

Cemetery & Funeral Bureau
Advisory Committee Meeting Minutes

Tuesday, March 5, 2013

Department of Consumer Affairs
1625 North Market Boulevard, El Dorado Room
Sacramento, CA 95834

Advisory Committee Members:

Robert Mull
John Resich
Phyllis Montero
Fredrick "Fred" Belt
Merrill Mefford

Guest Attendees:

Gerard Reinert	Cari Leversee
Anne Schillig	Chris Micheli
George Prather	Steve Schacht
Bob Achermann	Mary Delaney

Cemetery & Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; Joy Korstjens, Deputy Chief; Chip Bane, Supervising Governmental Auditor; Cheryl Steurer, Legislative Analyst

DCA Staff: Michael Gomez, Deputy Director, Division of Investigation & Enforcement Programs; Gary Duke, Legal Counsel

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 10:10 a.m. and welcomed those in attendance. She thanked the Advisory Committee Members (Members) for being in attendance on their own time and their own money. Ms. Moore stressed that it is an Advisory Committee (Committee) and is not mandated in statute but the Cemetery and Funeral Bureau (Bureau) believes this is a good way to do business. She then asked the Members to go around the table and introduce themselves. Members in attendance included: Phyllis Montero, Fred Belt, Merrill Mefford, Robert Mull, and John Resich. (Members Cheryl Moore and Caroline Flanders were not in attendance at this meeting.) Bureau staff members Joy Korstjens, Chip Bane, and Cheryl Steurer introduced themselves, as well as Gary Duke, DCA Legal Counsel.

Ms. Moore asked the public members in the audience to introduce themselves (public members who signed the voluntary sign-in sheet are listed as "Guest Attendees" above). After the introductions, Ms. Moore emphasized that she considers the Committee to be a working committee and that their input and interaction during the meeting was both expected and appreciated. As the Committee moved through the agenda, Ms. Moore encouraged anyone who had comments to feel free to make them and provide any suggestions.

Ms. Moore provided a brief update on Bureau staffing, including the employment of part-time Auditor Rachel Zhen who works three days a week. The Bureau is also in the process of recruiting for a Permanent-Intermittent General Auditor II. Recruitment efforts are under way and the Bureau is working with Personnel on finalizing documents for that. Ms. Steurer just started and is taking Ms. Korstjens' previous position as the Legislative Analyst. Ms. Korstjens has been working in the capacity of both Deputy Chief and Legislative Analyst since July and will be working closely with Ms. Steurer as she learns about the Bureau to transfer the legislative work to her. Last, the Bureau is recruiting for a Field Representative for Northern California. After the Field Representative position is filled the Bureau will be fully staffed.

2. Discussion of Proposed Regulations for Limited Liability Companies (LLC) in accordance with SB 1225 (Harman, Chapter 114, Statutes of 2008)

Ms. Moore began the discussion on the proposed LLC regulations by stating the Bureau held a workshop on August 16, 2012, to put the proposed regulations out for everyone to review. The only suggestion received from the workshop was to change California Code of Regulations (CCR) Section 2326.5 (c) language of "60 mile radius" to "60 mile driving distance" in regard to sharing of cemetery managers. The proposed regulations were also an agenda item at the Committee meeting held on November 15, 2012, and no comments were received at that time. Ms. Moore indicated she wanted to put the proposed regulations on the agenda this last time for any additional comments before the Bureau began the formal rulemaking process. Ms. Moore also clarified that after the formal rulemaking process is initiated public comments can still be submitted; however the process goes much smoother if any substantive issues can be addressed prior to beginning the process. No comments were made on this agenda item and Ms. Moore stated the Bureau will move forward with the rulemaking file for these regulations.

3. Discussion of Proposed Changes to Funeral Regulations – Enforcement

Ms. Moore stated the draft changes for "enforcement" related funeral regulations [CCR Sections 1240, 1241, 1242, 1246, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291] were discussed at the workshop held on August 16, 2012, and there were no suggestions for any changes to the draft language. The proposed changes were also discussed at the Committee meeting held on November 15, 2012, and no comments were made at that meeting. Ms. Moore asked if anyone had comments or suggested changes on the proposed language before the Bureau began the formal rulemaking process. Ms. Korstjens explained that the changes are consistent with the direction the department is going in. The proposed changes to citation and fine regulations will make any violation citable rather than limiting the Bureau to only the sections listed. This change will eliminate the need to update these regulations each time a law changes. Mr. Duke added that the current regulations limit the Bureau's authority to only the sections that are enumerated so the changes will provide the Bureau more flexibility. There was no discussion or comments made on this agenda item.

