

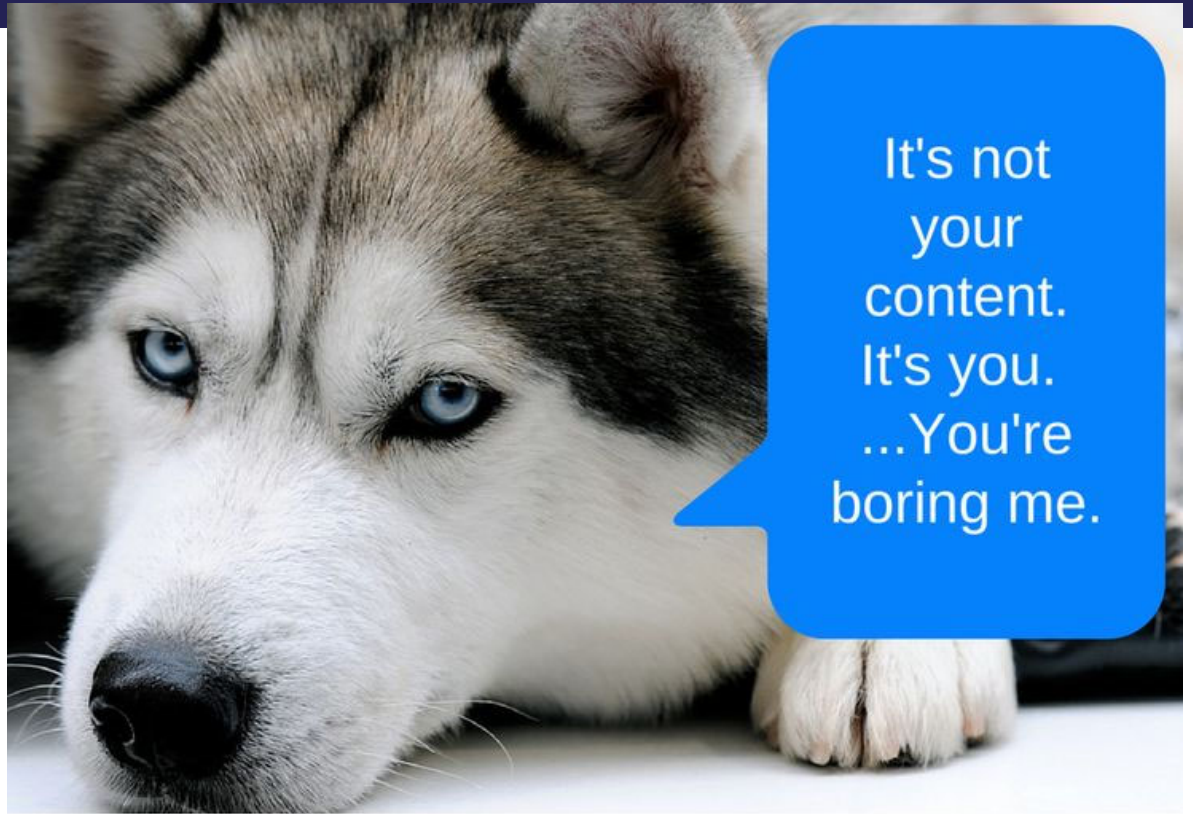
The International Conference of Funeral Service Examining Boards

Board Member Training

Thursday February 25, 2021

9:00am-10:00am CT

Training....



Chat....
Speak Up...



Regulatory
conversations



Everyone benefits

Speaker: Dale Atkinson, Esq.

THE ATKINSON FIRM

Attorneys at Law | 1466 Techny Road | Northbrook, IL | 60062

Remarks Sponsored by the Acronym of Your Organization

- Intent
- COVID
- Forecast
- Statutes
- Examinations
- Broach



Intent

- Why?
- Please type into the chat feature a few words that describe what funeral boards do...

e.g. Protect the Public

What boards do.....

- Regulate
- Educate
- Communicate
- Promulgate regulations
- Process applications
- Process renewals
- Recognize education
- Recognize continuing education
- Address legislature
- Recognize examination(s)
- Enforce
- Publish
- Social media presence
- Address academia
- Address trade
- Recordkeeping
- Meet
- Employ
- Collect and expend monies
- Budget.....

Intent

- Why?
 - *Carry out the intent of the legislation*



More “I” words: Interagency/Intrastate/Interact

- Per a footnote in the audit report of the Arizona Board of Funeral Directors and Embalmers from November 2020, the Funeral Board entered into an **Interagency Services Agreement** re inspections of licensed animal crematories.



Board Mission: Arkansas

- The mission of the **Arkansas State Board of Embalmers and Funeral Directors** is to act in the public interest, for the public protection and advancement of the profession within the police powers vested in the Board by the Legislature of the State of Arkansas, entirely without general revenue funds.

Board Mission: Oregon

- The mission of the Board is to protect public health, safety and welfare by fairly and efficiently performing its licensing, inspection and enforcement duties; by promoting professional behavior and standards in all facets of the Oregon death care industry; and, by maintaining constructive relationships with licensees, those they serve and others with an interest in the Board's activities.

