

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

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, January 12, 2010 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Conference Room #4, Henrico, Virginia.

The following Board members were present:

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

The following Board member was absent:

Rev. Yvonne Jones Bibbs

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

Lisa R. Hahn, Executive Director
Annie B. Artis, Licensure Operations Manager
Elaine J. Yeatts, Senior Policy Analyst
Rashaun K. Minor, Discipline Operations Manager
Kathy Truesdale, Compliance Case Manager
Charles Giles, Budget Manager
Faye Lemon, Director of Enforcement

Sammy Johnson, Deputy Director of
Enforcement
Wanda Jackson, Sr. Case Intake Analyst
Leith Ellis, Senior Inspector
Keith Dressler, Senior Inspector
Marta Ishmael, Senior Inspector
Lynne Helmick, Senior Inspector

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

Amy Marschean, Senior Assistant Attorney General

Quorum:

With 8 members present, a quorum was established.

Guests Present:

Barry Robinson, Education Chair for the Virginia Mortuary Association
Meredyth Partridge, Regulatory Support Services, Inc. (RSS)
Lacy Whittaker, Virginia Funeral Directors Association

Rick Sikon, FSP, John Tyler Community College
Frank Walton, FSP, Tidewater Community College
Haile L. Gatewood, Norris Funeral Home.
Michael Nicodemus, Holloman-Brown Funeral Home

CALLED TO ORDER

Mr. Minter, President, called the Board meeting to order at 9:15 a.m.

ORDERING OF AGENDA

The Executive Director's report was moved to follow public comment. The agenda was accepted as changed.

ACCEPTANCE OF MINUTES

Upon a motion by Ms. Hughes and properly seconded by Mr. Ball, the Board voted to accept the minutes of the September 15, 2009 board meeting. The vote passed unanimously.

The minutes of the Special Conference Committee of December 8, 2009 were provided for informational purposes only.

PUBLIC COMMENT PERIOD

During the public comment period, the Board Chair asked that all members of the audience introduce themselves.

Ms. Partridge spoke during the public comment period and asked if the board would consider changing the public comment period to the end of the meeting to allow an opportunity for the public to make comments based on the information heard at the meeting.

Mr. Nicodemus asked if the board could provide contact information on the 4 newest crematories registered.

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn

Licensee Statistics

Ms. Hahn reported there are currently 1,484 funeral service licensees, 5 embalmers, 153 interns, 495 establishments, 15 branch establishments, 84 crematories, 30 continuing education providers; 94 courtesy card holders and 55 surface transportation and removal services.

Discipline Statistics

Ms. Hahn reported that we currently have 43 open cases; 25 are in investigations; 13 are in probable cause, 2 cases are in the Administrative Proceedings Division and 3 cases are at the informal stage.

Calendar

The meetings scheduled for calendar year 2010 are April 13th, July 13th and October 12th.

Expenditure and Revenue Summary

Ms. Hahn reported that the cash balance as of June 30, 2009 was \$19,797. The year-to-date revenue for FY10 is \$21,863, less the direct and allocated expenditures totaled \$202,617. The ending cash balance as of November 30, 2009 was \$(160,956). Ms. Hahn explained that the majority of the fiscal year's revenue is received during the month of March due to the annual renewals.

Other Board Business

Ms. Hahn reported that she presented at the Virginia Funeral Directors Association's Legislative Committee meeting held on September 30, 2009. She along with Ms. Hughes will also be speaking at the VFDA's Winter Conference on January 26, 2010. Ms. Hahn stated that she will be presenting at the Blue Ridge Association meeting on January 19, 2010 in Roanoke, VA. She reported that Ms. Hughes will be presenting at the VFDA conference on June 14-15, 2010.

Ms. Hahn provided a sympathy card for board members to sign for the family of the late Nancy Wright Statton, a former board member. She suggested the board prepare a resolution in honor of Ms. Statton; however, she stated she did not know her personally and asked that the board members assist in the writing of the resolution.

Ms. Hahn briefly discussed the findings that Ms. Truesdale brought forth related to cremation caskets that she received from the Virginia Department of Environmental Quality and the Federal Trade Commission. Ms. Hahn pointed out that the findings would have an affect on the direct cremation price range listed on General Price Lists. After discussion, Ms. Hahn stated that more research will be done and asked that board counsel assist in the effort.

Ms. Hahn reported that she received a call regarding a Campbell County newspaper article. The article alleged that a medical examiner who was testifying in court made a statement that it was common for funeral directors to forge death certificates. Ms. Hahn stated that she brought this matter to Dr. Bush's attention. She reported that they plan to meet to discuss this derogatory article and the on-going issue of physicians not signing death certificates when required to by law. She recommended that a committee be established to address this important issue.

Ms. Hahn received a call in December, 2009 from a new owner of a closed funeral home who reported that while renovating the facility for residential use, he found 35 abandoned containers of cremains. Ms. Hahn along with Ms. Altoz and Dr. Bush from the Medical Examiner's office visited the facility and performed a cursory inspection. Ms. Hahn stated that the Medical Examiner's office will store the cremains and dispose of the cremains that were originally medical examiner cases. Our department plans to meet with the last manager of record of the former funeral home to assist us with the disposition of the remaining cremains.

Ms. Hahn reported that Kip Jordan was indicted on 9 felony convictions and is scheduled to be sentenced March 4, 2010. She stated the board will wait until after the sentencing to dispose of the remaining cremains. Ms. Hahn stated Ambrose Bailey was indicted on 11 felony convictions and is scheduled to be sentenced on March 12, 2010.

