

Cemetery & Funeral Bureau

Advisory Committee Meeting Minutes

Tuesday, February 12, 2014

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

Advisory Committee Members:

Terry DeWeese
Darin Drabing
Victoria Emmons
Jolena Grande
Tracy Hughes
Cheryll Moore
John Resich

Guest Attendees:

Damon de la Cruz	Jerry Desmond
Bob Achermann	Gerard Reinert
Mark Matthews	Merrill Mefford
Michael Veq	Myriam Shaikh
George Prather	Eva Miranda
Deborah Meckler	Chris Micheli
Glen Pateet	Angela Bigelow

Cemetery & Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; Linda Kassis, Deputy Chief; Chip Bane, Supervising Governmental Auditor; Cheryl Steurer, Legislative Analyst; Jeff Brown, Lead Field Representative

Department of Consumer Affairs Staff: Christine Lally, Deputy Director, Board and Bureau Relations; Gary Duke, Legal Counsel; Greg Pruden, Legislative and Policy Review; Katherine Demos, Legislative and Policy Review

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 9:40 a.m. welcoming those in attendance. Ms. Moore introduced herself as the Bureau Chief of the Cemetery and Funeral Bureau (Bureau). Next she introduced the new Deputy Chief, Linda Kassis, and asked Ms. Kassis to give a little background about herself. Ms. Kassis stated she has worked for the Department of Consumer Affairs (Department) for about 20 years. She previously worked at the Bureau from 2000 to 2005 or 2006 primarily as the licensing lead and regulations coordinator. Ms. Kassis said she was happy to be back at the Bureau and was learning many new things about the enforcement and audit side. Aside from the Bureau, Ms. Kassis previously worked for the Board of Barbering and Cosmetology, Board of Pharmacy, Veterinary Medical Board, and the Board of Psychology. Ms. Moore expressed how grateful she was to have Ms. Kassis join the Bureau again. Ms. Moore also introduced Gary Duke, Legal Counsel for the Bureau; Chip Bane, Supervising Auditor; Cheryl Steurer, Legislative Analyst; Jeff Brown, Lead Field Representative; Greg Pruden, Legislative Analyst with the Department; Katherine Demos, Regulations Coordinator with the Department; and Christine Lally, Deputy Director of Board and Bureau Relations with the Department.

Ms. Lally thanked Ms. Moore for the introduction and said it was a pleasure to be there. Ms. Lally joined the Department in July 2013 so this was her first time attending a Bureau Advisory Committee Meeting.

Ms. Moore asked the Advisory Committee Members to introduce themselves and give a little background about themselves to the audience. Terry DeWeese, General Manager of Sunset Lawn Chapel of the Chimes in Sacramento, has been in the industry for about 20 years. Darin Drabing, President and CEO of Forest Lawn Memorial Parks and Mortuaries in the Los Angeles area, has been in the industry 29 years. Jolena Grande, Faculty Member at Cypress College in the Mortuary Science Department, has been in funeral service for 25 years and also works for Service Corporation International at Riverside Care Center. John Resich, Chairman of the Board for Green Hills Memorial Park, has been in the industry for 36 years. Cheryl Moore¹ is a Gerontology Professor for Los Rios Community College District and also represents the Funeral Consumers Alliance throughout California. (Victoria Emmons from HOPE Hospice and Tracy Hughes from Orange County District Attorney arrived after introductions were made.)

Ms. Moore stressed that the Advisory Committee is not statutorily mandated but it provides the Bureau a forum for both consumers and licensees to receive and provide input and information. She also believes this is a good way to conduct business and helps make a better Bureau. Ms. Moore emphasized that she considers the Advisory Committee to be a working committee and that their input and interaction during the meeting was both expected and appreciated.

2. Update on Bureau Activities / Projects

Ms. Moore stated the Bureau currently has several vacancies; staff is in the process of recruiting for a General Auditor III. Interviews have been conducted and a tentative selection has been made, but the Bureau cannot make an offer until the applicant clears the background check. The Bureau is also beginning recruitment efforts for a half-time Auditor I vacancy in the Audit Unit.

