

MARYLAND BOARD OF MORTICIANS AND FUNERAL DIRECTORS
OPEN SESSION MINUTES
SEPTEMBER 9, 2015

The meeting was called to order at 11:55 am with a quorum by Victor C. March, Sr., President.

BOARD MEMBERS PRESENT

Victor C. March, President
D. Lynn Newman, 1st Vice President
James Govoni, 2nd Vice President
Vernon Strayhorn, Sr., Secretary
Gladys Sewell
Camille Bryan
Wayne Cooper
Robert Bradshaw, Jr.
Mark Bailey
Dr. Ahmed Elzaree

ABSENT BOARD MEMBERS

Lynn Shuppel

STAFF

Ruth Ann Arty, Executive Director
Darlene Cline, Licensing Chief
Thomas Anderson, Health Occupations Inspector
Anthony DeFranco, Board Counsel

Mr. March moved for approval of July's minutes. A motion was made and seconded.

ADMINISTRATIVE REPORT

Ms. Arty reported we have two people that should be recognized at this Board meeting. Senator Paula Hollinger will no longer be with the department as of October 1, 2015. The second person recognized is C. Virgil Moore of Moore Funeral Home in Denton, Maryland. Mr. Moore celebrated his 100th birthday on August 21, 2015. He is the oldest living mortician in the state. He has been licensed since May 1, 1937, continually in good standing.

Ms. Arty wanted to make an early reminder that the \$375.00 fee for the Family Security Trust Fund is coming up. The fee must be received for each establishment by November 30, 2015. Every year establishments are upset about the late fee, which is \$500.00, and

ask why the late fee is more than the actual fee. The Family Security Trust Fund Advisory Committee felt they needed to make an important statement. The fund amount is close to a million dollars and, hopefully, 2016 will be the last year establishments will have to pay into it.

It has been a difficult fiscal year for the State, and the budget is very tight, which leaves the Board with two choices, one we raise fees, which the Board says no. Therefore, Ms. Arty recommended the staff return to four, which means by the direction of the Board, she will be in the field more often when we are in need of particular inspections.

The meeting that was announced last month for stakeholders and review of the necessary regulations has been scheduled. The schedule was received for how the regulations will be reviewed down at the legislature. The Board has reviewed all the regulations. We will not be submitting the changes all at once, but rather in very small groups. The first AD-HOCK committee, of one licensee from each of the associations and SCI will be held on September 23, 2015 at 3:30 pm. Everyone should email Ms. Arty the representative who will be attending the meeting. At that meeting, we will go over the proposed changes that the Board's regulation committee has recommended. After getting feedback from the stakeholders, the finalized set of the reviewed regulations will be sent to Board Counsel for final approval, and then sent to AELR. The first three chapters will be inspection/investigation, complaint and pre-need.

In Regulatory Support's newsletter, it states Ms. Arty will be at the University of Maryland every other month for CEU training, which is incorrect. Ms. Arty will continue to do the Mortuary Transport regulations and Human Dignity at least every other month.

EXECUTIVE COMMITTEE REPORT

No Report.

FAMILY SECURITY TRUST FUND ADVISORY COMMITTEE

Gladys Sewell, Chair reported there is currently \$841,083.07 in the fund.

PRE-NEED COMMITTEE

D. Lynn Newman, Chair reported Mr. Anderson audited several pre-needs in the last several months and for the most part everyone is in compliance with their pre-needs. There are a small number that need to be corrected and letters are being sent out. Some

of the items that need correction are “date of birth missing” and by state law the date of birth has to be on all pre-need contracts. Social Security numbers are occasionally omitted from the contract as well. Otherwise, licensees are paying attention to state law.

FUNERAL ESTABLISHMENT / INSPECTION COMMITTEE REPORT

Mr. Robert Bradshaw, Chair allowed Jim Govoni to report on the following establishments.

Mortuary Transport Service

Mr. Govoni moved for approval of the Short Funeral Home of Delaware for Mortuary Transport Service. A motion was made and approved.

LICENSURE COMMITTEE REPORT

Jim Govoni, Chair reported on the following applicants.

