

CFB Advocate

CONTENTS

CHIEF'S MESSAGE.....	2
WELCOME NEW ADVISORY COMMITTEE MEMBERS.....	3
STAFF UPDATES.....	3
CONSUMER PRENEED RIGHTS.....	4
WEB SITE REDESIGN.....	5
HOW TO FILE A COMPLAINT.....	6
REMINDER: SYNC UP CASKET PRICES WITH DISPLAYS.....	6
APPRENTICE EMBALMER Q&A.....	7
B&P CODE SECTION 9710.....	8
DISCIPLINARY ACTIONS.....	8

CONTACT US:

Cemetery and Funeral Bureau

1625 North Market Blvd.
Suite S-208
Sacramento, CA 95834

Tel (916) 574-7870
Fax (916) 928-7988
www.cfb.ca.gov
E-mail cfb@dca.ca.gov

or

Department of Consumer Affairs
Consumer Information Center
(800) 952-5210

Strategic Plan

The Cemetery and Funeral Bureau has a new Strategic Plan. The Bureau's Strategic Plan is essentially an outline of what the Bureau would like to accomplish in the next three years. As part of the Strategic Plan process, the Bureau is updating its mission, vision, and values:

- **Mission:** The Cemetery and Funeral Bureau advocates for consumer protection and licensee compliance through proactive education and enforcement of laws and regulations of the death care industry.
- **Vision:** We will be the premiere organization ensuring that consumers make informed decisions in a fair and ethical marketplace.
- **Values:** Collaboration, Compassion, Professionalism, Accountability, and Innovation.

Some of the goals included in the Strategic Plan are improving the Bureau's Enforcement operations, effectively using the Bureau's Advisory Committee, strengthening the Bureau's Licensing operations, improving the Bureau's Audit process, improving the Bureau's consumer and industry outreach efforts, and developing a legislative and regulatory plan. The final Strategic Plan for 2011-2014 is posted on the Bureau's Web site www.cfb.ca.gov under the "About Us" tab.





Bev Augustine

Message from the Chief

The first half of 2011 went by in a flash here at the Bureau. I have had the pleasure of meeting many of you and continue to welcome any opportunity to speak with you individually or as a group.

We have been focusing on three major activities since January:

- **New strategic plan.** I am happy to report that it is now final and is posted on our Web site at www.cfb.ca.gov under the “About Us” tab. We are now working to create action plans, with due dates, to accomplish the objectives we’ve set forth. There is nothing worse than a strategic plan that simply sits on the shelf.
- **New advisory committee.** We appointed a mostly new advisory committee (only one former member remains, Merrill Mefford). I’d like to thank those of you who served previously – Glenn Bower, Andy Bryant, Royce Ann Ruhkala Burks, Linda Cooke, Virgil County, Lisa Messina, George Prather, Steve Schacht, Eva Shaw, Anthony Wallace, Felicia Winston, and Betty Cooper Youngren. We held our first meeting on June 17 in Sacramento. We know our members are committed to public service — they traveled to the meeting even though we were unable to pay them per diem or reimburse their travel expenses.
- **Rulemaking.** With the assistance of several of you, we have drafted cemetery maintenance standards as required by Business and Professions Code 9612. We hope to submit our draft language to the Consumer Affairs’ Executive Office, State and Consumer Services Agency, and the Office of Administrative Law in the next six to eight weeks. Next, we will tackle technical changes to Section 100 of the cemetery and funeral regulations, as well as begin work on the required limited liability corporation regulations.

I have been with the Department of Consumer Affairs since 1986; I remain continually impressed with the Cemetery and Funeral Bureau staff, who are among the most committed and professional staff I have worked with. Our successes this year would not have been possible without them.

As always, I welcome your comments and questions about the Bureau’s activities. Please e-mail me at bev.augustine@dca.ca.gov or call me at (916) 574-8203.

I hope you enjoyed your summer!

Bev

Welcome New Advisory Committee Members

Please join the Cemetery and Funeral Bureau in extending a warm welcome to our new Advisory Committee Members. Our current Advisory Committee comprises seven members, three public members and four industry members. In selecting the members, the Bureau attempted to create a diverse and representative mix of geographic regions, licensing and consumer advocacy backgrounds, and professional experience. The members are listed below in alphabetical order:

Fredrick Belt was appointed as an industry member, is from Northern California, and is a cemetery manager at Westwood Hills Memorial Park. He has also been a member of the El Dorado County Cemetery Committee.

Caroline Flanders was appointed as an industry member, is from Southern California, and is a licensed funeral director who previously operated her own funeral establishment and worked with her chaplaincy.