Board Mission: Arizona

- ...Maintain and enforce a set of standards that provides protection for the health, safety, and welfare of Arizona citizens by educating the consumer and by actively and impartially regulating those licensed to provide funeral goods and services.

(From 2020 audit, could not locate on board website)

COVID

- Declared state of emergency
- Statutes authorize Governor the declare a state of emergency
- Once declared, Executive Branch powers are expanded during the state of emergency
- Authorization to suspend statutes and, effectively, create new laws temporarily and as needed to address the emergency.
- Limited time frame, limited authority
- Subject to checks and balances, separation of powers & litigation

COVID

- Via an executive order, cannot modify the statutes authorizing the Governor to declare a state of emergency.
- Declared state of emergency have a limited period
- Under separation of powers, the legislative branch is expected to enact laws as deemed necessary.
- Legislature may cancel the state of emergency as a means of addressing executive branch authority.

COVID

- Executive Orders....force of law?
 - An executive order may be a directive from the Governor to state agencies, communicating to those agencies what the Governor wants the agency to accomplish. The order does not have the force and effect of law. However, compliance by state agency heads who serve at the pleasure of the Governor is normally expected. If such an agency head does not comply with the Governor's policy enunciated in the order, the Governor may decide to remove the agency head from office.

AUTHORITY OF GOVERNOR TO ISSUE EXECUTIVE ORDER HAVING THE FORCE AND EFFECT OF LAW
AGO 1991 No. 21 - Jun 11 1991
Attorney General Ken Eikenberry

COVID

- Executive Orders
 - Puerto Rico is the only jurisdiction that requires legislative ratification of executive orders

COVID

- Executive Orders
 - Renewal of licensure
 - Payment of licensure fees
 - Continuing education hours
 - Continuing education delivery (virtual)
 - Interstate practice
 - Electronic practice
 - Establishing professional relationship electronically
 - Scope of practice

COVID

- Executive Orders & litigation
- Literally, thousands of executive orders
- Seemingly thousands of lawsuits challenging such orders

COVID

- Executive Orders-litigation
- ***Edwards v. Louisiana State Legislature***: On October 26, 2020, Governor [John Bel Edwards](#) (D) filed suit in the 19th Judicial District Court, challenging a petition by members of the [Louisiana House of Representatives](#) that purported to terminate the governor's public health emergency proclamation and end Covid-19 restrictions in the state, including business occupancy limits, a statewide mask mandate, and guidelines for churches and schools. The petition, signed by 65 of the 73 House Republicans, was initiated under a state law allowing a majority of legislators in either chamber of the state legislature to sign a petition to unilaterally revoke an emergency declaration. After issuing the petition, the House of Representatives released a statement: "The House has exhausted every available legislative remedy and has been left with no other option but to exercise its legislative right to terminate the governor's emergency order." In his complaint, Edwards alleged that the petition was "an unconstitutional attempt by the members of one house of the Legislature—without bicameral action or presentment to the Governor—to unilaterally prohibit him from exercising his constitutional and statutory authority." Edwards also argued that the actions of the House "caused and will continue to cause confusion in the State of Louisiana regarding the enforceability of the Governor's proclamation." The governor asked the court to "declare the Petition null, void and unenforceable."

Please use the CHAT feature
or raise hand...

- Type in a few words or phrases that identify what has changed since COVID re the operations of the Board.



Please use the CHAT feature...

- Virtual board meetings
- Recognition of online CE
- Waiver of CE requirements
- Reduced licensure fees
- Extensions of renewal periods
- Recognition of interstate practice



Forecast

- Step back and assess the risk-benefit of these changes
- What can/should remain “permanent” post COVID
- Applications, renewals, virtual meetings, CE, examination administrations, primary source documents, delegation of authority.....
- Likely many changes will remain!

Forecast

- Virtual board meetings
 - Board member and staff attendance
 - Public attendance
 - Closed session
 - Quorum calculation
 - Fiscal

Statutes

- What changes to statutes should/must be made?
 - Statutes
 - Rules/regulations
 - Policies

BE AN INFORMATION SOURCE



Statutes/Regs/Rules/Policies



- **Statutes...**
 - enacted by the legislature and have force of law
- **Rules/regulations...**
 - promulgated by Board and have force of law
- **Policies...**
 - adopted by Board (no force of law)

Additional S Words

- Strategic planning
- Simplify
- Stimulate
- Scrutinize
- Self-evaluate
- Strengthen



Examination

- Efficiencies of examination development have been enhanced!
- High stakes licensure examinations
 - *Distinguish between education and examination*
- Access to test centers

- Effective
- Efficient
- Enforce
- Energy
- Environment
- Engage
- Economics
- Educate



Broach

- **Defined:** *Raise a sensitive or difficult subject up for discussion*



Broach: *Raise a sensitive or difficult subject up for discussion*

Be informed

Be prepared

Meaningfully participate

Respect group dynamic & decision making

Separate regulation from trade

Reach out

Additional B Words...

Board

Boards

Borrow

Borders

Boundary

ICFSEB

