

APPROVED

BOARD OF FUNERAL DIRECTORS AND EMBALMERS MINUTES OF LEGISLATIVE/REGULATORY COMMITTEE

**Wednesday, August 17, 2005
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230
Conference Room 1**

Department of Health Professions

CALL TO ORDER

A meeting of the Virginia Board of Funeral Directors and Embalmers was called to order at 9:01 a.m.

PRESIDING

Willard D. Tharp, Chair

MEMBERS PRESENT:

Randolph Minter
Joseph Jenkins, Jr.
Robert Burger
Walter Ball

OTHER BOARD MEMBERS PRESENT:

Billie Watson Hughes
Barry Murphy
Michael Leonard

MEMBERS ABSENT:

Rev. Alane C. Miles

COUNSEL:

Jack E. Kotvas, Assistant Attorney General

STAFF PRESENT:

Elizabeth Young, Executive Director
Gail Jaspen, Chief Deputy Director
Elaine Yeatts, Senior Policy Analyst
Annie B. Artis, Operations Manager

QUORUM:

With eight members present, a quorum was established.

GUESTS PRESENT:

David Partridge, RSS, Inc.

ORDERING OF THE AGENDA:

A motion was made by Mr. Murphy to accept the agenda as presented. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

PUBLIC COMMENT:

There was no public comment.

REVIEW OF MINUTES

Mr. Minter made a motion to approve the minutes of the Legislative/Regulatory committee meeting held on July 12, 2005, as amended. The motion was properly seconded by Mr. Burger. The vote carried unanimously.

REPORT TO THE COMMITTEE:

Ms. Young reported to the Board that the continuing education audit process has been completed. She stated that fifteen (15) letters were mailed to unresponsive licensees by certified mail. Ms. Young stated that a Confidential Consent Agreement (CCA) will be offered to the licensees who fail to respond to the final letter. She stated that those who fail to respond to the CCA will be adjudicated.

REVIEW OF THE GENERAL REGULATIONS

18 VAC65-20-140. Reinstatement of expired license or registration.

There was discussion as to whether or not the language listed under this regulation was similar to other boards within the agency. Ms. Yeatts gave a brief overview of the reinstatement process as it related to other boards within the agency.

Mr. Burger made the following motion:

If a licensee seeks reinstatement of licensure after 4 or more years, he shall be required to complete 20 hours of continuing education and must take the state examination. In lieu of these requirements, the Board shall accept continuing education hours obtained from other states.

The motion was properly seconded by Mr. Murphy and voted unanimously by the Committee.

Part III. Requirements for Licensure.

18 VAC65-20-170. Requirements for an establishment license.

A motion was made by Ms. Hughes and properly seconded by Mr. Jenkins to change **B.** to read as follows:

B. Except as provided in §54.1-2810 of the Code of Virginia, every funeral service establishment and every branch or chapel of such establishment, regardless of how owned, shall have a separate establishment manager. He shall be accountable for the operation of the funeral service establishment and who is employed full time by the establishment for at least 40 hours a week.

The vote carried unanimously.

18 VAC65-20-240. Requirements for funeral service licensure by examination.

Closed Meeting

On a properly seconded motion by Mr. Murphy, the Committee voted 8-0 in favor of the motion, to enter into a closed meeting pursuant to §2.2.3711(A) 7 for consultation with and the provision of legal advice by the Assistant Attorney General at 10:12 a.m.

Reconvene

On a properly seconded motion by Mr. Jenkins, the Committee voted 8-0 to amend the motion to enter into a closed meeting pursuant to §2.2.3711(A) 30 to discuss procurement of examination services.

On a properly seconded motion by Mr. Jenkins, the Committee voted 8-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements under Virginia law were discussed in the executive session and only public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Committee.

The Committee reconvened in open session pursuant to §2.2.3711 (A) 7.

