

# **Louisiana State Board of Embalmers And Funeral Directors**

**Minutes of the Meeting  
For  
September 14, 2022**

**Board Members present:**

**Rodney McFarland , President  
Willie P. Davis, Jr. , Vice President  
Terry Luneau , Secretary  
Maurice Southall  
Gregory McKneely  
Stephen Boudreaux  
Louis Charbonnet  
Juan Joseph**

The meeting was called to order by the Board's President, Mr. McFarland, at 9:00 AM, at the Board's office, located at 3500 N. Causeway Blvd. Ste. 1232, Metairie, Louisiana. Also, present was Kim W. Michel, Executive Director, Heidi L. Penouilh, Executive Administrative Assistant, Marybeth Harrington, Inspector, R. Demale Bowden, Jr., Inspector, Ryan Seidemann, General Counsel and Chanel R. Debose, Prosecuting Attorney. Mr. Dixon, was not present for today's meeting.

**PUBLIC COMMENTS:**

With regard to public comment, a motion was made by Mr. Southall with a second by Mr. Boudreaux and unanimously passed that the time allowance for public comment be limited to three minutes per person. Public comment is limited to the items noted upon the meeting's agenda.

Michael Bass addressed the board with regard to his concern that the board is not properly maintaining public records and/or providing records in response to records request.

Upon the advice of general counsel, Mr. McFarland, President, advised Michael Bass that his concern was not an agenda item and therefore would not be addressed at today's meeting.

Nick Barber addressed the board with regard to his concern regarding item number three, the inspection reports and item number 7, the inspection summary.

Mr. McFarland, President, advised that Nick Barber's comments will be taken under advisement when item numbers, three and seven are addressed.

**COMPLIANCE, HEARING and/or ADMISSION AND CONSENT**

An admission and consent received from Malcolm Gibson and Professional Funeral Services, Inc., New Orleans, was presented to the board. Mr. Gibson and his attorney, Michael McKenna were present to address the board.

Mr. McKenna addressed the board with regard to a discussion regarding fines being offered when an admission and consent is presented to a licensee and prior to signing the admission and consent.

Ms. Michel stated that this question was recently posed to general counsel and based upon their advice, that as an administrative board, the sanctions are outlined, specifically, within the LA Revised Statutes for this board's regulatory authority. The board members are tasked with determining those sanctions. If an admission and consent is signed and submitted, the only way to mitigate the situation is for the individual to request an appearance before the board on their own behalf to discuss this with the board members. Of course, the licensee has a right to have their attorney present at any time.

Mr. Gibson addressed the board with regard to the excessive fines he has received in the past and requested that the board take that under consideration with this current admission and consent.

For the record, Mr. Charbonnet stated that he had not been appointed to the board until after the dates that were outlined within the last complaint regarding Mr. Gibson and Professional Funeral Services, Inc.

Motion was made by Mr. Southall, with a second by Mr. Davis and unanimously passed that the board move into Executive Session.

Motion was made by Mr. Davis, with a second by Mr. Southall and unanimously passed to move out of Executive Session for the following;

Motion was made by Mr. Luneau, with a second by Mr. McKneely and unanimously passed that;

#### **FINDINGS OF FACT and DECISIONS of the BOARD**

This matter came before the Louisiana State Board of Embalmers and Funeral Directors on September 14, 2022 for a ruling on an Admission and Consent submitted by the parties.

Present:

**CHANEL R. DEBOSE**, Prosecuting Attorney, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

**RYAN SEIDEMANN**, appearing on behalf of **CHRIS LENTO**, General Counsel, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

**KIM MICHEL**, Executive Director, for and on behalf of the Louisiana State Board of Embalmers and Funeral Directors.

**MICHAEL MCKENNA**, Attorney at Law, appearing with and on behalf of **MALCOLM GIBSON** and the entity operating as **PROFESSIONAL FUNERAL SERVICES, INC.**

After considering the law, the evidence, the entire record of these proceedings, and the Admission and Consent submitted by the parties for a ruling on the Admission and Consent, **MALCOLM GIBSON** and the entity operating as **PROFESSIONAL FUNERAL SERVICES, INC.**, who appeared before the Board to be a part of the proceedings held on September 14, 2022. The Louisiana Board of Embalmers and Funeral Directors rules as follows:

#### **FINDINGS OF FACT:**

That **MALCOLM GIBSON** is the licensed funeral director and embalmer (#E2431); designated

manager, designated agent; and the owner of the establishment operating as Professional Funeral Services, Inc. (#2642), New Orleans, Louisiana, and, therefore, subject to the jurisdiction of this Board: that evidence contained within the record of these proceedings, and the Admission and Consent signed by the parties, reflect that Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are guilty of violating the provisions of: LA R.S. 37:862 (Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to John C. Behney that

