



BOARD REVIEW

VOLUME 12, No. 4
FALL 2004

WEST VIRGINIA BOARD OF FUNERAL SERVICE EXAMINERS "WVBFSE"
THE PROFESSIONALS' NEWSLETTER

FINALIZING CONTRACTS ON DAY OF FUNERAL

After numerous formal complaints filed by consumers, the Board strongly recommends that all funeral service contracts be finalized and signed at least one day before the scheduled funeral. Signing contracts on the day of the funeral is a poor standard of practice. In particular, it is extremely irresponsible to hand a contract to the family after the funeral service *but* before leaving for the cemetery. It can leave both the family and the funeral service provider feeling pressured to continue with the funeral, even when there are disagreements regarding the details of the contract.

A tent has been set up at grave side. Family members and friends have started to arrive for the service. Clergy have prepared to address the family. And, staff are already in place and on the clock. Do you want to put everything on hold to resolve a disputed contract? Does the family want to ask their loved ones to wait while the issues are resolved?

Nevertheless, many complaints received by the board reflect this scenario. And, in the end, it is generally the families that lose. They sign the contract because they don't feel like there is any other option. And, by doing so, they have agreed in writing to pay for the services as specified on the contract.

Be advised that, with this notice, the Board may now consider the signing of contracts on the day of the funeral service to be outside the accepted standards of practice and subject to disciplinary actions.

DISCIPLINARY ACTIONS

***Board v. Waldeck Funeral Home
and Kevin M. McClure,***
funeral establishment and licensee-in-charge

After conducting a disciplinary hearing, the Board found that the funeral establishment and licensee-in-charge failed to have a licensed funeral director present for a funeral service at which the Board's investigator observed the service. The Board subsequently ordered the following: The funeral establishment was placed on probation for three (3) years and assessed \$3,062.88 in administrative costs. The licensee-in-charge was prohibited from acting as licensee-in-charge for one (1) year.

***Board v. Gregory Funeral Home
and Keith D. Gregory,***
funeral establishment, licensee-in-charge and owner

After conducting a disciplinary hearing, the Board found that the funeral establishment failed to comply with an inspection violation, that of failing to have an operable preparation room in a main funeral establishment and that the licensee-in-charge failed to ensure that the funeral establishment complied. The Board also found that the funeral establishment failed to comply with the Inspection Violation Agreement C03-003 and failed to pay \$1,200 in administrative fees and \$800 in fines as a result of non-compliance. The Board subsequently ordered the following: the funeral establishment was placed on suspension until it fully complied. The licensee-in-charge was suspended for thirty (30) days and assessed \$4,819.17 in administrative costs and fines, with such suspension in effect until all fees were paid.

IS IT A RIGHT OR A PRIVILEGE?

Having a license to practice funeral service is indeed a privilege. According to W.Va. Code §30-1-1a, "the practice of professions [including funeral service] is a privilege and is not a natural right of individuals. The fundamental purpose of licensure and registration is to protect the public, and any license, registration, certificate or other authorization to practice...is a revocable privilege."

MEDICAL POWER OF ATTORNEY

Be aware that in order for the Medical Power of Attorney (MPOA) to serve as the authorized representative for making funeral arrangements, the MPOA document must specify that the MPOA has the right to make funeral arrangements. If the MPOA document lacks any directions regarding funeral arrangements, then the MPOA *can not* serve as the authorized representative. Please read the MPOA document very carefully and follow the instructions precisely.

COMPLAINT COMMITTEE BUSY

Always hard at work, the Complaint Committee is proud to announce that it had no formal complaints pending as of September 26, 2004. The Committee had been on track for a record number of complaint investigations since 1997, having received eight (8) complaints by late April, the same amount for all of calendar year 2003. Investigator James Sands worked diligently through the spring and early summer to finalize his investigations and the Committee acted upon those findings very quickly. While the Committee may have no formal complaints currently, it is always working on suspected violations and conducts undercover investigations frequently.