Merrill Mefford was appointed as an industry member, is from Southern California, and is the only member of the current Advisory Committee who previously served on a Committee. He holds licenses as a funeral director, embalmer, cemetery manager, cemetery broker, and crematory manager and is affiliated with Rose Hills Mortuary, Rose Hills Memorial Park, and Rose Hills Crematory.

Phyllis Montero was appointed as a public member, is from Northern California, and is the Associate Director of the Diocese of Sacramento Department of Cemeteries. She worked with Yolo Hospice for many years as a bereavement counselor.

Cheryll Moore* was appointed as a public member, is from Northern California, and is a Los Rios College professor in the gerontology department. She also is a board member of the Funeral Consumers Alliance of Northern California.

Robert Mull was appointed as a public member, is from Southern California, and is a retired peace officer. He worked as an apprentice in a funeral establishment prior to enlistment in the United States Air Force, and is currently a decedent investigator for the Orange County Deputy Public Administrator.

John Resich was appointed as an industry member, is from Southern California, and holds a cemetery salesperson license. He is also a corporate officer for Green Hills Memorial Park and is an attorney.

**Cheryll Moore of the Advisory Committee is of no relation to Cemetery and Funeral Bureau Deputy Chief Lisa Moore.*

Staff Updates

The Bureau would like to extend a warm welcome to our newest staff member, Allison Davis. Allison joined our Enforcement Unit on March 21, bringing with her 21 years of experience with the Department of Consumer Affairs. Most recently she worked on a pilot program, along with several other State agencies, in an attempt to break into

the underground economy and prevent unlicensed activity. Prior to this, Allison spent many years with the DCA Complaint Resolution Program, working to educate licensees and consumers alike, along with offering mediated assistance in resolving their complaints.



Consumer Preneed Rights

The Department of Consumer Affairs, Cemetery and Funeral Bureau (Bureau) receives many calls from consumers regarding preneed funeral (burial or cremation) arrangements. Below are the most common questions asked about preneed arrangements, but if you don't see your question answered, and can't find the answer in our *Consumer Guide to Funeral and Cemetery Purchases* or *Preneed Q & A* pamphlet, give us a call Monday through Friday between the hours of 8 a.m. and 5 p.m. at (916) 574-7870.

Q: I don't want my loved one to have to make funeral plans while they are grieving, so I've decided I need to make my own preneed funeral arrangements. What do I do now?

A: Making your own preneed (before death) instead of at-need (after death has occurred) funeral arrangements can be a big help to your loved ones. Ask friends and family for recommendations, look online, or check the yellow pages to find one or more funeral establishments in your area to compare costs and services. Visit our Web site at www.cfb.ca.gov to check the license status of the funeral establishment(s) you are interested in. All funeral establishments located in California are required to be licensed, and you can check their licensing and disciplinary history by calling the Bureau at (916) 574-7870/TTY (916) 322-1700. Be sure to obtain a copy of the Bureau's *Consumer Guide to Funeral and Cemetery Purchases* and our *Preneed Q & A* pamphlet from our Web site to help you understand your rights and obligations before you enter into a binding contract. You may also wish to consult your attorney. (If you don't have a computer, the local library usually offers free Internet service. Or you can call the Bureau and we will mail you the publications.)

Q: I want to prepay my funeral expenses, but I'm confused about exactly what I'm paying for and how I'm paying for it. Where does my money go?

A: Make sure your contract indicates that the price for funeral services is guaranteed. There will be some items that cannot be guaranteed by the funeral establishment because they are items the establishment secures for you from a third party, such as the death certificate (which is issued by the county) or the obituary (which is handled by the newspaper). Once you have selected the services, the payment for them can take many forms. Not all funeral establishments utilize all of the following payment methods, but typical ones are life insurance, funeral insurance, funeral trusts, and savings/pay-on-death accounts. If you are purchasing any type of insurance, be sure to get a copy of the policy and understand all of its terms and conditions. Double check on who the beneficiary of the policy is, and what happens to any funds that exceed the funeral costs (or what happens if death occurs before the policy is fully paid).

You can get information on the insurance company by calling the Department of Insurance at (800) 927-HELP. If your money is going into trust, get the name of the trustee from the funeral establishment, be sure to understand the terms of cancellation (typically 15 days with written notice, unless it is an irrevocable trust), how the taxes on interest are handled (do you get a Form 1099 to report on your taxes or are the taxes on earnings paid for you), who receives any funds remaining after the contract is fulfilled, and what happens if death occurs before the contract is paid in full. Be aware that an administrative fee can be taken out of the interest earned, as well as a revocation fee if the trust is cancelled. A savings account or pay-on-death account gives you the most control over your funds, because you set it up directly with a bank, but the funeral establishment may not provide a guaranteed cost contract for this type of payment arrangement.

