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May 25, 2005

Byron E. Blanchard
16 Round Hill Road
Lexington, Massachusetts 02420

Re: Public Records Request

Dear Mr. Blanchard:

This letter is written in response to your email dated May 13, 2005 acknowledging receipt of my May 10, 2005 response to your Public Records Request to view Pre-Need Funeral reports filed with the Division of Professional Licensure between 1992 and 2004 and seeking clarification regarding some of the parameters outlined in my response regarding review of the requested records.

You specifically requested clarification regarding what kind of information might be redacted from a Pre-Need Funeral Report. As you know, the Public Records Law, M.G.L. c.4, Sec. 7, clause 26, defines a public record as "all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations or other documentary materials or data ... made or received by any officer or employee of any agency... board ..., unless such materials or data fall within ... exemptions....". One of the exemptions is the "Personal Privacy Exemption, M.G.L. c.4, sec. 7. Clause 26, subparagraph (c), second part. That exemption excludes "personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of privacy". Some of the kinds of information that are exempted from disclosure under this exemption include an individual's social security number, a person's home telephone number (if not available from a public source), bank account numbers, transcripts, recommendations, and so on. Documents that are the subject of public records request are reviewed to determine if any of their information should be excluded through redaction because the information or data falls within any of the exemptions to the Public Records Law, including the personal privacy exemption. If any of the information is exempt, it is either redacted or the document as a whole is exempted.

In the case of the Pre-Need Funeral Reports that are the subject of your Public Records Request, the basic form itself does not specifically request information that would need to be redacted in order to make those documents disclosable. However, the



funeral directors who file the reports frequently include information on the form that is not specifically requested but still falls under the "Personal Privacy Exemption". Accordingly, each report needs to be retrieved, copied and reviewed by the Division's staff and appropriate information needs to be redacted prior to making those records available for your review. Because copying the requested records is an integral part of the review and potential redaction of exempt information, the Division is unable to permit you to copy the documents you have requested with your own machine.

As I noted in my May 13th letter to you, all the Pre-Need Funeral reports from 1993 to 2002 are available for your review, except those from 1999 and 2003 and 2004. Due to the recent physical reorganization of the Division of Professional Licensure, the staff still has not been able to locate the pre need funeral reports filed with the Board in 1999. They will continue to look for those reports and hopefully will be able to make those available to you for your examination at the same time you review the other reports available for your review. Also, as I previously noted in my May 13th letter, the Board is unable to let you examine the pre need reports for 2004 as they have not yet been filed by funeral directors with the Board; the filing deadline for the 2004 reports is June 30, 2005. Once those reports have been filed with the Board, the Board would be happy to make them available to you for your examination. Finally, as I noted in my May 13th letter, the Board is unable to permit you to examine the pre need funeral reports filed with the Board in 2004 for the year 2003. Those reports are currently the subject of an investigation and therefore are exempt from disclosure under the Public Records Law pursuant to M.G.L. c. 4, Sec. 7(26)(f). Once the matter that led to that investigation has been resolved, the Division would be happy to provide those Pre-Need Funeral Reports to you.

Although the Pre-Need Funeral Reports from 1999, 2003 and 2004 are not available for your review at this time because of the reasons outlined above, the Pre-Need Reports for nine years, 1993, 1994, 1995, 1996, 1997, 1998, 2000, 2001 and 2002, are available for your review after they have been retrieved, copied, and reviewed by agency staff and exempted information has been redacted.

Pursuant to 950 CMR 32.00, the Division's fees for review and copying of public records are as follows:

Attorney Review: \$25.00/hour
Xerox: \$.20/page
Case Retrieval/Redaction Time: \$14.00/hour

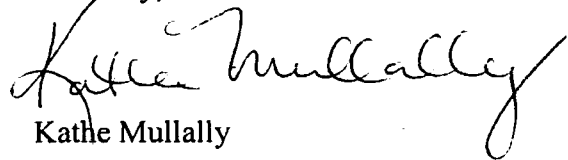
At this time, it appears that there is a maximum of 700 Pre-need Funeral Reports filed with the Division each year. Since your request includes reports filed with the agency in 1993, 1994, 1995, 1996, 1997, 1998, 2000, 2001 and 2002, it appears there are a maximum of 6300 reports that will have to be retrieved, reproduced, reviewed and redacted for compliance with exemptions from the Public Records Law. The Division believes there will be an average of two (2) pages associated with each report, totaling approximately 12,600 pages. Fees for copying those documents are estimated to be a

maximum of \$2520.00 (12,600 pages x \$.20/page) for a fee of \$2520.00. The Division further estimates approximately twenty three (23) hours for retrieving, reproducing, reviewing and redacting the records. Fees for this work are estimated to be a maximum of \$322.00 (23 hours x \$14.00/hour). The Division then will require a review by the legal department of the final work product to ensure legal compliance, which it estimates will take approximately four (4) hours. Fees for this work are estimated to be a maximum of \$100.00 (4 hours x \$25.00/hour). Based on the above estimates, I have determined that the total estimated fee for the documents and work associated with the Division's response to your Public Records Request would be \$2942.00.

If you wish the Division to continue to process your request, please send to my attention, a check or money order made payable to the Commonwealth of Massachusetts, for the specified amount. Once the Division has received your payment, the documents you have requested will be retrieved, reproduced, reviewed and redacted. The Division anticipates that it will take 23 hours spread over three weeks to complete this work. Therefore, please contact Patrice Buchanan, a DPL staff person who works with the Board of Embalming and Funeral Directing, at (617) 727-1718 or (617) 727-6171 to arrange a mutually convenient time and place for examination of the requested records in the offices of the DPL or to request that the documents be mailed to you.

Please do not hesitate to contact me if you have any questions or concerns regarding the above information.

Sincerely,



Kathe Mullally

Board Counsel
Board of Registration of Embalming
and Funeral Directing

- c. Theresa Buckley, DPL
- Helen Peveri, Executive Director, DPL
- Kim Scully, DPL

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