

**APPROVED**  
**VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
**MEETING MINUTES**

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, June 3, 2008 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 200, 2<sup>nd</sup> Floor, Conference Room #2, Richmond, Virginia.

**The following Board members were present:**

Willard D. Tharp, FSL  
Walter S. Ball, FSL  
Rev. Yvonne Jones Bibbs,  
Robert B. Burger, Jr., FSL  
Billie Watson Hughes, FSL  
Michael Leonard, FSL  
Randolph T. Minter, FSL  
Barry Murphy, FSL  
Blair Nelsen, FSL

**DHP staff present for all or part of the meeting included:**

Lisa R. Hahn, Executive Director	Leith Ellis, Inspector, Enforcement Division
Sandra Whitley Ryals, Director	Lynne Helmick, Inspector, Enforcement Division
Elaine Yeatts, Senior Policy Analyst	Marta Ishmael, Inspector, Enforcement Division
Annie B. Artis, Licensure Operations Manager	Sammy Johnson, Deputy Director, Enforcement Division
Rashaun K. Minor, Discipline Operations Manager	Faye Lemon, Director, Enforcement Division
Kathy Truesdale, Compliance Case Manager	Shannon Roberson, Enforcement Division
Mykl Egan, Adjudication Specialist	
William C. Garrett, Assistant Attorney General	
Wayne Halbleib, Assistant Attorney General	
Jennifer Challis, Inspector, Enforcement Division	

**Representative from the Office of the Attorney General was present for the meeting:**

Amy Marschean, Senior Assistant Attorney General

**Guest Present:**

Bo Kenney, Association of Independent Funeral Homes of Virginia (IFHV)  
David Partridge, Regulatory Support Services, Inc. (RSS)  
Frank Robinson, Virginia Mortician's Association, (VMA)

**CALLED TO ORDER**

Mr. Tharp, President, called the Board meeting to order at 9:04 a.m.

## **INTRODUCTION OF NEW STAFF MEMBER**

Ms. Hahn introduced Ms. Truesdale to the Board. She stated Ms. Truesdale is a temporary employee who has been hired as a part-time compliance case manager. Ms. Hahn stated that she comes to the board with a wealth of experience.

## **ORDERING OF AGENDA**

The agenda was modified: the Agency Director's Report will come before the Legislative and Regulatory Report and the Board of Health Professions Report was added under new business.

Upon a motion by Ms. Hughes and properly seconded by Mr. Murphy the Board voted to accept the agenda as modified.

The members voting yes were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp. There were no negative votes.

Rev. Bibbs had not arrived.

The vote passed unanimously.

## **ACCEPTANCE OF MINUTES**

Upon a motion by Ms. Hughes and properly seconded by Mr. Murphy the Board voted to accept the minutes of the March 4, 2008 board meeting as amended.

The members voting yes were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen and Mr. Tharp. There were no negative votes.

Rev. Bibbs had not arrived.

The vote passed unanimously.

## **PUBLIC COMMENT PERIOD**

There was no public comment.

The Agency Director, Ms. Ryals, had not arrived; therefore, the Legislative and Regulatory Report was given by Ms. Yeatts.

## **Legislative and Regulatory Update – Elaine Yeatts**

### **Regulatory Update**

Ms. Yeatts informed the Board that the regulations are in the Governor's office and are at the final stage for approval. She further stated that the proposed Crematory regulations are also in the Governor's office awaiting approval.

### **Revision of Guidance Documents**

Ms. Yeatts gave a brief overview of the guidance documents. The Board members discussed each document and voted on them individually.

#### **Guidance Document 65-3 – Funeral Apprenticeships**

Upon a motion by Mr. Burger and properly seconded by Ms. Hughes the Board voted to repeal Guidance Document 65-3.

The members voting yes were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp. There were no negative votes.

Rev. Bibbs had not arrived.

The vote passed unanimously.

#### **Guidance Document 65-4 – Inspection Report**

Upon a motion by Mr. Burger and properly seconded by Mr. Murphy the Board voted to repeal Guidance Document 65-4.

The members voting yes were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen and Mr. Tharp. There were no negative votes.

Rev. Bibbs had not arrived.

The vote passed unanimously.

#### **Guidance Document 65-6 Apprenticeship Application**

Upon a motion by Ms. Hughes and properly seconded by Mr. Minter the board voted to repeal guidance Document 65-6.

The members voting 'yes' were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

Rev. Bibbs had not arrived.

The vote passed unanimously.

**Guidance Document 65-8 Casket Stores was presented as follows:**

~~Excerpt from Minutes of Board Meeting of June 10, 1998~~

~~“This Board does not have a problem with permits casket stores to provide ing the sale of caskets to the public as long as they are licensed as an establishment or branch of an establishment and abide by the same laws and regulations as a licensee.”~~

The Code of Virginia §54.1-2800) defines “Practice of funeral services” as “engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service burial or cremation, the making of arrangements for the funeral service or arrangements for the sale of funeral supplies to the public.”

Upon a motion by Mr. Nelsen and properly seconded by Mr. Burger the Board voted to reaffirm Guidance Document 65-8 as amended above.