18 VAC65-20-350. Requirements for licensure by reciprocity or endorsement.

A motion was made by Mr. Burger to remove "reciprocity" from this section and remove number 1. The motion was properly seconded by Ms. Hughes and the Committee approved the following amendment:

~~1. Reciprocity. License may be granted by reciprocity provided that the same privileges are granted by the other jurisdiction to Virginia funeral service licensees by the establishment of substantially similar licensure requirements and reciprocity agreements between the two jurisdictions; or~~

2. B. An applicant for licensure by ~~reciprocity~~ or endorsement shall pass the Virginia State Board Examination.

18 VAC 65-20-400. Registration of surface transportation and removal services.

The Committee recommended to add:

4. The Board waives the registration requirement for all licensed EMS service agencies in

the Commonwealth of Virginia.

18 VAC65-20-420. Misrepresentation.

A person employed or operating a surface transportation and removal service shall not in any manner misrepresent himself to the public as being an official of any local jurisdiction, the Commonwealth, federal, or any other governmental body unless granted such authority. This shall include the name and title of the company or service, uniforms, equipment, vehicles, and any other instruments used or proffered by the services or its agents. ~~The board shall be the sole determinant of the appropriateness of the pertinent qualities of the service and staff in enforcing this regulation.~~

A motion was made by Mr. Burger to remove the last sentence of 18 VAC65-20-42. The motion was properly seconded by Ms. Hughes. The vote carried unanimously.

18 VAC65-20-435 Registration of crematories.

A motion was made by Ms. Hughes to refer this section to this Committee for further discussion and review of the Cremation Association of America (CANA) model law for possible statutory changes. The motion was properly seconded by Mr. Leonard. The vote carried unanimously.

Part VII Standards for Embalming.

18 VAC65-20-510 Embalming Report

Every funeral establishment shall record and maintain a separate, identifiable report on a form as prescribed ~~by the Board Appendix IV of this chapter~~ for each embalming procedure conducted.

A motion was made by Mr. Leonard to modify the embalming report to include the name, address, city, state, zip code and telephone number, items I, A, B, C, and item #7. The motion was properly seconded by Mr. Murphy. The vote carried 7-1. Mr. Minter opposed the motion. Also, the Committee discussed the possible revision of the form to eliminate certain areas which are unnecessary for the inspection process.

Ms. Yeatts suggested that a statement reminding the manager of record that the forms must be kept in the file for board review be placed on the embalming report.

The Committee recommended a statement to be placed on the embalming form, is as follows: This does not preclude the funeral service establishment from requiring additional forms necessary to document the embalming process of each decedent.

She also reiterated to the board that the changes made today are only expressions of the committee's intent to consider amendments; the discussions are not final interpretations.

Part VIII. Pricing Standards and Forms.

18 VAC65-20-630. Disclosures.

Funeral providers shall make all required disclosures and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of the FTC and shall contain the information included in Appendices I, II, and III of this chapter as prescribed by the Board.

There was a recommendation from the committee to remove the word "Appendix" from all of the forms.

Also, the Committee recommended placing a description of the package on the form on the Itemized Statement of Goods and Service.

18 VAC65-20-700. Retention of documents.

1. Price lists shall be retained for ~~one year~~ three years after the date on which they are no longer effective;
2. Itemized statements shall be retained for ~~one year~~ three years from the date on which the arrangements were made;
3. Embalming reports shall be retained at the location of the embalming for ~~one year~~ three years after the date of the embalming;

A motion was made by Ms. Hughes to change the retention of documents from one year to three years. The motion was properly seconded by Mr. Jenkins. The vote carried unanimously.

Review of Preneed Funeral Planning Regulations

The committee tabled the review of the pre-need regulations to the next meeting.

The next legislative/regulatory meeting is scheduled for Wednesday, September 27, 2005 at 9:00 a.m.

The Committee adjourned at 12:00 noon.

Willard D. Tharp, Chair

Elizabeth Young, Executive Director