OFFICE CLOSURES & HOLIDAYS

November 2	Election Day
November 11	Veterans Day
Nov 25 and 26	Thanksgiving
December 24	Christmas observation
December 31	New Years Day observation

Board Staff

Sherri Douglass, Executive Director
James Sands, Investigator
Alvin Arner, III, Inspector
Price Calfee, III, Inspector

**Areas with gray background denote OSHA/health related courses. There are several more courses, including OSHA/Health programs, listed on our website, www.wvfuneralboard.com. Consult previously issued newsletters, also.

On-Going	Certified Preplanning Consultant Program, Correspondence Course 15 CEU's General Education Location: home study Sponsor: Funeral Service Foundation (NFDA) Registration: FSF Service Representative, phone 877-402-5900	On-Going	Certified Preplanning Consultant Correspondence Course 15.0 CEU's General Education Location: Home study Sponsor: NFDA Registration: 1-262-789-1880	Nov 10-13, 2004	Fall Management Conference 9.0 CEU's General Education Location: Phoenix, AZ Sponsor: ICFA Registration: 1-800-645-7700
On-Going	Commemoration of a Lifetime 3.0 CEU's General Education Location: varies Sponsor: Batesville Casket Company Registration: Deb St. Pierre, phone 1-317-884-1277	On-Going	Federal Trade Commission Regulations: Complying with the Funeral Rule 1.0 CEU's General Education Location: varies (in your funeral home) Sponsor: Regulatory Support Services Registration: phone 1-804-784-7347	Nov 15-17, 2004	Exceptional Events: A New Frontier for Funeral Service 10.0 CEU's General Education Location: California Sponsor: NFDA Registration: phone 1-800-228-6332
On-Going	And We Wonder Why People Question the Need for Funerals: Creating a Proactive Response 1.5 CEU's General Education Location: home study (video) Sponsor: International Order of the Golden Rule Registration: 1-800-637-8030	On-Going	OSHA Education courses 1.5 CEU's each Location: Internet Sponsor: Dignity University (SCI Management LP) Registration: must be SCI employee	Nov 14, 2004	Holiday Help: Grieving During the Holidays 2.0 CEU's General Education Location: Amelia, OH Sponsor: E. C. Nurre Funeral Home Registration: phone 513-753-6130
On-Going	Aurora Plant Tour 1.0 CEU General Education Location: Aurora, IN Sponsor: Aurora Casket Company Registration: phone 1-800-457-1111	On-Going	The Art of Mortuary Airbrush Makeup 16.0 CEU's General Education Location: North Hollywood, CA Sponsor: Dinair Airbrush makeup Sys. Registration: phone 1-800-785-4770	Nov 17-19, 2004	Invitational Roundtable 3.0 CEU's General Education Location: Tulare, SD Sponsor: IOGR Registration: phone 314-209-7142
On-Going	Focus on Your Future 10.0 CEU's General Education Location: varies Sponsor: Yorktowne Caskets, Inc. Registration: Phone, 1-800-343-5121	On-Going	Funeral Campus 36 courses, ranging from 1-17 hours each 15 osha/health courses Location: internet Sponsor: 360 training Registration: www.funeralcampus.com or 1-800-442-1149	Nov 18, 2004	Helping Survivors Get Their Financial Matters in Order 1.0 General Education Telephone-based audio seminar Sponsor: IOGR Registration: phone 314-209-7142
On-Going	Variety of programs ranging from 1-3 hours, both general and OSHA/Health credits Location: Internet Sponsor: FuneralCE.com Registration: www.funeralce.com or 1-866-332-8423	On-Going	Life Appreciation Basic Training 5.0 CEU's General Education Location: Internet Sponsor: Life Appreciation Training Registration 1-800-877-8905 www.lifeappreciation.com	Dec 16, 2004	Open Line Idea Exchange 1.0 General Education Telephone-based audio seminar Sponsor: IOGR Registration: phone 314-209-7142
On-Going	Understanding and Managing Grief 6.0 CEU's General Education Location: homestudy (internet) Sponsor: FuneralReview.com Registration: www.funeralreview.com	Nov 4, 2004	OSHA: Communicable Diseases 2.0 CEU's OSHA/Health Education Teleconference Sponsor: NFDA Registration: 1-800-228-6332	Date to Be Determined	Business Plans: You Can't Operate your Funeral Home without One 2.0 CEU's General Education Teleconference Sponsor: NFDA Registration: 1-800-228-6332
On-Going	HIV/AIDS: A Funeral Practitioner's Guide to Occupational Exposure 2.0 CEU's OSHA/Health Education Location: homestudy (internet) Sponsor: FuneralReview.com Registration: www.funeralreview.com	Nov 7-9, 2004	Strategies for a Stronger Tomorrow 10.0 CEU's General Education Location: Las Vegas, NV Sponsor: IOGR Registration: phone 314-209-7142	Date to Be Determined	Winds of Change - Cremation & Funeral Service 3.0 CEU's General Education Sponsor: Matthews Cremation Division Registration: phone 1-800-327-2831 ext 124
On-Going	Hazard Communication in Funeral Service 1.0 CUE's OSHA/Health Education Location: homestudy (internet) Sponsor: FuneralReview.com Registration: www.funeralreview.com	Nov 10, 2004	The Healing Power of Humor 1.5 CEU's General Education Location: Moorefield, WV Sponsor: Grant Memorial Hospice, (304) 257-1026 x. 550 or (304) 257-4368	Jan. 13-14, 2005	Sales Management & Marketing Conference 11.5 CEU's General Education Location: New Orleans, LA Sponsor: ICFA, (800) 645-7700

