

APPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Tuesday, April 18, 2017, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Louis R. Jones, FSL, President
Larry T. Omph, FSL, Vice-President
Connie B. Steele, FSL
Thomas Slusser, Jr., FSL
Blair Nelsen, FSL
Mia F. Mimms, FSL
Junius H. Williams, Jr., Citizen Member

BOARD MEMBER ABSENT

Ibrahim A. Moiz, Esq., Citizen Member
Frank Walton, FSL

DHP STAFF PRESENT

Corie Tillman Wolf, Executive Director
Lynne Helmick, Deputy Executive Director, Discipline
Lisa R. Hahn, Chief Deputy
Elaine Yeatts, Senior Policy Analyst
Heather Wright, Program Manager

BOARD COUNSEL

Erin Barrett, Assistant Attorney General

QUORUM

With 7 members present a quorum was established.

GUESTS PRESENT

Paul Harris, Regulatory Support Services, Inc.
Barry D. Robinson, VMA
Lacy Whittaker, VFDA

CALL TO ORDER

Louis R. Jones, FSL, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:00 a.m.

Louis R. Jones, FSL, President stated the following before the first order of business:

- 1) Laptops were provided to the board members for the purpose of the meeting only and have no connection to the internet. The material that they are able to review on the computer is the same material that has been made available to the public.
- 2) Please be sure to speak directly into the microphone so that everyone can hear you.

Ms. Tillman Wolf then read the Emergency Egress Procedures.

ACCEPTANCE OF MINUTES

Upon a motion by Junius Williams, and properly seconded by Larry Omps, the board voted to accept the Board Meeting minutes from January 10, 2017.

Upon a motion by Junius Williams, and properly seconded by Tommy Slusser, the board voted to accept the Formal Hearing minutes from February 10, 2017. The motions passed unanimously.

ORDERING OF AGENDA

Ms. Tillman Wolf advised that Lisa Hahn would be arriving later in the meeting to provide the Agency Director's Report.

Upon a motion by Connie Steele, and duly seconded by Larry Omps, the Board voted to add Courtesy Cards to the agenda as presented. The motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT- Corie Tillman Wolf, JD

Ms. Tillman Wolf gave the Executive Director's Report.

Expenditure and Revenue Summary as of February 28, 2017

• Cash Balance as of June 30, 2016	\$ 242,995
• YTD FY17 Revenue	300,030
• Less direct & In-Direct expenditure	<u>388,151</u>
• Cash Balance on February 28, 2017	\$ 154,874

Electronic Death Reporting System

Ms. Tillman Wolf reported that 59% of Virginia Funeral Service Licensees are currently signed up for the Electronic Death Reporting System (EDRS). Ms. Tillman Wolf provided an update on HHB2276/SB1048 which clarifies the process for amendments to death certificates through the registrar or by court order. HB 1846 permits the filing of non-electronic death certificates in any local health district.

Annual Meeting – International Conference of Funeral Service Examining Boards (“The Conference”)

The Annual Meeting of the Conference took place in Hilton Head, SC on March 1st and 2nd. Board

member Blair Nelson was elected to the Conference Board of Directors as the District 2 representative for Delaware, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia, and Washington D.C. at the Annual Meeting. Board member Mia Mimms has been selected to serve on the Job Task Analysis Exam Committee for the Conference.

Corie Tillman Wolf, Executive Director, Lynne Helmick, Deputy Executive Director, and Mia Mimms, Board member, attended Board member training during the Annual Meeting.

Currently trending topics discussed at the meeting included the following:

- Death Doulas and at-home funerals
- Unlicensed telepractice
- The use of guaranteed funds for preneed contracts
- Ecolation - a new process started in Ireland that reduces a body to carbon by heating and cooling of the body inside a pod
- Cremation Trends
 - The Cremation Association of North America (CANA) 2016 report found that cremations have increased annually at a rate of 1.75% per year from 2010-2015; total cremations have increased from 26% in 2000 to 48.6% in 2015.
 - In Virginia we have continued to see an average cremation rate of about 31-40% from 2011-2015
- The Conference has new resources available online through their website, www.theconferenceonline.org, including the LRR exam handbook, model funeral laws, and a state regulatory comparison.

