

Cemetery & Funeral Bureau
Advisory Committee Meeting Minutes

Thursday, June 13, 2013

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

Advisory Committee Members:

Terry DeWeese
Darin Drabing
Jolena Grande
Tracy Hughes
Cheryll Moore

Guest Attendees:

Merrill Mefford
Gerard Reinert
Jane Hillhouse
Laura Pregent
Sally Weinland
Bob Achermann
Joyce Estes
Royce Ann Ruhkala Burks
Scott Atherton
Holly Blue Hawkins
Eva Miranda
Chad Dresselhaus
Marjorie Bridges
Jerry Desmond

Cemetery & Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; Joy Korstjens, Deputy Chief; Chip Bane, Supervising Governmental Auditor; Cheryl Steurer, Legislative Analyst

Department of Consumer Affairs Staff: Nicholas Reitor, Office of Human Resources

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 10:15 a.m. and welcomed those in attendance. Ms. Moore introduced the Cemetery and Funeral Bureau (Bureau) staff and Department of Consumer Affairs (Department) staff in attendance. Ms. Moore thanked the new Advisory Committee Members for volunteering to serve on the Bureau's Committee. Ms. Moore identified two members that were unable to attend: John Resich, Chairman of the Board and Attorney for Green Hills Memorial Park and a licensed cemetery salesperson; and Victoria Emmons, CEO of HOPE Hospice in Northern California. Ms. Moore asked the members present to introduce themselves; where they are from and whether they are industry or public.

Cheryll Moore¹, public member, is a Professor of Gerontology at American River College where she has taught for over 20 years. She has also served with the Funeral Consumers Alliance representing State consumers.

Jolena Grande, industry member, is a Professor at Cypress College. She started her embalmer apprenticeship in 1989, received her embalmer license in 1992, her funeral

¹ Cheryll Moore is of no relation to Bureau Chief Lisa M. Moore.

director license in 1997, and her crematory manager license in 2004. In addition to working at Cypress College, she works as an embalmer at Riverside Care Center for Service Corporation International.

Tracy Hughes, public member, is a District Attorney with Orange County. She has worked with Orange County's DA office since 1995. She has prosecuted many different types of cases and is currently assigned to the Consumer Protection Unit. The Consumer Protection Unit responds to consumer complaints and works with the Department and other agencies Statewide to protect consumers.

Darin Drabing, industry member, is President and CEO of Forest Lawn Memorial Parks and Mortuaries in Southern California. He has been in the industry for about 29 years, starting with Forest Lawn as an apprentice embalmer in 1984. He is a licensed embalmer, funeral director, and cemetery broker, as well as an insurance salesperson.

Terry DeWeese, industry member, is General Manager at Sunset Lawn Chapel of the Chimes in Sacramento. She has been in the industry in Sacramento for 20 years and started with the Neptune Society. She is licensed as a funeral director, cemetery manager, cemetery broker, and crematory manager.

Ms. Moore thanked the members for introducing themselves. Ms. Moore explained that the Bureau is not statutorily mandated by any law or regulation to have this Committee, but does so because it provides an open forum for consumers and licensees alike to give their input on cemetery and funeral issues. It also allows the Bureau to be open and transparent, which helps build a better Bureau.

To help the new members better understand the Department and how it functions, a pamphlet called *Who We Are and What We Do* was provided to each member. Ms. Moore explained the Department is an umbrella agency for about 40 different boards, bureaus, committees and commissions, most of which issue some sort of vocational or professional license. This pamphlet gives an overview of the structure of the Department and a little information about each of them. (A copy of this pamphlet is available on the Department's Web site at www.dca.ca.gov under Consumer Publications.)

2. Advisory Committee Orientation

Each member was provided with a copy of the Member Orientation and Reference Manual for the Committee. This was previously sent to each member with the letter appointing them to the Committee. Ms. Moore stated the first page covers the Department's mission, vision, and values, and the second page covers the Bureau's mission, vision, and values. A copy of the strategic plans for the Department and the Bureau were also provided to the members. Ms. Moore briefly reviewed the expectations, terms of appointment, and meetings with the committee.

