

NEVADA FUNERAL AND CEMETERY SERVICES BOARD
Legislative Subcommittee

AGENDA AND NOTICE OF PUBLIC MEETING

Thursday, September 25, 2014, at 10:00 a.m.
Meeting via Teleconference with Public Access Location at:
Funeral and Cemetery Services Board Office
501 Hammill Lane
Reno, Nevada 89511

Please Note: The Board may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; and 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.030)

Public comment is welcomed by the Board, but at the discretion of the chair, may be limited to five minutes per person. A public comment time will be available before any action items are heard by the public body and then once again prior to adjournment of the meeting. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the commencement and conclusions of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment.

Action by the Board on an item may be to approve, deny, amend, or table.

1. Call to order, roll call, establish quorum

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 28, 2014 meeting (For possible action)

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)**

5. **Discussion regarding future agenda items and future meeting dates**

6. **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)

7. **Adjournment (For possible action)**

Anyone desiring additional information including meeting materials may contact Jennifer Kandt at 775-825-5535. Meeting materials are also available for download from the Board website at <http://funeral.nv.gov>

The Board is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Jennifer Kandt at 775-825-5535, no later than 48 hours prior to the meeting. Requests for special arrangements made after this time frame cannot be guaranteed.

This agenda has been sent to all members of the Board and other interested persons who have requested an agenda from the Board. Persons who wish to continue to receive an agenda and notice of meetings must request so in writing every six months.

**THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED
IN THE FOLLOWING LOCATIONS:**

Reno City Hall One E. First Street Reno, NV 89501	Office of the Attorney General 100 N Carson Street Carson City, NV 89701	Grant Sawyer State Office Building 555 E. Washington Ave. Las Vegas, NV 89101
	Nevada Funeral and Cemetery Services Board Office 501 Hammill Lane Reno, NV 89511	

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

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)

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.

Topic	Relevant NRS References	Considerations
1) Addition of Continuing Education Requirements for Funeral Directors and Embalmers	NRS 642.120 NRS 642.430	How many hours per year? Does Board approve continuing education? Process for approval? Subjects?
2) Certification for operators of crematory equipment	NRS 451.635	Add language to require licensed operator (owner) ensure that each person who physically operates the crematory has completed a certification course. The Board may verify certifications during inspections.
3) Request authority for Board to conduct FBI fingerprint based background checks.	New section within 642	
4) Change grounds for disciplinary action to include crematories and cemeteries	NRS 642.470 NRS 642.480	
5) Changes to various sections dealing with duties of treasurer and secretary as many of these duties are completed by Board staff, as opposed to secretary of Board. Additionally, secretary should not need to furnish lists of embalmers to railroads and transportation companies. Lastly, there are references to Board Chair and other references to President – should be consistent.	NRS 642.040 NRS 642.070 NRS 642.140 NRS 642.210 NRS 642.230 NRS 642.240 NRS 642.290	
6) Change of language to state that the Attorney General shall “recommend” various outcomes pertaining to investigation of alleged violations	NRS 642.0677	
7) Add certification requirements for “Funeral Arranger”	New section within 642	Definition of “Arranger”? Education and testing requirements? Renewal requirements? Discipline? Is this a common certification in other states? How to handle those already working?
8) Create “Funeral Service Practitioner” license – Dual FD/Embalmer and require that establishments employ a full-time FSP at each location	New section within 642 and amend various sections as referenced in document submitted by John Lawrence	

9) Require that the funeral director approved to manage each establishment be ABSFE certified	NRS 642.345	
10) Allow funeral directors to be approved to manage no more than one facility.	NRS 642.345	How to handle funeral directors already approved to manage more than 1 facility?
11) Require that each funeral establishment have a licensed funeral director	NRS 642.345 or NRS 642.365	Is this covered in NRS 642.345?
12) Require each establishment to have a licensed embalmer available 24/7	New Section in 642 or NRS 642.365	
13) Change definition of "funeral establishment" <ul style="list-style-type: none"> * Do not mandate instruments and necessary supplies for preparation and embalming of dead human bodies in inactivate preparation rooms. *Facility must still be equipped to meet OSHA requirements *Add refrigeration storage for un-embalmed remains 	NRS 642.016	Conflict with recommendation above? Require an Embalmer but not embalming equipment?
14) Change authority to order cremation <ul style="list-style-type: none"> *unless POA/Advance Health Care Directive has given right of disposition of remains to the attorney-in-fact it is not a legal document for disposition of human remains, especially when cremation is involved. *remove person who held primary domicile in joint tenancy *add EX-PARTE issued by county of residence of decedent 	NRS 451.650	
15) Eliminate "limited license" – license to conduct direct cremations and immediate burials	NRS 642.355	What would the Board do to address the licenses which have already been issued under this category?
16) Add requirements to license pre-need sales person	Add new section to NRS 642	
17) Add language regarding no prohibition against doing business under a fictitious name if the entity has complied with the requirements of NRS 602.010	NRS 642.465	

NRS 162A.270 Termination of power of attorney or authority of agent.

1. A power of attorney terminates when:
 - (a) The principal dies;
 - (b) The principal becomes incapacitated, if the power of attorney is not durable;
 - (c) The principal revokes the power of attorney;
 - (d) The power of attorney provides that it terminates;
 - (e) The limited purpose of the power of attorney is accomplished; or
 - (f) The principal revokes the agent's authority or the agent dies, becomes incapacitated or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.
2. An agent's authority terminates when:
 - (a) The principal revokes the authority;
 - (b) The agent dies, becomes incapacitated or resigns;
 - (c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or
 - (d) The power of attorney terminates.
3. Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection 2, notwithstanding a lapse of time since the execution of the power of attorney.
4. Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.
5. Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.
6. The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

(Added to NRS by [2009,177](#))