

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, October 29, 2013 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Junius H. Williams, Jr., Citizen Member, President
Christopher P. Vincent, FSL, Vice-President
Eric V. Wray, II, FSL, Secretary-Treasurer
Michael J. Leonard, FSL
Randolph T. Minter, FSL
Robert Oman, FSL
J. Paul Welch, FSL

BOARD MEMBERS ABSENT

Blair H. Nelsen, FSL
Walter Ball, Citizen Member

DHP STAFF PRESENT FOR THE MEETING

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Dr. Reynolds-Cane, Agency Director
Arne Owens, Agency Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

BOARD COUNSEL

None were present

QUORUM

With 7 members present a quorum was established.

GUESTS PRESENT

Paul Harris, Regulatory Support Services, Inc.
Karen McPherson, Virginia Morticians Association (VMA)
Bo Keeney, Independent Funeral Homes of Virginia (IFHV)
Bruce Keeney, Independent Funeral Homes of Virginia (IFHV)
Lacy Whittaker, Virginia Funeral Directors Association (VFDA)
Josh Meyers, Virginia Funeral Directors Association (VFDA)

CALL TO ORDER

Junius Williams, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:04 a.m. Mr. Williams gave welcome to J. Paul Welch, II as the newest member to the board.

ORDERING OF AGENDA

The agenda was accepted as written.

ACCEPTANCE OF MINUTES

Upon a motion by Bob Oman and properly seconded by Randy Minter, the Board voted to accept the following Meeting Minutes:

- Formal Hearing – July 15, 2013
- Formal Hearing – July 15, 2013
- Adhoc Committee Meeting – Virtual Funeral Homes – July 15, 2013
- Board Meeting – July 16, 2013
- Formal Hearing – July 16, 2013

The motion carried unanimously.

INFORMAL CONFERENCES HELD

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

- (1) – held on July 15, 2013
- (2) – held on September 11, 2013

PUBLIC COMMENT PERIOD

Bo Keeney shared that Independent Funeral Homes of Virginia would be holding an IFHV/ ICCFA Cremation Certification Course on November 14 & 15th at the Embassy Suites in Richmond.

Karen McPherson made the following three comments:

- 1) She stated that the Virginia Morticians Association was in support of adding a Manager of Record (MOR) to removal services and transportation to provide greater accountability.
- 2) She gave the following definition of "Embalming" which VMA supports:

“Embalming” means the preservation and disinfection of the human dead by external or internal application of chemicals to include surface treatment when necessary.

- 3) She shared that VMA is very concerned about confidentiality if the Department of Motor Vehicles (DMV) handled death certificates.

Bruce Keeney thanked everyone for their support and prayers and well wishes while he was going through having a double lung transplant earlier in the year.

EXECUTIVE DIRECTOR’S REPORT – Lisa R. Hahn

Expenditure and Revenue Summary

Ms. Hahn provided the following financial updates:

FY13 Year End

FY13 beginning with the cash balance as of June 30, 2012 of \$(64,321); revenue received YTD FY 13 was \$542,255; less the direct and In-Direct expenditures of \$650,055; leaving the cash balance as of June 30, 2013 of \$(172,121). Ms. Hahn reminded the board that the regulations addressing a fee increase originally submitted March 2, 2010 remain unsigned at the Secretary’s office.

FY14

FY4 beginning with the cash balance as of June 30, 2013 of \$(172,121); revenue received YTD FY 13 was \$16,655; less the direct and In-Direct expenditures of \$172,627; leaving the cash balance as of September 30, 2013 of \$(328,093).

Discipline Statistics

Ms. Hahn stated the board has 44 open cases; 37 of the cases are in the Enforcement Division at the Investigative stage with ½ of the cases relating to unlicensed activity; 5 cases are in the Probable Cause stage, 1 case at the APD level; 0 cases are in the informal stage; and 1 case was at the formal stage and would be heard in the afternoon. Ms. Hahn added that 23 funeral board Orders are being monitored for compliance by Missy Currier.

Licensee Statistics

Ms. Hahn reported that there are 1,501 Funeral Service Licensees, 168 Funeral Interns, 447 Funeral Establishments, 5 Embalmers, 58 Funeral Directors, 381 Funeral Service Supervisors, 63 Branch Establishments, 100 Crematories, 21 Continuing Education Providers, 71 Courtesy Card Holders and 51 Surface Transportation and Removal Services.

Virginia Performs

Ms. Hahn gave the following report for the 4th Quarter 2013:

- n Licensing Standard less than 30 days – 100%
- n Customer Satisfaction (Goal is 95%) – 100%
- n Clearance Rate-38%
- n Pending Caseload older than 250 days- 0% (patient care cases)
- n % of cases closed within 250 days- 67%
- n Caseloads Qtr4 2013:
 - n Received = 8, Closed = 3
 - n Pending over 250 days = 0
 - n Closed within 250 days – 2

Ms. Hahn gave praise to Annie Artis, Licensing Manager and her staff for doing an excellent job with licensing and customer service.

Presentations

Ms. Hahn was pleased to report that the following presentations were held as live Webinars:

- **September 19, 2013:**
 - VFDA Traveling Caravan via Webex on Laws & Reg's – Lynne Helmick
- **October 17, 2013:**
 - VFDA Traveling Caravan via Webex on Law's & Reg's - Lynne Helmick

Ms. Hahn stated that she and Lynne Helmick worked together with Lacy Whittaker from VFDA to establish a way for the board to deliver information, yet save time and travel expenditures at the same time. Ms. Hahn added that we received tremendous cooperation from the Community Colleges who hosted the programs.

