

APPROVED

**VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
INFORMAL CONFERENCE COMMITTEE
MINUTES**

The Virginia Board of Funeral Directors and Embalmers Special Conference Committee convened for an informal conference on Monday, March 31, 2008 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Suite 201, Hearing Room #1, Richmond, Virginia

COMMITTEE MEMBERS PRESENT:

Randy Minter, FSP, Chair
Michael Leonard, FSP

DHP STAFF PRESENT:

Lisa R. Hahn, Executive Director
Mykl D. Egan, Adjudication Specialist
Rashaun K. Minor, Discipline Operations Manager

OTHERS PRESENT:

Robert B. McClennny, Jr. (Respondent's Husband)

MATTER SCHEDULED

**Respondent: Doris Atkins McClenny, Funeral Service Provider
Case Number: 114331**

CALLED TO ORDER

Mr. Minter called the conference to order at 12:54 p.m.

DISCUSSION

Ms. McClenny did not appear before the Committee in person in accordance with the Notice of the Board dated February 19, 2008 and amended notice March 7, 2008.

Mr. McClenny addressed the Committee.

The Committee reviewed the allegations in the notice of informal that Ms. McClenny may have violated certain laws and regulations governing the practice of funeral directing and embalming in the Commonwealth of Virginia.

Specifically, during the course of Ms. McClenny's employment as manager of record with McClenny, Jr., R.B. Funeral Service, Charlottesville, Virginia, Ms. McClenny may have violated § 54.1-2806(2), (16) and (20) of the Code as further defined in § 32.1-263(A) of the Code in that between July 25, 2006, and April 23, 2007, Ms. McClenny filed 31 death certificates outside the three day time period mandated by statute. One certificate for an individual who died on March 13, 2003, was not filed until April 23, 2007.

CLOSED SESSION

Upon a motion by Mr. Leonard and duly seconded by Mr. Minter, the Committee convened a closed meeting pursuant to §2.2-3711.A (28) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Doris A. McClenny, Funeral Service Provider. Mr. Leonard moved that Ms. Hahn, Mr. Egan, and Ms. Minor attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The vote was unanimous and in favor of the motion.

OPEN SESSION

Mr. Leonard certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the *Code of Virginia* and the Committee re-convened in open session.

DECISION

Mr. Egan read the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the Findings of Fact and Conclusions of Law are as follows:

1. Doris A. McClenny, Funeral Service Provider, was issued Virginia license number 0502 000693 June 28, 2002 and is due to expire March 31, 2008.
2. During the course of Ms. McClenny's employment as manager of record with McClenny, Jr., R.B. Funeral Service, Charlottesville, Virginia, Ms. McClenny violated § 54.1-2806(2), (16) and (20) of the Code as further defined in § 32.1-263(A) of the Code in that between July 25, 2006, and April 23, 2007, Ms. McClenny filed 31 death certificates outside the three day time period mandated by statute. One certificate for an individual who died on March 13, 2003, was not filed until April 23, 2007.

The decision was read by Mr. Egan:

1. Ms. McClenny, Funeral Service Provider license shall be placed on INDEFINITE PROBATION not less than 60 days from the date of entry of the Order.
2. Ms. McClenny will be assessed a monetary penalty of \$350.00.

3. Ms. McClenny shall contact the Department of Health Vital Statistics and obtain a copy of death certificates from the past 12 months until present and provide the board office with a copy of said list.

If a copy of the list of death certificates is in compliance with the Virginia Board of Funeral Directors and Embalmers regulations and statutes and monetary penalty has been satisfied the PROBATION status may be lifted.

Upon a motion by Mr. Leonard and duly seconded by Mr. Minter, the decision of the Committee was adopted. The vote was unanimous in favor of the motion.

ADJOURNMENT

The Committee adjourned the matter at 1:35 p.m.