Since the last meeting, the Bureau has hired a field representative. Some may have already had an opportunity to meet her or have heard of her. Amber Weaver is in Northern California and has been doing an outstanding job. The Bureau also hired a licensing analyst, Lisa Rangel. She works closely with Cat Litral, the lead licensing analyst. Ms. Rangel is currently working on Cemetery Salespeople primarily and has been doing a great job.

The Department continues to work on BREEZE, which is a program that will replace the Department's outdated database systems as well as multiple other work-around systems that boards and bureaus have created in order to work more efficiently. The Bureau is scheduled for release three. The Department is currently in release one so the Bureau is a ways out. Once BREEZE is in place, licensees will be able to complete

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

applications, renewals, and payments online, and consumers will be able to file and access complaints and check licensing information online. Ms. Moore stated she will continue to provide updates on BREEZE as it progresses.

Ms. Moore said the Bureau continuously works on examination development for the five exams it gives: funeral director, embalmer, crematory manager, cemetery manager, and cemetery broker. Currently, the Bureau is working on the Embalmer Occupational Analysis. Licensed embalmers may have received notice in the mail announcing the Bureau was working on this and requesting participation in an online questionnaire that will help develop an embalmer examination plan. Once the examination plan is finished, the Bureau will move forward with developing questions for the exam. Licensees are used for exam development, referred to as subject matter experts, and are paid for their travel costs and an honorarium. Ms. Moore asked that if anybody is interested in serving as a subject matter expert to please take a look at the application on the Bureau's Web site (www.cfb.ca.gov) and consider applying. The Bureau cannot do examination development without the participation of licensees.

The Bureau is looking to have the next newsletter out in early spring and is always looking for feedback on it. Ms. Moore asked that if anyone has ideas for articles or there are issues that come forward in everyday business that would be good for the newsletter to please let us know. Ms. Grande contributed to the last newsletter and the Bureau is looking at American River College to contribute to a future newsletter. A lot of time and effort goes into the newsletter and the Bureau tries to make it meaningful and informative.

Ms. Moore stated that endowment care fund and special care fund reports for cemeteries (and the fee) are due on June 1, 2014 unless an extension was requested and granted, or if there was prior approval to file a report on a fiscal year basis. Funeral trust fund reports (and the fee) are due on May 1, 2014 for the calendar year ending 2013. The Declaration of Non-Reporting Status for funeral establishments is also due May 1, 2014 for the calendar year ending 2013. Ms. Moore also stated that reports submitted late are subject to a citation and fine. Requests for extensions must be made in writing and based on good cause, and will be reviewed on a case-by-case basis.

Ms. Moore then briefly discussed the Sunset Review process; the Bureau was scheduled to submit its report last year but it was postponed until this year. Staff had already begun working on the report so much of what has already been completed should be applicable. Ms. Moore explained that the Bureau will provide information for a specific set of questions and prepare a report for submission to the Legislature later this year, followed by a hearing sometime in early 2015.

3. Status of Regulations in Progress: Funeral Enforcement and General

Funeral enforcement regulations (CCR Sections 1240, 1241, 1242, 1246, and 1280 – 1291) are something that the Bureau has worked on and discussed with everyone for the past 18 months. These regulations make proposed changes to the citation and fine

tables and repeal the continuing education regulations because the statute was repealed. The official rulemaking hearing is scheduled for today in the hearing room on the first floor at 12:30 p.m.

Funeral general regulations (CCR Sections 1209, 1214, 1216, 1221, 1255, 1258, 1258.1, 1258.2, 1258.3, and 1258.4) have also been worked on for the past 18 months or longer. Ms. Moore stated she had anticipated these regulations would have already gone through the Department's internal review process; however the Limited Liability Company (LLC) regulations were a priority as they are required by statute. The Bureau will continue to move these regulations forward.

4. Discussion of Additional Proposed Changes to Limited Liability Company (LLC) Regulations

Ms. Moore stated the LLC regulations required a number of changes to the draft language previously discussed with the Advisory Committee and requested Ms. Steurer review the changes made. The revised language and associated forms were provided to the Advisory Committee Members in advance of the meeting for review and copies were available at the meeting for all attendees.

