

Cemetery and Funeral Bureau Advisory Committee Meeting Minutes

Thursday, May 24, 2018

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

Advisory Committee Members:

Jeanne Clark
Christopher Donhost
Nickolas Marinelli
Nichol Montague
Patrick Collins
Jean Okuye

Attendees (from voluntary sign-in sheet):

Merrill Mefford
John Resich
Steve Schacht
Jerry Desmond
Bob Achermann
Margie Bridges

Cemetery and Funeral Bureau Staff: Lisa M. Moore, Bureau Chief; David Edwards, Supervising Auditor; Cheryl Jenkins, Program Operations Supervisor; and Carolina Sammons, Legislative Analyst

Department of Consumer Affairs Staff: Jason Hurtado, Staff Counsel; Karen Nelson, Assistant Deputy Director, Board and Bureau Relations; and Rose Turner, Legislative Analyst, Division of Legislative Affairs

1. Introduction and Opening Remarks

Bureau Chief Lisa M. Moore called the meeting to order at approximately 10:00 a.m. welcoming those in attendance and introducing Bureau staff. Departmental staff in attendance introduced themselves.

Ms. Moore asked the Committee Members (Members) to introduce themselves and give some brief background about who they are and what they do. Christopher Donhost is a funeral home liaison with Sierra Donor Services and is licensed as a funeral director, embalmer, cemetery manager, and crematory manager; Nichol Montague owns South Los Angeles Cremation Services and is a licensed funeral director and insurance agent; Nickolas Marinelli manages the Italian Cemetery in Colma and is a licensed funeral director, cemetery manager, cemetery broker, and crematory manager; Patrick Collins is a Deputy District Attorney with the Napa County District Attorney's Office; Jean Okuye is the President of the Funeral Consumer Alliance of California for Stanislaus and Merced counties; Jeanne Clark manages Ivy Lawn Memorial and Funeral Home, Ivy Lawn Cemetery, and Ivy Lawn Crematory and is a licensed funeral director, cemetery manager, cemetery broker, and crematory manager. Maria Mangini, a public member, is the Director of the Family Nurse Practitioner Program at Holy Names and is a Registered Nurse Practitioner. Ms. Mangini was unable to attend the meeting.

Ms. Moore stated that the Bureau is not statutorily mandated to have this Committee, but does so because it provides a forum for both consumers and licensees to provide input on funeral and cemetery-related issues and allows the Bureau to meet its regulatory

obligations in an open and transparent environment. The Committee is a “working committee” and participation and discussion of agenda items is encouraged.

2. Responsibilities of New Advisory Committee Members

The Members received the *Member Orientation and Reference Manual, 2018*. Other handouts provided were the Bureau’s publications and Strategic Plan along with the Department’s Strategic Plan. The handouts were briefly reviewed.

Ms. Moore stated the focus of the Committee is to advise the Bureau on applicable agenda items based on the knowledge, experience, and education each Member has to offer. The expectation is that Members will provide professional and technical input concerning the Bureau’s regulatory, licensing, and enforcement functions. The Committee does not have any voting privileges; the ultimate decision is made by the Bureau Chief under the Director’s oversight. The Bureau does not independently devise legislative proposals or take positions on bills, so this Committee will not be addressing legislation in that regard; most legislation this Committee will discuss will focus on chaptered legislation or pending legislation the Bureau is monitoring.

The Members were appointed February 1, 2018 and will serve one two-year term, through January 31, 2020. Members can be re-appointed for one additional two-year term, if necessary and appropriate, but no Member may serve more than two consecutive terms. Meetings are typically held twice a year, in May and November. Members are asked to make every effort to attend these meetings; members who miss two consecutive meetings may be removed and another member appointed for the remainder of the term. As volunteer appointees, Members serve on their own time, at their own expense.

3. Update on Bureau Activities: Staffing; Annual Trust Reports; Endowment Care Fund Sufficiency Study Required by Assembly Bill 180 (Bonilla, Chapter 395, Statutes of 2015); Examination Development; Legislation

Ms. Moore indicated her management team will provide an overview of their responsibilities in their respective units. The management team consists of David Edwards, Supervising Auditor; Cheryl Jenkins, Program Operations Supervisor; and Sandy Patterson, Field Operations Supervisor.

Mr. Edwards provided an overview of the Audit Unit. The auditors perform on-site audits to ensure cemeteries and funeral establishments properly administer trust funds, including funds consumers have prepaid for goods and services, and the endowment care trust funds cemeteries deposit when consumers purchase graves and other interment spaces. Mr. Edwards also reported on the completion of the Endowment Care Fund Sufficiency Study required by Assembly Bill 180 (Bonilla, Chapter 395, Statutes of 2015), including the methodology for collecting the data necessary for the study. The report is available on the Bureau’s website.