MATTER SCHEDULED

**Respondent: Affordable Funeral Services – c/o Christopher Downey, Market Director
Case Number: 118155**

**Respondent: Demaine Funeral Home – c/o Christopher Downey, Market Director
Case Number: 118156**

**Respondent: National Funeral Home – c/o Christopher Downey, Market Director
Case Number: 118157**

DHP STAFF PRESENT:

Lisa R. Hahn, Executive Director
Cynthia E. Gaines, Adjudication Specialist
Rashaun K. Minor, Discipline Operations Manager

OTHERS PRESENT:

Thomas A. Coulter, Respondent's Attorney

CALLED TO ORDER

Mr. Minter called the conference to order at 2:00 p.m.

DISCUSSION

Mr. Downey appeared before the Committee in person and in accordance with the Notices of the Board dated March 10, 2008. Mr. Downey was represented by counsel.

Specifically for Affordable Funeral Services:

1. Affordable Funeral Services establishment may be in violation of § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from approximately October 2007 until the present, the facility has operated without a Manager of Record. Further, on January 31, 2008, the facility's license expired, and as of the date of this notice it has not been renewed.
2. On or about January 18, 2008, Affordable Funeral Services was the subject of an unannounced inspection which found the following deficiencies:
 - a. Affordable Funeral Services may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-50B of the Regulations of the Virginia Board of Funeral Directors and Embalmers in that the Establishment's license could not be located.
 - b. Affordable Funeral Services may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that they do not maintain Casket Price and Outer Burial Container Price Lists. Prices listed on the General Price List, effective June 7, 2004, are not correct.

Specifically for Demaine Funeral Home:

1. Demaine Funeral Home may be in violation of § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from approximately September 2007 until the present, the facility has operated without a Manager of Record.
2. On or about January 23, 2008, Demaine Funeral Home was the subject of an unannounced inspection which found the following deficiencies:
 - a. Demaine Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-50B of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the Establishment's license was not posted in a place conspicuous to the consumers of funeral services.
 - b. Demaine Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the General Price List, Casket Price List, and the Outer Burial Container Price List referenced Demaine Funeral Chapel, although, the Establishment's permit is issued in the name of Demaine Funeral Home.
 - c. Demaine Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of

Funeral Directors and Embalmers, in that the General Price List does not include a separate price for immediate burial with an alternative container.

Specifically for National Funeral Home:

1. National Funeral Home may be in violation of § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from on or about November 28, 2007 until the present, the facility has operated without a Manager of Record. Further, on January 31, 2008, the facility's license expired, and as of the date of this notice it has not been renewed.
2. On or about January 18, 2008, National Funeral Home was the subject of an unannounced inspection which found the following deficiencies:
 - a. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-570A of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the preparation room was not clean and sanitary.
 - b. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-510 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the embalming reports for 2007 could not be located.
 - c. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the General Price List does not include a separate price for immediate burial with an alternative container.
 - d. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the computerized statement does not include the correct address.
 - e. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the available embalming reports reviewed during the inspection did not always include the date of death, printed name of the embalmer, documentation of the deceased prior to embalming, the date of embalming, or signature of the embalmer.
 - f. National Funeral Home may be in violation of § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the computerized copies of the

embalming reports do not include the name, address, and telephone number of the facility.

CLOSED SESSION

Upon a motion by Mr. Leonard and duly seconded by Mr. Minter, the Committee convened a closed meeting pursuant to §2.2-3711.A (28) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Affordable Funeral Services, Demaine Funeral Home, and National Funeral Home. Mr. Leonard moved that Ms. Hahn, Ms. Gaines, and Ms. Minor attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The vote was unanimous and in favor of the motion.

OPEN SESSION

Mr. Leonard certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the *Code of Virginia* and the Committee re-convened in open session.

CLOSED SESSION

Upon a motion by Mr. Leonard and duly seconded by Mr. Minter, the Committee convened a closed meeting pursuant to §2.2-3711.A (28) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Affordable Funeral Services, Demaine Funeral Home, and National Funeral Home. Mr. Leonard moved that Ms. Hahn, Mr. Banning, Ms. Gaines, and Ms. Minor attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The vote was unanimous and in favor of the motion.

OPEN SESSION

Mr. Leonard certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the *Code of Virginia* and the Committee re-convened in open session.