Ms. Steurer indicated she would go through the language section by section to review the changes that were made since the last time the language was discussed. Ms. Steurer noted that Senate Bill 323, which passed in 2012, went into effect January 1, 2014. This repealed the Beverly-Killea Limited Liability Company Act and replaced it with the California Revised Uniform Limited Liability Company Act. The Bureau has gone through the new Act to ensure the proposed regulations conform and are in compliance with the new legislation.

In Section 2326, which discusses the application for certificate of authority, only minor changes were made, mainly to distinguish between corporate officers and LLC members. The application has similar requirements for both corporations and LLCs; the difference is LLCs have some additional requirements when applying for licensure, including completion of a form for each of their Bureau-licensed employees, and providing either proof of insurance showing adequate coverage of security for claims or certify to a net worth of ten million dollars or more. In addition, a LLC must provide a copy of the articles of organization and operating agreement, the statement of information that is submitted to the Secretary of State, and the names and addresses for the trustees of the endowment care and who will be in charge.

In Section 2326.1, the Bureau has cleaned up some of the current language to be more clear and concise. Currently, the language refers to managing officer where it means cemetery manager. The proposed language makes this change so there is no confusion between a corporate officer and cemetery manager.

Section 2326.2 is new language that has been added since the last Advisory Committee meeting. This section is specific to LLCs and requires the LLC to annually submit either

Certification of Insurance Coverage, certifying the LLC has the minimum insurance required, or Certification of Net Worth, certifying the LLC has a net worth equal to or exceeding ten million dollars. These requirements are mandated in Business and Professions Code section 9653.5.

Section 2326.3 is also new language added since the last Advisory Committee meeting. This section addresses recordkeeping and reporting of changes, and requires that cemeteries notify the Bureau of any changes to corporate officers, LLC members, or trustees. The Bureau developed a form for notifications of change, similar to the funeral notification of change form, and included a filing fee of \$25. Additionally, a form was developed for LLCs to report their Bureau-licensed employees to the Bureau, which must be filed within 30 days of any licensee that has been hired, resigned, or terminated. This form was developed to identify LLC members and any subsequent changes to LLC members as they cannot be a licensee of the Bureau.

In Section 2326.5, under subsection (c), the Bureau has removed the term radius and updated the language to reflect that a cemetery manager may be shared between cemeteries within a one hour driving distance, not to exceed 60 miles.

With regard to Section 2326.5, Ms. Grande asked if there will be any parity in making similar changes on the funeral side. Ms. Moore said the Bureau does intend to make similar amendments on the funeral side, and it is the Bureau's goal to make funeral and cemetery regulations work together; however, it may take some time to put those elements together because it requires a regulatory change.

Ms. Moore went on to state that the Bureau started making changes to both the cemetery and funeral regulations with Section 100 changes, which are non-technical changes, such as changing "board" to "bureau". These changes took effect in late 2011.

The Bureau then worked on Cemetery Maintenance Standards because those were required by statute. Over the past several years, there has been a significant amount of work on proposed changes to the funeral regulations. While the Bureau could have put one rulemaking package together for all of the proposed (funeral) regulatory changes, they were broken down into sections. This allows the sections to move through the process more efficiently than submitting one package, because if one item gets held up, it will hold up the entire package. The "general" funeral regulations are next to be submitted followed by the funeral "licensing" regulations.

Ms. Moore stated that the rulemaking process can be lengthy. In order to be as efficient as possible, the Bureau discusses proposed regulatory changes with its stakeholders. There have been workshops, focus groups, and public discussions at Advisory Committee meetings. When considerable changes are proposed after workshops and meetings, the Bureau brings the language back for discussion and comment, as was done today with the LLC regulations. This helps the Bureau address comments and concerns early on so that the official hearing goes smoothly; the Bureau must respond

to every comment received during the public comment period and/or at the hearing. Public discussions can help the process and it makes things that much easier after the hearing is held.

George Prather commented on Section 2326. Mr. Prather stated that, when completing applications, the requirement to provide certified copies is problematic. It is not always possible to get certified copies so the Bureau may want to look at that. Mr. Duke responded that it was old language and the Bureau would take Mr. Prather's comment under consideration.