Ms. Jenkins provided an overview of the Bureau’s Program Operations, including the licensing, enforcement, administrative, and legislative activities. Ms. Jenkins announced the recent hire of two enforcement analysts: Monica Tagas and Louie Massi.

Ms. Jenkins stated the Bureau continuously works on examination development for the five different examinations the Bureau administers: funeral director, embalmer, crematory

manager, cemetery manager, and cemetery broker. The Bureau is required to conduct an Occupational Analysis every five to seven years for each of these examinations. An Occupational Analysis defines a profession in terms of the actual task that a licensee must be able to perform safely and competently at the time they are licensed. The Bureau is currently working on the crematory manager examination.

The next examination the Bureau will work on is the cemetery manager, which will include an Occupational Analysis. A letter will be sent to all cemetery managers in early June to begin recruiting for the Occupational Analysis, which will include the workshop dates and a description of the workshop. A second letter will follow in November providing dates for the cemetery manager written examination development.

Ms. Moore explained that examination development is ongoing and how critical it is for industry participation. The industry associations, California Funeral Directors Association, Cemetery Mortuary Association of California, and Association of California Cremationist, have been very helpful in getting the information to their members for participation.

Ms. Jenkins reported on legislation chaptered this past year. Four of the chaptered legislative bills will be covered under other agenda items. One piece of legislation does not directly impact the Bureau; however, it does potentially impact licensees.

Assembly Bill 356, Bigelow (Chapter 187, Statutes of 2017): This bill authorizes human remains to be transported from California to an adjacent state for disposition in that state without a death certificate or a permit for disposition if the remains are found within 50 miles of the California boarder and a licensed funeral establishment in the adjacent state is within 30 miles of the county border in which the decedent died, and the remains are released to that funeral establishment. (Amends Health and Safety Code section 103050).

Senate Bill 547, Hill (Chapter 429, Statutes of 2017): As it relates to the Bureau, this bill requires any person employed by, or an agent of, a licensed funeral establishment who consults with the family or representatives of the family of a deceased person for the purpose of arranging certain services, to receive documented training at least once every 3 years. (Amends Business and Professions Code section 7635).

Ms. Jenkins reported that the Bureau is monitoring the following legislation (not yet chaptered):

Assembly Bill 1236: This bill would replace the term "birth names" with "surnames before first marriage".

Assembly Bill 2138: This bill would ease the restrictions regarding licensure requirements for prior offenders by limiting a board's discretion to deny a new license application, or suspend or revoke an existing license to cases where the applicant or licensee was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board. Nonviolent offenses older than five years would not be subject to license denial or suspension.

Assembly Bill 2367: This bill would require the preparation of a new, one-page certificate of death if a person is able to assert that the facts are not correctly stated on the certificate and the incorrect information does not change a finding, conclusion, or determination.

Assembly Bill 2708: This bill would require a person engaged in a trade or business, or a supervised financial organization to provide a translation of a contract or agreement to a consumer who primarily speaks one of specified foreign languages if the transaction is negotiated in English by a minor on behalf of the consumer.

Assembly Bill 2750: This bill would expand the definition of "authorized person" for the purposes of furnishing a certified copy of a death record, to include, among others, an appointed conservator of a person or estate.

Senate Bill 1298: This bill would prohibit the Department of Justice from releasing the record of convictions that were dismissed pursuant to specified divisions. This bill would also require the department to furnish a copy of the Criminal Offender Record Information (CORI) to the subject of the request and require the department to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing the report to a third party.

Senate Bill 1303: Commencing January 1, 2020, this bill would, for counties with a population of 500,000 or greater, require that the office of the coroner or the sheriff's coroner office be replaced with an office of the medical examiner to exercise the powers and perform the duties of the coroner without a public vote or election.

Ms. Moore indicated that Sandy Patterson is the Bureau's Field Operations Supervisor, and could not be here today as she is meeting with field staff. Ms. Moore reported the recent hire of two field representatives for Southern California territories. Lynn Ilas graduated from Cypress College in 2011 and holds a funeral director and embalmer license and has had crematory operator training. Neil St. Pierre also graduated from Cypress College in 2011, and holds a funeral director and embalmer license.

4. Review (Draft Language) Rulemaking Files

Ms. Moore reported Carolina Sammons is the Bureau's Legislative Analyst and will be reporting on legislation and rulemaking activities at its next meeting. As the prior Legislative Analyst, Ms. Jenkins led the discussion on this agenda item.

Ms. Jenkins reported on chaptered legislation for Assembly Bill 1381 and Senate Bill 800. Ms. Jenkins reviewed the proposed regulatory changes to implement these bills.