Q: I'm moving out of state/changed my mind about burial/need my preneed funeral service agreement funds back because of financial hardship, and it is after the initial cancellation period. How do I get my money back?

A: The answer to this question depends on how your money was invested. The funeral establishment can't just take your preneed money and put it in their general operating account — it must be placed into a trust (or you can open a savings account or pay-on-death account). If you instead purchase an insurance policy, the terms of the policy dictate how much money, if any, will be returned to you if you cancel. If the money is in an irrevocable trust (generally entered into if the consumer receives public assistance and can only have limited assets) the funds are generally nonrefundable. Money that is in a trust that is not in an irrevocable agreement may be terminated with written notice. The funeral establishment has 15 days after receiving the written request to return the money to you. Be aware that you may not receive any interest on the money because 10 percent of the amount you paid in can be charged against the interest earned as a "revocation fee," and a 4 percent per year administrative fee may be charged against any interest earned. Therefore, you should receive back the entire principal sum you paid, but you may not receive anything more than that.

Q: My mother entered into a preneed funeral service contract many years ago, but now that she has passed away, we are having trouble finding the funeral home. Can you help us?

A: Yes, in most cases we can. Funeral establishments, like other businesses, can change ownership, name, or location over time. The Bureau keeps track of these changes, and can help you find the establishment under its current name or new location. Call us at (916) 574-7870 or look on our Web site www.cfb.ca.gov under "License Verification," "Funeral Establishment," and then search by "county" to see if you can match the address or license number. Unfortunately, in rare instances, if the funeral establishment closed its doors in prior decades, the Bureau may not have current contact information. In that case, if the preneed funds were placed in trust, you may want to check with the California State Controller at www.sco.ca.gov and conduct a search for unclaimed property to see if the funds were escheated to the State after the establishment closed.



Web site redesign

As part of our new Strategic Plan, the Bureau established the redesign of our Web site at www.cfb.ca.gov as a goal. We want to make it more functional, user-friendly, and visually pleasing. The Advisory Committee will be addressing this issue in the near future, but we would also like to hear from the licensees and consumers who use our Web site on what they would like to see. Have an opinion or suggestion? E-mail them to Bureau Analyst Joy Korstjens at joy.korstjens@dca.ca.gov with the subject line "Web site redesign."



How to File a Complaint

If you are unable to resolve a problem with a licensee, you can file a complaint with the Bureau. We license and regulate private cemeteries (COA), cemetery managers (CEM), crematories (CR), crematory managers (CRM), cemetery brokers (CEB) (CBB) (CBA), cemetery salespersons (CES), cremated remains disposers (CRD), funeral directors (FDR), funeral establishments (FD), embalmers (EMB), and apprentice embalmers (AE).

The Bureau does not license or regulate monument companies or casket retailers. Complaints regarding those businesses should be directed to the Better Business Bureau or the local district attorney. Disputes over monetary issues may need to be settled in small claims court. The Department of Consumer Affairs Web site at www.dca.ca.gov contains a publication titled *The Small Claims Court A Guide to Its Practical Use* which contains valuable information for those utilizing small claims court to resolve their complaint.

Our Web site at www.cfb.ca.gov contains both downloadable complaint forms and the ability to file a complaint online. In order to expedite processing a complaint regarding a contract, it is advisable to download a complaint form and mail it with copies of all applicable documentation (contracts,

correspondence, death certificate, photographs, etc.) If a complaint is received without supporting documentation that is central to the allegation(s), a letter must be sent to the complainant requesting that a copy of the necessary contract, letter, or form be submitted to the Bureau, and that slows down the investigation process. Please be sure to send copies of the documentation, as we are unable to return the originals.

Once the Bureau has received your complaint, it will be reviewed for jurisdiction and assigned a complaint number. Business and Professions Code section 129 requires that complainants receive a complaint acknowledgement letter within 10 days of receipt by the Bureau. The letter will include the number assigned to the complaint, the name of the staff member to whom it has been assigned, and a request for necessary documentation if it was not included with the original complaint. The complaint investigation itself may be lengthy, and will usually include contact by the Bureau staff member handling the complaint, so it is important to include all of your contact information with the complaint and to update it as necessary. Complaints may also be handled by the Department of Consumer Affairs' Complaint Resolution Program.

