

Cemetery and Funeral Bureau
Advisory Committee Meeting Minutes

Monday, November 16, 2015

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

Advisory Committee Members:

Christopher Donhost
Darin Drabing
Jolena Grande
Maria Mangini
Gerard Reinert
Suzette Sherman

Guest Attendees:

Jerry Desmond	Valarie Rose
Merrill Mefford	Jim Draper
Cheryll Moore	Maggie McMillan
Damon de la Cruz	John Resich

Cemetery and Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; Linda Kassis, Deputy Chief; Chip Bane, Supervising Governmental Auditor; Cheryl Jenkins, Legislative Analyst

Department of Consumer Affairs Staff: Angelique Scott, Staff Counsel; Greg Pruden, Legislative and Policy Review; Shelly Jones, Board and Bureau Relations

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 9:30 a.m. welcoming those in attendance and introducing Bureau staff. Ms. Moore asked Departmental staff in attendance to introduce themselves.

The Bureau has a new Advisory Committee (Committee) consisting of four professional members and three public members. Ms. Moore asked the Committee Members (Members) to introduce themselves and give some brief background about who they are and what they do. Darin Drabing, President and CEO of Forest Lawn Memorial Parks and Mortuaries in Southern California, has been in the industry for 31 years; Suzette Sherman is founder of SevenPonds, a website-based organization for end-of-life resources and information to educate consumers; Chris Donhost works with Sierra Donor Services, an organ procurement organization in California; Maria Mangin is a Family Nurse Practitioner and Director of the Family Nurse Practitioner Program at Holy Names University; Jolena Grande is a Faculty Member with the Mortuary Science Program at Cypress College; and Gerard Reinert is the owner of Simplicity Cremation in Southern California and Funeral Convergence, a marketing company. (Tracy Hughes, Deputy District Attorney in the Orange County District Attorney's Office was unable to attend this meeting.)

Ms. Moore indicated that the Bureau is not statutorily mandated to have this Committee but does so because it provides a forum for both consumers and licensees to provide input on funeral and cemetery-related issues and allows the Bureau to do business in an open and transparent environment. The Committee is a “working committee” and participation and discussion of agenda items is encouraged.

2. Responsibilities of New Advisory Committee Members

The Members were provided with the *Member Orientation and Reference Manual* in advance of the meeting. Ms. Moore briefly reviewed the manual with the Members and provided an opportunity to answer any questions they might have.

Ms. Moore stated the focus of the Committee is to advise the Bureau as a whole based on the experience and education each Member has to offer. The expectation is that the Members will provide professional and technical input concerning the Bureau’s regulatory, licensing, and enforcement functions. The Committee does not have any voting privileges; decisions are made by Ms. Moore under the Director’s oversight. The Bureau does not independently devise legislation and does not take official positions on legislation but the Committee may look at legislation that is chaptered and discuss how the Bureau needs to implement it.

The Members were appointed September 1, 2015, and will serve a two-year term ending August 31, 2017. Ms. Moore can re-appoint Members for an additional two-year term if necessary but no Member can serve more than four years. Ms. Moore stated she values having some hold over from one Committee to the next as this helps ensure the continuity of discussions and historical knowledge moving forward. The Bureau typically holds two meetings a year, one in June and November, with an additional meeting added only if necessary and there is a meaningful agenda. Members are asked to make every effort to attend meetings and Members who miss two consecutive meetings may be removed and another Member appointed for the remainder of the term.

Ms. Moore briefly discussed how the Bureau developed the Committee. A letter was sent out to everyone on the Bureau’s interested parties list, licensee and consumer groups, and law enforcement agencies with a consumer protection unit and an email was sent out to our ListServ group. In addition, the Department sent out a tweet on its Twitter account and posted on its Facebook account. Out of all these contacts, the Bureau received a total of 16 applications. When selecting members the Bureau looked at education, experience, demographics, type of work and licenses held to create a diverse group.

3. Update on Bureau Activities / Projects

Staffing: Ms. Moore reported the Bureau has several vacancies and is in the process of recruiting to fill these positions: a vacant field representative position in Northern California; a vacant Auditor I position; and the establishment of a temporary analyst position to help while one of the Bureau’s licensing analysts is out on an extended leave.

