

UNAPPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS MINUTES OF BOARD MEETING

Tuesday, September 13, 2005
Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Conference Room 1

Department of Health

CALLED TO ORDER

Ms. Billie Watson Hughes, President, called the quarterly meeting of the Board of Funeral Directors and Embalmers to order at 9:05 a.m., on Tuesday, September 13, 2005 in Board Room #1, at 6603 West Broad Street, 5th Floor, Richmond, Virginia.

PRESIDING

Billie Watson Hughes

MEMBERS PRESENT

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

MEMBERS ABSENT

Joseph Jenkins, Jr.
Rev. Alane C. Miles

STAFF PRESENT

Elizabeth Young, Executive Director
Elaine Yeatts, Senior Policy Analyst
Annie B. Artis, Operations Manager
Donna Shropshire, Agency Contracts and Records Manager

COUNSEL PRESENT

Jack E. Kotvas, Assistant Attorney General

GUESTS

Meredyth Partridge, R.S.S., Inc.
Steven L. Lyons, R.S.S., Inc.
Michael Linkous, R.S.S., Inc.
David E. Anderson, V.F.D.A.
Bruce Keeney, I.F.H.V.
Susan Motley, V.F.D.A.
Barry D. Robinson, V.M.A.
Caren Brown, President, V.M.A.

QUORUM

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

ORDERING OF THE AGENDA

Mr. Tharp made a motion to accept the agenda with amendments. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

ACCEPTANCE OF MINUTES

Mr. Minter made a motion to accept the minutes of the Special Conference Committee of 11/17/04 as amended. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Special Conference Committee of 12/14/04 as amended. The motion was properly seconded by Mr. Leonard. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Board Meeting of 6/7/05. The motion was properly seconded by Mr. Minter. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Board Meeting of 7/12/05. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Legislative Regulatory Committee on 7/12/05. The motion was properly seconded by Mr. Minter. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Legislative Regulatory Committee on 8/17/05. The motion was properly seconded by Mr. Leonard. The vote carried unanimously.

PUBLIC COMMENT

Ms. Partridge suggested that the Board amend the wording on the general price list to be consistent with the Federal Trade Commission regulations.

NEW BUSINESS

Examination Committee

Ms. Shropshire, Agency Contracts and Records Manager, provided a synopsis on the procurement process regarding examination services.

Closed Meeting

On a properly seconded motion by Mr. Tharp, the Board voted 7-0 in favor of the motion to enter into a closed meeting pursuant to §2.2-3711(A)(11) for consultation with legal counsel and briefings by staff members pertaining to a procurement issue at 9:20 a.m.

Reconvene

On a properly seconded motion by Tharp, the Board voted 7-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed session and only public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board.

The Board reconvened in open session pursuant to §2.2-3711(A) (7) at 10:11 a.m.

Mr. Burger moved that the Board grant the examination committee the authority to enter into a new examination contract. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

Continuing Education Committee – Audit Report

Ms. Young reported that six funeral service licensees failed to respond the Continuing Competency audit. She stated that approximately five licensees did not obtain their continuing education credits. Ms. Young stated that these licensees will be offered Confidential Consent Agreements.

FOIA Request for Interpretation – Next of Kin Definition

Mr. Kotvas stated that the next of kin issue was not an issue that the Board of Funeral Directors and Embalmers needed to further define. He stated that there is no order of preference outlined in the statute. Mr. Kotvas stated that if there is a dispute among family members, they should seek legal counsel. He further stated that if an injunction is ordered, it would override the next of kin statute.

Break

The Board recessed for a short break at 10:10 a.m. and reconvened at 10:21 a.m.

Board of Health Professions Meeting of July 14, 2005

Ms. Young provided a brief report regarding the Board of Health Professions meetings of July 14, 2005.

Cemetery Board

Ms. Young stated that she has been unable to attend any of the Cemetery Board meetings. The Board reviewed the minutes of the last Cemetery Board meeting.

Mass Fatalities Management Task Force

Ms. Young gave a brief report regarding the Mass Fatalities Management Task Force and provided the board with a draft of the final report for review. Ms. Partridge asked the Board about the filing death certificates in the wake of the Katrina catastrophe and inquired if this would be considered by the Mass Fatalities Management Task Force. Ms. Young replied that in regard to the death certificates, the Board would refer all inquiries to the Department of Health.

Katrina Report

Ms. Young provided a report regarding Katrina. She stated that this Board as well as other Boards within the agency has been bombarded with calls. Ms. Young further stated that Governor Warner will issue an Order allowing DHP Board to issue temporary licenses in the states of Alabama, Louisiana and Mississippi. She further stated that the Board has received approximately four calls. Ms. Young stated that a temporary license, at no cost, will be issued for no longer than twelve months and those applications will be accepted now through January 2006. She stated that the conditions of this temporary licensure would be that applicants have been displaced by Katrina; hold unrestricted licenses and are unable to furnish the some of the requested information. Ms. Young stated that if information is falsified, the license may be revoked at any time. She further clarified that those persons displaced by Katrina are “guests” of the Commonwealth of Virginia not “refugees”.