Virginia Laws, Rules & Regulations Exam

- The International Conference now administers the Virginia state exam or (LRR) Law, Rules & Regulations Exam
- The Exam Committee will convene this summer to review existing questions and update the current exams since some of the questions are outdated

Inspections Process

Ms. Tillman Wolf described a pilot inspection process that will begin next month to look at ways of creating inspection efficiencies for the 623 establishments inspected across the state (main, branch, and crematory).

Staff/Board Member Presentations

Ms. Tillman Wolf thanked Deputy Executive Director Lynne Helmick for her presentations on Virginia Laws & Regulations and Pre-need at various meetings for the Virginia Funeral Directors' Association (VFDA) as well as at the Association of Independent Funeral Homes of Virginia (IFHV) Annual meeting.

Ms. Tillman Wolf further thanked Board Member Mia Mimms for presenting at a VMA Regional Meeting and Board Member Blair Nelsen for his recent presentations for the VFDA and Virginia Mortician's Association (VMA) as well.

Licensure Report

Ms. Tillman Wolf provided the current statistics on licensees:

Current License Count:

License	April 2017	October 2016	October 2015
Funeral Service Licensees	1,477	1,535	1,505
Funeral Director	38	43	46
Embalmer Only	2	2	4
Supervisors	503	485	447
Interns	178	187	197
Establishments	420	438	439
Branch Establishments	75	69	68
Crematories	113	110	105
CE Providers	19	15	27
Courtesy Card Holders	84	87	71
Surface Transport & Removal Svc.	41	45	45
Total	2,950	3,016	2,954

Licenses/Registrations Issued in 2016

License Type	Number
Funeral Service Licensees	55
Supervisors	31
Interns	62
Establishments	3
Branch Establishments	8
Crematories	4
CE Providers	2
Courtesy Card Holders	10
Surface Transport & Removal Svc.	7

Customer Satisfaction

The customer satisfaction survey results for Q1 17 and Q2 17 are 100%. For Q3 17, the result was 88.9%, although this percentage was the result of one negative response on one question. A special appreciation goes to Vicki Saxby, Program Manager for the Board, as well as Heather Wright, who has been filling in for her, and to Laura Mueller, who is cross-trained.

Notes

Ms. Tillman Wolf provided reminders to the Board members regarding travel and communications.

With no further discussion, Ms. Tillman Wolf concluded her report.

PUBLIC COMMENT PERIOD

The Public comment period was inadvertently overlooked on the agenda.

Barry D. Robinson from the Virginia Mortician's Association notified the Board that the Annual Convention will be held June 28th-July 1st in Williamsburg. Mr. Robinson thanked Board member Mia Mimms for providing a Virginia laws presentation to a regional meeting of the National Funeral Directors & Morticians Association. Mr. Robinson also thanked Missy Currier and staff for their hard work.

DISCIPLINE REPORT - Lynne Helmick, Deputy Executive Director

Ms. Helmick reviewed discipline statistics and Key Performance Measures with the Board.

As of April 13, 2017, the Board had a total of 34 open cases. Nineteen cases are in investigations; 8 are in probable cause; 2 are at APD; and 5 are at the informal stage. Eleven licensees are currently being monitored for compliance with a Board Order.

Key Performance Measures – Patient Care Cases – Q2 17

- The Board's clearance rate was 0% for Q2 17; the Board received one case but did not close any patient care cases.
- The pending caseload over 250 days was at 45% (5 cases), which was above the 20% goal.
- The percentage of cases closed within 250 days was at N/A, because no patient care cases were closed.

Key Performance Measures – Patient Care Cases – Q3 17

- The Board's clearance rate was 300% for Q3 17; the Board received 2 cases and closed 6 patient care cases.
- The pending caseload over 250 days was at 20% (2 cases), which was at the 20% goal.
- The percentage of cases closed within 250 days was at 50%, where the goal is 90%. Three of the 6 closed cases were not closed within 250 days.

