

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 17, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Robert B. Burger, Jr., FSP, President
Blair Nelsen, FSP, Vice-President
Junius Williams, Citizen Member, Secretary-Treasurer
Randolph T. Minter, FSP
Michael J. Leonard, FSP
Walter Ball, Citizen Member
Robert Oman, FSP
Christopher P. Vincent, FSP
Eric V. Wray, II, FSP

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Elaine J. Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

BOARD COUNSEL

Howard Casway, Senior Assistant Attorney General

QUORUM

With 9 members present a quorum was established.

GUESTS PRESENT

Barry D. Robinson, Virginia Morticians Association
Lacy Whittaker, Virginia Funeral Directors Association
Meredyth Partridge, Regulatory Support Services, Inc.
Markell Elder, Department of Health Professions

CALL TO ORDER

Mr. Burger, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:05 a.m. by welcoming everyone and asking the members and the guests in the audience to introduce themselves.

ORDERING OF AGENDA

The agenda was accepted as amended by rearranging the order of the Executive Directors Report to begin with the Legislative/Regulatory report and by adding a draft guideline document under New Business.

ACCEPTANCE OF MINUTES

- Upon a motion by Mr. Williams, Jr. and properly seconded by Mr. Leonard, the Board voted to accept the Board Meeting Minutes dated October 18, 2011. The motion carried unanimously.
- Upon a motion by Mr. Minter and properly seconded by Mr. Oman, the Board voted to accept the Formal Hearing Minutes dated October 18, 2011. The motion carried unanimously.

INFORMAL CONFERENCES HELD

Mr. Burger shared that informal conferences were held on the following days and that the minutes are located on the board's website and regulatory Townhall.

- May 24, 2011
- August 9, 2011
- September 28, 2011
- October 18, 2011
- November 16, 2011

PUBLIC COMMENT PERIOD

Mr. Barry Robinson from Virginia Morticians Association requested that they be invited to the Legislative/Regulatory meeting when it is held.

NEW BUSINESS

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

- Identification of human remains – remain at the Governor's Office (432 days)
- NOIRA regarding fee increases – remain at the Secretary's Office (386 days)

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

- Fast-Track regarding termination of irrevocable trusts – remain at Governor's Office (432 days)

Exempt Regulatory Action – Adoption of amendment to conform Preneed regulations with Funeral Rule (18VAC 65-30)

Ms. Yeatts stated that the regulatory change became effective on December 21, 2011.

Ms. Yeatts gave an overview of the following bills submitted before the 2012 General Assembly that may directly or indirectly affect the Agency: HB 195; HB 260, HB 265, HB 272, HB 337, HB 378, HB 379, HB 439, HB 937, HB 938, HB 1056, SB 433

The board members responded to the following bills:

HB 439 & HB 1056 – bills to amend and reenact § 54.1-2808.1 of the Code of Virginia relating to veterans and the disposition of cremains. Motion was made by Mr. Williams, Jr. and properly seconded by Mr. Leonard for Ms. Yeatts to craft a proposed amended bill that would incorporate and include portions of HB 439, HB 1056. The motion carried unanimously.

HB 379 – upon a motion by Mr. Leonard and properly seconded by Mr. Oman, the board voted to support a three year moratorium to study Alkaline Hydrolysis. The motion carried unanimously.

HB 378 – The board is in favor of allowing the one hour covering compliance with laws and regulations governing the profession to include both federal and state law.

Ms. Yeatts concluded her report by recommending that the board wait until the conclusion of the 2012 general assembly session before forming any Adhoc committees.

EXECUTIVE DIRECTOR’S REPORT

Expenditure and Revenue Summary

Ms. Hahn stated that the beginning cash balance as of June 30, 2011 was \$26,516, revenue received for FY 12 was \$27,055 less the direct and allocated expenditures of \$265,301 leaving a cash balance as of November 30, 2011 of \$(211,731). Ms. Hahn shared that she has taken numerous steps to “tighten our belts” and takes pride in being a good fiscal steward for the board but that she has run out of areas to cut. She added that 66% of the costs were those out of her control such as VITA, investigation costs, agency shared costs. Ms. Hahn has provided a briefing document for Dr. Reynolds-Cane that might be helpful in her discussions with the Secretary’s office.

Licensee Statistics

Ms. Hahn referred the members to the handout provided with updated statistics.

Discipline Statistics

Ms. Hahn referred the members to the handout provided with updated statistics. Ms. Hahn added that 5 compliance inspections have been ordered and that 7 funeral board cases are monitored by Missy Currier. She added that Ms. Currier had been given the responsibility of Compliance Case Manager in addition to Board Operations Manager for all three of Ms. Hahn's boards. Ms. Hahn concluded that there were 24 total compliance cases being monitored by Missy Currier and Lynne Helmick for all three boards.

Virginia Performs – 1st Quarter ending September 30, 2012

Ms. Hahn gave the following Virginia Performs results: 100% rating for issuing licenses in less than 30 days; a 100% rating for patient care cases closed within 250 days; customer satisfaction was at 100%; and the clearance rate was at 300%. She concluded her report by stating that she contributes great results to her outstanding staff.

Presentations

Ms. Hahn mentioned several presentations that board staff or board members have committed to already in 2012. Ms. Hahn mentioned that she had received a couple of suggestions from the associations as well as from a couple of board members regarding alternative ways to fulfill the demand for board presentations. She discussed Polycom to the board and said it was a new method available to DHP for holding live seminars via video conference. Ms. Hahn stated that she prefers the "in person" approach versus the Polycom approach but travel costs and staff time must also be considered in the decision. She concluded that her most viable solution would be to offer a couple of presentations per year, held at DHP, and to include Virginia Law as well as Preneed.