CE's are due by June 30, 2005. Your status can be found on the last page of this newsletter, just below the mailing label.

**WELCOME
TO THE NEWEST MEMBERS OF THE
FUNERAL INDUSTRY**

FUNERAL SERVICE LICENSEES

Sueann F. Schwille
Amy L. Fox
Thomas S. Kittle
Chad A. Legg
Michael K. Best
Charles L. Patrick
Paul A. Nestor

APPRENTICES

Craig A. Pritchett
Jeffrey L. Taylor
Christopher J. Chapman
Joseph T. Chapman
Jeffrey C. Waybright

COURTESY CARD HOLDERS

none

CREMATORY OPERATORS

Charles D. Burdette

**FUNERAL ESTABLISHMENTS
(since January 2004)**

Callender Funeral Home,
opened in Huntington

Lambert-Tatman Funeral Homes,
purchased by West Virginia Funeral Group, Inc.

Field Funeral Home,
*opened in Masontown
formerly Waldeck Funeral Home*

Armstrong Funeral Home,
new owners

Riggs Funeral Home,
*opened in Weirton
formerly Presley Funeral Home*

Kimes Funeral Home and Cremation Services,
new owners

Owen-Neely Funeral Home,
new owners

**CREMATORIES
(since January 2004)**

none

Congratulations!!!!!!

CREMATORY OPERATOR REGISTRATION

All persons operating crematory equipment must be registered with the board as a crematory operator. However, anyone interested in obtaining this as an additional registration may do so. The requirements are quite simple. Obviously, you must apply for registration. This form can be downloaded from our website at http://www.wvfuneralboard.com/pdf_files/Crematory_Forms/crematory_operator_new_application.pdf. The initial registration fee is \$145.00, with a renewal rate of \$120.00.

You must also take a 2-hour workshop on state cremation regulations. This workshop is offered by the board and is scheduled as needed. If you are a funeral director, you will earn 2 hours of continuing education credit from this workshop. In addition, you must complete an approved 8-hour course on crematory operation. A list of certified providers is available on our website at http://www.wvfuneralboard.com/pdf_files/Crematory_Forms/certified_cremation_education_providers.pdf.