Ms. Hahn informed the Board that Ms. Meade is out of the office on medical leave. She provided a get well card for the board members and staff to sign.

Ms. Hahn suggested that the board's internship subcommittee meet in February. She asked that the board members of that committee check their calendars for February 18th or 19th and let her know of their availability. Ms. Hahn also recommended that the Board meet in regards to the regulations prior to the next board meeting on April 13, 2010.

AGENCY DIRECTOR'S REPORT – Sandra Whitley Ryals

Ms. Ryals spoke about the severe economic downturn and stated that even though the Department of Health Professions is a special funded agency, budgetary changes are still required to be made. She explained that all boards in the department will be required to contribute to the cash transfer. The total amount of the agency cash transfer will be \$636,640. The funeral board's portion will be \$9,002.

Ms. Ryals reported on legislative proposals and reminded board and staff not to speak in regard to legislative proposals.

Break

The Board recessed for a break at 10:10 a.m. and reconvened at 10:20 a.m.

DHP Performs

Ms. Ryals reported that for the 3rd quarter in a row, this department has met and has exceeded our established DHP Perform goals. For the quarter ending 9/30/09, the funeral board has a clearance rate of 100%, there are no cases older than 250 days and the board has closed 100% of the cases within the 250 day target. Ms. Ryals reported that resolution is achieved in a timely manner which indicates we are doing a better job in protecting the public.

She stated that major improvements have been made to the disciplinary process. Ms. Ryals congratulated the Board on all of their outstanding accomplishments. Mr. Minter thanked Ms. Ryals, Ms. Hahn and staff on a job well done.

New Business

Revenue and Expenditure Analysis – Charles Giles

Mr. Giles presented the Board with an overview of the projected revenue, expenditures and cash balances for FY10 through FY14. He stated that in order to prevent a shortfall, the board will have to take action to increase fees.

Upon a motion by Ms. Hughes the Board voted to adopt the NOIRA to increase fees. The motion was properly seconded by Mr. Tharp. The vote carried unanimously.

Mortuary Science Student Clinical Experience – Frank Walton

Mr. Walton, FSP, from Tidewater Community College came before the Board to request assistance with clarifying the law as it pertains to student's participation in embalming at funeral establishments within the Commonwealth. He requested that students enrolled in mortuary science programs be allowed to work in funeral homes to perform and participate in embalming procedures prior to entering the intern program. Mr. Walton and Mr. Sikon of John Tyler Community College proposed that the students be supervised through the schools and under the supervision of a licensed funeral service provider while in the funeral home.

Mr. Walton explained that by nature of the donated remains there is often a tremendous amount of time between death and the schools' receipt of the remains. He stated that as a result, the students are not exposed to the types of post mortem changes and tissue reactions which are typical of normal embalming. Mr. Walton further stated that due to the recent budget shortfalls in the State Anatomical Program, there has been an increase in the price of cadavers to \$1,500.

During the discussion, it was related to Mr. Walton and Mr. Sikon that the board believes that the law would prevent students from practicing without being licensed or registered as an intern.

Mr. Minter requested that the schools conduct further research as to what other states are doing and how they are able to train their students. He stated that once this information is collected it should be shared with Ms. Hahn and Ms. Marschean to review.

Discussion Regarding Refunds on Irrevocable Trusts – Skip Tharp

The Board reviewed the Preneed regulations in regards to irrevocable trusts under 18VAC65-30-110 – Cancellation or transfer of contract, Section D. There was discussion to change D. as follows:

D. If the contract buyer uses an irrevocable trust as the funding source and terminates the contract after 30 days of its execution, the contract buyer ~~may~~ shall not be eligible for a refund. ~~only with the agreement of the contract buyer, the contract beneficiary, and the trustee.~~

Upon a motion by Mr. Tharp and properly seconded by Ms. Hughes, the Board voted to change 18VAC65-30-110.D as amended. The vote carried unanimously.

The above stated motion was then withdrawn pending further research.

NOIRA and Public Comment Received - Elaine Yeatts

Ms. Yeatts recommended that the Board delay adopting the proposed regulations regarding the handling and refrigeration of dead human remains until the April board meeting due to a similar legislative proposal.

Legislative and Regulatory Update – Elaine Yeatts

Ms. Yeatts gave a brief overview of all proposed legislation. Ms. Yeatts further stated that it would be very helpful if the board would make a recommendation on House Bill 201 and House Bill 278 and offer opinions and/or suggestions. The board provided supportive comments on House Bill 201 but they did not unanimously favor House Bill 278.

Crematory Certification

There was discussion regarding Initial Cremation Certification Training (operators and managers). The following guidance was offered.

CANA and ICCFA are automatically approved according to regulation.

The approval process regarding cremation certification training providers (other than CANA and ICCFA) is that they:

- must apply to the board to become an approved CE provider
- must include VA laws and regulations that pertain to cremation. If this training is taken outside of VA, they must reference the laws and regulations relating to cremation within the Commonwealth of Virginia.

If the CE provider is a manufacturer they can't use this training to promote, sell or offer goods, products or services to funeral homes. If the training is found to promote, sell or offer goods, products or services the training cannot be used for CE credit.

Discussion with Inspectors

Enforcement representatives including the field inspectors came before the board to ask questions regarding inspections of funeral establishments and crematories. These questions and answers will be drafted into a new guidance document once the answers have been carefully reviewed by staff and the AG's office for regulatory compliance. The guidance document will be considered by the board during their next meeting.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 1:55 p.m.

Randolph Minter, FSP, President

Lisa R. Hahn, Executive Director

DATE

DATE