Ms. Moore asked the group about the language allowing cemetery managers to be shared; there isn't currently similar statutory authority for crematory managers to be shared. Is this something the Bureau should be fixing? Ms. Moore believes that it happens in the industry. A concern was voiced about how many facilities a cemetery manager can manage. Ms. Moore concurred that there is no language that limits the number of facilities that can be managed by one cemetery manager. If a cemetery manager is designated at five locations and any thing goes wrong at one of them, the designated manager runs the risk of license discipline, or revocation, if the violation is serious enough. The cemetery manager, along with the owner, is ultimately responsible for what goes on. Ms. Moore asked if there should be language restricting the number of facilities that a licensee can manage. Mr. Duke stated that is a policy decision but it would be subject to a separate regulatory approach, not as part of the LLC regulations. In the past, there has been a lot of interest in how many cemeteries a licensee can manage. Mr. Duke explained, the Bureau chose a compromise in the LLC proposed regulatory language by allowing a manager to manage another location as long as it is not more than an hour drive and not more than 60 miles. The rationale behind that is, driving in Southern California versus Northern California is very different and the manager needs to be able to easily reach the other locations they oversee. Mr. Drabing commented that the time and distance restrictions would likely be a self-limiting factor without the need for further regulations.

5. New Consumer Guide and Use of Previous Version

The new *Consumer Guide to Cemetery and Funeral Purchases* (Guide) was provided to the Advisory Committee members and made available to all attendees. Ms. Moore stated she was very pleased with the revised Guide and both the English and Spanish versions are available on the Bureau's Web site (www.cfb.ca.gov). The revised Guide includes updates to sections where there have been changes in law, updates to contact information, new and revised definitions, and the addition of pictures to break-up the reading. The Bureau will allow licensees an opportunity to use their existing supply of the previous version of the Guide, through the end of April 2014. Effective May 1, 2014, all licensees will need to display and distribute the new version to consumers.

Ms. Emmons asked if the Guide will be made available in any other languages. In San Jose there is a large Vietnamese population that could benefit from the Guide being available. Mr. Duke indicated if there was a significant population of licensees or

consumers the Bureau can reach out to, then it would look into resources available to meet that need.

6. New Statutes Effective January 1, 2014

Ms. Moore asked Ms. Steurer to report on new statutes that became effective January 1, 2014, as they relate to the Bureau. As in past years, the Bureau will post the Summary of Legislation on the Bureau Web site (www.cfb.ca.gov) and send out an e-mail on the ListSERV notifying interested parties that it is up on our Web site.

Ms. Steurer stated there were eight bills that became law this past year which have either a direct or indirect impact of the cemetery and funeral industry. Those bills are:

- Assembly Bill 258 (Chavez, Chapter 227, Statutes of 2013): this bill requires, on or after July 1, 2014, that every state agency that asks whether a person is a veteran must request that information only in the format: "Have you ever served in the United States Military?"
- Assembly Bill 464 (Daly, Chapter 78, Statutes of 2013): as it pertains to the Bureau, this bill allows a digitized image, as defined, to be submitted as part of the request for a certified copy of a birth, death, or marriage certificate and clarifies that an informational copy of a death certificate issued by the State Registrar, local registrar, or county recorder may be used to prove the death of a person for real property transfers in the county where the property is located.
- Assembly Bill 803 (Gomez, Chapter 635, Statutes of 2013): as it pertains to the Bureau, this bill authorizes the use of recycled water in cemetery hose bibs and requires a cemetery supplied with disinfected tertiary recycled water that installs a hose bib in a public access area to post visible signage and labeling indicating that the water is non-potable.
- Assembly Bill 1057 (Medina, Chapter 693, Statutes of 2013): this bill takes effect January 1, 2015, and requires all licensing programs with the Department to ensure all application for licensure ask whether the applicant is serving in, or has previously served in, the military.
- Senate Bill 44 (Yee, Chapter 277, Statutes of 2013): this bill requires each Internet Web site maintained by the state to include a hyperlink on the Web site's home page to the online voter registration page of the Secretary of State's Web site.
- Senate Bill 106 (Monning, Chapter 41, Statutes of 2013): this bill provides the Department of Veterans Affairs statutory authority to enter into a financial agreement to receive cash advances into the Endowment Fund, contingent upon the agreement not requiring the state to repay or make payments on cash advances. The Department of Veterans Affairs is required to develop and submit

a grant application to the United States Department of Veteran Affairs for the State Veterans Cemetery Grant Program.