3. Update on Bureau Activities / Projects

Ms. Moore took a moment to discuss how the new Committee was established. The Bureau sent out letters to interested parties, including licensee and consumer group organizations, law enforcement agencies with consumer protection units, and individuals on our e-mail list. In total, the Bureau solicited approximately 650 people and only received 24 applications. In selecting the members, the Bureau looked at education and experience, licenses held, and demographics to get components from every segment of the industry. This led to the diverse and representative mix the Bureau was looking for in a committee, which includes four industry members and three public members.

With regard to hiring, Ms. Moore indicated the Bureau has several vacancies and recruitment efforts are underway. This includes two auditor positions and one field representative position. Auditor positions have been difficult to fill due to the requirements of the classification.

Ms. Moore provided updates on the revision of the *Consumer Guide to Cemetery and Funeral Purchases* (the current version was provided to the members). Last year, the Bureau began the process of updating the Consumer Guide with the help of Committee member John Resich, who took the lead on soliciting comments from licensees and consumers. The Consumer Guide was also discussed at three previous committee meetings, and it was suggested that the Bureau consider making the changes effective in January to coincide with any new laws that take effect. Eventually, the Bureau may do this, but it will not be this year since we are so far along in the internal approval process. The Bureau anticipates the revised Consumer Guide to be available in November, at the latest. After the English version is approved, the guide will be translated into Spanish, and both versions will be available on the Bureau's Web site, with a small quantity printed for distribution at outreach events.

The *Preneed Q&A*, which is available on the Bureau's Web site, is a question-and-answer pamphlet that provides basic information about preneed issues, but it is not meant to be all-inclusive. The Bureau worked on updating this and included it as an agenda item at several committee meetings. It is currently undergoing review and will be posted on the Bureau's Web site upon approval, with a small quantity being printed for Bureau use.

Ms. Moore discussed BreZE, which is a software program that will be used Department-wide and will replace the outdated database systems that the boards and bureaus have been using. BreZE will have licensing and enforcement functions, allowing licensees to complete and submit applications and pay renewal fees online, while consumers can file complaints online and access the status of their complaints. Due to the number of boards and bureaus that need to transition to BreZE, the Department is releasing the new program in phases. The Bureau is currently scheduled for phase three of this new

program. Ms. Moore indicated she is looking forward to the new program and believes that it will be good for licensees and consumers alike and easier for Bureau staff to use.

The Bureau continuously works on examination development for the five different examinations that it administers: funeral director, embalmer, crematory manager, cemetery manager, and cemetery broker. The Bureau just finished working on the cemetery manager and cemetery broker examinations and next fiscal year work will begin on the embalmer exam. Review of the embalmer exam will begin with an occupational analysis, which must be conducted every five to seven years; this process looks at current practice and what may need to be changed. After the occupational analysis, the examination development will begin. Licensees serve as the subject matter experts for the workshops conducted to help develop the exams. The application to become a subject matter expert is available on the Bureau's Web site at www.cfb.ca.gov. The workshops are typically a two-day commitment and travel expenses and honorarium are paid. Ms. Moore encouraged licensees to consider applying to assist the Bureau with future exam development.

Ms. Moore explained that the Bureau will soon begin working on its annual report. The report provides a snapshot of what the Bureau did during the last fiscal year and includes licensing and enforcement statistics as well as major accomplishments. All of the reports for all of the Department's entities are available on its Web site at www.dca.ca.gov.

Endowment Care Fund (ECF) and Special Care Fund (SCF) trust reports and the applicable fees were due on June 1 for the calendar year ending 2012, unless a licensee was granted an extension or are reporting on fiscal year. Funeral trust fund reports and the applicable fees were due on May 1 for the calendar year ending 2012; if licensees have not yet submitted their report(s), they are now late. The Declaration of Non-Reporting Status for funeral establishments was also due May 1 for the calendar year ending 2012. Audit staff will be busy conducting desk reviews on these reports and the accompanying financial documents that were submitted. Licensees who fail to file their reports, or file late, are subject to an administrative citation with a fine.

There have been several issues in the media lately that Ms. Moore briefly discussed. Many of these are on-going cases and the Bureau cannot comment on them beyond what has been reported in the media.

The Bureau worked with the San Joaquin County District Attorney's Office on a case involving Thompson Memorial Chapel in Stockton. The owner was convicted of stealing preneed money from customers, most of them elderly, and was sentenced to custody for 6 years, 8 months. The Bureau has filed an administrative accusation against the owner's license(s), which is the first step in taking disciplinary action to revoke his license(s).

