

**VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
VERMONT BOARD OF FUNERAL SERVICE**

<http://www.vtprofessionals.org>

NEWSLETTER

Phone: (802)828-3228 Fax: (802)828-2368

Deborah L. Markowitz, Secretary of State
William A. Dalton, Deputy Secretary of State
Vacant, Director, Office of Professional Regulations

SUMMER 2005

BOARD

The Board of Funeral Service consists of five members appointed by the governor, three of whom are licensed funeral directors with five years experience as a funeral director and two members are consumer members who represent the public.

William J. Hurley, licensed funeral director of Shaftsbury, Vermont was re-elected as Chair of the Board on November 12, 2004.

Paul Guare, licensed funeral director of Montpelier, Vermont, was re-elected as Vice Chair of the Board on November 12, 2004.

David Grundy, public member of East Montpelier, Vermont, was re-elected as Secretary of the Board on November 12, 2004.

John T. Coffin, licensed funeral director of Peacham, Vermont.

Stephen H. Russell, public member of Hinesburg, Vermont.

STAFF AND CONTACT INFORMATION

Theodore (Ted) McKnight, Board Administrator
Phone: (802)828-3256
E-mail: tmcknigh@sec.state.vt.us

Judith Griffen, Administrative Assistant
Phone: (802)828-3228
E-mail: jgriffen@sec.state.vt.us

RENEWAL REMINDER

All licensees will be renewing on July 31, 2005. Licensees will need 10 hours of continuing education per license.

NOTE

A licensee is responsible for notifying the Board of Funeral Service office promptly if he or she changes name, mailing address or business address.

BOARD OF FUNERAL SERVICE WEBSITE

<http://www.vtprofessionals.org>

Regularly requested materials supplied from this office can be found on this site. Including all forms, continuing education list, the laws and rules for the Board of Funeral Service. Please inform others who may benefit from this information.

REMINDER

The Vermont Board of Funeral Service Address is:
Vermont Secretary of State
Vermont Board of Funeral Service
Heritage 1 Building, 81 River Street
Montpelier, VT 05609-1106

LEGISLATURE UPDATE

Effective July 1, 2005 the legislature has placed the licensing function for crematories with the Board of Funeral Service. Licensing of crematories was originally established as an Advisory Group.

The other significant change requires that all funds collected for prepaid arrangements be paid directly to the escrow agent and not to the funeral director or establishment.

The following are the actual changes to the Board Statues.

STATUE CHANGES

Sec. 38. 26 V.S.A. § 1212 is amended to read:

§ 1212. RULES; DUTIES

(a) The board shall:

(1) adopt rules establishing requirements for facilities used for embalming and preparation of dead human bodies, including the use of universal precautions. Rules adopted under this subdivision shall be submitted to the commissioner of health before the proposed rule is filed with the secretary of state under chapter 25 of Title 3;

(2) adopt rules governing professional standards, standards for disclosure of prices and a description of the goods and services that will be provided for those prices not inconsistent with Federal Trade Commission regulations regarding funeral industry practices and unfair or deceptive business practices;

(3) provide general information to applicants for licensure;

(4) explain appeal procedures to licensees and applicants and complaint procedures to the public; and

(5) issue licenses to qualified applicants under this chapter;

~~(b) The office of professional regulation, with the advice of the advisor appointees established in section 1212a of this title, shall:~~

~~(1)(6)~~ adopt rules regarding minimum standards for crematory establishments, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment, and maintenance, dealing with the public and other measures necessary to protect the public;

~~(2) provide general information to applicants for licensure;~~

~~(3) explain appeal procedures to licensees and applicants and complaint procedures to the public; and~~

~~(4) issue licenses to qualified applicants under this chapter.~~

Sec. 39. 26 V.S.A. § 1213 is amended to read:

§ 1213. INSPECTION OF PREMISES

(a) The board of funeral service or ~~the office of professional regulation~~ its designee may, at any reasonable time, inspect funeral and crematory establishments. ~~The office of professional~~

~~regulation may, at any reasonable time, inspect crematory establishments.~~

(b) Each funeral and crematory establishment shall be inspected at least once every two years. Copies of the inspector's report of ~~an inspection~~ inspections of a funeral establishment establishments shall be provided to the board.

