

NEVADA FUNERAL AND CEMETERY SERVICES BOARD
Legislative Subcommittee

MINUTES

Monday, July 28, 2014, at 1:00 p.m.

Meeting via Teleconference with Public Access Location at:
Legislative Building
401 South Carson Street, Room 2134
Carson City, Nevada 89701

1. Call to order, roll call, establish quorum

Members Present

Bart Burton
Tammy Dermody
John Lawrence
Todd Noecker

Board Staff Present

Jennifer Kandt, Executive Director
Henna Rasul, Senior Deputy Attorney General

Members Absent

Chris McDermott

Meeting was called to order by subcommittee chair, Bart Burton at 1:03 p.m.

2. Public comment

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

3. Discussion, recommendation, and possible action regarding minutes of July 1, 2014 meeting (For possible action)

Todd Noecker moved to approve the minutes. The motion was seconded by Tammy Dermody and carried unanimously.

4. Discussion, recommendation, and possible action regarding recommendations to be made to the full Board for possible changes to NRS 642, NRS 451 and NRS 452. (For possible action)

The subcommittee addressed each item on the list of possible topics presented at the meeting. Item 1 regarding continuing education was discussed and John Lawrence stated he didn't think the subcommittee should be discussing continuing education if

they weren't going to be addressing the larger issue of increasing licensing standards for funeral directors and embalmers and operators of mortuaries.

There was discussion that some of the topics that the subcommittee may want to address will need more time and buy in from licensees and that it would be too rushed for this legislative session. There was discussion that some of these topics are simple and can go forward.

There was discussion that 9-12 hours per year would be appropriate, and that the full Committee could give further input on the number of hours. Todd Noecker stated that he felt the hours should be split between various topics. There was further discussion that those details could be dealt with in regulation.

John Lawrence moved to recommend 10 hours per year of continuing education be required for funeral directors and embalmers. The motion was seconded by Tammy Dermody and carried unanimously.

Item 2 regarding certification of operators of crematories was discussed. There was general consensus that this item needed to be addressed. Todd Noecker moved to make the recommendation to the full committee that they move forward with requiring the operators of crematories to be certified and that they be required to take the Nevada Law Rule and Regulation test. The motion was seconded by Tammy Dermody and carried unanimously.

Item 3 regarding requiring fingerprint based background checks was discussed. Jennifer stated that the Board previously conducted fingerprint checks, but that DPS stopped allowing the process after the FBI indicated that only agencies with specific statutory authority could utilize fingerprint based checks. Jennifer stated that the Board was tasked with ensuring that applicants are of good moral character and that determining previous criminal history is one component of that determination.

Tammy Dermody moved to recommend authorizing fingerprint based background checks. The motion was seconded by John Lawrence and carried unanimously.

Item 4 regarding disciplinary action for crematories and cemeteries was discussed. Jennifer stated that the current NRS does not allow for disciplinary action of crematories and cemeteries other than immediate suspension or revocation of their license. She stated that typically there would be steps prior to suspending a license and that this request is to add crematories and cemeteries under the disciplinary action sections.

There was discussion that many cemeteries are owned and operated by the city or county, and not licensed by the Board.

Henna stated that under the current NRS, there is not authority to discipline these licenses that are being issued, so if a complaint is brought forth against a crematory not associated with an establishment, there is no authority for discipline other than immediate suspension.

Todd Noecker moved to add a responsible party to each cemetery and crematory license. The motion was seconded by John Lawrence.

Henna advised that she felt the motion needed to be more clear, as the request is add crematories and cemeteries under the current disciplinary statute.

Todd Noecker amended the motion to recommend adding crematories and cemeteries under the disciplinary statutes. The amended motion was seconded by John Lawrence and carried unanimously.

Item 5 regarding clean-up of various language relating to duties of secretary and treasurer as many of those items are handled by board staff and to revise various items that refer to Board chair and Board president for consistency.

John Lawrence moved to recommend moving forward with item 5. The motion was seconded by Tammy Dermody and carried unanimously.

Item 6 regarding the Attorney General's Office having the authority to dismiss complaints was discussed. Jennifer stated that the request is add language that would state the Attorney General's Office recommends various actions that the Board would then take.

Todd Noecker moved to change the language within the section to reflect that the Attorney General's Office recommends various actions. The motion was seconded by Tammy Dermody and carried unanimously.

Item 7 regarding certification of funeral arrangers was discussed. Bart stated that this was going to be an item requiring much more detailed discussion and time to have buy in from people in the industry.

John Lawrence stated that he felt the Board needed to increase the standards and he thought that by adding a 3 year period to come into compliance, it wouldn't be difficult.

Tammy Dermody stated that it would be better to take time to proceed with this item in a thoughtful manner.

There was general consensus that this item continued to be discussed, and not move forward at this time.

Tammy Dermody moved to table this item. The motion was seconded by John Lawrence and carried unanimously.

Item 8 to define reasonable time for cremation was discussed. Jennifer stated that it has come up with individuals claiming that even after all paperwork is completed, the cremation may take several weeks and that it is unclear what reasonable might be.

John Lawrence stated that there were variances in how each case might be handled and to try to attach a specific time to this would be difficult. There was general consensus that this remain unchanged.

John Lawrence moved to keep this item unchanged. The motion was seconded by Tammy Dermody and carried unanimously.

Item 9 regarding funeral service practitioner license was discussed. John Lawrence stated that this would need to be tabled as it would be an involved discussion.

John Lawrence moved to table this item. The motion was seconded by Todd and carried unanimously.

