

**NEVADA FUNERAL AND CEMETERY SERVICES BOARD**  
Legislative Subcommittee

**MINUTES**

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***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

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**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

**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)**

Tammy moved to approve the minutes. The motion was seconded by Todd 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)**

Jennifer stated that there were certain items highlighted in blue that had already been approved by the full Board and sent to the sunset subcommittee for inclusion in the final report. She also stated that she could draft possible language for the full Board to review in the event that the Legislative Commission decides that the Board can move forward with a BDR. There was general consensus that Jennifer draft possible

language for approval at the October Board meeting. Additionally she stated that she would begin a separate list of items for regulatory changes. She stated that the items highlighted in yellow could likely be addressed in regulation.

There was discussion that the subcommittee may want to wait on addressing some of the items on the list of topics as the Conference was going to be releasing a Model Practice Act that might be a useful resource prior to the Board making changes.

There was discussion on licensing pre-need sales people and clarification that the Division of Insurance licenses pre-need sales people, but some of them are not just selling a funeral life policy, but are actually arranging a funeral. Todd stated that he felt those individuals should at least be able to pass the law, rule and regulation exam.

John stated that there is a difference between a funeral plan and a policy, and questioned whether someone selling a funeral plan would already be attached to a funeral establishment. Todd and Tammy stated that they were not always attached to an establishment.

Jennifer stated that she would reach out to other states to see what they were doing, and would also reach out to the Division of Insurance to see if they are encountering any issues.

There was discussion on whether the Board should implement a funeral arranger or funeral counselor license. John stated that he felt they should have to take the funeral director test and that they may need an AA degree, but that they would not be in a leadership position, but just meeting with families. He also stated that there could be an internship.

Jennifer stated that the current requirements for a funeral director did not require any education or internship, but only that they need to take two tests and be of good moral character.

John stated that he would like to see language changed regarding funeral directors and stated he wanted them to be called funeral service practitioners and then also have funeral arrangers.

Tammy asked what would be done with all of the people already practicing.

John stated that they would be given time to meet the requirements. He stated that he did not feel the subcommittee members were understanding what he would like to accomplish with the funeral service practitioner and ensuring that the people managing the establishment were dual licensed as embalmers and funeral directors.

Tammy said that it was the responsibility of the owner of the establishment to ensure that the people working for the establishment are adequately trained. She stated that she did not feel that the manager of an establishment would need to be an embalmer. She stated that she has one of the best embalmers in the country working for her and pointed out that someone who manages a hospital does not need to be a surgeon.

There was discussion on the definition of a funeral director within NRS 642.015 and Jennifer asked when funeral directors are reviewing the contracts for services. There was general consensus that they may not be signing them or reviewing them. Jennifer stated that it seemed unclear what would be unlicensed practice if the definition of a funeral director includes contracting for funeral services.

Henna stated that anyone operating under the scope of that definition would need to be licensed.

Todd stated that the person licensed and approved as the managing funeral director has the liability and that the people arranging are operating under the licensed funeral directors.

Bart asked for the opinion of legal counsel regarding whether someone would need to be a funeral director to meet with families.

Henna stated that the Board does not have a history of how they've applied their statutes, but that she could review legislative history to see if there is any further details on the intent of the definition. Additionally, she stated that it will be up to the Board as matters come before them to set a precedent for interpreting these statutes including issues regarding unlicensed practice.

Bart stated that if it was the intent for funeral directors to be the ones making the funeral arrangements, people are out of compliance because they have misinterpreted the statute or have been unaware of the statute. There was further discussion that if the Board does determine that a funeral director would be required to meet with families, there are no educational requirements, the individuals would only need to take the two tests and be given time to study.

There was further discussion that research into other states and what requirements are in place for the individuals who are meeting with families would be useful.

John moved to table items 7, 8, and 9 on the list of topics. The motion was seconded by Todd and carried unanimously.

Jennifer stated that the Board should be able to address items 10, 11, and 12 in regulation and that she will work toward drafting some changes for the subcommittee to review in the future.

The subcommittee discussed item 14 regarding power of attorney and the statute was provided to the subcommittee members which confirms that a power of attorney becomes invalid upon death.

There was discussion on whether the subcommittee needed to add an ex-parte order, and questions surrounding whether that is already established in the first order of authority as a legally valid document. Legal counsel stated that any legally valid document would be included under this section and that an ex-parte order would be

considered legally valid. There was further discussion that a will, ex-parte order, or any order would fall under this category.

Todd questioned whether subcommittee members were comfortable with the language regarding requiring only one parent, one child, or one sibling as opposed to the majority, and Tammy stated that she was not comfortable with that.

There was discussion that NRS 451.710 gives the authority to refuse cremation if the funeral establishment is aware of any disputes, has a reasonable basis to question the representations made or for any other lawful reason.

Todd stated that people try to deceive the funeral establishments all the time and may be trying to keep family members out of a will or decision making process.

John stated that he has people sign a document stating that there are no objections and that they are authorizing the cremation. He asked if there have been lawsuits concerning this, and Bart indicated that he was not aware of any.

There was discussion that the statute previously required both parents, a majority of the children and a majority of the siblings, but was changed in 2003 to allow for one member to be able to authorize. Henna stated that the legislative history indicated that the change was made as in some cases it was too difficult to get a majority. She stated that the current law does not give the funeral establishment the discretion to require all or the majority for the various next of kin except under certain conditions as indicated in 451.710.

Todd stated he was uncomfortable with that as there may be instances where someone tells you they have a brother who lives in a tent in South Africa, and that they are just fine with the cremation, and they may not be.

John stated that in that situation, the current law would be better, as you may not be able to get the brother in South Africa to sign off, and the family may be telling the truth, and then you would just be making things more difficult for the family. He stated that someone making arrangements needs to be licensed as then they are able to use their judgment in these situations.

Tammy stated that the funeral establishments look like the bad guys when they are trying to protect everyone's rights.

There was further discussion that it may be best to add a discretionary clause to the statute that says the funeral establishments may require the majority for the next of kin at their discretion.

There was general consensus that language be added regarding discretion for the funeral establishment and Jennifer stated she would draft language and have something for the full Board meeting October 14<sup>th</sup>.

There was discussion on NRS 642.465 as Jennifer stated that the permits are required to be issued in the name of the owner, and the statute says that the establishment cannot be operated or advertised as being operated by anyone other than the owner. There was discussion that permits were previously issued in the name under which a funeral establishment conducts business, and that they were then issued under the name of the owner.

Todd stated that in reading the statute it would appear that Davis Funeral Home would have to specify Legacy Funeral Holdings LLC on all advertising and signage, and that Palm would have to include SCI.

Jennifer stated that the wording was somewhat unclear and a change was needed. John stated that he would like legal counsel to look into the legislative history prior to making a decision on a change as he wants to know why it was set up the way it was. Legal counsel advised that she could see what history is available.

Tammy expressed concern regarding requiring changing of signage and the expense, and stated that the purpose of this subcommittee is to bring change to current laws, and felt this was a needed change.

There was discussion that changing the wording of the statute to allow for establishments to operate under a DBA as long as they have complied with NRS 602.010 would be beneficial. Jennifer stated she would draft language for the October 14<sup>th</sup> meeting.

John moved to proceed with item 15, the motion was seconded by Tammy and carried unanimously.

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

There was general consensus that a date would be set by Jennifer at a later time.

**6. Public comment**

Board members asked that Jennifer reach out to Chris McDermott to see if he is still wanting to be on the subcommittee.

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

Bart adjourned the meeting at 11:20am.