



## FUTURE MEETINGS:

August 24 in Burlingame.  
November 17 in San Diego.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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The five-member Board of Funeral Directors and Embalmers licenses funeral establishments and embalmers and approves changes of business name or location. It registers apprentice embalmers, approves funeral establishments for apprenticeship training, annually accredits embalming schools and administers the licensing examinations. The Board inspects the physical and sanitary conditions in a funeral establishment, enforces price disclosure laws and audits preneed funeral trust accounts maintained by its licensees. (A Board audit of a licensed funeral firm's preneed trust funds is statutorily mandated prior to transfer or cancellation of the license.) In addition, the Board investigates and resolves consumer complaints.

## MAJOR PROJECTS:

*Preneed Trust Regulation Changes.* On March 30, the Board held a public hearing on proposed amendments to sections 1265 and 1275, Chapter 12, Title 16 of the California Code of Regulations (CCR), relating to the use of income from a preneed trust. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 and Vol. 8, No. 4 (Fall 1988) p. 55 for background information on these changes.)

The proposed change to section 1265 would establish a reasonable annual fee for administering a trust of not more than 4% of the year-end trust balance. An existing restriction on the use of income for only actual trust expenses would be eliminated, as would an existing prohibition on the use of corpus or income for sales-related expenses. Amended section 1275 would expand and clarify existing designation and disclosure requirements for guaranteed and nonguaranteed preneed trust agreements or contracts. Each preneed agreement must be designated as either guaranteed or nonguaranteed and, if guaranteed only in part, the services and merchandise excluded from the guarantee must be specified. Further, if the agreement is guaranteed, all of the terms and conditions limiting the guarantee must be disclosed; if the agreement is not guaranteed, there must be a complete explanation of how

the trust balance will be applied to the at-need costs to pay for the services and merchandise provided at the beneficiary's death and that there may be additional payments required or a refund due.

After the hearing, the Board adopted the proposed changes with some modifications. The Board subsequently released the modified language for further comment, and adopted the modified language at its June 15 meeting. At this writing, the rulemaking file is being prepared for submission to the Office of Administrative Law (OAL).

*Notice Regarding Sealing Devices.* Also at its June 15 meeting, the Board held a regulatory hearing on its proposal to repeal section 1258, Chapter 12, Title 16 of the CCR, which requires prominent display of a notice on all caskets having or represented as having a sealing device regarding the lack of evidence of any preservative effect of a sealer casket on human remains. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 for background information.) Following the hearing, the Board approved the repeal. At this writing, the rulemaking file on this regulatory change is being prepared for submission to OAL.

*Constructive Delivery of Merchandise.* At its June 15 meeting in Palm Springs, the Board discussed the practice of constructive delivery of merchandise in connection with preneed funeral arrangements. When a consumer purchases a preneed contract, the money collected covers several items sold under the preneed contract. The money is collected from the consumer; the consumer receives a receipt; and the merchandise is warehoused. Part of the merchandise included when a consumer purchases a preneed contract is the cardboard cremation container. The cost to the funeral director is approximately \$4-\$5 per container when bought in volume. Some funeral directors mark this cost up to as high as \$300 per container.

The Board does not favor this practice and discussed the drafting of a regulation that would prohibit it. Currently, the practice is legal under section 7741 of the Business and Professions Code. The Board would like to clarify the meaning of the term "merchandise that is delivered as soon as paid for" in section 7741 and forbid the practice of constructive delivery.

## LEGISLATION:

*AB 459 (Frizzelle)* would allow Board licensees who have allowed their licenses to expire to renew their licenses at any time regardless of length of delinquency,

without a reexamination requirement. The Board is opposed to this bill, which has become a two-year bill.

*SB 722 (Stirling)* would require a local registrar to issue a permit for the disposition of human remains immediately upon presentation to the local registrar of a certificate of death or fetal death, except when the certificate contains medical or other information indicating that the death is a case requiring investigation by the coroner pursuant to existing provisions of law and the certificate does not contain evidence that this information has been reported to the coroner, or the certificate does not establish the identity of the decedent, and the place, date, and time of death.

Existing law requires the local registrar, before acceptance for registration, to carefully examine each certificate, and if any are incomplete or unsatisfactory to require such further information to be furnished as may be necessary to make the record satisfactory. This bill would eliminate the requirement that the examination and the duty of the local registrar to require additional information necessary to make the record satisfactory be performed before, rather than after, acceptance for registration.

The Board will support SB 722 if amended to continue the requirement that the embalmer's signature and license number remain as part of the death certificate. SB 722 passed the Senate on May 11 and is pending in the Assembly Judiciary Committee at this writing.

*AB 2271 (Farr)*, which would authorize a trustor in a preneed funeral trust to elect, for any reason, that the trust is irrevocable, has been placed in the inactive file by its author. (See CRLR Vol. 9, No. 2 (Spring 1989) p. 56 for background information on this bill.)

## RECENT MEETINGS:

At the June meeting, the Publications Committee gave a progress report on its drafting of a consumer information booklet. Many comments have been received from consumer interest groups and industry groups. Another draft will be ready by the Board's next meeting.

## FUTURE MEETINGS:

August 3 in Los Angeles.