Apprentice License

Mr. Govoni moved for approval of Cullen Donaldson for apprenticeship. A motion was made and approved.

Mr. Govoni moved for approval of Stephanie Rinehart for apprenticeship. A motion was made and approved.

Mr. Govoni moved for approval of Erica Johnson for apprenticeship pending ownership letter. A motion was made and approved.

Mr. Govoni moved for approval of Delores Jones for apprenticeship. A motion was made and approved.

Mr. Govoni moved for approval of Heather Richardson for apprenticeship. A motion was made and approved.

Mr. Govoni moved for approval of Brittney Greene for apprenticeship. A motion was made and approved.

Mortician via Reciprocity

Mr. Govoni moved for approval of Electa Wright of Air Force Mortuary Affairs for a temporary mortician license. A motion was made and approved pending completion of required paperwork.

Mortician via Waiver

Mr. Govoni moved for approval of Valerie Grant for mortician via waiver of apprenticeship requirements. A motion was made and approved pending CEU's.

Reinstatement

Mr. Govoni moved for approval of Daphne Waters for reinstatement of her mortician's license. A motion was made and approved.

Courtesy Card

Mr. Govoni moved for approval of Michelle Durst for a courtesy card. A motion was made and approved.

Mortuary Transporters

Mr. Govoni moved for approval of Amy Jewel for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Thomas Jewel for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Clark Layfield for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Aixa Boyd for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Nicole DiManno for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Stacy Guthrie for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Jessica Chmielewski for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Sean Hatfield for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Gregory Weygandt for mortuary transporter. A motion was made and approved.

Mr. Govoni moved for approval of Eduardo Aguirre for mortuary transporter. A motion was made and approved.

Donald Newman recused himself from the vote. Mr. Govoni moved for approval of Fred A. Meyer for mortuary transporter. A motion was made and approved.

Donald Newman recused himself from the vote. Mr. Govoni moved for approval of Donald Lynn Newman for mortuary transporter. A motion was made and approved.

CEU COMMITTEE REPORT

Dr. Elzaree, Chair, reported on the following CEU's.

New CEU's

Montgomery Hospice is requesting 6 CEU's for their 2015 Conference – Different Voices, Shared Journeys, Providing Culture Sensitive Care, September 24, 2015. A motion was made and approved for 4.5 CEU's.

The International Order of the Golden Rule is requesting 6 CEU's for their 2015 Fall Forum: Dominate Technology, October 17, 2015. A motion was made and approved.

The Maryland Funeral Directors Association is requesting approval of their Board and Quarterly meetings. A motion was made and approved for a maximum of 3 CEU's for a renewal cycle.

Aurora Casket Company is requesting 2 CEU's for The Aurora Casket Plant Tour on October 21, 2015. A motion was made and approved.

NFDA is requesting 6 CEU's for their NFDA Certified Crematory Operator Program, November 3 and 4, 2015. A motion was made and approved.

New Jersey Funeral Directors Association is requesting 10 CEU's for their 2015 Convention and Expo 9/29 – 10/1/2015.

OLD BUSINESS

Ms. Arty reported we have made a lot of progress on the Mortuary Transport Service Permits. Most of Mortuary Transport Services and Registered Transporters that have been voted by the Board have been added to the data system. The only permits that have not been sent are the transport companies that do not have the bondable letters. We have had tremendous trouble with the bondable letters. When the regulations were submitted by the Board, it was asked that companies be bonded, there was discussion with Maryland State and Attorney Jim Doyle and it was decided getting a bond would be too expensive on top of the permit fee, and there was a request made that they only have to submit a letter that states they are bondable. The Board agreed to that, however insurance companies don't understand the request for the letter. The Board is not requiring a bond, however if you are a transport company who's insurance company will not issue a letter becoming bonded is an alternative. The Board set up courtesy sights around the state for vehicle inspections and there has been requests for additional inspections. Ms. Arty and Mr. Anderson will set up inspections again in the different areas of the state. In the meantime, if a vehicle needs to be inspected, please e-mail Mr. Anderson at thomas.anderson@maryland.gov to schedule a date to be inspected in our parking lot. All ID's for registered transporters will be issued by the end of the year. The Board is not requiring licensed Maryland funeral establishments to have a permit for removal. We do however, require removals be done in an inspected vehicle, by a licensed establishment and employees of the funeral home.

