



ADVISORY COMMITTEE MEETING VIA WEBEX MINUTES

Thursday, October 28, 2021
10:00 a.m.

Advisory Committee Members

Rev. Jacob Jett
Maggie McMillan
Maria Mangini
Nichol Montague
Chanell O’Farrill
Jean Okuye
Jolena Grande

Stakeholder Members

Darin Drabing, Forest Lawn
Jerry Desmond, Cemetery & Mortuary
Association of California (CMAC)
Gerard Reinhart
Brianna Miller
Mike Sanchez

Cemetery and Funeral Bureau (Bureau or CFB) Staff: Gina Chiaverini Sanchez, Bureau Chief, Michelle Arthur, Supervising Auditor, and Carolina Sammons, Legislative Analyst

Department of Consumers Affairs (DCA or Department) Staff: Carrie Holmes, Bureau Liaison, Michael Kanotz, Staff Counsel, and Taylor Schick, Departments Fiscal Officer.

1. Introduction and Opening Remarks.

Bureau Chief, Gina Sanchez, called the meeting to order at approximately 10:00 a.m. welcoming those in attendance participating in the Bureau’s virtual public meeting pursuant to Government Code section 11133, neither a public location nor teleconference locations are provided. Ms. Sanchez provided instruction on the conduct of the meeting including how to make public comment, asked the Advisory Committee Members to introduce themselves, and introduced the meeting moderator, CFB and Department’s staff members.

Ms. Sanchez asked if there was anyone who would like to make public comments about agenda item number one. No comments were made.

2. Public Comment on Items Not on Agenda.

Ms. Sanchez asked if there was anyone who would like to make public comments about items not on the agenda. No comments were made.

3. Update from the Department of Consumer Affairs’ Representative.

Ms. Sanchez introduced Carrie Holmes, Deputy Director for Boards and Bureau Relations at the Department.

Ms. Holmes gave a brief introduction and welcomed the recently appointed Advisory Committee Member, Jolena Grande. Ms. Holmes thanked the members and bureau staff who have continued to serve through a pandemic.

Ms. Holmes provided the following information regarding COVID-19, Telework, and Open Meeting Act.

- Ms. Holmes stated that staff members are working in the office to provide the most effective consumer protection and public service while also utilizing telework where appropriate.
- DCA is assembling a task force to help the department create a telework policy that will provide further clarity and structure for managers and staff.
- To combat the spread of COVID-19 and protect vulnerable communities, California is implementing enhanced safety measures for State employees and workers and health care setting.
- State employees must show proof of vaccination or be subject to regular COVID-19 testing.
- DCA kicked off the COVID-19 testing program in early October.
- Advisory Committee members must follow health and safety protocols if planning to visit a DCA location or attend in person meetings.
- Members must verify full vaccination or follow testing protocols.
- DCA recognizes the difficulties of planning for future meetings as the pandemic continues to evolve. As the law stands today, remote meetings are allowed until January 30, 2022, after this date, the meetings will need to be in person in accordance with the Open Meeting Act.
- DCA recognizes the benefits to remote meetings and will provide updates affecting the meeting requirements.

Ms. Holmes talked about scams affecting boards and bureaus. DCA has shared information about these scams on its fraud alert website and encouraged consumers and licensees to be learn how to protect themselves from malicious individuals.

Ms. Holmes stated that 2021 is a mandatory Sexual Harassment Prevention Training year. This means all employees and volunteer committee members are required to complete this training during the year.

Ms. Holmes stated that if they have questions or concerns to contact Board and Bureau Relations.

Ms. Sanchez opened the meeting for committee members and or public comments. There were no comments made.

4. Update on Bureau Activities: Ms. Sanchez provided the following updates:

a. Staffing:

The Bureau is currently recruiting for one permanent full-time, and one limited-term Associate Management Auditor position. For information on these job postings visit www.jobs.ca.gov.

b. Consumer Guide to Funeral and Cemetery Purchases:

The Bureau will begin the revision process to the consumer guide. Your comments and suggestions are welcome via email at emailcfb@dca.ca.gov or directly to

Gina.Sanchez@dca.ca.gov. The Bureau will release a draft copy for comment at a future Advisory Committee meeting.

c. Business Modernization:

The Bureau has successfully released online renewals and the Cemetery Salesperson application online including payment with a credit card. Additionally, the Bureau is continuing the project to transition to a new software platform expected to streamline internal processes and allow for online submission of all license types and annual reporting requirements.

d. Annual Trust Reports:

Ms. Sanchez spoke to the annual trust reports requirement for cemeteries and funeral establishments. For fiscal year 2020-2021, the Bureau conducted 228 reviews remediating over 2.9 million dollars in mismanaged or untrusted funds.