Conforms with the Requirements of the Statute); LA R.S. 37:862 ( Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to Connie B. Marshall that Conforms with the Requirements of the Statute); LA R.S. 37(A) (14) for violating Title 46 Part XXXVII, Chapter 7, Section 701 (A) of the rules of funeral establishments (Renewal and Reinstatement) (Failing to File an Annual Report of Prepaid Funeral Services or Merchandise with the Louisiana State Board of Embalmers and Funeral Directors Reporting the Preneed Services Paid for by John C. Behney and Connie B. Marshall); and LA. R.S. 37:865 (8) (I) and (B) (2) (Restriction on Use or Disposition of Funds) (Failing to Deposit the Funds Provided by John C. Behney for His Preneed Services into a Preneed Trust Account with a Financial Institution Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A), or Failing to Deliver the Funds to an Insurance Company for the Purchase of a Preneed Insurance Policy or Annuity Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A)).

#### **CONCLUSIONS:**

As to **Malcolm Gibson and the entity operating as Professional Funeral Services, Inc.**, the Board members found that Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. violated the provisions of LA R.S. 37:862 (Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to John C. Behney that Conforms with the Requirements of the Statute); LA R.S. 37:862 ( Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to Connie B. Marshall that Conforms with the Requirements of the Statute); LA R.S. 37(A) (14) for violating Title 46 Part XXXVII, Chapter 7, Section 701 (A) of the rules of funeral establishments (Renewal and Reinstatement) (Failing to File an Annual Report of Prepaid Funeral Services or Merchandise with the Louisiana State Board of Embalmers and Funeral Directors Reporting the Preneed Services Paid for by John C. Behney and Connie B. Marshall); and LA.

R.S. 37:865 (B) (1) and (8) (2) (Restriction on Use or Disposition of Funds) (Failing to Deposit the Funds Provided by John C. Behney for His Preneed Services into a Preneed Trust Account with a Financial Institution Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A), or Failing to Deliver the Funds to an Insurance Company for the Purchase of a Preneed Insurance Policy or Annuity Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A)) as evidenced by documentation appearing in the file and the Admission and Consent signed by Malcolm Gibson on behalf of himself and the entity operating as Professional Funeral Services, Inc., admitting to the following:

1. **Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. have violated LA. R.S. 37:862 for failing to present a preneed funeral contract to John C. Behney that conforms with the requirements of LA R.S. 37:862.**
2. **Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. have violated LA. R.S. 37:862 for failing to present a preneed funeral contract to Connie**

**B. Marshall that conforms with the requirements of LA R.S. 37:862.**

- 3. Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. have violated LA. R.S. 37:846 (A) (14) for violating Title 46, Part XXXVII, Chapter 7, Section 701 (A) of the rules of funeral establishments as it relates to failing to file an annual report of prepaid funeral services or merchandise with the Louisiana State Board of Embalmers and Funeral Directors reporting the preneed services paid for by John C. Behney and Connie B. Marshall.**
  
- 4. Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. have violated LA. R.S. 37:865 (B) (1) and (B) (2) for failing to deposit the funds provided by John C. Behney for his preneed services into a preneed trust account with a financial institution not later than five business days after the expiration of the ten day right of cancellation period provided in LA R.S. 37:864 (A), or failing to deliver the funds to an insurance company for the purchase of a preneed insurance policy or annuity not later than five business days after the expiration of the ten day right of cancellation period provided in LA R.S. 37:864 (A).**

**DECISION OF THE BOARD:**

Accordingly, for the reasons as stated and noted herein above;

**IT IS ORDERED BY THE BOARD** that Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are guilty of violating the provisions of LA R.S. 37:862 (Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to John C. Behney that Conforms with the Requirements of the Statute); LA R.S. 37:862 ( Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to Connie B. Marshall that Conforms with the Requirements of the Statute); LA R.S. 37(A) (14) for violating Title 46 Part XXXVII, Chapter 7, Section 701 (A) of the rules of funeral establishments (Renewal and Reinstatement) (Failing to File an Annual Report of Prepaid Funeral Services or Merchandise with the Louisiana State Board of Embalmers and Funeral Directors Reporting the Preneed Services Paid for by John C. Behney and Connie B. Marshall); and LA. R.S. 37:865 (B) (1) and (B) (2) (Restriction on Use or Disposition of Funds) (Failing to Deposit the Funds Provided by John C. Behney for His Preneed Services into a Preneed Trust Account with a Financial Institution Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A), or Failing to Deliver the Funds to an Insurance Company for the Purchase of a Preneed Insurance Policy or Annuity Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A)).

