Manager
Kathy Truesdale, Compliance Case Manager
Jeanette Meade, Administrative Assistant
Missy Currier, Administrative Assistant

Representative from the Office of the Attorney General was present for the meeting:

Amy Marschean, Senior Assistant Attorney General

Quorum:

With 8 members present, a quorum was established.

Guests Present:

Fred Carter, Lobbyist for the Virginia Morticians Association
Barry Robinson, Education Chair for the Virginia Morticians Association
Meredyth Partridge, Regulatory Support Services, Inc. (RSS)
Josh Myers, Virginia Funeral Directors Association

CALLED TO ORDER

Mr. Tharp, President, called the Board meeting to order at 10:32 a.m.

ORDERING OF AGENDA

Upon a motion by Ms. Hughes and properly seconded by Mr. Murphy, the Board voted to approve the agenda as amended.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp. There were no negative votes.

The motion passed unanimously.

ACCEPTANCE OF MINUTES

Upon a motion by Billie Hughes and properly seconded by Blair Nelsen, the Board voted to accept the amended minutes of the December 2, 2008 board meeting.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp. There were no negative votes.

The motion passed unanimously.

PUBLIC COMMENT PERIOD

Fred Carter made a request to the Board proposing a legislative initiative to assist families in determining the beneficiary named on the insurance policy. The proposal suggested adding a new Section to 38.2- 612 of the code of Virginia. The Board responded that they would evaluate the issue but cautioned that they did not have control over insurance companies.

Barry Robinson thanked Ms. Hahn, Leith Ellis, and Lynne Helmick for their overview on the inspection program.

AGENCY DIRECTOR'S REPORT – Ms. Emily Wingfield,

Ms. Wingfield, Chief Deputy Director, stated Ms. Ryals was unable to attend the board meeting due to prior commitments. On behalf of Ms. Ryals, Ms. Wingfield thanked the Board for their continued hard work and dedication. She encouraged the board members to speak with her following the meeting if they had any questions regarding the 2009 General Assembly.

EXECUTIVE DIRECTOR'S REPORT

Licensee Statistics

Ms. Hahn reported there are currently 1,482 funeral service licensees, 5 embalmers, 162 interns, 481 establishments, 16 branch establishments, 79 crematories, 34 continuing education providers; 87 courtesy card holders and 45 surface transportation and removal services.

Discipline Statistics

Ms. Hahn reported that we currently have 22 open cases; 15 are in investigations; 4 are in probable cause, 1 case at the formal stage was heard prior to the board meeting and 2 cases at the informal stage which will be heard following the board meeting.

Virginia Performs

Ms. Hahn was pleased to report that the Board achieved 100% goal for customer satisfaction. She also stated that the 100% goal of issuing licenses to applicants within 30 days or less has been achieved. Ms. Hahn stated that the percent of patient care cases closed in less than 250 days is at 100%. She also reviewed that the clearance rate is at 67% and reported that the age of the pending case load is at 0% which means that we don't have any cases older than 250 days.

Budget

Ms. Hahn presented the board with the current budget information. She stated that the cash balance as of June 30, 2008 was (\$26,017). The year to date revenue was \$332,070 and the direct and allocated expenditures totaled \$302,112. She stated that our cash balance as of February 28, 2009 was \$3,940. She added that the revenue will increase for the first quarter due to the March renewals in effect. She mentioned that the Agency is making budget modifications in several areas to help reduce the overall costs. Changes in funding of the Healthcare Practitioner Intervention Program (HPIP) and some vacant positions not being filled were mentioned as cost reduction measures. Ms. Hahn also stated that she still anticipates a negative balance at year end.

The Conference

Ms. Hahn reported that she was delighted to attend the annual International Conference of Funeral Service Examining Boards on February 26 and 27th. Ms. Hahn spoke to many of the Educators, established many new contacts and gave a presentation on cremation regulations. Ms. Hahn added that Billie Watson Hughes, President of The Conference, was recognized for her great accomplishments.

Continuing Education Requirements

Ms. Hahn asked the board if they had any questions regarding the changes to the law amending the CE requirements. The change went from 5 CEU hours per year, to 10 CEU hours every two years but also required that one hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements. All licensees must attest to their continuing education compliance on even year renewals beginning in 2010.

Mr. Leonard pointed out that he had been questioned regarding out of state CE compliance. Specifically, does someone holding a license in Virginia living out-of-state get credit for taking CE courses of laws and regulations of states other than Virginia regarding the funeral profession? Amy Marschean mentioned that the code does not specify, but that she would look into the matter.