Item 10 regarding ABSFE certification was discussed. Todd Noecker recommended that this item be tabled. Todd Noecker moved to table item 10. The motion was seconded by Tammy Dermody and carried unanimously.

Item 11 regarding allowing funeral directors to manage no more than one establishment was discussed. Tammy Dermody moved to table this item. The motion was seconded by John Lawrence and carried unanimously.

Item 12 regarding having a funeral director at each location was discussed. There was some discussion that this may already be established. John Lawrence moved to table item 12. The motion was seconded by Tammy Dermody and carried unanimously.

Item 13 to require each establishment to have a licensed embalmer at each location was discussed. John Lawrence moved to table this item, and then withdrew the motion as there was discussion that item 16 should be addressed prior to item 13.

Item 16 regarding eliminating the license to conduct direct cremation and immediate burials was discussed. There was general consensus that this license type be eliminated to protect the general public.

There was discussion that an establishment could still only conduct direct cremation and immediate burials, but they should still be fully licensed.

John Lawrence stated that many of these places are cutting corners, and that if the Board created a funeral practitioner license there would be less unprofessionalism in the industry.

Todd Noecker moved to eliminate the limited license statute. The motion was seconded by Tammy Dermody.

The subcommittee revisited item 13 regarding having a licensed embalmer available at each establishment.

John Lawrence moved to require each establishment to have access to a licensed embalmer 24 hours a day 7 days a week. The motion was seconded by Tammy Dermody and carried unanimously.

Item 14 regarding changing the definition of funeral establishment to allow for inactive preparation rooms and requiring refrigeration.

John Lawrence stated that he felt there should be consideration with rural areas, and that if you cannot embalm a body at an establishment, then it is not a true establishment. He said he was ok with a central care facility in a large population center, but in a rural area, he stated that would not work. John Lawrence stated that he would recommend that a central care location would need to be within 50 miles or less.

Todd Noecker discussed adding language stating that a body must be embalmed, buried, cremated, or refrigerated within 24 hours.

NRS 451.675 was discussed and there was some concern that it may not be clear in regards to refrigeration.

Tammy Dermody stated that she felt that if they were to be required to meet OSHA requirements in terms of an eye wash station and ventilation it would be beneficial.

Todd Noecker read the Arizona statute and moved to recommend that the Nevada definition be changed to require an establishment to be maintained in a sanitary manner with all equipment needed to ensure the safety of the public and employees having adequate ventilation and supplies necessary for embalming but nothing prohibiting embalming from occurring at a central location. The motion was seconded by John Lawrence and carried unanimously.

Item 15 regarding various items pertaining to order of disposition was discussed. There was discussion that a power of attorney or advanced health care directive at death was no longer valid upon death and that establishments currently require an ex-parte order from the county prior to cremation. There was discussion that an ex-parte order is obtained if the person seeking to cremate does not fall under the guidelines of the next of kin.

There was discussion that a POA was not accepted by funeral establishments, and that further information was required from the Attorney General's Office on whether POA would be valid after death and if so, do they have to give a directive on disposition in the POA. Henna stated that she would look further into whether POA's could be accepted after death or not.

There was discussion on joint tenancy and there being confusion that joint-tenancy refers to individuals that own property together in joint tenancy and that there is confusion that it means people who live together.

John Lawrence moved to change the list of those authorized to order disposition to add POA if it is established that it is a valid document after death, to add ex-parte order by

county of residence of decedent, and remove the joint tenancy section. The motion was seconded by Tammy Dermody.

There was discussion that legal counsel still needed to advise whether a POA is valid after death.

Item 17 regarding disciplinary action corresponding to specific offenses was discussed. Jennifer stated that it may be difficult to try to figure out specific discipline for each offense as there are so many variations.

Tammy stated that she was fine leaving this as is as long as the Board was consistent with how they handed out discipline.

Henna explained the hearing and complaint process, and there was discussion on why the Board had not taken disciplinary action in the past. There was discussion that it was possible that many complaints were being handled informally. Legal counsel advised that the Attorney General's Office had very few files on anything for this Board as very little was referred to the office. There was discussion that moving forward, the Board would be taking appropriate action and not informally resolving complaints.

John Lawrence moved to leave item 17 unchanged, but with better monitoring of what is already in place. The motion was seconded by Todd Noecker and carried unanimously.

There was discussion on item 18 regarding licensing those who are selling pre-need. There was some discussion that the Division of Insurance licenses these individuals. Todd stated that there were issues with the individuals selling pre-need, then the funeral establishment is charged with fulfilling the pre-need agreement which may be inadequate.

Todd Noecker stated that the people selling pre-need are essentially arranging a funeral which is work that a funeral director should be doing, so having the individuals dually licensed would be beneficial. He stated that he felt that at least they should have to pass the Nevada Law Rule and Regulation test.

There was general discussion that the subcommittee should continue to discuss this item.

Tammy Dermody moved to table this discussion. The motion was seconded by John Lawrence and carried unanimously.

NRS 642.465 dealing with display of establishment license was not on the list, but Jennifer stated that there appeared to be issues with how the licenses are currently being issued in the name of the owners. There was general consensus that this be addressed in the future.

5. Discussion regarding future agenda items and future meeting dates

There was general consensus that the meeting be scheduled in coordination with upcoming full Board meetings.

6. Public comment

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7. Adjournment (For possible action)

John Lawrence moved to adjourn the meeting. The meeting was seconded by Tammy Dermody.

Bart thanked Jennifer for her hard work and for accomplishing so much in a very short time frame.