The current fiscal year 2021-2022, the Audit Unit has completed 33 cemetery desk reviews and identified over \$900,000 in misappropriated funds. The Bureau has also begun this fiscal year conducting in-depth examination or full audits of all cemetery authorities to ensure compliance pursuant to Business and Profession Code section 7613.1.

On the funeral side, the Bureau has conducted eight desk reviews and has recovered almost \$2,000 in consumers funds. The Audit Unit works diligently with all licensees to get them into compliance with reporting and fiduciary mandates.

Ms. Sanchez opened the meeting for member comments.

Committee Member Jolena Grande asked if the Bureau has a projected timeline to when the online application process for all license type would be released?

Ms. Sanchez stated the Bureau is working with the Department of General Services and the Department of Technology to acquire the new software platform vendor. Once the vendor is selected the projected timeline is 18-months. The Bureau expects to begin the roll out in March of 2022.

Ms. Sanchez then opened the meeting for public comment. There were no comments were made.

5. Legislation Update: Carolina Sammons reported on the following Legislative bills that have been chaptered.

a. AB 293, Kalra, Preneed funeral arrangements: unclaimed property.

This bill has a delayed implementation date of January 1, 2023. It establishes procedures for when and how preneed funeral arrangements that are not claimed upon the beneficiary's death should escheat to the state under the Unclaimed Property Law. It also requires a funeral establishment that intends to cease operations to provide notice to beneficiaries or trustors and trustees of preneed funeral trusts, with certain requirements.

- b. AB 496, Chen, Cremation of veterans with the United States flag.
This bill authorizes a crematory, upon request of the person with the authority to dispose of the remains, to cremate the remains of a person who was a member of a branch of the United States military with a single American flag. The new law exempts a flag that is incinerated in this manner from the recordkeeping requirements for incinerating a flag.

- c. AB 651, Gipson, Endowment care cemeteries: examination, investigation, and discipline.
This bill increases the minimum dollar amount that must be deposited into a cemetery endowment care trust fund. It also provides, that in the absence of a court-appointed temporary manager, a county may assume responsibility for the maintenance of a cemetery if the cemetery manager of a private cemetery has surrendered their license or has had their license suspended or revoked. Lastly, this bill requires the Bureau to examine a cemetery's endowment care fund whenever the Bureau receives a valid complaint alleging financial misconduct or neglect of duties.

- d. AB 830, Flora, Business: Department of Consumer Affairs: licensed professions and vocations.
This bill amends Health and Safety Code (HSC) section 8726.2(b)(3). It requires a cemetery that wishes to convert its endowment care fund from a net income distribution method to a unitrust distribution method to demonstrate sufficient knowledge and expertise in investing and managing an endowment care fund generally, rather than only a fund utilizing the unitrust distribution method.

Military Bills

- a. AB 107, Salas, Licensure: veterans and military spouses.
This bill requires most boards and bureaus within the Department to issue temporary licenses to military spouses meeting specified criteria. Temporary licenses would be required to be issued within 30 days of receiving an application if the results of a criminal background check do not show grounds for denial. This bill takes effect on July 1, 2023 and requires the Bureau to submit draft regulations to the Department by June 15, 2022. Lastly, this bill requires the Department to submit an annual report to the Legislature on licensure of military members, veterans, and spouses.

- b. SB 607, Roth, Professions and vocations.
This bill requires the bureau to waive all fees associated with the application and initial license for an applicant who meets certain expedited licensing requirements.

Ms. Sanchez opened the meeting for committee member comments.

Committee Member Maria Mangini commented regarding AB 107 Licensure: veterans and military spouses. Ms. Mangini stated that the issuance of temporary licensure is an admirable step towards improving the access to professional licensure. Ms. Mangini stated that the Hoover Commission Report had three recommendations and temporary licensure was one of them. Ms. Mangini asked if the temporary licensure requires the individual to work under another licensed person during the time or is the individual able to work independently.