BOARD BUSINESS

Welcome

Ms. Hahn welcomed the newest board member J. Paul Welch, II and shared that she had the opportunity to meet with him the previous week to go over board procedures.

Surface Transportation – Adhoc Committee

Ms. Hahn shared that the committee had met prior to the board meeting and that Bob Oman, Chair of the committee would report later in the meeting.

Virtual Funeral Homes

Ms. Hahn shared that the Virtual Funeral Homes Committee will meet again in January 2014.

Conflict of Interest Training

Ms. Hahn reminded the members that it was that time again to complete the training and that Missy Currier would be providing the information following the meeting.

Calendar

Ms. Hahn shared the 2014 calendar and indicated that we attempted to schedule our meetings around state and national conferences.

- January 14
- April 8
- July 15
- October 7

NEW BUSINESS

Legislative/Regulatory Reports – Elaine Yeatts

Status of Regulatory Actions:

Ms. Yeatts reported on the status of the following Regulatory Actions:

Chapter	Action / Stage Information		
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<table border="1"> <tr> <td>Fee increase [Action 3236]</td> </tr> <tr> <td>Proposed - <i>At Secretary's Office for 460 days. Notice of Intended Regulatory Action Submitted 3/2/2010</i></td> </tr> </table>	Fee increase [Action 3236]	Proposed - <i>At Secretary's Office for 460 days. Notice of Intended Regulatory Action Submitted 3/2/2010</i>
Fee increase [Action 3236]			
Proposed - <i>At Secretary's Office for 460 days. Notice of Intended Regulatory Action Submitted 3/2/2010</i>			
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<table border="1"> <tr> <td>Identification of human remains [Action 3340]</td> </tr> <tr> <td>Proposed - <i>At Secretary's Office for 130 days. Proposed regulations replace Emergency Regulations which expired on 9/30/13. Regulations mandated by the 2010 Session of the General Assembly</i></td> </tr> </table>	Identification of human remains [Action 3340]	Proposed - <i>At Secretary's Office for 130 days. Proposed regulations replace Emergency Regulations which expired on 9/30/13. Regulations mandated by the 2010 Session of the General Assembly</i>
Identification of human remains [Action 3340]			
Proposed - <i>At Secretary's Office for 130 days. Proposed regulations replace Emergency Regulations which expired on 9/30/13. Regulations mandated by the 2010 Session of the General Assembly</i>			

2014 Draft Legislation (Attachment #1)

Ms. Yeatts provided the draft legislation for 2014 Session of the General Assembly but indicated that it was not included in the Governor's package for 2014.

Surface Transportation Adhoc Committee Report – Bob Oman, Chair

Mr. Oman began that the committee held their first meeting earlier in the morning and discussed the various issues and concerns regarding surface transportation registration. Mr. Oman shared that the committee will move forward to work on regulations that will better define what a surface transportation registration is allowed and not allowed to do and to instill more accountability to those involved. Mr. Oman concluded that Ms. Hahn and her staff will schedule the next meeting when time permits within the next couple of months.

Definition of Embalming Adhoc Committee Report – Christopher Vincent, Chair

Mr. Vincent shared that after careful research into how other states define “embalming” and corresponding with the mortuary schools, the committee offered the following definition for the board’s consideration:

- Embalming is the process of chemically treating the dead human body by arterial injection and cavity treatment or when necessary hypodermic tissue injection to reduce the presence and growth of microorganisms as to temporarily retard organic decomposition as per accepted standards by the American Board of Funeral Service Education.

Discussion was made and upon a motion by Bob Oman and properly seconded by Eric Wray, the board accepted the definition by striking “as per accepted standards by the American Board of Funeral Service Education. The motion carried unanimously.

- Embalming is the process of chemically treating the dead human body by arterial injection and cavity treatment or when necessary hypodermic tissue injection to reduce the presence and growth of microorganisms as to temporarily retard organic decomposition, ~~as per accepted standards by the American Board of Funeral Service Education.~~

NFDA Crematory Operator Training Course

Upon a motion by Bob Oman and properly seconded by Mike Leonard, the board voted to approve the Crematory Operator Training Course offered by NFDA. The motion carried unanimously.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 10:50 a.m.

Junius H. Williams, Jr., President

Lisa R. Hahn, Executive Director

Date

Date

ATTACHMENT #1

Board of Funeral Directors and Embalmers **2014 Session of the General Assembly**

Draft Legislation

(Not included in the Governor's package for the 2014 Session of the General Assembly)

A bill to amend and reenact §§ 54.1-2802, 54.1-2806 and 54.1-2815 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2802, 54.1-2806 and 54.1-2815 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. ~~No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.~~

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

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;

4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;
18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission

that the body parts may be disposed of in a manner different from that used to dispose of the body;

19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;

20. Violating or cooperating with others to violate any provision of Chapters 1 (§ 54.1-100 et seq.) and 24 (§ 54.1-2400 et seq.), this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;

21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;

22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns as required by regulations of the Board;

23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased;

24. Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers;

25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; ~~and~~

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; ~~and~~

27. Incompetence to practice his profession with safety to his clients and the public.

§ 54.1-2815. Application for license; ~~how license signed~~; duration.

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.