Assembly Bill 1381, Obernolte (Chapter 150, Statutes of 2017): This bill authorizes a funeral establishment, instead of a funeral director, to submit an application to the Cemetery and Funeral Bureau if it wishes to have an apprentice embalmer at the establishment. The bill also authorizes the funeral establishment to have a trade embalmer, hired by the establishment on a case-by-case basis, for purposes of satisfying the apprentice embalmer application requirements. (Amends Business and Professions Code section 7670)

Senate Bill 800, Committee on Business, Professions and Economic Development (Chapter 573, Statutes of 2017): As it relates to the Bureau, this bill authorizes licensed crematories

within close geographical proximity of each other to request authorization from the Bureau to allow a licensed crematory manager to manage, supervise, and direct the business or profession of more than one facility. (Amends Business and Professions Code section 7713)

Ms. Moore briefly talked about the formal rulemaking process and that this language was being vetted to the Members and industry prior to that process. Ms. Moore explained that there will be a formal hearing for public comment as part of the rulemaking process.

An attendee asked how the Bureau was going to regulate the one-hour driving distance (in the draft regulatory language). Ms. Jenkins said the proposed language mirrors the regulations for Limited Liability Company (LLC) cemeteries and, for consistency, the Bureau intends to use that language. The attendee suggested that the Bureau re-consider geographic proximity and one-hour distance, and possibly replace it with "driving miles."

6. 2018 Sunset Review Process

Ms. Moore announced that agenda items 5 and 6 will be taken out of order. Agenda item 6 will be discussed first. Ms. Moore introduced Julia Bishop, Assistant Deputy Director for the Department's Division of Legislation Regulatory Review. Ms. Moore said the Bureau will begin working on its sunset review report shortly and the Committee will likely hear on-going discussions about the process between now and the beginning of 2019.

Ms. Bishop introduced herself and gave some background on her work experience with the Department. Ms. Bishop explained the scope of the sunset review process, the methodology used, and that the completed report will be posted on the Bureau's website when ready.

Ms. Moore thanked Ms. Bishop for providing the overview. Ms. Moore said the last sunset review was in 2014, and prior to this date it was 2002.

5. Legislation Requiring Future Rulemaking Files

Ms. Moore reported that there are two additional pieces of legislation that were signed by the Governor that required the Bureau to adopt regulations. Ms. Moore provided an overview of the two pieces of legislation.

Assembly Bill 926 allows a cemetery authority to apply to the Bureau to convert its endowment care fund from a net distribution method to a unitrust distribution method. The law establishes conditions under which a distribution from the fund could be made under the unitrust distribution method. The Bureau must report on the effectiveness of the unitrust distribution method at its next two sunset review hearings. Finally, this law allows the Bureau to extend the due date of the annual Endowment Care Fund/Special Care Fund reports up to nine months. This statute takes effect on January 1, 2020.

Assembly Bill 967 requires the Bureau to license and regulate hydrolysis facilities, allows a crematory manager to be designated as a hydrolysis facility with a certification approved by the Bureau, requires an applicant for a hydrolysis facility license to obtain and present to the Bureau any state or locally required permits for business operation, and must use a hydrolysis chamber approved by the State Department of Public Health. This statute takes effect on July 1, 2020.

Ms. Moore hopes that by the next Advisory Committee Meeting in November, the draft language will be ready to present for both pieces of legislation, and a more in-depth discussion will be achieved.

Ms. Moore indicated she will be concentrating on the sunset review and staff can begin looking at the language for these pieces of legislation. Mr. Edwards is working on the language for the unitrust model and Ms. Sammons and Ms. Jenkins will work on the language for Alkaline Hydrolysis. The Bureau's intent is to vet the language to the association and consumer groups as necessary before starting the rulemaking process.

7. Proposed November 2018 Meeting Date(s)

Ms. Moore proposed November 1st, 14th, or the 15th, for the next Advisory Committee Meeting. The Committee all indicated availability on November 1, 2018.

8. Public Comment on Items Not on Agenda

Ms. Moore asked if there was anyone who would like to make public comments about items not on the agenda.

Attendee Jane Hillhouse, owner of Final Footprint, a natural green burial and casket business, reported that somebody is interested in creating a natural burial site in her area. Ms. Hillhouse asked if anyone knows of someone who has a cemetery and would like to pass it on, to let her know. Ms. Moore thanked Ms. Hillhouse, and asked, if there were other comments.

Attendee Marjorie Bridges, Funeral Consumers Alliance, reported receiving an inquiry asking if a cemetery is allowed to resell a cemetery plot. Ms. Bridges requested clarification. Mr. Hurtado, Staff Counsel, thanked Ms. Bridges for her comment, and informed her of the purpose for public comment and that Ms. Moore can consider her comment for a future agenda item. Ms. Moore informed Ms. Bridges to have the person contact the Bureau directly because there are laws that pertain to cemeteries that the Bureau licenses, and then there are laws that pertain to public cemeteries for which the Bureau has no jurisdiction. Ms. Bridges asked that the subject of renting cemetery property be considered as a future agenda item. Ms. Moore indicated she will take it into consideration.

9. Adjournment

Ms. Moore thanked everyone for attending. The meeting was adjourned at 11:54 a.m.