Staffing Changes

Ms. Hahn informed the board that Jeanette Meade has assumed the responsibility for the Funeral Directors and Embalmers. Denise Christian has accepted a new position with the Department of Professional and Occupational Regulation and that we thank her for her service and wish her well. Ms. Christian was an integral part of job handling the daily administration of the Board of Physical Therapy. Also recognized was ShaRon Clanton for her service, she occupied the funeral position prior to Ms. Meade. Ms. Artis is out on approved leave until April. Rai Minor is maintaining her current position as Discipline Operations Manager as well as managing the Licensure operations during Ms. Artis' absence. Missy Currier has taken over the task of taking minutes of the meetings for all four of the boards.

2009 Board Calendar

Ms. Hahn stated the next board meeting is scheduled for September 8, 2009.

New Business

Report of 2009 General Assembly – Elaine Yeatts

Ms. Yeatts gave a brief report on the final status of the House and Senate Bills proposed at the 2009 General Assembly.

Adoption of Exempt Action on Preened Regulations

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger, the Board voted to amend the Code of Virginia by adding a section numbered 38.2-3100.3, relating to life insurance or annuity contracts; funding preneed funeral contracts.

The motion passed unanimously.

18VAC65-20-170. Requirements for an establishment license.

D. Within 30 days following a change of ownership, the owner or licensed manager shall ~~notify the board~~, request a reinspection of the establishment, submit an application for a new establishment license with documentation that identifies the new owner, and pay the licensure and reinspection fees as required by 18VAC65-20-70. Reinspection of the establishment may occur on a schedule determined by the board, but shall occur no later than one year from the date of the change.

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger and Mr. Minter, the Board voted to amend regulation §18VAC65-20-170 (D) regarding proper notification.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp. There were no negative votes.

The motion passed unanimously.

18VAC65-20-630 Disclosures.

(A). Funeral providers shall make all required disclosures and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of the FTC and shall contain the information included in ~~Appendices I, II, and III~~ of this chapter the following board forms:

1. The General Price List;
2. Casket Price List and Outer Burial Container Price List; and
3. Itemized Statement of Funeral Goods and Services Selected.

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger the Board voted to amend regulation §18VAC65-20-630 regarding proper disclosures.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp. There were no negative votes.

The motion passed unanimously.

Current Practice Regarding Crematory Registration

Ms. Hahn discussed and reviewed with the Board, Section § 54.1-2814.1 of the Code of Virginia and 18VAC65-20-435 of the Regulations governing the practice of Funeral Directors and Embalmers. In summary, all crematories shall be registered with the board, and a crematory providing cremations services directly to the public shall also be licensed as a funeral service establishment or shall be a branch of a licensed establishment.

Mr. Nelsen also discussed occasions when families approach licensed facilities to comply with a preneed, which was sold by a stand alone crematory, prior to the law becoming clear. The question is who can be held accountable in these situations. Amy Marschean suggested that Mr. Nelsen put the issues in writing so that she can do further research.

Mr. Nelsen also raised questions regarding whose signature is required on a cremation authorization and also the Itemized Statement of Goods and Services. Mr. Tharp suggested that all forms be reviewed by the Regulatory/Legislative Committee.

18VAC65-20-60. Accuracy of information.

- A. All changes ~~of mailing~~ in the address or record or the public address, if different from the address of record, or in the name of a licensee or registrant shall be furnished to the board within 30 days after the change occurs.
- B. Any change in ownership or manager of record for an establishment shall be reported to the board within 14 days of the change.
- C. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address of record on file with the board and shall not relieve the licensee, funeral service intern, establishment, or firm of obligation to comply.

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger, the Board voted to accept the changes as amended.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp. There were no negative votes.

The motion passed unanimously.

Immunity from Civil Liability

Ms. Marschean informed the Board that the civil immunity defense does not prevent someone from being sued, but it provides a defense in a lawsuit if you have complied with the immunity provision's requirements.

Ms. Marschean also updated the board regarding the amendment status of the Code of Virginia § 54.1-2818.4 Immunity from liability for services after routine organ and tissue donation. The bill passed the General Assembly but has not been signed yet by the Governor due to technical amendments.

Other Business

Ms. Hahn discussed the regulations regarding the Funeral Service Internship program. A "loophole" may exist in the law which allows interns to keep working beyond their completion of the program. The Board agreed that each case may need to be individually evaluated based on the circumstances.

Mr. Tharp informed the board that the Examination Committee met one day prior to the board meeting and reviewed and updated several questions. Mr. Tharp commended Ms. Hughes on her examination expertise.

Mr. Leonard asked the board if the regulations or laws address transportation and refrigeration for animals in the same unit as humans. This issue was referred to the Legislative and Regulatory Committee.

Also recommended to the Legislative and Regulatory Committee was the issue of a possible code change related to positive identification.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 12:20 p.m.

Willard D. Tharp, FSP, President

Lisa R. Hahn, Executive Director

DATE

DATE