DECISION

Ms. Gaines read the Findings of Fact and Conclusions of Law adopted by the Committee. A summary of the Findings of Fact and Conclusions of Law are as follows:

AFFORDABLE FUNERAL SERVICES

1. Affordable Funeral Services establishment violated § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from approximately October 2007 until the present, the facility operated without a Manager of Record. Further, on January 31, 2008, the

- facility's license expired, and as of the date of the informal conference has not been renewed.
2. On or about January 18, 2008, Affordable Funeral Services was the subject of an unannounced inspection which found the following deficiencies:
 - a. Affordable Funeral Services violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-50B of the Regulations of the Virginia Board of Funeral Directors and Embalmers in that the Establishment's license could not be located.
 - b. Affordable Funeral Services violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that they do not maintain Casket Price and Outer Burial Container Price Lists. Prices listed on the General Price List, effective June 7, 2004, are not correct.
 3. Mr. Downey stated that Affordable Funeral Services is not a branch of National Funeral Home or any other Service Corporation International (SCI) establishment and does not have a preparation room as required in the Virginia Board of Funeral Directors and Embalmers regulations.

DEMAINE FUNERAL HOME

1. Demaine Funeral Home violated of § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from approximately September 2007 until the present, the facility has operated without a Manager of Record.
2. On or about January 23, 2008, Demaine Funeral Home was the subject of an unannounced inspection which found the following deficiencies:
 - a. Demaine Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-50B of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the Establishment's license was not posted in a place conspicuous to the consumers of funeral services.
 - b. Demaine Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the General Price List, Casket Price List, and the Outer Burial Container Price List referenced Demaine Funeral Chapel, although, the Establishment's permit is issued in the name of Demaine Funeral Home.
 - c. Demaine Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and

Embalmers, in that the General Price List does not include a separate price for immediate burial with an alternative container.

3. Mr. Downey stated that Demaine Funeral Home of Springfield, Virginia is a branch of Demaine Funeral Home in Alexandria, Virginia; however Board records reflect that both Demaine Funeral Home of Springfield, Virginia and Demaine Funeral Home in Alexandria, Virginia are licensed as Funeral Establishments and not as a branch. Furthermore, the Demaine Funeral Home in Springfield, Virginia does not have a preparation room in accordance with the Virginia Board of Funeral Directors and Embalmers regulations and statutes.

NATIONAL FUNERAL HOME

1. National Funeral Home violated § 54.1-2806(20) and § 54.1-2810 of the Code, and 18 VAC 65-20-170A Regulations of the Virginia Board of Funeral Directors and Embalmers, in that from on or about November 28, 2007 until the present, the facility has operated without a Manager of Record. Further, on January 31, 2008, the facility's license expired, and as of the date of this notice it has not been renewed.
2. On or about January 18, 2008, National Funeral Home was the subject of an unannounced inspection which found the following deficiencies:
 - a. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-570A of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the preparation room was not clean and sanitary.
 - b. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-510 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the embalming reports were not signed by licensed personnel instead signed by an apprentice and not all embalming reports for 2007 could be located.
 - c. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the General Price List does not include a separate price for immediate burial with an alternative container.
 - d. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the computerized statement does not include the correct address.

- e. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the available embalming reports reviewed during the inspection did not always include the date of death, printed name of the embalmer, documentation of the deceased prior to embalming, the date of embalming, or signature of the embalmer.
- f. National Funeral Home violated § 54.1-2806(20) of the Code, and 18 VAC 65-20-630 of the Regulations of the Virginia Board of Funeral Directors and Embalmers, in that the computerized copies of the embalming reports do not include the name, address, and telephone number of the facility.