Sec. 40. 26 V.S.A. § 1251 is amended to read:

§ 1251. LICENSE REQUIREMENTS

No person, partnership, corporation, association, or other organization may open or maintain a funeral establishment unless the establishment is licensed by the board of funeral service to conduct the business and unless the owner, a co-owner or manager is a licensed funeral director. No person, partnership, corporation, association, or other organization may open or maintain a crematory establishment unless the establishment is licensed by the ~~office of professional regulation~~ board of funeral service. No person may hold himself or herself out as performing the duties of a funeral director unless licensed by the board of funeral service. Except as otherwise permitted by law, no person employed by a funeral or crematory establishment may perform a removal unless registered with the ~~board of funeral service and no person employed by a crematory establishment may perform a removal unless registered with the office of professional regulation.~~

Sec. 41. 26 V.S.A. § 1252(c) is amended to read:

(c) Crematory establishment. A person, partnership, corporation, association, or other organization desiring to operate a crematory establishment shall apply, in writing, to the ~~office of professional regulation~~ board of funeral service for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the establishment.

The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the ~~office of professional regulation~~ board, and the applicant shall furnish ~~such~~ information, as required by rule ~~of the office~~. The application shall be accompanied by a registration licensing fee. However, the applicant shall not be required to pay the ~~registration~~ fee under this subsection if the

applicant pays the fee under subsection (b) of this section.

Sec. 42. 26 V.S.A. § 1254 is amended to read:

§ 1254. ISSUANCE OR DENIAL OF LICENSE

If, upon examination review, it is found that the applicant possesses sufficient skill and knowledge of the business, the board shall issue to him or her upon the payment of an initial license fee, a license to engage in the business of funeral director, ~~and shall license him or her funeral establishment, crematory establishment, or removal personnel.~~ If, upon examination, it is found that the applicant possesses sufficient skill and knowledge of the business, the office of professional regulation shall issue to him or her upon the payment of an initial license fee, a license to engage in the business of a crematory establishment. All applications shall be granted or denied within 90 days from the making thereof.

Sec. 43. 26 V.S.A. § 1256 is amended to read:

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

* * *

(c) If a licensee fails to pay the renewal fee by the required date, the license shall ~~be suspended~~ lapse. Thereafter, the license may be ~~renewed~~ reinstated only upon application to the board or the office of professional regulation and upon payment of the renewal fee and a reinstatement fee.

* * *

(e) In addition to the provisions of subsection (a) of this section, an applicant for renewal as a funeral director shall have satisfactorily completed continuing education as required by the board. For purposes of this subsection, the board shall require, by rule, not less than six nor more than ten hours of approved continuing education as a condition of renewal.

Sec. 44. 26 V.S.A. § 1257 is amended to read:

§ 1257. UNPROFESSIONAL CONDUCT

(a) A licensee shall not engage in unprofessional conduct.

(b) Unprofessional conduct means the following conduct and conduct set forth in section 129a of Title 3:

* * *

(3) ~~For funeral directors, failure~~ Failure to comply with rules adopted by the board, the office of professional regulation, or by the Federal Trade Commission relating to funeral directors or, for crematory establishments, failure to comply with rules adopted by the office of professional regulation goods and services.

* * *

(c) After hearing and upon a finding of unprofessional conduct, the board ~~or office of professional regulation~~ may take disciplinary action against a licensee.

(d) For purposes of this section, “disciplinary action” includes any action taken by the board ~~or the office of professional regulation~~ against a licensee premised on a finding of unprofessional conduct. Disciplinary action includes all appropriate remedies, including denial of renewal of a license, suspension, revocation, limiting, or conditioning of the license, issuing reprimands or warnings, and adopting consent orders.

(e) Disciplinary proceedings against a licensed crematory establishment or its personnel, when that crematory is independent from a licensed funeral establishment, may, upon petition of the licensee, be heard by an administrative law officer appointed by the director of the office of professional regulation.

Sec. 44a. 26 V.S.A. § 1272 is amended to read:

§ 1272. RULES

The board, with the assistance of the office of professional regulation, shall adopt rules to carry out the provisions of this subchapter to insure the proper handling of all funds paid pursuant to a prepaid funeral agreement and to protect consumers in the event of default. The rules shall include provisions relating to the following:

* * *

(2) The appointment of an escrow agent who may be a bank or other category of individual such as an attorney, a local elected official, next of kin, or the executor of a buyer’s estate. All prepaid arrangement funds shall be paid directly to the escrow agent and not to the funeral director or establishment.

* * *

(6) Records to be kept, manner of disclosure, and clauses to be included in contracts, including pre-need trust forms, and agreements. Records shall include a copy of the prepaid arrangement check which shall be kept in the prepaid account file maintained by the funeral director.