NEW BACKFLOW PREVENTION REGS

The Bureau for Public Health has instituted new backflow prevention standards, effective March 13, 2004. Backflow is "the unintentional reversal of the normal direction of flow within a piping system." An approved backflow prevention assembly is defined as "a double check valve assembly, reduced pressure backflow prevention assembly, other devices or methods approved by the Commissioner [of the Bureau for Public Health]." A cross-connection is defined as "any physical connection or other arrangement through which a backflow of liquids, gases or other substances into a public water system may occur. Unprotected cross-connections are illegal.

What does this mean to you? All mortuaries (i.e. funeral homes) must comply with these new regulations. It specifically states that "each water service line...requires installation of an approved backflow prevention method, unless investigation by public water system determines that no actual or potential health hazard, or other degradation of the public water system exists."

Contact your water service provider or the Bureau for Public Health at (304) 558-1035 for more details.

OFFICERS REELECTED

Eugene T. Fahey was recently reelected as President of the Board of Funeral Service Examiners, while Raymond S. Tomassene was also reelected to the position of Secretary. Mr. Fahey currently serves as the crematory operator representative and is also a funeral service licensee. Mr. Tomassene serves as a consumer member. Congratulations to both members.

In a recent publication of the West Virginia Worker's Compensation Division (WVWC), author Gere Flick summarized the 11-point test used to determine whether or not an individual should be considered an employee or an independent contractor. The test is based on Internal Revenue Service (IRS) standards. Flick writes that there are three categories used by the IRS when evaluating workers. The IRS considers "behavior control," which involves the right of the employer to direct and control the worker. The second is "financial control," which involves the employer's right to control the business aspects of the worker, and third is the "type of relationship," which includes such things as contracts, benefits, permanency of the relationship, and the relationship of the worker's services to the core business. You can read more about this topic at <http://www.state.wv.us/bep/wc/Directions/Dir04-2.pdf>.

Flick, Gere. (2004). Independent contractors or employees? Directions, Second Quarter 2004, pgs. 6 and 8.

CERTIFIED CE PROVIDERS

Any program offered by a certified continuing education provider is automatically approved for credit. These providers have proven in the past that they offer numerous, quality programs. A list of certified providers is available on the board's website, www.wvfuneralboard.com. Contact providers directly to obtain a list of available programs.

BOARD MEETING SCHEDULED

The Board will meet on Wednesday, November 10, 2004 in its Charleston Office to conduct regular business.

Questions?...Just Ask Us!

If you need information pertaining to the practice of funeral service, funeral establishments, crematories, etc., write to:

Sherri Douglass
Executive Director
WV Board of Funeral Service Examiners
179 Summers Street, Suite 305
Charleston, WV 25301
wvfuneralboard@msn.com

WANT AN EASY WAY TO ANSWER YOUR QUESTIONS OR GET FORMS?

Go on the internet to www.wvfuneralboard.com. Our new web site can provide you assistance with most of your questions. This is especially helpful during non-business hours. We encourage you to use the web site regularly as a one-stop source for state and federal regulations, as well as general licensing questions.

NEED A COPY OF THE NEW LAW?

To order a copy of the current "West Virginia Funeral Service Examiners Act" and its corresponding rules, please send a self-addressed stamped envelope and *\$6.00 to the address listed above.

*Laws: \$5.00 plus \$1.00 shipping



Let us know how we stack up.
We'd love to hear from you.

**STATE OF WEST VIRGINIA
BOARD OF FUNERAL SERVICE EXAMINERS**
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Board Members

Eugene T. Fahey, President
Raymond S. Tomassene, Secretary
John W. Chapman, III
Legislative Committee
LRR Examination Review Committee

R. Brent Parker
Complaint Committee
Legislative Committee

A. Craig Rotruck
Legislative Committee
LRR Examination Review Committee

Stephen T. Varner
Complaint Committee
Continuing Education Committee

Benjamin F. Williams
Continuing Education Committee
LRR Examination Review Committee