- Senate Bill 119 (Calderon, Chapter 205, Statutes of 2013): this bill allows a crematory licensed by the Bureau to incinerate one or more American flags, separately from the cremation of human remains, in accordance with federal law, one week before or after, Memorial Day, Flag Day, or Independence Day; and requires the crematory to maintain an accurate record of all flags incinerated at the crematory.
- Senate Bill 159 (Fuller, Chapter 55, Statutes of 2013): this bill authorizes the Kern River Valley Cemetery District in Kern County to use their cemeteries for up to a total of 400 internments each, not to exceed 40 internments per calendar year, to inter non-residents and non-property taxpayers, if specific conditions are met.

7. Compliance with Business & Professions Code Section 7685(b) (Posting of Funeral Goods / Services or GPL on Web Sites)

Ms. Moore discussed Business and Professions Code section 7685(b) because there seems to be some confusion over how to comply with this section. The statute does not require a funeral establishment to have a Web site, and only applies to funeral establishments that maintain a Web site. The statute (Senate Bill 658) was effective January 1, 2012, but did not require compliance until January 1, 2013. The Bureau spent the past year educating licensees about the requirement and how to comply, and has worked with licensees (through inspections) but there are still issues of non-compliance. Licensees will now be subject to a warning letter and/or citation for violations of this section.

There are several ways funeral establishments can comply with this section. The establishment can post on their Web site the list of funeral goods and services, pursuant to funeral rule, which includes the list of goods and services it offers. This information must be available from a link on the home page that goes directly to the list of funeral goods and services. The Web page listing the funeral goods and services must also include a statement that the General Price List (GPL) is available upon request. In the alternative, the establishment can have a link on their home page that says price, price information, or a similar phrase that includes the word "price" that leads to the establishment's GPL.

The Bureau has received some calls saying establishments are not listing their GPL on the Web site so staff explains what the law requires. It's also been brought to the Bureau's attention that there are some Web sites that were not compliant so staff has talked to the establishments to help them understand the requirements. Field staff look at Web sites prior to or during inspections and have been reminded to make sure what they look at is truly the establishment's Web site, and not simply a profile in a directory. During the past year, field staff provided a handout to establishments (given to the

Advisory Committee Members and available to all attendees during this meeting) which included the full text of the law and explained the requirements of Senate Bill 658 and the two options to achieve compliance if the establishment has a Web site. Ms. Moore indicated if anyone has questions about this requirement they may contact the Bureau.

8. Proposed Updates to Web Site Regarding Disciplinary Actions

Ms. Moore asked for the Advisory Committee members' input on disciplinary actions the Bureau takes and the way the information is made available on the Web site. The Bureau posts formal disciplinary actions on its Web site once the action becomes final and licensees have been notified. (NOTE: Subsequent to the meeting, the Bureau now posts Accusations upon service to the licensee in addition to the final decision.)

From the Bureau's home page, you can click "License Lookup", "License Verification", or "Disciplinary Actions" and they all lead to the page to look up a license. If there is disciplinary action associated with a licensee, the applicable document(s) will be available in a PDF format. The Bureau's newsletter also includes the disciplinary actions that became effective since the previous newsletter.

Ms. Moore is considering posting a comprehensive list of actions under the "Disciplinary Actions" link on the home page; selecting this option will lead to a list of disciplinary actions that the Bureau will continually add to as decisions take effect. Ms. Moore reviewed other Web sites from boards and bureaus within the Department and they appear to be posting disciplinary actions this way.

Ms. Moore asked for any thoughts or comments on the proposed change to how disciplinary actions are posted. Merrill Mefford stated he liked the idea of both; he was concerned that a comprehensive list might include too many screens to scroll through to find the information you might be looking for rather than having a license number that you can look up from the license verification link. Ms. Moore commented that it might be possible to have the comprehensive list contain a link from the license number, which would take you directly to the license record, where you could access the applicable documents.

