

DRAFT UNAPPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS MINUTES OF BOARD MEETING

Tuesday, January 17, 2006
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Conference Room 4

Department of Health Professions

CALLED TO ORDER

Ms. Billie Watson Hughes, President, called the quarterly meeting of the Board of Funeral Directors and Embalmers to order at 9:04 a.m., on Tuesday, January 17, 2006 in Board Room #4 at 6603 West Broad Street, 5th Floor, Richmond, Virginia.

PRESIDING

Billie Watson Hughes

MEMBERS PRESENT

Willard D. Tharp
Walter S. Ball
Robert B. Burger, Jr.
Michael J. Leonard
Barry Murphy
Randolph T. Minter
Joseph Jenkins, Jr.

MEMBERS ABSENT

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, Regulatory Support Services, Inc.
Deb DeWeerd, Regulatory Support Services, Inc.
Susan Motley, Virginia Funeral Directors Association

QUORUM

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

ORDERING OF THE AGENDA

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

ACCEPTANCE OF MINUTES

Mr. Tharp made a motion to accept the minutes of the September 13, 2005 Board meeting with amendments. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Legislative/Regulatory meeting of September 27, 2005. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

Mr. Tharp made a motion to accept the minutes of the Task Force on the Inspection Process meeting of October 11, 2005. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

PUBLIC COMMENT

Ms. Partridge introduced her newest employee, Deb DeWeerd, to the Board.

NEW BUSINESS

Examination Committee

Ms. Shropshire, Agency Contracts and Records Manager, informed the Board that the examination contract was awarded to Professional Credential Services, Inc. ("PCS"). She stated that the examination will be computer based and will be administered by Laser Grade. Ms. Shropshire informed the board that there are sites in various parts of the state to include Richmond, Chesapeake, Norfolk, Vienna, Lynchburg, Roanoke, Wytheville and Abingdon. She informed the Board that Claus Lang, President of PCS was very service oriented and has an excellent reputation. Ms. Shropshire stated that PCS currently provides testing for the Accountancy examination. She stated that for the months of January and February, the examination will be paper and pencil. The March exam will be converted for computer based testing.

Ms. Young stated that the Examination committee had recommended changing the number of questions from 75 to 50. She further stated that offering a computerized examination would provide more flexibility to the candidates. Ms. Young stated that board staff will certify candidates within 30 days of the examination week and will maintain the application for six months; after such time candidates will have to re-apply. Beginning with the March exam, a "Candidate Information Bulletin" ("CIB") will be provided to applicants in lieu of the study guide. Mr. Tharp made a motion to accept the minutes and recommendation of the Examination Committee meetings of December 1 and December 13, 2005. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

Ms. Hughes, on the behalf of the Board, thanked Ms. Shropshire for a job well done in acquiring bids for the testing companies and completing the process in such a timely and professional manner.

2006 Virginia General Assembly

HB 151 – Resident trainee; name changed to funeral service interns

This bill changes the term- resident trainee to the term- funeral service intern and it also allows the Board to adopt a more flexible reporting schedule for the interns.

HB 1145 – Dead human bodies; emergency medical services agencies exempt from transportation and removal registration.

This bill exempts emergency medical services agencies holding a permit issued by the Commissioner of Health from registration as surface transportation and removal services to remove and transport dead human bodies. The bill further requires funeral service establishments to continue complying with Board regulations governing transportation and removal services.

Ms. Yeatts stated that House Bills 151 and 1145 are drafts of bills originally proposed by the Board. Mr. Leonard made a motion to approve HB 151 and HB 1145. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

HB 571 - Preneed funeral contracts; clarifies deposits in trust accounts thereof.

This bill clarifies that deposits in a preneed funeral trust account may be commingled for the purposes of the management of the trust account or investment of funds in the trust account.

Ms. Motley presented a position paper about master trusts by David Anderson, Esquire and lobbyist for VFDA and VMA. Mr. Kotvas, Board counsel, stated that the bill is generic enough that any organization could do this. Ms. Yeatts stated that the danger would be if someone interpreted HB 571 to mean that commingling could be done with all funds; which is incorrect; because commingling refers to preneed trust accounts only. Mr. Tharp made a motion that the board accepts the language counsel and staff proposed (in bold print below) be added to HB 571:

*The trustee may commingle the deposits in any preneed trust account for the purpose of the management thereof and the investment of the funds therein, as **long as an accounting is maintained and the funds belong to each person can be readily identified.***

The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

HB 351 – Health regulatory boards; prohibition of certain transfers of moneys collected on behalf thereof.

The Board takes no position on this bill.

HB 1299 – Preneed Funeral Contract Recovery Fund; created.

The bill establishes a recovery fund from which persons with unsatisfied final judgments may seek restitution of unfulfilled preneed funeral contracts.

Mr. Leonard made a motion that the Board would agree to the exploration of a preneed funeral recovery fund and study which will include examining funding mechanisms. The Board took no position on this bill. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

HB 1300 – Funeral services licensees, funeral directors and embalmers; continuing education requirements.

The bill amends the existing continuing education requirements for only violators of the laws and regulations and in the event of any regulatory amendments prescribed by that Board in that specific year.

Ms. Young stated that there are public safety issues in the field of embalming such as tissue donations, etc., and there is a great need for continuing education for all licensees. Ms. Hughes stated that there is a lot of price gouging in course offerings which is a major concern and that issue precipitated the proposed amendment. Ms. Yeatts stated that board members could be presenters in regard to courses that cover changes in the laws and regulations and persons who attend these courses could receive continuing competency hours. The Board took no position on this bill.

Task Force on Inspection Process

There was discussion regarding the recommendation of the Task Force on the Inspection Process. The task force committee recommended 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 usually encourage appointments for inspections. Mr. Tharp made a motion to accept the recommendations with changes. The motion was properly seconded by Mr. Ball. The vote carried unanimously.