The Governor will be signing a new statute on October 1, 2015 that will allow the Board to sanction anyone that is practicing without a license in the State of Maryland. The sanction comes with a \$5000.00 fine per occurrence.

The State required that each of the Boards submit sanction guidelines. That requirement was given to the Boards two years ago. The Board did submit the sanction guidelines. At the advice of our Board Counsel, they were attached to other regulations that were submitted. They were rejected when cremation regulations came out, and sent back to the Board since they were submitted in the wrong manner. Since the sanction guidelines came back to the Board, we have had new statutes that were not covered by the cremation sanction, mortuary transport sanction, and the Human Dignity Act sanction, and they require a large amount of work by the Board to update them to the current state of affairs. The purpose of the guideline is so that licensees know what is expected, and the minimum and maximum discipline there would be if there was a violation of the law. The Board reviewed each violation and the minimum and maximum sanction and penalty. The sanctioning guidelines are as follows:

-Fraudulently or deceptively obtains or attempts to obtain a license, permit, or registration for the applicant or licensee, permit holder, or registration holder or for another. The minimum sanction is a reprimand, maximum sanction is revocation or denial of the license. The minimum penalty is \$0, the maximum is \$5000.00.

- Fraudulently or deceptively uses a license, permit, or registration. The minimum sanction active suspension for 1 year and maximum is revocation. The minimum penalty is \$0, the maximum is \$5000.00.

- Commits fraud or misrepresentation: (a) In the practice of mortuary science; or (b) while removing or transporting human remains. The minimum sanction is active suspension for 1 year and maximum is revocation. The minimum penalty is \$0, the maximum is \$5000.00.

- Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude. The minimum sanction is probation for 1 year, maximum is revocation/denial of license. The minimum penalty is \$0, maximum is \$5000.00.

-Aids or abets an unauthorized person in the practice of mortuary science specifically: (a) in embalming without a license; In making arrangements; (c) In the cremation of human remains; or (d) In the transporting or removal of human remains. The minimum sanction is active suspension for 90 days, maximum sanction, revocation. The minimum penalty is \$0, maximum \$5000.00.

- Advertised falsely or in a misleading manner. The minimum sanction is reprimand, maximum sanction is active suspension for 60 days. The minimum penalty is \$0 and maximum penalty is \$500.00.

-Solicits mortuary science business: (a) Either personally or by an agent, from a dying individual; or (b) To remove or transport human remains. The minimum sanction is active suspension for 30 days, maximum sanction is active suspension for 1 year. Minimum penalty is \$0 and maximum penalty is \$1500.00

- Directly or indirectly pays or offers to pay to obtain: (a) Mortuary science business; or (b) Business to remove or transport human remains. The minimum sanction is active suspension for 30 days, maximum sanction is active suspension for 1 year. Minimum penalty is \$0 and maximum penalty is \$1500.00.

- Refuses to surrender custody of a human remains of the demand of a person who is entitled to its custody. The minimum sanctions is a reprimand, and the maximum sanction is revocation. The minimum penalty is \$2500.00 and the maximum penalty is \$5000.00.

-Sells or offers to sell any share, certificate or interest, with a promise to offer to perform services to the buyer at a cost less than that offered to the general public, in: (a) A mortuary science business; or (b) A mortuary transport service. The minimum sanction is reprimand and the maximum sanction is revocation. The minimum penalty is \$0 and the maximum is \$2500.00.

