

APPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, January 18, 2011 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Michael J. Leonard, FSP, President
Robert B. Burger, Jr., FSP, Vice-President
Blair Nelsen, FSP, Secretary-Treasurer
Randolph T. Minter, FSP
Billie Watson-Hughes, FSP
Barry M. Murphy, FSP
Junius Williams, Citizen Member

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Arne Owens, Agency Chief Deputy Director
Elaine J. Yeatts, Senior Policy Analyst
Sammy Johnson, Chief Deputy Director of Enforcement
Missy Currier, Board Operations Manager

BOARD COUNSEL

Amy Marschean, Senior Assistant Attorney General

QUORUM

With 7 members present a quorum was established.

GUESTS PRESENT

Barry D. Robinson, Virginia Morticians Association
Twila Dickerson, Regulatory Support Services, Inc.
Bo Keeney, Independent Funeral Homes of Virginia
Bruce Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association

CALL TO ORDER

Mr. Leonard, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:08 a.m. and asked the members and guests to introduce themselves.

ORDERING OF AGENDA

The agenda was accepted as ordered.

ACCEPTANCE OF MINUTES

- Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the Board voted to accept the Board Meeting Minutes dated October 22, 2010. The motion carried unanimously.

PUBLIC COMMENT PERIOD

Bo Keeney stated that there appeared to be confusion regarding Virginia Law and Federal Law regarding granting continuing education credit. Mr. Keeney requested that the board accept both Federal law and/or Virginia law for the one hour per year CE requirement.

Mr. Ball arrived at 10:15 a.m.

Barry Robinson requested an update about the board's decision to revert the continuing education requirement back to 5 hours per year. On behalf of the Virginia Morticians Association and members in the funeral profession, Mr. Robinson acknowledged the upcoming expiring board appointments and thanked Mr. Tharp and Ms. Hughes for their dedicated service on the board.

Following Mr. Robinson's question, Ms. Yeatts responded that a legislative proposal regarding the 5 hour CE requirement was submitted to the 2011 General Assembly but not accepted.

Lacy Whittaker thanked Lisa Hahn and Lynne Helmick for their assistance with presentations during the Traveling Caravan of the Virginia Funeral Directors Association.

INSPECTION REPORT – SAMMY JOHNSON

Mr. Johnson first introduced himself and informed the board of Karen Schaller, the new inspector that would be taking over Ms. Helmick's position as Funeral Establishment Inspector in the Tidewater region. Mr. Johnson referred the members to the new funeral inspection report and indicated that major revisions were made as a way to keep current with the laws and regulations.

Mr. Johnson then presented a facility inspection concept that the Board of Pharmacy had recently developed in an effort to streamline their program. He explained that the board identified those deficiencies that were critical to the inspection and from that they developed a Prehearing Consent Order form. During the inspection, an Inspector could then generate the PHCO and have it signed by the facility. This cut costs by avoiding hearings and spending board members and staff time.

Ms. Yeatts recommended that if the members decide to utilize this inspection program that they do so by generating a Guidance Document.

Mr. Leonard thanked Mr. Johnson for the information and requested that the Inspection Committee review the information and report back to the full board.

EXECUTIVE DIRECTOR'S REPORT

Expenditure and Revenue Summary

Ms. Hahn stated that the beginning cash balance as of June 30, 2010 was \$40,298, revenue received for FY 11 was \$26,825 less the direct and allocated expenditures of \$214,545, leaving a cash balance as of November 30, 2010 of \$(147,422).

Licensee Statistics

Ms. Hahn provided a summary of current license statistics and agreed to Mr. Murphy's request for future reports to also include statistics from the previous year for comparison purposes.

Discipline Statistics

Ms. Hahn stated we have 47 open cases; 34 cases are in the Enforcement Division at the Investigative stage; 9 cases are in the Probable Cause stage; 2 cases at the APD level; 1 case is at the informal stage; and 1 case is at the formal stage.