Ms. Sanchez indicated that the temporary licensure allows the individual to work independently. As it relates to expedited licensure for honorably discharged veterans, as well as for spouses/domestic partner of active-duty military personnel who hold a current license in another state, the Bureau already offers the expediting process. The Bureau will have to research other states requirements to issue temporary licenses because each state may have different requirements. The Bureau anticipates exploring regulations for all chaptered bills.

Ms. Sanchez then opened the meeting for public comment.

Public Member, Jerry Desmond with Cemetery Mortuary Association of California (CMAC). Mr. Desmond provided CMAC's perspectives on chaptered bills, AB 293, AB 651, and AB 830, as they move forward.

6. Regulatory Update: Ms. Sammons reported on the following Regulatory action as of October 2021.

1. AB 926, (Irwin, Chapter 750, Statutes of 2017) and AB 795 (Irwin, Chapter 309, Statutes of 2019), Cemeteries: Endowment Care Funds. On October 1st, the Bureau filed the final rulemaking documents with OAL for their review and approval.

Ms. Sanchez opened the meeting for committee members and or public comments.

Mr. Desmond, commented on the proposed Unitrust regulation. Mr. Desmond thanked the Bureau for the extra time, effort and dedication extended to this difficult regulatory package. Mr. Desmond believes that after the June 21st stakeholder meeting, the regulatory package reflects the statutory direction and authorization.

7a. Licensing Statistical Report and Update on Examination Development. Ms. Sammons led the discussion on this subject.

Licensing Performance Measures: Ms. Sammons stated the CFB Licensing Performance Measures were established as target timeframes for processing complete applications. A complete application includes all required fees and documentation. If any deficiencies are identified, a deficiency letter will be sent to the applicant. For complete applications, the target timeframe for issuance of a business license is 90 days and for issuance of a personal license is 20 days, except for the embalmer license which is 30 days.

For fiscal year 2020-21, the Bureau's average timeframe for processing complete applications met or exceeded the target goals for all applications.

Licenses Issued Statistics: During fiscal year 2020-21, the Bureau issued 869 new licenses, compared to fiscal year 2019-20, the Bureau issued 1, 030 new licenses.

License Renewal Statistics: The CFB received requests to renew 9,825 licenses with 4,766 or (49%) renewed online and 5,059 or (51%) renewed by mail.

Exam Pass Rate Statistics: The CFB had candidates who participated in various licensing examinations, funeral directors, embalmer, cemetery broker, cemetery manager and crematory manager. Of these candidates, the pass rate for the funeral director was 47%, for embalmers was 91%, for cemetery brokers was 53%, for cemetery managers was 57%, and for crematory manager was 90%.

Most Common Application Deficiencies: The most common deficiencies are: applicants failing to submit a Request for Live Scan Service form with each application for licensure; applicants failing to have the official transcripts sent directly to the Bureau from the educational institution; applicants failing to provide a contractual agreement to share preparation and/or storage; failing to provide a zoning permit or letter from the city or county when submitting an original application or a change of location; and combining cemetery and funeral application fees.

Ms. Sanchez opened the meeting for committee member comments.

Committee Member Maggie McMillan stated that the online renewal option is great, and it has streamlined the renewal process. Ms. McMillan asked about the exam pass rates, specifically the funeral director, it looks like half of the applicants failed the exam. How does it compare to other years?

Ms. Sanchez indicated that the pass rate for the funeral director examination has remained consistent, year after year. The Bureau performs an occupational analysis once every five years but preparing the applicant to take the exam is outside the Bureau's purview.

Ms. Grande asked if the Bureau disaggregate the data based on the demographics of the test takers? And does the Bureau maintain any information about applicants who have requested accommodations and their pass rates?

Ms. Sanchez indicated that she would research this information and provide a response later.

Ms. Sanchez then opened the meeting for public comment. There were no comments made.

7b. Update on Examination Development: The Bureau works with the Department's Office of Professional Examination Services (OPES) to conduct the exam development for the five different examinations the CFB administers; funeral director, embalmer, crematory manager, cemetery manager, and cemetery broker.

Ms. Sammons stated the Bureau completed the occupational analysis workshop and examination development for the cemetery broker and anticipates the new exam will go live this November.