The decision was read by Ms Gaines:

AFFORDABLE FUNERAL SERVICES:

The Special Conference Committee unanimously voted to refer the matter to a formal administrative hearing before the full Board of Funeral Directors and Embalmers. In lieu of a formal administrative hearing Affordable Funeral Services may enter into a Consent Order with the following terms and condition:

1. Affordable Funeral Services held facility license number 0501 000650 issued October 24, 1994 and expired January 31, 2007.
2. Affordable Funeral Services shall be placed on INDEFINITE PROBATION not less than three years and subject to two (2) unannounced inspections per year during the probationary period. Affordable shall be solely responsible for the inspections fee to be paid to the Board within 30 days of the inspection.
3. Affordable Funeral Services shall come into compliance with the Virginia Board of Funeral Directors and Embalmers regulations and statutes, to include, but not limited to, providing evidence of having a Manager of Record for the facility and a current facility license.
4. Affordable Funeral Services shall be assessed a monetary penalty of Seven Thousand Five Hundred Dollars (\$7, 500.00) said penalty is to be paid to the Board by certified check or money order within thirty (30) days from the date of entry of the Consent Order.
5. Affordable Funeral Services shall maintain a course of conduct commensurate with the requirements of Chapter 28, Title 54.1 of the Code of Virginia.
6. At the end of the probationary period, Affordable Funeral Services shall petition the Board for modification of the Consent Order or release from Probation.

DEMAINE FUNERAL HOME

The Special Conference Committee unanimously voted to refer the matter to a formal administrative hearing before the full Board of Funeral Directors and Embalmers. In lieu of a formal administrative hearing Demaine Funeral Home may enter into a Consent Order with the following terms and condition:

1. Demaine Funeral Home was issued facility license number 0501 000097 and expired January 31, 2008.
2. Demaine Funeral Home shall be placed on INDEFINITE PROBATION not less than three years and subject to two (2) unannounced inspections per year during the probationary period. Affordable shall be solely responsible for the inspections fee to be paid to the Board within 30 days of the inspection.
3. Demaine Funeral Home shall come into compliance with the Virginia Board of Funeral Directors and Embalmers regulations and statutes, to include, but not limited to, providing evidence of having a Manager of Record for the facility and a current facility license.
4. Demaine Funeral Home shall be assessed a monetary penalty of Ten Thousand Dollars (\$10, 000.00) said penalty is to be paid to the Board by certified check or money order within thirty (30) days from the date of entry of the Consent Order.
5. Demaine Funeral Home shall maintain a course of conduct commensurate with the requirements of Chapter 28, Title 54.1 of the Code of Virginia.
6. At the end of the probationary period, Demaine Funeral Home shall petition the Board for modification of the Consent Order or release from Probation.

NATIONAL FUNERAL HOME

The Special Conference Committee unanimously voted to refer the matter to a formal administrative hearing before the full Board of Funeral Directors and Embalmers. In lieu of a formal administrative hearing National Funeral Home may enter into a Consent Order with the following terms and condition:

1. National Funeral Home was issued facility license number 0501 000691 February 24, 1999 and expired January 31, 2008.
2. National Funeral Home shall be placed on INDEFINITE PROBATION not less than three years and subject to two (2) unannounced inspections per year during the probationary period. Affordable shall be solely responsible for the inspections fee to be paid to the Board within 30 days of the inspection.

3. National Funeral Home shall come into compliance with the Virginia Board of Funeral Directors and Embalmers regulations and statutes, to include, but not limited to, providing evidence of having a Manager of Record for the facility and a current facility license.
4. National Funeral Home shall be assessed a monetary penalty of Seventeen Thousand Five Hundred Dollars (\$17,500.00) said penalty is to be paid to the Board by certified check or money order within thirty (30) days from the date of entry of the Consent Order.
5. National Funeral Home shall maintain a course of conduct commensurate with the requirements of Chapter 28, Title 54.1 of the Code of Virginia.
6. At the end of the probationary period, National Funeral Home shall petition the Board for modification of the Consent Order or release from Probation.

Upon a motion by Mr. Leonard and duly seconded by Mr. Minter, the decision of the Committee was adopted. The vote was unanimous in favor of the motion.

ADJOURNMENT

The Committee adjourned the matter at 4:57 p.m.

Randy Minter, FSP, Chair

Lisa R. Hahn, Executive Director

Date

Date