4. Discussion of Proposed Changes to Funeral Regulations – General

Ms. Moore next moved to the draft changes for “general” related funeral regulations [CCR Sections 1209, 1214, 1216, 1221, 1255, 1258, 1258.1, 1258.2, 1258.3, and 1258.4]. Before beginning discussion on the proposed changes, Ms. Moore stated that at the workshop held on August 16, 2012, this item had the most discussion. The proposed changes from the workshop were then discussed at the Committee meeting held on November 15, 2012. The current changes are a result of both of these meetings and the comments that were discussed there. Ms. Korstjens then reviewed each section and the proposed changes, if any.

A comment regarding “and” versus “or” under 1209 led to changing “noxious and deleterious” to “noxious or deleterious”. For 1214 there was discussion regarding the title of “Exhibit 1” at the top of the page being changed to a form number at the bottom of the page. On the form, the definition of embalming was moved up and placed above the line to accept or decline embalming. There was a question regarding whether the form name needed to be updated on the forms used in the industry. Ms. Korstjens confirmed that the form number must be updated and current since the form itself is published in the regulations. Ms. Korstjens commented that some put the form on their letterhead which is acceptable as long as the form itself is unaltered. A suggestion was made for 1258, to change “including a gasket” to “which may include a gasket.” This suggestion was made due to the use of chemical seals rather than gaskets in some caskets. In 1258.2 it was suggested to remove “rental casket” from in front of “insert” in the last part of the last sentence. This change would be consistent with a similar suggestion made for the first sentence in this section. Sections 1216, 1221, 1255, 1258.1, 1258.3, and 1258.4 received no suggestions or comments during the meeting.

Ms. Moore stated the next step on the three regulations packages will be making any changes discussed today as appropriate. Afterwards the regulations may be sent out to Bureau staff for review one last time. Next the regulations will go through a departmental review. If the Bureau is advised to make changes by the Department, we will do so as appropriate. Ms. Moore indicated the Bureau will start with moving the LLC regulations forward first and then follow with the two separate funeral regulations.

5. Discussion of Revisions to the Pre-need Q&A Pamphlet

Ms. Moore stated that there were very few suggested changes received for the Pre-need Pamphlet. One consumer group commented and Bureau staff commented. Ms. Moore asked all present to keep in mind this is only a guide; it is not intended to replace the laws or regulations. Additionally, as a one page guide, it is not meant to be all inclusive.

Changes made to the pamphlet include: rewriting the introduction; referencing the *Peace of Mind* brochure under question 1; and adding organ and tissue donation as options to consider under question 2 along with indicating that the Bureau’s *Consumer Guide to Funeral & Cemetery Purchases* is available for free. There were no comments or suggestions received in relation to these proposed changes.

Under question 3 the Bureau changed “many” cemeteries to “private and fraternal” cemeteries to clarify who is licensed by the Bureau. In the last sentence the pamphlet refers to funeral consumer alliances; it was brought to Ms. Moore’s attention that this is a term for a specific consumer group. Ms. Moore indicated that, as the State does not recommend or refer consumers, the Bureau will reword this and any other reference to include all consumer groups. Member John Resich suggested adding a brief list of what the Bureau does not license or regulate (i.e. religious and public cemeteries).

Under question 4 the Bureau changed the first sentence to “Create a written pre-need plan of your wishes.” Member John Resich asked if advanced medical directives or other similar terms should be included. Gary Duke stated he believed adding “or other legal device” would be appropriate.

Under question 5 the Bureau added emphasis to the word “you.” Members Fred Belt, Merrill Mefford, and John Resich commented and discussion ensued regarding when funeral arrangements can be changed by the family. It was agreed that the Bureau would add “unclear” to the last sentence which will now read “or if the arrangements are incomplete, unclear, or not fully funded.”

Member Merrill Mefford commented that in question 6 the Bureau uses the term “costs” but in other areas uses the term “prices.” Mr. Mefford believes the term “costs” is the more appropriate term as the costs would be guaranteed not the prices. The Bureau agreed to change “prices” to “costs” for consistency and clarity in the pamphlet.

Member Fred Belt commented that in the closing paragraph we use the word “firms” and it is unclear who we are referring to by firms. After discussion it was agreed to change firms to licensees.