In mid-May, the crematory located on the grounds of Cypress Lawn Cemetery Association in Colma caught fire, which appears to be accidental. Because there were cremated remains located at the crematory, there were some issues with commingling of cremated remains as a result of water damage. The Bureau sent a field representative to the location to determine the extent of the damage and provide any assistance that might be necessary, and will continue to monitor the situation.

Ms. Moore reported that McGuire Cremation and Funeral Service in Modesto has a current criminal investigation against it. The local county registrar suspended the issuance of disposition permits to this establishment for non-payment of permit fees. The owner was not performing cremations for families who had contracted with them and, as a result, the local coroner removed bodies from that location. Families were contacted and made arrangements to complete the cremations elsewhere. The Bureau issued an administrative citation and fine to the owner for unprofessional conduct for failing to provide contracted cremation services. The Bureau is partnering with local authorities to provide any assistance necessary.

The last item Ms. Moore reported on was a burial on private property in Mendocino County. A county supervisor buried his wife on his private property, which is not a licensed cemetery and did so without a disposition permit. The local authorities have become involved and the Bureau will provide any assistance necessary.

4. Status of Regulations in Progress

Funeral "enforcement" regulations [CCR Sections 1240, 1241, 1242, 1246, and 1280-1291] are something the previous committee worked on for the past year. The Bureau held a workshop in August 2012 and has sought input from consumers and licensees. The proposed regulations will make changes to the citation and fine tables and repeal the continuing education regulations. The continuing education regulations are being repealed because the statutory authority was repealed in January 2000. This regulatory package is currently going through the Department's internal review process. Upon approval, the file will be submitted to the Office of Administrative Law (OAL) and the official rulemaking process will begin. The rulemaking process will include a formal hearing for public comment.

The other regulation package the Bureau continues to work on is the Limited Liability Company (LLC) language. Currently, cemeteries have to be owned by a corporation. In 2008, the statute changed to allow a LLC to own a cemetery. These regulations are very complex which is why it has taken the Bureau some time to develop them. This package is in the beginning stages of the internal review process. It will follow the same process as the funeral enforcement package and be submitted to OAL. The funeral enforcement package will be submitted first and then the LLC package will follow.

5. Final Discussion of Proposed Changes to Funeral Regulations – General

Ms. Moore began discussion on the funeral "general" regulations [CCR Sections 1209, 1214, 1216, 1221, 1255, 1258, 1258.1, 1258.2, 1258.3, and 1258.4] stating the

language presented today is the result of ongoing discussions from the workshop held in August 2012 and the November 15, 2012 and March 5, 2013 advisory committee meetings. Joy Korstjens, Deputy Chief, explained that when the Bureau makes proposed changes to regulations, OAL looks for those changes to be reasonable and clear; the language cannot decrease consumer protection but it can make things more relevant. Ms. Korstjens reviewed the changes made to the funeral general regulations section by section. The Bureau received no further comments or suggested changes to these regulations during this meeting.

Ms. Moore stated that the next step on this regulation package will follow the same process as the other two regulation packages. It will go through an internal review process for approval and then will be submitted to OAL for the formal rulemaking process. A public hearing will be held and there will be an opportunity for further public comment during the process. Ms. Korstjens reminded all present that, if they have not done so already, they can join our e-mail list through the Bureau's Web site at www.cfb.ca.gov and receive updates on regulations, newsletters, advisory committee meetings, and other information sent out by the Bureau.

6. Audit Process Overview

Ms. Moore asked Chip Bane, the Supervising Governmental Auditor, to provide an overview to the Committee on the audit process for cemeteries. Mr. Bane will focus on the annual reports for endowment care funds (ECF) and special care funds (SCF) and provide some basic information on what a licensee can expect when an audit of their financial records is performed.

Mr. Bane began with an overview of what is done in the office, from the time the report is received at the Bureau's office until the audit is final. The incoming reports are received by Mr. Bane and assigned to an auditor. The assigned auditor enters the information into a database, including the cemetery name, date of receipt, whether or not there are audited financial statements, and whether or not the report was done by a Certified Public Accountant (CPA), which is a requirement; the CPA must be registered in the State of California and/or have privilege to practice in the State of California. The auditor also enters the amount of ECF and, if applicable, the amount of SCF. The auditor then conducts a desk review, following established procedures and documenting the outcome in the database. If necessary, the auditor will issue a letter to the licensee discussing specific items and requesting any applicable corrective action plan.