Reminder: Synchronize Casket Price List With Displays

Just a quick reminder to funeral establishment licensees to synchronize your casket price list (CPL) and displayed caskets. Whether you change one price or ten, if you make a change to your CPL, you need to change the casket price cards and tags on the physically or photographically displayed corresponding caskets and alternative containers. Similarly, if the manufacturer discontinues a

particular casket model that is on your CPL, be sure to remove that listing (a sticker over the unavailable casket is acceptable). If you sell the one physically displayed \$15,000 solid redwood casket with medium finish and a beige velvet interior, it's OK to replace it with a photograph of the item until a new model arrives with your Thursday shipment. Just make sure the photograph contains a price tag with the applicable information.

Apprentice Embalmer Q&A

What do I do with the Certificate of Registration as an Apprentice Embalmer when I receive it from the Bureau?

The Certificate of Registration must be displayed conspicuously in the funeral establishment.

When do I file the report of apprenticeship that was included with my certificate of registration?

The report of apprenticeship must be filed as follows:

- On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.
- Upon change of supervising embalmer or employer, or both.
- Upon completion of apprenticeship.
- Upon application for leave of absence for a period in excess of 15 days.
- Upon suspending apprenticeship to attend embalming college.

What information must be on the report of apprenticeship?

It is very important that each box on the report be filled in. Credit for time worked and cases embalmed is granted based on the dates you entered on the report. For instance, if your apprentice certificate is issued on January 1 and you report the beginning date on your report as February 10 because that is the date of the first case you assisted in embalming, you will lose one month and 10 days of credit. The same happens on the ending date of the report, if at the end of the year the last case you embalmed was on November 30 but you continued to work cosmetizing, dressing and casketing, etc., until December 31, your report should have the ending date of December 31.

The supervising embalmer must sign the first page of the report as well as each case listed on the case list (page 2). If additional pages of the case list are required you may download the report of apprenticeship from our Web site: www.cfb.ca.gov. The managing funeral director must also sign the first page of the report.

The report may be mailed or faxed to the Bureau:

Cemetery and Funeral Bureau
1625 N. Market Blvd. Suite S-208
Sacramento, CA 95834
Fax: (916) 928-7988

Business and Professions Code section 7665(b) states in part: Upon request of the Bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the Bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.)

Who is responsible for filing the “Approval to Train Apprentice Embalmer” application?

An “Approval to Train Apprentice Embalmers” must be issued to the all-funeral establishments that employ apprentice embalmers. The approval will expire on December 31 each year; an application should be submitted each new year by January 15 by the managing funeral director. Once the approved application is received by the funeral establishment it should be posted with the apprentice’s certificate of registration.



Cemetery Brokers: Return Unused Licenses

Business and Professions Code section 9710 states, in part:

Immediately upon the salesperson's withdrawal from the employ of the broker, the broker shall return the salesperson's license to the Bureau for cancellation.

When cemetery salespersons licenses are not removed and returned to the Bureau for cancellation as required, a renewal notice is printed and a return envelope is sent for each

salesperson at the beginning of April each year. Following this mailing, the Bureau receives hundreds of renewal applications back from brokers' offices for cancellation. Please help us avoid the extra expense of printing and mailing renewal notices to cemetery sales staff that are no longer under your employ by cancelling the license promptly as required by law. If you have any questions, please contact Cat Lital in our Licensing Unit (916) 574-7875.

Disciplinary Actions

Below are the Cemetery and Funeral Bureau enforcement actions from November 2010-May 2011. Please contact Bureau staff at (916) 574-7870 with any questions.

LICENSEE/APPLICANT	CASE #	DEC TYPE	DECISION	EFFECTIVE DATE
Nicolas E. Crespin SOI CES application denied	A1 2009 222	Adp Dec	Probation	12.05.10
Robert L. Adams SOI EMB application denied	A1 2010 31	Adp Dec	Denial	1.20.11
Calderon Funeral Home ACC FD 1988	A1 2009 378	Default	Revoked	2.20.11
Greg Calderon ACC EMB 8288	A1 2009 378	Default	Revoked	2.20.11
Greg Calderon ACC FDR 1487	A1 2009 378	Default	Revoked	2.20.11
Hunter Perez SOI FD application denied	A1 2008 250	Default	Denial	5.17.11
Southland SOI CR application denied	A1 2008 106	Default	Denial	5.17.11
Roger Barchenger SOI AE application denied	A1 2010 199	Default	Denial	5.17.11
Joal J. Zrelak ACC FDR 982	A1 2009 332	Default	Revoked	5.25.11

ACC= Accusation

SOI= Statement of Issues

ADP DEC= Adopted Decision