International Conference

Ms. Hughes gave a report regarding the International Conference. She stated that there were discussions regarding donations and monetary contributions. Ms. Hughes stated it was decided to defer the amount of the contributions for further discussion at the meeting to be held in Orlando, Florida in October. Ms. Hughes stated that the states of Alabama, Louisiana and Mississippi have been invited to attend the meeting. She stated the issue of lost credentials was discussed; and that the conference has suggested that the issue of fees and credentials be deferred. Ms. Hughes stated that students from those states will be allowed to sit for the examination. She further stated that Delgado and Gulf Port Community Colleges were totally closed; however, other schools have agreed to accept these students. Ms. Hughes stated that the conference and the many state boards would be working together if students were unable to function monetarily and that most states were issuing temporary licenses to those persons in Alabama, Louisiana and Mississippi.

Ms. Young informed the Board that they could vote to issue the temporary license for less than a year if so desired. She also stated that temporary licenses will be issued to resident trainees. Mr. Tharp made a motion to maintain in consistency with the Governor’s order to issue temporary licenses for one year. The motion was properly seconded by Mr. Ball. The vote carried unanimously.

Request for Interpretation – Transferability of Funds

Mr. Kotvas addressed the issue of transferability of funds that was presented by Megan McDonnell of the Lord & Whip law firm. He stated that an interpretation was not required because the transferability of funds is not specified in the statute.

Request for Interpretation – Master Trusts

Mr. David Anderson of the Virginia Funeral Directors Association gave a brief overview of his request for interpretation regarding master trusts. Ms. Young stated the request had been submitted to the Office of Attorney General for interpretation. Mr. Kotvas stated that he will continue to investigate the matter and provide legal advice at a later date.

Old Business

Legislative/Regulatory Committee

Ms. Yeatts stated that Notice of Intended Regulatory Action for the fee increase proposal will be considered in December 2005.

Ms. Yeatts gave a brief overview of the proposed changes to be made to the resident trainee regulations to include reinstatement, renewal and late fees. She stated that once the proposed regulations are approved, there will be a 60 day comment period. A motion was made by Mr. Minter to accept the proposed changes as recommended by the Legislative/Regulatory Committee regarding the Resident Trainee regulations. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Ms. Yeatts gave a brief overview of the Notice of Intended Regulatory Action regarding the general regulations. She stated that the proposed changes had to be adopted by the board. A motion was made by Mr. Tharp to accept the NOIRA as recommended by the Legislative/Regulatory Committee regarding the general regulations. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

Mr. Kotvas cautioned the board regarding changing the appendices to forms. He stated that the forms give more flexibility. Mr. Kotvas advised staff to review the appendices and make them close to what Federal Trade Commission requires.

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He further stated that there were sample price lists published on the FTC website.

Final 2006 Legislative Proposal

Ms. Yeatts stated that the Final 2006 Legislative Proposal would probably not be a part of the Governor's package. Ms. Young stated that the 2006 proposal has been submitted to the associations.

Report of the Initial and Renewal Applications of Waiver of Full-Time Manager Requirements

Ms. Young provided the quarterly report regarding the report of the initial and renewal applications of waiver of full-time manager requirements. She stated that there are currently seventeen facilities that have been granted waivers by the Board that will expire January 31, 2006.

Executive Director's Report

Licensee Statistics

Ms. Young gave a brief report regarding licensee statistics.

Disciplinary Statistics

Ms. Young stated that there were currently 82 licensure disciplinary cases; 14 cases involving resident trainees with 4 cases involving request for extensions by resident trainees.

Budget

Ms. Young stated that a new budget will be prepared at the end of May 2006. She stated that she will present a budget proposal regarding the fee increase proposal in December.

Board Calendar

Ms. Young stated that a calendar for 2006 had not been prepared at this time. She stated that a Legislative/Regulatory Committee meeting will be held at 9:00 a.m. on Tuesday, September 27, 2005 and a formal administrative hearing will follow at 1:00 p.m. Ms. Young informed Mr. Burger and Mr. Tharp that they were recused from the formal hearing.

Ms. Young informed the Board she had hired a new intern, Stacy Lee, a senior from William and Mary. She stated that Ms. Lee was in the process of assisting her with the newsletter. Ms. Young also informed the Board that she was on family medical leave throughout the month of October, 2005. She stated that she could be reached by blackberry or by cell phone. Ms. Young also stated that she and Ms. Artis coordinated their schedules so that one or the other was in the office in the absence of the other.

Adjournment

With no further business, the meeting was adjourned at 11:22 a.m.

Billie Watson Hughes, President

Elizabeth Young, Executive Director

Date

Date