Maryland Reciprocal Agreement

Ms. Hahn stated that Dr. Hari P. Close had planned on attending the board meeting to officially sign the Reciprocal agreement but due to circumstances he could not make it. Therefore, the signing of the agreement would take place via us postal mail.

Ms. Hahn also shared that it had come to her attention that differences exist between a Virginia Courtesy Card Holder and a Maryland Courtesy Card Holder and what each licensee is allowed to do in each state. Staff is researching the matter and will report back their findings at the next board meeting.

Regulatory News

Ms. Hahn shared that she and Ms. Yeatts had a very good meeting with Delegate Alexander to review potential funeral issues for the 2012 General Assembly session.

Ms. Hahn provided the members with a copy of the letter from Ben Lacy, Attorney for SansAnderson and her response back regarding legislation he would be submitting regarding the removal of the 5% CPI rule.

Visible Identification when a body has been disinterred and the family wants to cremate

Ms. Hahn shared that Mr. Nelsen had contacted Dr. Leah Bush following the boards discussion during the October 2011 meeting and that her response was that burial is considered final disposition in Virginia, as long as the information on the disinterment permit matches the tags on the casket or body.

Website News

Ms. Hahn wanted the board to know that as she promised during the last meeting, information from the Virginia Department of Veteran Services on the program for unclaimed cremains of veterans had been added to the website.

She also mentioned that copies of the letters from Dr. Karen Remley, State Health Commissioner, regarding death certification are on the website and may be useful to reference if problems arise with a death certificate.

Newsletter

Ms. Hahn was pleased to share that Missy Currier had done a wonderful job assisting with the development of the draft newsletter and that the final copy will be distributed by the end of the month.

Calendar

Ms. Hahn announced the scheduled dates for the next meetings in 2012; April 24th, July 17th, and October 16th.

Paperless

Ms. Hahn asked the board how they were with going “paperless” for the meetings and they all replied that they were pleased with the change.

OTHER BUSINESS

Cremation Certification Course

Mr. Oman mentioned that it has been brought to his attention that the Cremation Certification Course that the board requires is difficult for many to complete because the course offerings are held infrequently or outside of Virginia. Mr. Nelsen mentioned that he would contact ICCFA to see what alternatives might be available to make the requirement less cumbersome.

Board of Health Professions

Mr. Nelsen mentioned that at his last BHP board meeting, he brought up the difficulties in getting death certificates signed during the holidays. He requested that the Boards of Medicine and Nursing convey who is now authorized to sign death certificates.

Draft Guidance Document – Lisa Hahn & Lynne Helmick

Ms. Hahn stated that she and Ms. Helmick drafted a guidance document addressing licensees who fail to respond to inspection deficiencies in a timely manner.

Upon a motion by Mr. Wray and properly seconded by Mr. Vincent, the board voted to adopt the following Guidance Document 65-17. The motion passed unanimously.

Virginia Board of Funeral Directors and Embalmers

Initiating Disciplinary Action Against Funeral Homes for Failing to Submit Corrective Action to Deficiencies Noted During Routine Inspections

1. Board staff reviews all inspection reports and responses to deficiencies cited during the inspections
 - a. Licensees are given information at the time of inspection that they are to respond to the deficiencies within 14 days of the inspection.
 - b. Board staff tracks receipt of the inspection reports and the deficiency corrections.
2. If the licensee fails to respond within 14 days of the inspection
 - a. Board staff will send a certified letter (a copy of the letter will be sent first class mail) to the Manager of Record's (MOR) address of record in 2-5 days of the response due date. The letter will include a new due date which will be 10 days after the date of the letter.
 - b. Board staff will initiate disciplinary action against the funeral home 5 days after second due date if there is no response.
 - c. A Pre-hearing Consent Order based on the following guidelines will be sent to the MOR:
 - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for each citation of deficiency.
 - ii. FH must submit acceptable corrective action.
 - iii. \$100 penalty will be added for each week after the deadline the PHCO remains unsigned, unless a special conference committee has been requested by the licensee.
 - d. If the licensee fails to respond to the pre-hearing consent order or does not agree to it, the matter will be referred to an informal conference.
3. If the licensee responds with unacceptable corrective action

- a. A letter will be sent to the MOR's address of record in 2-5 days after the Board received the correction action to inform the MOR of problems with the corrective action. The letter will include a new due date, which will be 10 days after the date of the letter, for additional corrections.
 - b. If the funeral home fails to respond with new corrections within the new deadline, a certified letter will be sent to the MOR's address of record in 2-5 days of the deadline (a copy of the letter will be sent first class mail). The letter will include a new due date which will be 7 days after the date of the letter.
 - c. Disciplinary action against the funeral home will be initiated 5 days after the third due date.
 - d. A Pre-hearing Consent Order based on the following guidelines will be sent to the MOR:
 - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for every citation not addressed.
 - ii. FH must submit acceptable corrective action.
 - iii. \$100 penalty will be added for each week after the deadline the PHCO remains unsigned, unless a special conference committee has been requested by the licensee.
 - e. If the licensee fails to respond to the pre-hearing consent order or does not agree to it, the matter will be referred to an informal conference.
4. If the licensee has been previously disciplined for failing to respond to inspection citations of deficiencies, the matter should be referred to the Special Conference Committee.
5. Nothing in this Guidance Document prevents the Board from taking disciplinary action against the Manager of Record.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 11:48 a.m.

Robert B. Burger, Jr., President

Lisa R. Hahn, Executive Director

Date

Date