Ms. Moore announced the recent hire of Inez Villanueva, a retired annuitant in the Audit Unit, and Vanessa Walker, a new field representative in Southern California.

Exam Development: Ms. Moore stated the Bureau continuously works on examination development for the five different examinations the Bureau administers: funeral director, embalmer, crematory manager, cemetery manager, and cemetery broker. Examination development was just completed for the crematory manager and funeral director examinations and new forms of those exams are coming out January 1. The next examination the Bureau will work on is the cemetery manager exam. Subject matter experts (people licensed in the applicable licenses disciplines) are used for examination development. Travel expenses and an honorarium are paid to those selected to participate.

Audit Unit: Ms. Moore reported that the Bureau has been working on its audit forms. The 2016 Quarterly Report forms for cemeteries and crematories for reporting the \$8.50 fee will be posted to the Bureau's website after they are reviewed by legal.

BreEZe: Ms. Moore stated the Department continues to work on BreEZe, which is a program that will replace the Department's outdated database systems as well as multiple other work-around systems that boards and bureaus have created in order to work more efficiently. The BreEZe system will have built-in systems for license applicant tracking, license issuance and renewal as well as enforcement. Once in place, licensees can complete applications, renewals, and process payments online, and consumers will be able to file and access complaints and check license information online. Updated information will be provided as it becomes available.

Military Insert: Ms. Jenkins stated licensees have recently started receiving an insert with their license renewal form asking about their current or prior military service. The Department is required by law (Business and Professions Code section 114.5) to ask this question of all applicants and licensees. Providing this information to the Bureau is voluntary.

4. Implementation of Assembly Bill 180 (Bonilla, Chapter 395, Statutes of 2015); Merger of Practice Acts/Funds; Endowment Care Fund Sufficiency Report; Future Review by Legislature

Ms. Moore reported Assembly Bill 180, also referred to as our Sunset Bill, was signed by Governor Brown on October 1 and does the following: 1) subjects the Bureau to a future review by the Legislature, performed as if the statutes are to be repealed on January 1, 2020 (the sunset review process); 2) merges the separate practice acts, the Cemetery Act and the Funeral Directors and Embalmers Law into the Cemetery and Funeral Act, effective January 1, 2016; 3) merges the Cemetery Fund and the State Funeral Directors and Embalmers Fund into the Cemetery and Funeral Fund, effective July 1, 2016; and 4) requires the Bureau to conduct a study to obtain information to determine if each cemetery's endowment care fund is sufficient to cover the cost of future maintenance; the Bureau must report its findings to the Legislature by January 1,

2018. (For the full text of Assembly Bill 180 click here:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB180.)

The Bureau is holding a meeting this afternoon, which was noticed on its website, for cemetery stakeholders to begin discussing endowment care for cemeteries.

5. Implementation of Assembly Bill 181 (Bonilla, Chapter 430, Statutes of 2015); Requires Use of Specific Word(s) Regarding Goods and Services on a Funeral Establishment's Website

Ms. Moore stated that current law requires a funeral establishment who maintains a website to do one of two things, either: post their general price list on their website, accessible from the home page via clicking on "price information," or some other word with "price" in it that takes you to their general price list; or they can post a list of the goods and services they offer, accessible from the home page, with a statement that the price list is available upon request; however, there was nothing in law stating how it should be linked.

Assembly Bill 181 amends Business and Professions Code section 7685 to require specific language to be included on the funeral establishment's website if they choose to post a list of their goods and services. The funeral establishment must provide a link from their home page using a word or combination of words that include "goods," "merchandise," "products," or "services." This change is effective January 1, 2016. (For the full text of Assembly Bill 181 click here:
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB181&search_keywords=cemetery.)

Ms. Moore advised that this is something we check for during inspections. The field representatives will check to see if the funeral establishment has a website and if so that it is compliant with this requirement.

Ms. Moore stated that there have been significant statutory and (anticipated) regulatory changes that will become effective and the Bureau will send information out to all licensed funeral establishments, cemeteries, and crematories prior to the end of the year or shortly thereafter notifying them of these changes.

