

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Department of Health Professions

Perimeter Center

9960 Mayland Drive, Henrico VA 23233-1463

Board Room 1, Second Floor

Legislative/Regulatory Committee Meeting

December 8, 2016 at 11:00 a.m.

AGENDA

CALL TO ORDER - Larry T. Omps, FSL, Committee Chair

APPROVAL OF AGENDA

CALL FOR PUBLIC COMMENT ON AGENDA ITEMS

DISCUSSION ITEMS

- **Development of Board Guidance - Tab 1**
 - Refrigeration
 - Embalming Documentation
- **Revisions to Guidance Document 65-12 - Confidential Consent Agreements - Tab 2**

NEW BUSINESS

ADJOURN

Tab 1

FOR DISCUSSION ON REFRIGERATION & EMBALMING

CODE OF VIRGINIA:

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

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;

§ 54.1-2811.1. Handling and storage of human remains.

A. Upon taking custody of a dead human body, a funeral service establishment shall maintain such body in a manner that provides complete coverage of the body and that is resistant to leakage or spillage, except during embalming or preparation of an unembalmed body for final disposition; restoration and dressing of a body in preparation for final disposition; and viewing during any visitation and funeral service.

B. If a dead human body is to be stored for more than 48 hours prior to disposition, a funeral services establishment having custody of such body shall ensure that the dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed. 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.

C. If a dead human body is to be stored for more than 10 days prior to disposition at a location other than a funeral service establishment; the funeral service establishment shall disclose to the contract buyer the location where the body is to be stored and the method of storage.

D. Funeral services establishments, crematories, or transportation services shall not transport animal remains together with dead human bodies. Further, animal remains shall not be refrigerated in a unit where dead human bodies are being stored.

REGULATIONS (18 VAC 65-20-10 et seq.)

18VAC65-20-436. Standards for registered crematories or funeral establishments relating to cremation.

B. Standards for cremation. The following standards shall be required for every crematory:

5. Whenever a crematory is unable to cremate the remains within 24 hours upon taking custody thereof, the crematory shall maintain the remains in refrigeration at approximately 40 degrees Fahrenheit or less, unless the remains have been embalmed.

Tab 2

Guidance Document 65-12

Board of Funeral Directors and Embalmers

CONFIDENTIAL CONSENT AGREEMENTS

Legislation enacted in 2003 authorizes the health regulatory boards to resolve certain allegations of practitioner misconduct by means of a *Confidential Consent Agreement* ("CCA"). This agreement may be used by a board in lieu of public discipline, but only in cases involving minor misconduct and non-practice related infractions, where there is little or no injury to a patient or the public, and little likelihood of repetition by the practitioner.

A CCA shall not be used if the board determines there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients, or (ii) conducted his/her practice in a manner as to be a danger to patients or the public.

A CCA shall be considered neither a notice nor an order of a health regulatory board, both of which are public documents. The acceptance and content of a CCA shall not be disclosed by either the board or the practitioner who is the subject of the agreement.

A CCA may be offered and accepted any time prior to the issuance of a notice of informal conference by the board. By law, the agreement document must include findings of fact and may include an admission or a finding of a violation. The entry of a CCA in the past may be considered by board in future disciplinary proceedings. A practitioner may only enter into only two confidential consent agreements involving a standard of care violation within a 10-year period. The practitioner shall receive public discipline for any subsequent violation within the 10-year period, unless the board finds there are sufficient facts and circumstances to rebut the presumption that such further disciplinary action should be made public.

At the March 9, 2004, the Board of Funeral Directors and Embalmers voted unanimously to adopt the following list of violations of regulation or statute that may qualify for resolution by a Confidential Consent Agreement:

- Failure to correct minor deficiencies (1to2) within three to five years of earlier inspection
- Failure to renew establishment license within 6 months of expiration date without evidence of practice
- Failure to respond to first notice of inspection deficiencies citations
- Failure to notify the Board of change of manager within six months of change
- Failure to file DOH – Vital Statistics report for one to five deaths
- Failure to obtain all five cues units within first renewal without hardship request
- Failure to properly to properly advertise licensed name in advertising
- Failure to release custody of body upon request of next of kin for non-payment
- Failure to obtain permission of next of kin to embalm
- Failure to write FSL license number on preneed contracts
- Failure to properly maintain preneed documents at main establishment
- Failure to provide Q&A to buyer as part of preneed contract
- Failure to submit resident trainee reports within 60 days of due date
- Failure to notify Board of change of supervisor and/or training site
- Failure to properly document regulations stating embalmings and/or funerals for 18 month reports

March 9, 2004