

**APPROVED**  
**VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
**REGULATORY/LEGISLATIVE COMMITTEE**  
**MEETING MINUTES**

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, April 24, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room #2, Henrico, Virginia.

**COMMITTEE MEMBERS PRESENT**

Junius Williams, Citizen Member, Chair  
Randolph T. Minter, FSP  
Eric V. Wray, II, FSP

**OTHER BOARD MEMBERS PRESENT**

Michael J. Leonard, FSP  
Christopher P. Vincent, FSP

**DHP STAFF PRESENT**

Lisa R. Hahn, Executive Director  
Lynne Helmick, Deputy Executive Director  
Missy Currier, Board Operations Manager  
Kathy Petersen, Discipline Manager

**QUORUM**

With 5 members present a quorum was established.

**GUESTS PRESENT**

Barry D. Robinson, Virginia Morticians Association  
Meredyth Partridge, Regulatory Support Services, Inc.  
Paul Harris, Regulatory Support Services, Inc.

**CALL TO ORDER**

Mr. Williams, Chair called the committee meeting of the Virginia Board of Funeral Directors and Embalmers to order at 9:04 a.m.

**LEGISLATIVE MATTERS**

**Consideration of “Emergency” status for Establishments – Lisa R. Hahn**

Ms. Hahn gave an overview of the purpose for the proposed legislation. Ms. Hahn indicated that on occasion, the board will receive a request from an establishment seeking permission to

operate temporarily out of another funeral establishment due to unexpected damage to their building.

It was suggested that during the regulatory process that something be added to allow for verbal authorization as being acceptable notification provided it is followed up in writing within a stated period of time. The Committee recommended that we amend the language to address and define “structural damage”. The Committee concluded that they would ask the full board to consider adding legislation for Emergency Provisions under **§54.1-2810 Licensure of Funeral Establishments**.

### **2013 Draft Legislation**

Ms. Hahn reviewed the following proposed draft legislation for the 2013 Session of the General Assembly and indicated that these proposed changes more accurately reflect current practice.

- *A bill to amend and reenact §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.*

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.**

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. ~~No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.~~

#### **§ 54.1-2806. Refusal, suspension or revocation of license.**

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke

any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity or incompetence to practice his profession with safety to his clients and the public;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;

14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;
18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;
19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;
20. Violating or cooperating with others to violate any provision of this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;
21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns as required by regulations of the Board;
23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased;
24. Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers;
25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; and
26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order.

**§ 54.1-2814. Examination.**

Each applicant for license for the practice of funeral service shall be examined in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;
2. Funeral service arts and sciences including embalming and restorative art;
3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

~~The Board may recognize other examinations that it considers equivalent to its examination.~~

**§ 54.1-2815. Application for license; ~~how license signed; duration.~~**

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

The Committee agreed to ask the full board to consider the 2013 Proposed Draft Legislation with the following changes:

**§ 54.1-2806 (9)** Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity or incompetence to practice his profession with safety to his clients and the public;

**§ 54.1-2806 (27)** Incompetence to practice his profession with safety to his clients and the public;

**REGULATORY MATTERS**

**Consistency of Time Requirements in the Regulations**

Upon staff recommendation, the Committee agreed to ask the full board to consider making the following changes to maintain consistency with time requirements:

**18VAC65-20-170 (C)** At least ~~45~~ 30 days prior to opening an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously a completed application, any additional documentation as may be required by the board to determine eligibility, and the applicable fee. An incomplete package will be returned to the licensee. A license shall not be issued until an inspection of the establishment has been completed and approved.

**18VAC65-30-60 (B)** Preneed contracts and reporting documents shall be retained on the premises of the establishment for ~~one year~~ three years after the death of the contract beneficiary.

## **DISCUSSION MATTERS**

### **Future Funeral Practice**

Lynne Helmick led a discussion on “bricks and mortar” laws and regulations that may need to be addressed by the board in keeping with current industry practices in Virginia and other states: such as virtual offices, two or more separately owned funeral homes sharing a space with one preparation room, and funeral homes without chapels. Additionally, Ms. Helmick gave examples of questionable situations she encountered while performing inspections in her previous position of Senior Inspector. She stated that the laws and regulations only speak to the preparation room and perhaps they should be broadened to require all public areas are maintained in a safe, clean, and sanitary condition.

### **Virtual Funeral Homes**

The Committee discussed “Virtual” Funeral Homes whereby an office is established for the sole purpose of meeting with a family to arrange for a service without the family ever stepping foot into the funeral establishment. The Committee recommended collecting information and researching what other states are doing and to determine how to define a Virtual Funeral Home. Ms. Hahn agreed to contact the Conference for information and asked the members to forward any information they come across to the board staff who will maintain the information.

### **Maryland Courtesy Card**

Discussion on the matter was deferred for a later date.

**Mr. Burger, Mr. Nelsen and Mr. Oman arrived at 10:10 a.m.**

### **Requiring Signature of Responsibility**

The committee had a discussion regarding adding regulations that would require documentation at the time of first call, obligating any future removals to be paid by receiving establishment. The Committee decided that these matters needed to be handled in small claims court because

the board has no authority over such business practices. No recommendations will be made to the full board.

### **Establishing Owners to take CEU's Licensed or Non Licensed**

The Committee also discussed requiring unlicensed owners of funeral establishments to know the law and regulations of the funeral industry in the Commonwealth. The point was made that although MOR's are responsible for the entire establishment, however; sometimes the business ownership overrules in making business decisions, leaving the MOR's hands tied in many cases. After brief discussion, the Committee decided not to make any recommendations to the full board.

### **Practicum for Licensure**

The Committee also discussed a concern that many new licensees are not efficient in embalming and preparations because of improper training. It was suggested that the board consider adding the Anatomical Program using cadavers as part of the practicum, to ensure those obtaining a license here in the Commonwealth receive proper training and knowledge. The Committee concluded that this suggestion be given to the Mortuary Schools and that no recommendations be made to the full board.

### **ADJOURNMENT:**

With no further business before the Board, the meeting adjourned at 10:26 a.m.

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Junius Williams, Chair

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Lisa R. Hahn, Executive Director

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Date

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Date