

# OCA Journal

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## President's Message

Summer is winding down and we have finally had a break from the rain!! The Annual Conference in August was well attended and we all benefited from some great speakers, suppliers and field day. Thanks to all who participated in making this an enriching experience, especially our Secretary / Treasurer Jan Burrowes, Program Chair Marilyn Brandt, and field day host Rick Meade and the entire Calvary Cemetery staff. We enjoyed a diverse group of speakers ranging from meteorology, human resources, horticulture / tree care, family service / after care and many others. It was a great event!



This year, we have decided to forgo the Fall Maintenance seminar as we continue to try different types of events and timing to best suit everyone's needs. We took a survey at the Annual Conference and will be publishing the results soon. PLEASE give us any feedback and suggestions to help us provide relevant programming in the future.

Our next event will be the Awards Banquet in February. This event is not only for sales awards, but all cemetery staff that deserves special recognition. We have been honored to recognize administrative staff members for exemplary work, several retirement honorees from the grounds crews in addition to high achieving family service team members. Mark your calendars!

Kirk D. Roberts

President - Ohio Cemetery Association  
Family Service Director  
American Cemetery Services, LLP  
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### Upcoming Events

**2019 Awards Banquet**  
February 15, 2020  
Location - TBA

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# Legislative Update

Submitted Timothy Long, OCA Legal Counsel  
August 7, 2019

There has been substantial legislative activity regarding cemetery law matters over the last quarter. Here's a summary of the principal legislative matters and the OCA Legislative Committee's involvement over such time period:

## **Cemetery Preneed Casket Sales**

As many will recall, last year the Ohio Department of Commerce, Division of Real Estate and Professional Licensing, Cemetery Section (the "Department") and the Ohio Board of Embalmers and Funeral Directors (the "Board") issued a joint letter to cemeteries instructing them to report all preneed casket sales and all corresponding amounts vested in the cemetery's Preneed Merchandise and Service Trust to the Board of Embalmers utilizing the Board's forms.

The OCA immediately objected via correspondence to both the Department and the Board. Such correspondence set forth the existing laws applicable to cemetery and funeral home preneed sales and their respective trusting requirements (which are different), reiterated that the Board has no jurisdiction over cemeteries and included a request for a meeting to discuss the issues.

At the requested meeting, the legislative history regarding the differing vesting requirements, many of the differences between cemeteries and funeral homes and future joint legislative efforts to clarify the involved statutes were discussed. In spite of the parties' stated intentions, however, no further meetings or discussions occurred. However, the joint letter was rescinded.

This spring, the Ohio Funeral Director's Association attempted to add an amendment to the Budget Bill (HB 166) which would have, among other matters, added a new 15<sup>th</sup> category to the Board's rule making authority. Specifically, the Board would have the power to promulgate rules regarding requirements for the sale of "preneed funeral goods" (defined elsewhere in the funeral home laws to include caskets). The OCA voiced concern that the proposed language needed some limitation or exception to clarify that such rules would not apply to preneed sales of funeral goods by cemeteries. When such request was not honored, the OCA offered testimony in opposition to the Amendment at the Senate Finance Committee and the Amendment was subsequently removed from the Budget Bill.

## **Senate Bill 32**

The OCA has stated its opposition to Senate Bill 32, which would make changes to Ohio Revised Code Chapter 961, which regulates pet cemeteries. There has been no further activity on the Bill since the date of such objection.

## **Cemetery Grant Program Bill**

House Bill 168, which created the Cemetery Grant Program Bill, became effective in the last fall. More recently, the OCA participated in several meetings of interested parties wherein implementing rules were finalized. As such rules were recently approved by the Joint Committee on Agency Rule Review ("JCARR"), the Department has issued its initial Grant Applications (which are due by August 14, 2019). Cemetery operators (other than for profit cemeteries) who believe that their cemeteries may be entitled to a grant (to assist with non-routine maintenance or training issues) should promptly make application.

**Legislative Update continued from page 2.**

**“Total Return” Legislative Effort**

As some may recall, the OCA Legislative Committee has been considering an appropriate time and legislative vehicle to attempt to revise the “dividends and interest” only standard in the Endowment Care Law applicable to Ohio cemeteries (ORC 1721.21) to a “total return” standard or option. A total return statute would allow the annual withdrawal of a stated percentage of the Trust’s principal balance.

While the OCA was considering the most cost-effective way to introduce legislation, SCI took the lead on advancing the issue in Ohio. They have retained a lobbyist and a Bill has been drafted. The draft Bill (yet to be introduced) would allow cemeteries to elect to: (i) maintain the “dividends and interest” limit to their Endowment Care Trust withdrawals; or (ii) withdraw a “unitrust distribution” not exceeding 5%.

The OCA Legislative Committee studied the draft legislation and is prepared to support it upon introduction. Most notably, the draft includes several protections which will guard against cemeteries electing a unitrust distribution from spending their Endowment Care Trust balances down over time.



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**Legislative Update continued from page 3.**

**Senate Bill 27**

Senate Bill 27, as introduced and passed by the Senate, would impose requirements on the final disposition of fetal remains from surgical abortions. While the legislation on its face does not seem to directly impact Ohio cemeteries, the OCA is concerned that cemetery operators could be accused of violating its terms. Specifically, in certain circumstances, the Bill requires interment of the remains of a surgical abortion after they have been cremated. However, given that there will not likely be any remains retrievable after cremation, how can the cemetery comply with the mandated interment?

Such concern was communicated to the Bills Sponsor, Senator Uecker. While he did not want to amend the Bill, he committed to working with the OCA in the future to clarify the law if, in fact, the OCA's concerns come to fruition.

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# Calendar of Events

## 2019 Awards Banquet

February 15, 2020  
Location - TBA

More info will be available shortly.

*Try and keep on trying until that which seems difficult becomes possible*

*And that which seems only possible becomes habit and a real part of you*

**Dieter F, Ycgtdirf**



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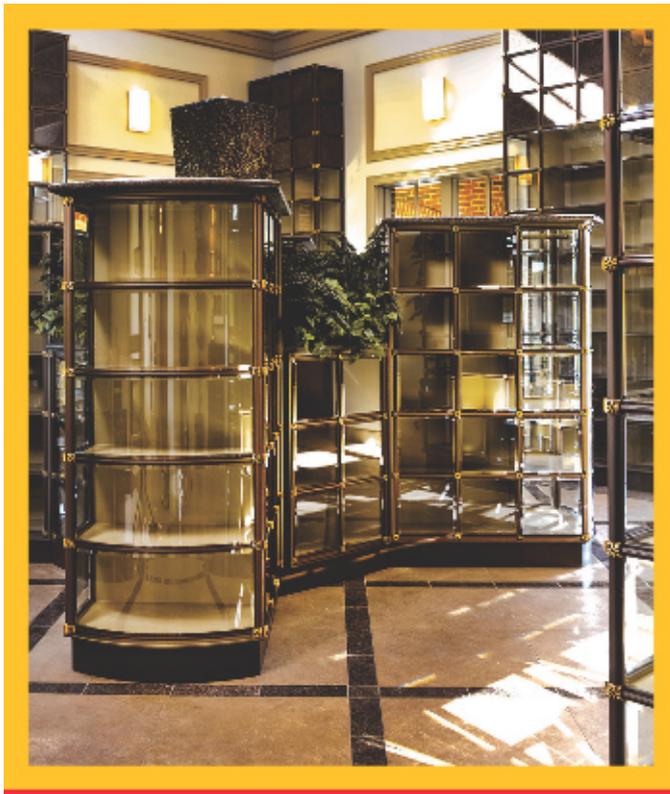
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