- Fails, after proper demand, to refund promptly and payments received under a pre-need contract with interest. The minimum sanction is active suspension for 30 days and the maximum sanction is revocation. The minimum penalty is \$1000.00 and the maximum is \$5000.00.
- At the time funeral arrangements are made, fails to give the contract required by Health Occupations Article, §7-404, Annotated Code of Maryland. The minimum sanction is reprimand and the maximum sanction is active suspension for 1 year. The minimum penalty is \$0 and the maximum penalty is \$250.00
- Violates and State, municipal, or county law, rule or regulation on the handling, custody, care or transportation of human remains or the disposal of instruments, materials and wastes relevant to preparation of human remains for final disposition. The minimum sanction is reprimand and the maximum sanction is active suspension for 1 year. The minimum penalty is \$0, the maximum penalty is \$5000.00.
- Does one of the following: (a) Practices mortuary science under a name other than the name that appears on the license of that person; or the name of a partnership in accordance with Health Occupations Article, § 7-401 Annotated Code of Maryland (b) Removes and transports human remains under a name other than the name that appears on the permit or registration of that person. The minimum sanction is reprimand, the maximum is probation. The minimum penalty is \$0 and maximum penalty is \$500.00
- Violates any provision of this title, of the laws relating to cremation, or any other law relating to removing and transporting of human remains. The minimum sanction is reprimand and the maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00
- Is disciplined by a licensing or disciplinary authority of any other state or country for an act that would be grounds for disciplinary actions under the Board's disciplinary statutes. The minimum sanction is reprimand and the maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00.
- Willfully makes or files a false report or record: (a) In the practice of mortuary science; or (b) For a mortuary transport service. The minimum sanction would be reprimand and the maximum sanction revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00.
- Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report. The minimum sanction is reprimand and the maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty \$5000.00.
- Submits a false statement to collect a fee. The minimum sanction is reprimand and maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00.
- Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance, or other drug that is excess of therapeutic

amounts or without valid medical indication. The minimum sanction is probation and the maximum is sanction is revocation. The minimum penalty is \$250.00 and the maximum penalty is \$5000.00.

- Violates any rule, or regulation adopted by the Board. The minimum sanction is reprimand and maximum sanction. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

-Is professionally, physically, or mentally incompetent. The minimum sanction is suspension for 30 days. The maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

- Commits an act of unprofessional conduct: (a) In the practice of mortuary science; or (b) while removing and transporting human remains. The minimum sanction is probation and the maximum sanction is revocation. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

- Refuses, withholds from, denies, or discrimination against an individual with regard to the provision of professional services for which the person is licensed, permitted, or registered and qualified to render because the individual is HIV positive. The minimum sanction is probation and the maximum sanction is active suspension for 30 days. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

- Except in an emergency life-threatening situation where is its not feasible or practicable, fails to comply with CDC guidelines on universal precautions. The minimum sanction is reprimand, the maximum sanction is active suspension for 30 days. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

- Fails to allow an inspection under Health Occupations Article §7-205, Annotated Code of Maryland. The minimum sanction is probation and the maximum sanction is active suspension for 30 days. The minimum penalty is \$0 and the maximum penalty is \$5000.00.

- Fails to comply with inspection requirements in the time specified by the Board. The minimum sanction is reprimand and the maximum sanction is probation. The minimum penalty is \$0, and the maximum penalty is \$500.00.

-Fails to comply with laws or regulations relating to § 5-513 of the Human General Article. The minimum sanction is probation and the maximum sanction is active suspension for 30 days. The minimum penalty is \$1000.00, and the maximum penalty is \$5000.00.

- Removes human remains from a death scene, mortuary transport services, funeral establishment, or crematory, without the authorization of the entity in custody of the human remains. The minimum sanction is reprimand and the maximum sanction is revocation. The minimum penalty is \$250.00 and the maximum penalty is \$5000.00.

A vote was made to accept the sanction guidelines they have been presented with the necessary changes. A motion was made and accepted.

Our committee meetings are scheduled on the same day as our Board meetings allowing our Board members who travel a long distance to meet all in the same day. We are proposing that the open board meeting begin at 1:00 pm instead of 11:30 am, allowing the committees to begin meeting at 7:30 am on Board day and completing meetings before we go into open session. A motion was made and passed to move the time of open meeting to 1:00 pm. November's meeting will be held on November 10, 2015 due to Veteran's Day falling on November 11, 2015 which is a State Holiday.

AJOURNMENT

Pursuant to Maryland State Government Article, Annotated Code § 10-501 et. Seq., on a motion by Victor C. March, Sr., President, and Seconded. The Board unanimously voted to close its meeting.