Virginia Performs – 4th Quarter ending 9/30/10

Ms. Hahn shared that the board had achieved a 100% rating for issuing licenses in less than 30 days; a 15% rating for patient care cases closed within 250 days; 100% customer satisfaction on surveys; and the clearance rate was at 67% which indicates how many cases were received versus closed.

Board Business

Ms. Hahn updated the board members on a meeting she held with Sammy Johnson and the Inspectors. Collaboratively, they reviewed and edited the new inspection forms, discussed ways to improve the process and discussed preneed disclosures. Ms. Hahn will forward the members a copy of the final inspection form once complete. Any questions may be directed to Ms. Hahn or Ms. Helmick.

Alkaline Hydrolysis

Ms. Hahn shared that she had not received any additional information regarding Alkaline Hydrolysis from any of the associations or board members. She added that she would like the board to stay ahead of any future legislation on the matter.

Probable Cause Review Sheet

Ms. Hahn provided the members with a copy of the new probable cause review sheet that she revised in an effort to streamline the process. Ms. Hahn stated that the revised form includes more detailed information including previous case history, priority level of the case, investigative hours already spent on case, and key questions for board members to ask themselves while reviewing the case. Ms. Hahn also reviewed the actions that a board member can recommend after determining probable cause. Ms. Hahn concluded that most cases are resolved at the Informal Conference or Pre-Hearing Consent Agreement levels.

Examination Vendor

Ms. Hahn shared that the contract for the examination vendor would be going out for re-bid in the near future. She requested board input on the current examination offering. She explained that the vendor currently provided testing 5 days per month but that she discovered that the contract includes the requirement that they offer tests 5 days per week not per month. She wanted to make sure that the board wanted to be able to offer the examination more often. The board agreed that they wanted to increase the offering of the examination.

Calendar

Ms. Hahn stated the next scheduled board meetings in 2011 were April 12th, July 19th and October 18th.

NEW BUSINESS

Legislative Report – Elaine Yeatts

Ms. Yeatts reviewed the status of the following regulations pertaining to 18VAC65-20:

- Identification of human remains –at the Secretary’s Office
- NOIRA regarding fee increases – at Secretary’s Office – seeing a substantial reluctance to approve any fee increases – the board will continue in a deficit which will have to be paid at some point – an increase in fees now will create less extraordinary increases later
- Fast-Track regarding clarification of requirements – approved – out for comment

Ms. Yeatts reviewed the status of regulations pertaining to 18VAC65-30;

- Fast-Track regarding termination of irrevocable trusts – remains at Secretary’s Office

Ms. Yeatts gave a brief overview of all proposed legislation related to the profession including; SB 1117, HB 1659, HB 1661, HB 2017, HB 2018, and HB 2267. Ms. Yeatts requested that the board offer advice on House Bill 2267 so that she could communicate their view to the Secretary’s office. The Board agreed that the HB 2267 offered no benefit to the consumer by limiting options available to them and were not in favor of requiring the funds to be limited to a location in the Commonwealth.

Upon a motion by Mr. Murphy and properly seconded by Mr. Burger, the board voted to strike the words "located in the Commonwealth" on line 111 and all of lines 131 thru 134 of HB 2267. The motion carried unanimously. Mr. Tharp had not yet arrived to the meeting.

Mr. Tharp arrived at 11:25 a.m.

Guidance for Internship Extensions (Guidance Document 65-15)

The members were presented with the following revision:

In accordance with **18VAC65-40-130**, the board for good cause shown, may grant an extension of time for completion of an internship.

The board policy on granting an extension is as follows:

- The intern has to provide the board with a letter explaining the circumstances that have prevented the completion of the program within the specified time. The letter should include the length of time the intern is requesting for the extension. Additionally, the board will want to review the intern's current college transcript to review the courses already completed toward the mortuary educational requirement.
- The Board will grant no more than 2 extensions to an intern.

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes, the board voted to approve revised Guidance Document 65-15 as written. The motion carried unanimously. Mr. Tharp had arrived to the meeting.