The members voting ‘yes’ were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

Rev. Bibbs had not arrived.

The vote passed unanimously.

Ms. Yeatts provided a revised copy of the By-Laws Guidance 65-10.

**Guidance Document 65-11 Inspection Guidance was presented as follows:**

~~18VAC65-20-700(1) Retention of documents. Price lists shall be retained for one year after the date on which they are no longer effective.~~

~~Guidance: All funeral service establishments shall maintain a General Price List and Itemized Statement. The board may accept electronic copies of forms that are no longer current.~~

18VAC65-20-700(4) Retention of documents. Documents shall be maintained on the premises of the funeral establishment and made available for inspection; and

Appendix IV was eliminated.

Upon a motion by Mr. Leonard and properly seconded by Ms. Hughes the Board voted to adopt Guidance Document 65-11 as amended.

The members voting 'yes' were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

Rev. Bibbs had not arrived.

The vote passed unanimously.

### **Adoption of Exempt Regulations**

Ms. Yeatts gave a brief overview of the Act to amend and reenact §54.2816.1 of the *Code of Virginia*, relating to continuing education for funeral directors and embalmers.

### **Change in the Continuing Education Law**

Ms. Yeatts discussed the changes to the continuing education statute for funeral directors and embalmers.

§18VAC65-20-151 Continued competency requirements for renewal of an active license.

- A. ~~After March 31, 2004, funeral~~ **Funeral** service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of ~~five~~ **ten** hours of continuing education offered by a board-approved sponsor for ~~each~~ annual licensure renewal **in even years** in courses that emphasize the ethics, standards of practice, pre-need contracts and funding, or laws and regulations, governing the profession of funeral service in Virginia. **One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover pre-need funeral arrangements.**

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes the Board voted to accept 18VAC65-20-151 as amended.

The members voting 'yes' were Mr. Ball, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

Rev. Bibbs had not arrived.

The vote passed unanimously.

The Board recommended that a letter be disseminated to all licensees to make them aware of the changes in the continuing competency law.

Mr. Burger asked if the presentation given at the Virginia Funeral Directors Association (VFDA) conference would qualify to meet the one hour requirement in regard to the statutes and regulations. Ms. Hahn stated that the presentation would fulfill that requirement.

## **Senate Bill 698 and House Bill 1484**

Ms. Yeatts gave a brief overview in regard to Senate Bill 698 and House Bill 1484.

## **AGENCY DIRECTOR'S REPORT**

Ms. Ryals stated that according to the Government Performance Project, Virginia was named as one of the best managed states in the country. She stated Utah and Washington were tied with Virginia. Ms. Ryals stated that further details may be found on the Governor's website.

Ms. Ryals reported that the Virginia Performs Initiative is going very well. Ms. Ryals stated the board received 211% clearance rate of old cases. She thanked Ms. Hahn, the Board, and board staff for doing an exceptional job in the resolution of old cases.

Ms. Ryals stated the goal to complete patient care cases is 250 days. She stated the Agency hired Neal Kauder, President, Visual Research, Inc. to assist in the statistical analysis and for the method for reporting our results.

## **Break**

The board recessed at 10:35 a.m.

## **Reconvene**

The board reconvened at 10:51 a.m.

## **EXECUTIVE DIRECTOR'S REPORT**

### **Licensee Statistics**

Ms. Hahn reported that we have 1422 Funeral Service Providers, 100 Funeral Directors, 5 Embalmers, 139 Funeral Trainees, 499 Funeral Establishments, 15 Branch Establishments, 75 Crematories, 36 Continuing Education Providers, 104 Courtesy Card Holders and 47 Surface Transportation and Removal Services. Ms. Hahn added that we licensed 152 Funeral Service Providers since the last board meeting.

### **Discipline Statistics**

Ms. Hahn stated we have 32 open cases (case load down from 41 in March); 21 cases are at the investigative level; 4 are in the probable cause stage; 3 are in the Administrative Proceedings Division; 2 are at the informal level and 2 formal cases will be adjudicated today.

## **Virginia Performs**

Ms. Hahn reported for the quarter ending March 31, 2008, that we have achieved a 100% rating for issuing licenses in less than 30 days. We achieved a 94% customer satisfaction rating and we achieved a 100% rating for patient care cases closed within 250 days.

## **Measuring Success**

The agency has used an internal measurement for cases to remain at the probable cause stage no longer than 60 days. Ms. Hahn stated that from July 1, 2007 through December 31, 2007, cases were in probable cause for 134 days. However, when you compare that to the time period from January 1, 2008 through May 31, 2008, cases were moved out of probable cause within 33 days. Ms. Hahn stated this is a reflection of the hard work and dedication of the board members and staff.

## **Budget**

Ms. Hahn stated that the cash balance as of June 30, 2007 was \$4,024. The year-to-date FY07 revenue received was \$525,265, the direct and allocated expenditure totaled \$486,088 and the cash balance as of April 30, 2008 was \$43,201. Ms. Hahn projected that the board's budget will be slightly in the red by the end of this fiscal year. She stated that a fee increase may be necessary and she has requested the Finance Division to conduct an analysis. Ms. Yeatts reminded the board that if revenues are over budget or under budget by 10% that by law the licensure fees must be adjusted accordingly.