Ms. Helmick provided an overview of why some cases age, including the timeline of when cases are at the investigation and adjudication stages.

Ms. Helmick reviewed data regarding the total numbers of cases received and closed, clearance rates for all cases, and the average days to close a case since the first quarter of FY 2016:

Total Cases received/closed

Q1 2016	12/14
Q2 2016	20/19
Q3 2016	21/18
Q4 2016	12/21
Q1 2017	8/10
Q2 2017	12/17
Q3 2017	9/15

Percentage of all cases closed in 250 days

	Q4-2016	Q1-2017	Q2-2017	Q3-2017
FDE	81.0%	80.0%	100%	60%
Agency	85.6%	82%	85.1%	81.7%

Average days to close a case (all cases)

	Q4-2016	Q1-2017	Q2-2017	Q3-2017
FDE	240.6	193.9	166.5	295
Agency	200.1	190.8	207.7	222.8

Ms. Helmick provided a summary of the categories of cases processed by the Board in FY16 and the first two quarters of FY17.

With no additional questions, Ms. Helmick concluded her report.

BOARD COUNSEL REPORT - Erin Barrett, Assistant Attorney General

Ms. Barrett discussed an issue related to expert testimony that arose based upon a recent case involving the Board of Medicine, where a licensee respondent wanted to testify on her own behalf as an expert witness. As a result of the ruling of the Court of Appeals in that case, Ms. Barrett presented to the Board two proposed standards to be considered by the Board for admissibility of expert testimony in hearings. Although this issue may be less common for the Board of FDE, all DHP Boards are advised to adopt a standard for expert witness testimony at hearings. The Attorney General’s Office recommends the adoption of Standard #1 (Traditional Virginia Standard).

Upon a motion by Blair Nelsen, and properly seconded by Junius Williams, the Board voted to adopt Standard #1 (Traditional Virginia Standard) as presented as the standard for expert witness. The vote was unanimous.

BOARD OF HEALTH PROFESSIONS REPORT - Junius H. Williams, Jr.

Mr. Williams noted that one item discussed by the Board of Health Professions was on the agenda – the overview of the Sanctioning Reference Points. With that presentation already on the agenda, Mr. Williams did not have any additional items to report.

LEGISLATION AND REGULATORY ACTIONS - Elaine Yeatts, Policy Analyst

Ms. Yeatts informed the Board that the Notice of Intended Regulatory Action (NOIRA) for refrigeration and permission to embalm was approved by the Governor. A public comment on the NOIRA will run from May 15, 2017 to June 14, 2017. Ms. Yeatts reminded Board members that the Board will need to adopt specific wording for the proposed regulations at the July meeting.

Ms. Yeatts then stated that there are proposed revisions to one Guidance Document for the Board's consideration.

Revisions to Guidance Document 65-16 Procedures for Auditing Continuing Education. The proposed revisions include the use of a Confidential Consent Agreement (CCA) as one means of addressing a failure to obtain required continuing education (CE) credits where a licensee is truthful on their renewal application. If the licensee is truthful on their renewal card, the Board may grant an additional 90 days to complete the CE credits they are lacking through the CCA. If the licensee is untruthful on the renewal card, Board staff may offer a Prehearing Consent Order (PHCO), or may refer the licensee to an informal conference if the licensee has been previously disciplined for CE violations.

Upon a motion by Junius Williams, and properly seconded by Larry Omps, the Board voted to accept the revisions to Guidance Document 65-16, Procedures for Auditing Continuing Education. The vote was unanimous.

NEW BUSINESS

Annual Meeting of the International Conference of Funeral Service Examining Boards

Blair Nelsen provided brief comments regarding his attendance of the Conference's Annual Meeting, echoing the items of discussion previously discussed by Ms. Tillman Wolf. Mr. Nelsen then provided an overview of a discussion of internship programs from the Annual meeting, including the structure and contents of forms from other states. Mr. Nelsen proposed that the Board consider revisiting the structure of the internship program and the forms used for reporting.