Procedures for Auditing Continuing Education (Guidance Document 65-16)

1. Board staff audits a random sample of licensees to investigate compliance with the Board's continuing education requirements.
 - a. Board staff reviews each audit report and determines if the licensee is in compliance with their CE requirements.
 - b. Board staff will confer with the CE committee for any questionable matters.
2. Board staff reviews each audit and, depending on compliance, will either:
 - a. Send a letter of appreciation for cooperation with the audit and for compliance with the Board's CE requirements, OR;
 - b. Send an Advisory letter, OR
 - c. Send a Pre-hearing Consent Order based on the following guidelines:
 - i. Monetary Penalty of \$100 per missing credit hour,
 - ii. Monetary Penalty of \$300 for a fraudulent renewal certification, and;

- iii. Require submission of proof of completion of the missing credit hours within 90 days of entry of the order. This CE is to be in addition to the annual requirement for renewal.
3. If the licensee fails to respond to the audit or pre-hearing consent order, the matter will be referred to an informal conference.
4. If the licensee has been previously disciplined for CE violations, the matter should be referred to the Special Conference Committee.

Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the board voted to accept Guidance Document 65-16. The motion carried unanimously.

CE Requirements:

- **One Hour Law & Regulation** – the board reiterated that only VA law (Section 54.1-2400 and 54.1-2800) and VA regulation Title 18 VAC 65-20-10 et seq. will be accepted to meet the one hour specific CE requirement effective March 31, 2011.

Upon a motion by Ms. Hughes and properly seconded by Mr. Tharp, the board voted that education regarding the one hour Preneed and the one hour VA law requirement must be specifically Virginia. The motion carried unanimously.

- **Crematory Operators Permit Course**

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes, the board voted to accept 1 hour of Virginia law for CE for completion of the Crematory Operators Course and to accept additional course hours as general CE credit provided the Crematory Operators Course was given by an approved vendor. The motion carried unanimously.

- **Board Approved CE Providers** – CE providers specifically named in 18 VAC65-20-152 are approved to provide CE in accordance with the regulations.

Upon a motion by Ms. Hughes and properly seconded by Mr. Tharp the board agreed to review CE courses if the provider questions whether or not the content meets the CE requirements. If the provider wishes to have a course reviewed in advance of the offering, the course content and required information should be submitted to the Board 60 days prior to advertising the course. The motion passed by a majority of the voting members. Mr. Burger and Mr. Murphy were opposed to the motion.

The board would like to add that this is on a voluntary basis and not a new requirement for CE providers specifically named in 18 VAC65-20-152.

Funeral Establishment Trends – Lynne Helmick

Ms. Helmick discussed funeral establishment trends and the various applications and questions the board had been receiving. Some of the trends noted are:

- Main establishments with branches serving a niche market or branches with direct cremation services in the same building.
- Cost cutting funeral homes that do not have a chapel or space for viewing.

She requested that the board may want to consider:

- If they wish to amend the definition of a funeral home?
- Is there a need to consider additional facility requirements that would ensure that all public spaces of a funeral home are clean and safe?

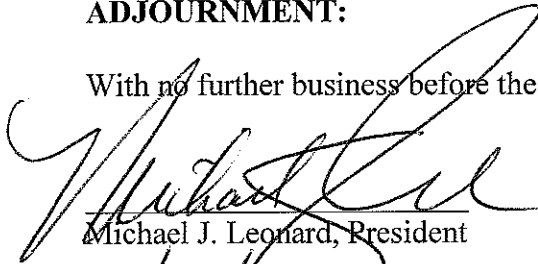
Subcommittees

Mr. Leonard provided the members of the board with a revised Subcommittee list and explained that number of members participating in each Committee was reduced in an effort to reduce costs. We will attempt to hold the subcommittee meetings on the same day as a board meeting. He added that the board needs to save wherever they can.

Mr. Leonard ended the meeting by asking Ms. Hahn if any cost resolutions had been made with Northrop Grumman & Virginia Information Technologies Agency (VITA). Ms. Hahn responded that no resolutions had been made and she does not believe that they will be forthcoming.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 12:30 p.m.



Michael J. Leonard, President

4/12/11
Date



Lisa R. Hahn, Executive Director

4/12/11
Date