Ms. Moore also stated that she is considering issuing a press release when a license is revoked. The Bureau recently revoked a funeral establishment license and the licensee requested an appeal, which was denied. The licensee was still attempting to practice in the community and telling licensees and consumers that they had appealed the revocation and he would ultimately be able to keep his license. The Bureau issued a press release so that other licensees and consumers in the area would be aware of the revocation. A press release like this is done on occasion but Ms. Moore is considering doing this each time a license is revoked so the information gets out to the community. Ms. Moore asked if those present believed that would be beneficial. Mr. Drabing expressed concern that the Bureau's Web site may not be monitored frequently enough for people to see the information timely. Ms. Moore remarked that the hope is that the local media will pick up the press release to help get the information out. Ms. Emmons

asked about adding the press releases to the e-mails sent out through the Bureau's ListSERV. Ms. Moore concurred that the Bureau could add press releases to the list of things sent out on ListSERV. Ms. Moore stated that the Bureau does not have many license revocations but when it does that it is important to let people know.

9. Educational Video / Outreach

Ms. Moore discussed creating an educational video as part of its outreach efforts to consumers. The Bureau continues to have travel restrictions for non mission-critical travel and this, along with available resources and the nature of the subject matter, limits the Bureau's outreach efforts. When the Department has an opportunity to participate in outreach events, the Bureau provides copies of its publications for distribution; however, due to the current limitations, the Bureau's outreach efforts have been minimal. The Department's Office of Public Affairs has created two educational videos – one for the Board of Guide Dogs for the Blind and another one for the Bureau of Automotive Repairs on its Auto Body Inspection Program. Both videos were very well-done and can be viewed on the Web sites and YouTube.

After viewing these videos, Ms. Moore thought it would be appropriate to create a video for consumers about common cemetery/funeral issues. Ms. Moore commented that her initial thoughts were about a scenario where a funeral director meets with a family; however, after discussions with the Department's Office of Public Affairs, it would be best to start with the Bureau's Consumer Guide by pointing out a few key points consumers should be aware of. Ms. Moore said she is excited about this idea and asked for thoughts and ideas on anything else that might be appropriate.

Ms. Grande commented that the design of YouTube videos is to be very short and concise so from the Consumer Guide alone there could be one on preneed, one on the GPL, and one on making cemetery purchases. There could be so many of them just out of the Consumer Guide, you could not point out all the nuances of the Consumer Guide in one video.

Ms. Moore stated that she is looking forward to working with the Office of Public Affairs to create a video and believes this would be a useful way to get information out to consumers. Ms. Moore said she still hears from people who tell her that they were not aware the Bureau existed or that the industry is regulated. The video will be a resource for licensees as well as consumers.

10. Public Comments on Items Not on Agenda

Ms. Moore opened the floor for comments about items that were not on the agenda. Ms. DeWeese stated that, in her experience operating a cemetery, people frequently ask about having cremated animal remains placed in caskets with a loved one. Ms. DeWeese had heard there may be legislation to change cremated animal remains to "personal effects" and asked if anyone had heard about this. Ms. Moore stated she had not heard of any pending legislation regarding this issue. Ms. Moore further commented that this question frequently comes up as many people consider pets to be members of

the family and want to make arrangements to be buried with them. It would take a statutory change to allow pet cremated remains to be interred in cemeteries licensed by the Bureau. Ms. Moore said she would keep everyone apprised of any legislation that might be initiated regarding this issue.

Mr. Drabing commented that, in Florida, there is a cemetery that now allows both human cremated remains and pet cremated remains; there is discussion about expanding it so a certain section of the cemetery could allow the cremated remains of a person and a pet to be interred in plots next to each other.

11. Future Meetings

Ms. Moore stated, typically, we would have had a meeting in November (2013) but she cancelled it because there were not enough items to make a meaningful agenda. Since the Advisory Committee members travel on their own time and expense, Ms. Moore did not want to hold the meeting unless it would be productive. The Bureau will look at June 2014 for the next meeting. Once Ms. Moore has identified available dates in June, she will send them out to the members. Ms. Moore would like to continue holding the Advisory Committee meetings in June and November, provided there is a meaningful agenda. Ms. Moore is hopeful that we will have new proposed regulatory language available for review at the next Advisory Committee meeting.

12. Adjournment

Ms. Moore thanked everyone for attending and stated she hoped to see some of them at the regulatory hearing at 12:30 p.m. and at the Cemetery Workshop at 2:00 p.m. The meeting was adjourned at 11:00 am.