6. Discussion of Revisions to the *Consumer Guide to Funeral & Cemetery Purchases*

Ms. Moore began the discussion by informing attendees that Member John Resich took the lead on this project and solicited comments on revisions from industry and several consumers. The Bureau also received information and input directly from licensees and consumer organizations requesting specific changes. The changes clarify existing information as well as add additional information that may be helpful for consumers. Ms. Moore stressed that this is a guide and is not intended to replace the laws and regulations nor will it answer every question consumers may have. The *Consumer Guide to Funeral & Cemetery Purchases* does provide reliable information and a host of resources.

Member John Resich suggested adding to page 1 a note stating who the Bureau does not license since the paragraph prior states who is licensed by the Bureau.

Changes on page 2 focused on updating information from section 7100. George Prather questioned if “agent under a power of attorney for health care” should say “agent under

a California power of attorney for health care” since the laws and regulations are very specific. Gary Duke concurred that this would be a good change.

On page 3 the last bullet under Details was changed to add “followed by conservator of person, conservator of estate, or public administrator” at the end of the last sentence which is straight from the law. Joy Korstjens offered to add public administrator to the glossary and requested Member Robert Mull send a definition for her to use. Under Prices, language was added regarding the new requirements for posting information about goods and services on the business Web site if they have one.

On page 4 under Embalming, Member John Resich suggested including reference to the form for accepting or declining embalming. Under Burial Mr. Resich suggested adding the term outer burial containers to describe vaults or grave liners.”

Also under Burial, the Bureau added a paragraph about natural burials as this is a growing trend in the industry. A suggestion was made to add “typically” in front of not embalmed and change “vaults or grave liners” to “outer burial container.”

On page 6 Member Merrill Mefford suggested changing funeral consumer alliance to a general reference to consumer groups like was agreed for the Pre-need Q&A Pamphlet. Ms. Moore agreed that all references will be updated to consumer groups. Member John Resich stated that “or fraternal” should be added under Check License Status. Currently it only refers to private cemeteries, and private cemetery managers.

On page 7 Member John Resich commented that “visit the Web sites and facilities of several funeral establishments” was misleading since the funeral establishment facilities may not be open to the public (i.e. prep room, etc.). After discussion it was agreed to remove “facilities.”

On page 9 the Bureau will change “price” to “cost” to mirror changes made in the Pre-Need Q&A and maintain consistency in information from the Bureau to consumers.

On page 10, under Multiple-Depth Graves, Member Merrill Mefford suggested adding “Depending on the rules and regulations of the cemetery” at the beginning of the paragraph.

On page 11, in the second to last paragraph under Cremation, Member Merrill Mefford suggested adding “and/or will permit it” to the end of the last sentence.

Under the Glossary of Terms, the Bureau will modify the funeral consumer alliance to consumer groups. The Bureau will add a definition for cemetery which will define private and fraternal cemetery. The Bureau will also add a definition for public administrator.

Ms. Moore stated that after all revisions are made the revised *Consumer Guide to Funeral & Cemetery Purchases* will be reviewed internally and formatted for printing.

The Bureau will need to get a contract to have the *Consumer Guide to Funeral & Cemetery Purchases* translated into Spanish. After it is translated both the English and Spanish versions will be posted on the Bureau's Web site. A limited number of the *Consumer Guide to Funeral & Cemetery Purchases* will also be printed.

7. Future Advisory Committee

Ms. Moore stated the current Committee Members term is up on March 30, 2013. The Bureau hopes to establish a new Committee in April.

Ms. Moore took the time to thank the current Members for volunteering their time to participate on the Committee, and stated that the Bureau would not be able to get through things like the *Consumer Guide to Funeral & Cemetery Purchases* and be better at what the Bureau does without their invaluable input.

8. Public Comment on Items Not on Agenda

Member Robert Mull wanted to thank the Bureau on behalf of the California Association of Public Administrators, Public Guardians, and other Conservators. Field Representative Dan Redmond presented at their association and with Mr. Redmond's guidance and assistance they were able to successfully resolve some issues.

9. Future Meetings

Ms. Moore stated that she hopes to have the new Committee selected by April 2013 and is planning to schedule the next meeting for sometime in June 2013. Once the next meeting is scheduled, the agenda will go out via e-mail to our ListServ and will be posted on the Bureau's Web site.

10. Adjournment

Ms. Moore thanked everyone for attending. The meeting was adjourned around 12:00 p.m.