## **2008 Calendar**

The next scheduled board meetings are September 9, 2008 and December 2, 2008.

## **Miscellaneous Board Business**

Ms. Hahn stated the Examination Committee met on June 2, 2008 to review the funeral service provider state examination. The amendments were provided to the testing vendor and have been made to the test item databank.

## **NEW BUSINESS**

### **Status Report of Kip L. Jordan**

Ms. Hahn reported that the Henrico Commonwealth's Attorney office is planning to prosecute Mr. Jordan on several counts in July or August 2008. She stated there could be another wave of media attention. It was suggested if there is media attention, that Ms. Hahn and Mr. Tharp prepare a written response to the media.

Ms. Hahn also updated the board on the cremated remains. It was recommended that we do not dispose of the cremated remains that are being stored by the Department of Health Professions until after the prosecution. Ms. Ryals stated the Secretary's Office has asked that the Board proceed very cautiously in handling the cremated remains.

### **Board Member Arrival**

Rev. Bibbs arrived at approximately 11:45 a.m.

### **Meeting with Inspectors Regarding Pre-Need**

Mr. Tharp welcomed the inspectors and Enforcement staff and asked them to introduce themselves. Mr. Tharp thanked them for providing excellent service. Mr. Tharp stated the Board wanted an opportunity to dialogue with the inspectors in regard to pre-need funding. Mr. Tharp stated he has contacted Provider Funding and they are eager to work with the board. He outlined the method in which pre-need funding should be handled. He asked that the inspectors focus on the funding and familiarize themselves with the proper processes so that fraud will be easily detected.

Ms. Lemon, Director, Enforcement Division stated that she would begin to develop a pre-need protocol. Mr. Tharp stated that the Board would assist if needed and could help to identify all of the funding agencies. She stated it was good that the Enforcement Division and the Board are being proactive and moving quickly to combat these issues.

### **Discussion of Funeral Service Intern Program**

Ms. Hahn reported that there are currently 136 funeral service interns. She stated there are approximately 780 funeral service interns that are inactive; however, some have gone beyond the required 48 months. Ms. Hahn stated letters will be sent to the expired funeral service interns and their intern program supervisors. Ms. Hahn stated the entire length of the funeral service intern program is five (5) years from beginning to end. She stated the board does not license or certify funeral service assistants or funeral service technicians.

### **Board of Health Professions Report**

Ms. Hughes stated an audit report, from the Auditor of Public Accounts, reporting on the year end of June 3, 2006 and June 30, 2007 were discussed. She stated the report revealed that the Department of Health Professions was not completing Employment Eligibility Verification forms (I-9) in accordance with guidance issued by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security in its Handbook for Employers (M-274). Ms. Hughes stated the report indicated that during fiscal years 2006 and 2007, the Department of Health Professions collected and deposited penalties from sanctions into the Commonwealth's Literary Fund of \$202,300 and \$141,758 respectively.



### **Election of Officers**

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger the Board voted to retain the same officers that were elected last year in accordance with the amended By-Laws.

The members voting yes were Mr. Ball, Rev. Bibbs, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

The vote passed unanimously.

### **Formal Hearings – Not Held – Consent Orders Presented**

For the Board's Consideration:

In the matter of **Carson A. Robbins, F.S.P.**, Mr. Halbleib and Mr. Egan presented to the Board a signed and notarized Consent Order from Mr. Carson A. Robbins agreeing to be CONTINUED ON INDEFINITE SUSPENSION and during Mr. Robbins suspension he will reimburse all pre-need funeral contract purchasers in the full amount of their pre-need funeral contract plus interest at the rate of 6% per annum from the date of the contract. Mr. Robbins will not petition the Board for reinstatement of his Funeral Service Provider license for at least twenty-four (24) months from the entry of the Consent Order.

Upon a motion by Mr. Burger and properly seconded by Mr. Nelsen the Board voted to accept the Consent Order.

The members voting yes were Mr. Ball, Rev. Bibbs, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

In the matter of **Aaron L. Bailey, F.S.P.**, Mr. Garrett presented to the Board a signed and notarized copy of a Consent Order from Mr. Aaron L. Bailey agreeing to REVOCATION of his Funeral Service Provider license and he will not seek reinstatement of his license for a period of not less than three (3) years from the entry of the Consent Order. Mr. Bailey is also assessed a MONETARY PENALTY of \$57,500.00 with said monetary penalty STAYED until such time that Mr. Bailey seeks reinstatement of his Funeral Service Provider license.

Upon a motion by Mr. Ball and properly seconded by Mr. Burger the Board voted to accept the Consent Order.

The members voting 'yes' were Mr. Ball, Rev. Bibbs, Mr. Burger, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, and Mr. Tharp.

**ADJOURNMENT**

There being no further business before the Board, the meeting adjourned at 1:45 p.m.

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Willard D. Tharp, FSP, Chair

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Lisa R. Hahn, Executive Director

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