Ms. Sammons indicated the Bureau is in the process of completing the examination development for the embalmer examination. There is one more workshop scheduled for November 16-17, 2021. The Bureau anticipates the new examination will go live in the spring of 2022.

Ms. Sanchez opened the meeting for committee members and or public comments. There were no comments made.

8. Enforcement Statistical Report. Ms. Sammons led the discussion on this topic.

Inspections Conducted – for fiscal year 2020-21 the Bureau conducted inspections of 1,262 licensed funeral establishments, cemeteries, crematories, cremated remains disposers, and cemetery brokers; compared to fiscal year 2019-20, the Bureau completed 1,224 inspections. The CFB met its statutory mandate to conduct annual inspections.

Complaint Received Statistics. The CFB received 863 complaints, 35% for cemetery and 65% for funeral.

Citation Issued Statistics. The CFB issued a total of 118 citations, 28% for the cemetery licensees and 72% for the funeral licensees.

Most Common Violations – The most common deficiencies for cemetery violations are: failure to supervise by manager of record; failure to conspicuously display a license in the place of business or employment of the licensee; failure to perform required minimum maintenance standards; failure to file the annual report for the fiscal year ending June 30 (CRDs); and failure to post required information at all public entrances.

The most common deficiencies for funeral violations are: failure of designated manager of record to ensure compliance; failure to have the price ranges on the general price list match the actual prices on the casket price list, gross negligence; gross incompetence or unprofessional conduct in the practice of funeral directing or embalming; failure to conspicuously display a license in the place of business or employment of the licensee; and failure to obtain an executed preneed funeral agreement for all cases.

Ms. Sanchez opened the meeting for committee members comments.

Ms. McMillan asked if the Bureau knew how the most common violation numbers compare to last year. Ms. McMillan wants to know if the current pandemic influenced the number of violations issued.

Ms. Sanchez stated there was no significant trend noticed due to the pandemic as it relates to citations. However, the number of complaints increased but many of the complaints were outside the Bureau's purview. As for inspections, the Bureau transitioned to virtual inspections. The Bureau returned to onsite physical inspections. As for the cemetery violations, the Bureau started tracking the most common violation within the last year. Ms. Sanchez indicated that she would report on this data at a future meeting.

Committee Member Nichol Montague stated she had the same questions as Ms. McMillan, specifically with consumers alleging that the funeral establishment do not return the cremated remains in a timely manner.

Ms. Sanchez stated the timeframe for returning cremated remains is not in statute or regulation.

Ms. Grande ask if the Bureau kept statistics regarding regional or geographic distribution of the violations, citation, and or complaints that are lodged and or inspected?

Ms. Sanchez stated that larger counties have more licensees and consumers so Los Angeles County for example would have more citations and or complaints then a smaller county.

Ms. Sanchez then opened the meeting for public comment. There were no comments made.

9. Cemetery and Funeral Bureau 2021 Fee Proposal. Ms. Sanchez provided a brief history concerning the fee proposal and the Bureau's current fund condition. Ms. Sanchez spoke to the cost models and methodologies used. Ms. Sanchez concluded the presentation and added that the Bureau is seeking legislative opportunities to implement this proposal. Ms. Sanchez opened the session for committee members comments.

Ms. Grande thanked the Bureau for the presentation, and stated she is supportive of this proposal being successful and securing funding for the Bureau.

Ms. Sanchez then opened the meeting for public comment.

Mr. Desmond stated that he appreciates Bureau Chief Sanchez participating in a conference to discuss and present the proposal, but the association is still reviewing it. Mr. Desmond stated that this significant fee proposal deserves more stakeholder engagement and dialogue. Mr. Desmond asked the Bureau to commit to a process of engagement with all stakeholders in a public manner to establish a solid foundation for the fee increase.

Ms. Sanchez indicated that the purpose of presenting the fee proposal today is to initiate stakeholder comment and engagement. It is early in the legislative session and the Bureau is willing to engage and have additional stakeholder discussions. Ms. Sanchez indicated that all comments are welcome, appreciated, and they will be taken under consideration.

Ms. Sanchez asked if the public had additional comments. There were no other public comments made.

10. Adjournment – meeting was adjourned at 11:38am