**IT IS FURTHER ORDERED BY THE BOARD** that pursuant to LA. R.S. 37:866, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than five thousand dollars and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one hundred eighty days for each offense, or both such fine and imprisonment, Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are fined the sum of Five Hundred (500.00) dollars for the above cited violation of LA R.S. 37:862 (Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to John C. Behney that Conforms with the Requirements of the Statute).

**IT IS FURTHER ORDERED BY THE BOARD** that pursuant to LA. R.S. 37:866, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than five thousand dollars and costs

of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one hundred eighty days for each offense, or both such fine and imprisonment, Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are fined the sum of Five Hundred (500.00) dollars for the above cited violation of LA R.S. 37:862 (Preneed Funeral Contracts) (Failing to Present a Preneed Funeral Contract to Connie B. Marshall that Conforms with the Requirements of the Statute).

**IT IS FURTHER ORDERED BY THE BOARD** that pursuant to LA. R.S. 37:850, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than two thousand, five hundred dollars and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one hundred eighty days for each offense, or both such fine and imprisonment, Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are fined the sum of Five Hundred (500.00) dollars for the above cited violation of LA R.S. 37(A) (14) for violating Title 46 Part XXXVII, Chapter 7, Section 701 (A) of the rules of funeral establishments (Renewal and Reinstatement) (Failing to File an Annual Report of Prepaid Funeral Services or Merchandise with the Louisiana State Board of Embalmers and Funeral Directors Reporting the Preneed Services Paid for by John C. Behney and Connie B. Marshall).

**IT IS FURTHER ORDERED BY THE BOARD** that pursuant to LA. R.S. 37:866, the penalty statute applicable to these violations, which states: Whoever violates the provisions of this Part shall be fined not less than five hundred dollars, nor more than five thousand dollars and costs of the court reporter and attorney for the board for each offense, or by imprisonment for not less than thirty days, nor more than one hundred eighty days for each offense, or both such fine and imprisonment, Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. are fined the sum of Five Hundred (500.00) dollars for the above cited violation of LA. R.S. 37:865 (B) (1) and (B) (2) (Restriction on Use or Disposition of Funds) (Failing to Deposit the Funds Provided by John C. Behney for His Preneed Services into a Preneed Trust Account with a Financial Institution Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A), or Failing to Deliver the Funds to an Insurance Company for the Purchase of a Preneed Insurance Policy or Annuity Not Later Than Five Business Days After the Expiration of the Ten Day Right of Cancellation Period Provided in LA R.S. 37:864 (A)).

**IT IS FURTHER ORDERED BY THE BOARD** that pursuant to the above orders, Malcolm Gibson and the entity operating as Professional Funeral Services, Inc. is fined the total sum of Two Thousand (\$2,000.00) Dollars for above cited violations. One Thousand, Five Hundred (\$1,500.00) Dollars of the fine mentioned herein is suspended; therefore, the total fine owed by Malcolm Gibson and the entity operating as Professional Funeral Services, Inc is Five- Hundred (\$500.00) Dollars.

**IT IS FURTHER ORDERED BY THE BOARD** that Professional Funeral Services, Inc. and its representative Malcolm Gibson are to pay the sum of One Thousand, Eight Hundred, Twenty Six Dollars and Twenty Five Cents (\$1,826.25) for the attorney's fees incurred by the Board for the handling of this matter from the date the matter was accepted by the Board through September 14, 2022, the date the Admission and Consent was accepted by the Board Members.

**IT IS FURTHER ORDERED BY THE BOARD** that the total assessed cost to Professional Funeral Services, Inc. and Malcolm Gibson is Two Thousand, Three Hundred, Twenty Six Dollars, and Twenty Five Cents (\$2,326.25) in fines and fees owed to the Board for the above cited violations. The above assessed fines and attorney's fees are to be paid by Professional Funeral Services, Inc. and/or its representative

Malcolm Gibson within thirty (30) days of receipt of this decision.

**IT IS FURTHER ORDERED BY THE BOARD** that should the costs not be received by the Board within thirty (30) days of the notification of costs due, then the license of the establishment operating as Professional Funeral Services, Inc., New Orleans, Louisiana shall be suspended until such time as all costs are paid.

The inspection report; past report v new report – revised for review and approval;

For the record, Mr. McFarland, President, noted that he did not participate in the creation of any of the newly revised inspection reports.

The following format was previously used, prior to July 1, 2022.