- Mr. Jones appointed an ad hoc Internship Committee with Blair Nelsen, Tommy Slusser, and Junius Williams to further explore the Funeral Internship Program and report recommendations to the full Board for consideration. Ms. Tillman Wolf will work with Board members on scheduling a meeting.

Ms. Mimms provided brief comments regarding her attendance of the Conference's Annual Meeting, as well as the Board Member training. Ms. Mimms mentioned that other states discussed that their Board members and licensees could receive continuing education (CE) credits for attendance of Board meetings.

- Board members then discussed the possibility of CE credits for attendance of Board meetings and disciplinary hearings of the Board, which would encourage licensees to attend and hear the business of the Board.
- Upon a motion by Mia Mimms, properly seconded by Blair Nelsen, the Board voted to initiate a Notice of Intended Regulatory Action (NOIRA) to amend the CE regulations to allow one hour of CE credit for attendance of a Board meeting or disciplinary hearing every other year; however, a licensee who is the respondent or subject of the disciplinary hearing would not be eligible. The vote was unanimous.

Courtesy Cards

Blair Nelsen discussed recent concerns regarding courtesy cards, including the scope of services that may be provided pursuant to a Virginia courtesy card and the scope of services that may be provided pursuant to a courtesy card in neighboring states. Ms. Tillman Wolf further discussed recent phone calls regarding courtesy cards received by Board staff. Erin Barrett, Board Counsel, indicated that she will look into any legal issues that may arise regarding any proposed changes to the scope of the Virginia Courtesy Card and/or the issue of reciprocity. Board staff has requested additional information from the Conference regarding how/whether other states use courtesy cards; Board staff will compile this information for the Board's review and discussion. This topic will be included on the next agenda for further discussion.

BREAK

At 11:28 a.m., the Board recessed for a break. At 11:38 a.m., the meeting reconvened.

SANCTIONING REFERENCE POINTS – Neal Kauder, Kim Small

Mr. Kauder stated he routinely attends full board meetings to provide the Board Members with information on how sanctions are developed and how to promote more consistency across all Boards. Mr. Kauder also suggested that the Board may want to update the Sanctioning Reference Point worksheets for Funeral Directors and Embalmers, as the case data used for the current worksheets was derived from 51 cases that were adjudicated between 1999-2005. Ms. Small then walked the Board Members through a sample case showing how a case would be scored using the current Sanctioning Reference Point worksheet.

With no further questions, Mr. Kauder and Ms. Small concluded their report.

Louis Jones, Board President, stated that he would like for the Special Conference Committee to work with Mr. Kauder and Ms. Small to take a look at the worksheet for updates.

LUNCH BREAK

At 12:21p.m., the Board recessed to get lunch. At 12:41p.m., the meeting reconvened.

AGENCY DIRECTOR'S REPORT- Lisa R. Hahn, Chief Deputy

Ms. Hahn reported to the Board that opioid addiction deaths are on the rise. They have doubled from 2015 to 2016. There are more deaths yearly from overdoses than car accidents in Virginia. Ms. Hahn further explained that the majority of opioid addicts started out with legitimate prescriptions for opioids for injuries or chronic pain. After using opioids for a while your body builds up tolerance requiring more of the drug to get the same effects. A number of the Boards at DHP are currently working on their regulations to address the opioid epidemic, including the Boards of Medicine, Dentistry, and Veterinary Medicine. Unfortunately, Funeral Directors are all too familiar with the impact of opioids.

Mr. Jones and Mr. Omphs acknowledged the impact of the use of opioids on deaths in their communities with the decedents who come to their facilities.

With no further questions, Ms. Hahn concluded her report.

ADJOURNMENT


With no further business, a motion was made by Junius Williams and properly seconded by Tommy Slusser to adjourn the meeting at 1:15 p.m.



Louis R. Jones, President



Date



Corie Tillman Wolf, Executive Director



Date