Mr. Bane explained that a field audit of every cemetery is required at least once every five years. In addition, a field audit can be triggered by several different things, including non-receipt of the annual report for two consecutive years; the licensee is identified as high-risk through a desk review; referrals or complaints from the public; and submission of reports that include a qualified opinion.

If a cemetery is selected for an audit, the lead auditor will do a cursory review of the file and contact the licensee. During the conversation, the auditor will identify who they are

and arrange a time to conduct the field audit. On average, a field audit takes approximately five days at the site. The lead auditor will explain the scope and objective of the audit, identify what documentation to have available for review, the audit period to be reviewed, which will coincide with the financial reporting period (i.e. fiscal year or calendar year), and the auditor's contact information. The licensee will receive a letter confirming the telephone conversation and a request for any additional information needed prior to the audit.

Upon arrival at the site, the auditor will conduct an entrance conference with the cemetery manager and any other staff the cemetery has identified. The auditor will explain the process, establish a contact person to work with during the audit, determine and identify which records will be reviewed and how they will be reviewed, and explain the scope of the audit. If the auditor makes a preliminary audit finding during the field audit, the licensee is provided the opportunity to address it prior to the end of the field audit. Any preliminary findings that are resolved prior to the end of the audit do not become audit findings.

When the audit is complete, the auditor will conduct an exit conference before leaving the site. During the exit conference, the auditor will review any preliminary findings with the licensee. If there are preliminary findings, the licensee has 15 calendar days to provide any additional documentation. If the licensee provides additional documentation, it will be incorporated into the draft audit report.

After the 15 calendar days have passed, the auditor will review the preliminary findings and/or additional documentation submitted, if any, and prepare the draft audit report. If the preliminary findings have not been resolved, they will be included in the draft report. The draft report will include the preliminary findings, the licensee's responses, and, if necessary, managements' responses. The report will be issued and the licensee has 30 calendar days to respond to the audit findings.

After the 30 calendar days have passed, the auditor will review the licensee's responses to the draft audit report. The auditor will then begin preparing the final audit report, which will incorporate the licensee's responses and management's responses. Once the final audit report is issued, the Bureau gives the licensee 30 days to provide a corrective action plan, if applicable. If a corrective action plan is not provided, the case will be referred to the Bureau Chief for review and any action deemed necessary.

Ms. Moore asked the committee members and public attendees if there was an interest in the Bureau holding a workshop for licensees on the audit process for cemeteries. This workshop would provide more detailed information and possibly some sample financial reports. The workshop would be held in Sacramento and open to licensees and their invitees. Several people present felt a workshop would be beneficial.

7. Public Comment on Items Not on Agenda

Ms. Moore opened the floor to the audience for comments about items that were not on the agenda. Marjorie Bridges, with Funeral Consumers Alliance of California, said she receives many phone calls on their hotline from consumers that think she has money to give them for funeral services. Ms. Bridges has also had lawyers, mostly from Southern California, call her that are unclear about cemetery law and it usually involves conflicts over who can use a grave. Ms. Bridges felt the Bureau should hold a workshop aimed at lawyers. Ms. Korstjens said the lawyers are not the Bureau's licensees but we do receive calls from lawyers about the law and assist them as appropriate. Ms. Bridges asked if the Funeral Consumers Alliance sponsored a meeting could the Bureau send an expert on cemetery regulations to be the speaker. Ms. Moore stated that a request could be submitted for a speaker. The Bureau's ability to attend may be limited based on current travel restrictions.

8. Future Advisory Committee

Ms. Moore stated she is planning the next meeting for early November and wanted the Committee's input on whether or not we should hold the next meeting and the audit workshop on the same day. This would make it more economical for committee members that need to travel and want to attend both. The committee meeting would be held in the morning and the audit workshop in the afternoon. The majority was amenable to holding both on the same day.

Ms. Moore informed the members that they will be notified of the next meeting as soon as a date is confirmed. Ms. Moore advised the Committee that Cheryl Steurer is the Advisory Committee Liaison and they may hear from either one of us with information related to the Committee.

9. Adjournment

Ms. Moore thanked everyone for attending and adjourned the meeting around noon.