Request for Interpretation – Casket Stores

Mr. Kotvas rendered an interpretation regarding casket stores stating that the sale of caskets to the general public constitutes the “practice of funeral services,” and unlicensed persons are prohibited from engaging in such activity by §54-2805. He further stated the facility or individual selling caskets must be licensed by the Board.

General Board Meeting
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Use of existing insurance policies to fund for preneed planning

Mr. Tharp made a motion to defer this interpretation to Board counsel and staff for a response at the next scheduled meeting. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

Board of Health Professions Meeting of September 8, 2005

Ms. Young stated that Mr. Jenkins continues to be the Board's representative on the Board of Health Professions for our board. The minutes of the Board meeting of September 8, 2006 were reviewed by the Board.

Cemetery Board

The Board reviewed the minutes of the previous meetings of the Cemetery Board. Ms. Young stated that she has not been available to attend any of the meetings; however, she will plan to have a joint meeting with the cemetery board.

Mass Fatalities Management Task Force

The Board reviewed the final report from the Task Force.

International Conference

Ms. Hughes provided the report on the International Conference of Funeral Service Examining Boards ("the Conference"). She stated that the members of the Conference were trying to improve communication with the public. Ms. Hughes gave a brief overview of the functions of the Conference: development and administration of the National exam, development of jurisprudence exams, newsletters, and providing technical assistance to practitioners, educators and legislators. Ms. Hughes further stated that the Conference serves as a consultant to state boards and provides financial support to the schools under the American Board of Funeral Service Education. Ms. Hughes stated that the Annual Convention will be in Louisville, Kentucky on April 7 and 8, 2006. She stated that the national board exam has changed; it was rewritten in October 2005 and now has 300 questions. Ms. Hughes stated there is an emphasis on sciences and embalming. She stated general questions have also been added to the exam. Ms. Hughes has been elected the District II Governor which covers the states of West Virginia, Delaware, District of Columbia and Virginia. She will travel to Delaware next month to participate in the District meeting. Ms. Hughes' presentation was deferred to the March 2006 Board meeting.

In another matter, Ms. Hughes stated that Dr. Alvin Schneider, Interim President of Norfolk State University has suggested the deletion of the mortuary science program due budget reductions and low enrollment. She stated there will be a meeting with Delegate Kenneth Alexander (Norfolk) regarding this issue.

President's statement regarding Public Comment

Ms. Hughes reminded visitors attending the board meeting that they were only to address issues and speak only during the public comment period. Mr. Kotvas informed the board that they may wish to incorporate the procedure in by-laws. The Board suggested this issue be dealt with procedurally rather than be incorporated into the by-laws.

By-Laws

Mr. Tharp made a motion that the by-laws be adopted with the recommended amendments. The motion was properly seconded by Mr. Ball. The vote carried unanimously.

Licensure Procedures for the victims of Hurricanes Katrina and Rita

Ms. Young stated this information was presented for informational purposes only. She stated that the board has not received any funeral applications from victims of the hurricanes.

Continuing Education

Ms. Young stated that continuing education renewal audit letters will be mailed within the next two weeks. Three percent of funeral service licensees will be audited and all board members will also be audited.

New State Travel Regulations

Ms. Young shared the new travel regulations with the board members. The standard lodging rates have increased to \$96.00 per night.

OLD BUSINESS

Legislative/Regulatory Committee

Proposed Fee Projections

Ms. Yeatts stated that DHP adopted specific fee principles in 1999 fee principles: applicants to be given a full year prior to renewal, standard fees for review of routine or non-routine applications, and late fees are one-third of the renewal fee

Mr. Murphy made a motion to change the continuing education sponsor fee from \$200.00 to \$300.00. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Mr. Murphy made a motion to have courtesy card fees mirror the fees for a funeral service licensee. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Mr. Tharp made a motion to increase fees for continuing education sponsors to \$300.00. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

Mr. Tharp made a motion to adopt an amendment to 18 VAC 65-20-110 to change return check fees to \$35 and to make the same amendment for Chapter 40, the resident trainee fees. The motion was properly seconded by Mr. Murphy. The vote carried unanimously.

Mr. Tharp made a motion to adopt the proposed draft amendments. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

Mr. Minter made a motion to amend 18VAC65-40-250 to reflect that a supervisor for a resident trainee must have at least two years of experience as opposed to the five years originally submitted. The motion was properly seconded by Mr. Burger. The motion carried unanimously.

Report of the Waiver of the Full-Time Manager Requirements

Ms. Young stated those funeral service establishments are currently renewing their waivers. The waivers expire each January 31st. She stated that the renewal process is labor-intensive due to the review of vital statistic reports.

EXECUTIVE DIRECTOR'S REPORT

Licensee Statistics

Ms. Young stated that there are no substantial increases in the number of licensees from the last quarter. She stated the number of applicants taking the funeral jurisprudence examination has increased. Ms. Young stated that approximately five applicants failed the December 2005 exam.

Ms. Young thanked Ms. Artis, and Ms. Davis, the Board's P-14 employee for their hard work on the resident trainee program and for licensing of the funeral service providers.

Board Calendar

Ms. Young stated that there will be a February 8th Legislative/Regulatory committee meeting.

Other Issues

Ms. Young asked the board members if they wished to place the word "Probation" on the printed license, if the licensee is under probation. Due to the indecisive conclusion to the discussion, the Board placed the issue on the March 2006 meeting agenda. She stated that she would survey other occupations in DHP and other states.

Adjournment

With no further business, the meeting was adjourned at 12:34 p.m.

Billie Watson Hughes, President

Elizabeth Young, Executive Director

Date

Date