6. Update on Pending Rulemaking Files: Funeral General Regulations; Private Cemeteries – Limited Liability Companies; Cemetery Citation and Fine Regulations

Ms. Moore asked Ms. Jenkins to update the Committee on the pending rulemaking files: Funeral General Regulations, Private Cemeteries: Limited Liability Companies, and Cemetery Cite and Fine Regulations.

Ms. Jenkins stated that all of the rulemaking files have been discussed at previous meetings and the Bureau had a public comment period and regulatory hearing for each package. On October 13, 2015, the Bureau submitted the rulemaking files to the Office of Administrative Law. The Office of Administrative Law has 30 business days to review

the files and either approve or deny them. If approved, the regulatory changes will become effective on January 1, 2016. At this time, the Bureau has no reason to believe the rulemaking files will be not be approved.

The proposed regulations and associated documents can be viewed on the Bureau's website at: http://www.cfb.ca.gov/laws_regs/proposed_regs.shtml.

7. Discussion of Future Regulatory Changes Necessary Due to Merger of Practice Acts

Ms. Moore stated that as the Bureau nears completion of the above rulemaking files, it is time to look at what other changes are necessary as a result of the merge of the practice acts. The Bureau will begin by looking at what can be incorporated into the funeral regulations and what is duplicative and needs to be repealed, and then initiate smaller rulemaking packages. The Bureau anticipates beginning with enforcement regulations, followed by licensing, and then any remaining sections that need to be addressed.

8. Discussion of Posting Administrative Citations to the Bureau's Website

Ms. Moore stated that at the Bureau's last meeting (November 2014), discussions began about whether the Bureau should post administrative citations on its website and if so, how much information should be posted and when is it appropriate to do so. There was a lot of discussion on this topic at the last meeting, with varying opinions. In an effort to continue the discussion today, the Bureau gathered some information about the citations issued in 2014.

In 2014, the Bureau issued a total of 155 citations, 122 on the funeral side and 33 on the cemetery side. Of those 155 citations, 98 included a monetary fine. The breakdown for cemetery citations and funeral citations can be found in the handout provided.

For comparison, there are eight bureaus within the Department who operate similarly to us. Out of those, five bureaus post administrative citation information in one form or another on their website. Ms. Moore believes the Bureau should post administrative citations after all appeals have been exhausted. Ms. Moore asked the Members for their thoughts on this.

Member Jolena Grande stated that when you read disciplinary actions the Bureau takes against licensees it seems out of the blue and that it would be beneficial, from a consumer's point of view, to have the citations listed because it shows a progression of action taken against the licensee.

On the issue of posting enforcement actions, Angelique Scott stated the decision should be what type of information and when it should be posted because the Bureau is statutorily required to post enforcement actions, such as citations, by Business and Professions Code section 27.

After brief discussion the consensus was the Bureau should post citations after all appeals, or the timeframe for appeals, have been exhausted. Ms. Moore stated that the Bureau will look at what some of the other bureaus are doing and determine the most appropriate way to report the information in a simple enough manner so it is meaningful to people.

Member Chris Donhost asked if citations will include what the licensee is being cited for and an explanation of what that code or violation is. Ms. Moore stated that is correct. Citations outline the code sections from the law and state the violation(s) found and whether it's based on an inspection or investigation. Citations also include standard language stating the appeal process.

Ms. Moore stated the Bureau will explore options for the format in which citations could be posted and report back at the next meeting for the Committee to make a recommendation. After a decision is reached, the Bureau will begin posting citations on our website.

9. Public Comment on Items Not on Agenda

Ms. Moore asked if there was anyone who would like to make public comments about items not on the agenda.

Mr. Donhost stated that in the minutes from the last meeting there was brief discussion on continuing education and asked for clarification if these were repealed. Ms. Moore responded that the authorizing statute for continuing education was repealed in 1999 and the Bureau has repealed the regulations since there is no longer an authorizing statute.

10. Future Meetings (June 2016)

Ms. Moore stated the Bureau will have its next meeting in June 2016 depending on the availability of all Members.

11. Adjournment

Ms. Moore thanked everyone for attending. The meeting was adjourned at approximately 10:50 a.m.