* * *

(9) Establishment of a funeral services trust account. For purposes of funding the funeral services trust account, the board or the office of professional regulation shall assess each funeral or crematory establishment a per funeral, burial, or disposition fee of \$6.00. The account shall be administered by the secretary of state and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment defaults on its obligations under the contract. The account shall consist of all fees collected under this subdivision and any assessments authorized by the general assembly. The principal and interest remaining in the account at the close of any fiscal year shall not revert but shall remain in the account for use in succeeding fiscal years. Notwithstanding the foregoing, if the fund balance at the beginning of a fiscal year is at least \$200,000.00, no fees shall be imposed during that fiscal year. Payments on consumer claims from the fund shall be made on warrants by the commissioner of finance and management, at the direction of the board of funeral services. When an investigation reveals financial discrepancies within a licensed establishment, the director may order an audit to determine the existence of possible claims on the funeral services trust account. In cases where both a funeral and crematory establishment are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.

DISCIPLINARY ACTION:

Max Edward Carr, funeral director of Brattleboro, VT. The Board revoked his Funeral Director, Embalmer and Funeral Home licenses effective March 9, 2005 for creating false documents for financial gain.

Mark Kenney, funeral director of Chester, VT.

The Board gave a warning and required a \$500.00 administrative penalty to be paid for not allocating a pro rata share of the interest accrued by the trust account to "cash advanced" monies deposited in trust account. Effective March 16, 2005.

CONTINUING EDUCATION PROVIDERS

Please call sponsors directly for more information on dates and locations.

Accord Inc.

1941 Bishop Lane Suite 202
Louisville, KY 40218-1927
1-800-346-3087
(502)458-0260
Lynn Bowman

American Funeral Consultants

16 Plattekill Avenue
New Paltz, NY 12561
1-800-832-6232
Melissa A. Drake

Arc Mesa Educators

788 Shrewsbury Avenue
Tinton Falls, NJ 07724
1-800-597-6372
732-224-9595
Paul D. Hammond

Batesville Casket Company

One Batesville Boulevard
Batesville, IN 47006
812-934-7500

Donald J. Baechle Jr.

Claude Mitchell Institute for the Advancement of Mortuary Science

10925 Reed Hartman Hwy. #117
Cincinnati, OH 45242
813-792-0836
Claude Mitchell

Continental Computer Corp.

Attn: Steven Romine
PO Box 232
2200 E. Matthews Avenue
Jonesboro, AR 72401

Cremation Association of North America

Attn: Jennifer Parker
401 N. Michigan Avenue, Ste 2200
Chicago, IL 60611

Department of Health, Baird 1

111 Colchester Avenue
Burlington, VT 05401
Paul L. Morrow
802-863-7320

The Dodge Institute for Advanced Mortuary Studies

165 Cambridge Park Drive
Cambridge, MA 02140
1-800-443-6343 ext. 201
Debbie Dodge

Elite CME, Inc.

Attn: Chris Calabucci
23 West Granada Boulevard
Ormond Beach, FL 32174

Fountain National Academy of Professional Embalming Skills

2211 West Norton Road
Springfield, MO 65803

Funeral Ethics Association

PO Box 7127
Springfield, IL 62791
Tammy Nevill
201-525-1520

Funeral Review.com

Attn: John McQueen
689-9th St. North Suite C
St. Petersburg, FL 33701

Funeral Service Insider Magazine

Attn: Randy Garner
11300 Rockville Pike #11
Rockville, MD 20852

In-Sight Brooks

PO Box 42467
Oklahoma City, OK 73123

Hospice Foundation of America

2001 S Street, NW, Suite 300
Washington, DC 20009
Laura J. Spangler
202-638-5419

International Cemetery and Funeral Association

1895 Preston White Drive, Suite 220
Reston, VA 20191
Lori Byrne
1-800-645-7700
703-391-8400

International Order of the Golden Rule

13523 Lakefront Drive
Bridgeton [St. Louis] MO 63045
Jenny Gabbert
1-800-637-8030 ext. 120

Life Appreciation Training Seminars, Inc.

1402 Kennedy Causeway, Suite 253
North Bay Village, FL 33138
Milberne Bates
305-756-1200

National Funeral Directors Association

13625 Bishop's Drive
Brookfield, WI 53005-6607
Shari Foucault
1-800-228-6332
262-789-1880

New Hampshire Technical Institute

College Drive
Concord, NH 03301
603-271-6484

Ohio Funeral Directors Association

2501 North Star Road
Columbus, OH 43221
Diana O'Neal
614-486-5339

Options by Batesville

One Batesville Blvd
Batesville, IN 47006

Selected Resources of Selected Independent Funeral Homes

Attn: Joseph Barnhart
500 Lake Cook Road, Suite 205
Deerfield, IL 60015

Thanos Institute

PO Box 1928
Buffalo, NY 14231-1928
Mary Rizzo
716-636-0383

Vermont Funeral Directors Association

1 Rose Hill
Woodstock, VT 05091-1030
Dwight Camp

802-457-1224

YORKTOWNE CASKET, INC.

Contact: Jamie Maack

PO Box 202

Robesonia, PA 19551