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PREVIOUS Inspection Report

LA. STATE BOARD OF EMBALMERS & FUNERAL DIRECTORS-- INSPECTION REPORT

City: No. 03-20-118
Parish: Date: 3/2/2020
Health Unit: SAME License#:
Establishment: HOME Main ( ) Branch ( ) Chapel ( )
Address: Phone#:
Type of Establishment: Proprietor ( ) Partnership ( ) Corporation ( )
Number of Funeral Homes Owned:
Has Ownership Changed since last Inspection? Yes ( ) No ( ) E-mail:
LICENSED OFFICERS, PARTNERS OR OWNERS UNLICENSED OFFICERS, PARTNER OR OWNERS

Manager in Charge: JOEL SWISHER

LICENSED EMPLOYEES

[Empty lines for listing licensed employees]

CLASSIFICATION OF UNLICENSED EMPLOYEES INCLUDING APPRENTICES, RECIPROCAL APPLICANTS, ETC.

Intern

[Empty box for listing unlicensed employees]

ESTABLISHMENT:

Chapel: Parlors Display: Kitchen:
Rest Rooms GPL: CPL: OCPL: Other:
Preparation Room:
Tables: Floor: Walls:
Plumbing: Instruments:
Sanitary: Shower & Eye Wash:

Reciprocal Applicants (Work Permit)

[Empty box for listing reciprocal applicants]

Signature of Person Contacted

[Handwritten signature]

Comments:

Preneed:

Caskets:

Casket Pricing:

Funeral Records:

Purchase Agreement:

Comments:

[Handwritten signature]

*7004 revision of inspection report  
JST*



## LA State Board of Embalmers and Funeral Directors

3500 N. Causeway Blvd., Metairie, LA 70002

(504) 838-5109 PHONE / (504) 838-5112 FAX

City:	No:
Parish:	Date:
License:	Main                      Branch                      Chapel

Establishment Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Type of Establishment:                      Proprietor                      Corp                      Partnership

Number of Funeral Establishments Owned: \_\_\_\_\_

Has Ownership changed since last inspection:    Yes                      No                      If so, to whom: \_\_\_\_\_

Signature of Person Contacted: \_\_\_\_\_ Inspector's signature \_\_\_\_\_

Licensed Officers, Partners, Owners \_\_\_\_\_ Unlicensed Officers, Partners, Owners \_\_\_\_\_

Manager in Charge: \_\_\_\_\_ Present for Inspection:    Yes                      No

License employees: \_\_\_\_\_ Interns: \_\_\_\_\_

\_\_\_\_\_ Temporary Licenses: \_\_\_\_\_

### Funeral Establishment Inspection Report

Documentation	
	Current funeral director and embalmer licenses displayed in the place of business in public view - <i>ref. LA R.S. 37:843</i>
FTC	General Price List                      Casket Price List                      Outer Burial Container Price List
	Funeral Records on Site ( <i>manual or electronic</i> ) - <i>ref. Title 46, Chapter 11</i>
Premises - <i>ref. Title 46, Chapter 11</i>	
	Parlor or Chapel suitable for public viewing or other funeral services that can accommodate a minimum of 30 seated persons.
	A private arrangement office to meet families to make arrangements.
	Restroom separate for men and women.
	Climate control system sufficient to provide comfort to the public.
	Private area to shield removal of remains from service vehicle and a covered area when exiting the facility to protect the casketed remains until placed in the hearse.
	Furnishings, equipment, and other facilities that meet standards of the board.



	Sufficient signage visible from the road.	
<b>Display Room - Title 46, Chapter 11</b>		
	Selection or display room for persons to view available funeral merchandise	
	Caskets Identify with casket prices	
	Minimum of Six different adult full size caskets displayed in designated area - LA R.S.37:842,F,3,(v), Title 46, Ch 11.	
	ID Method of Casket being used for decedent - LA R.S. 37:53 / Title 46: 1109.	
<b>Preparation Room - Title 46, Chapter 11.</b>		
	Does the establishment have a preparation room?	
	Waterproof Gown or Apron	Gloves Mask/ Protect Shield for Eyes & Face
	Walls are finished in waterproof material	
	Floors of tile, cement, linoleum, or like composition	
	Sanitary nonporous floor and walls	
	Proper signage and locking doors to prevent unauthorized persons from entering preparation room	
	Adequate ventilation (vent fan) and climate control	
	Approved embalming table with running water/ proper drainage	
	Professional instruments	
	Hot and cold running water with separate sink for disinfecting hands/ instruments	
	Suitable Sanitary Plumbing	
	Maintained in a clean and sanitary condition at all times	
	Shower/ Eyewash Station	
	Embalming log containing any information at the discretion of the establishment in addition to the following required information the concerning the deceased: <i>manual or electronic</i>	
	(a) Name of the deceased	
	(b) Date of embalming	
	(c) Time embalming procedure began and ended	
	(d) Name, Signature of the embalmer or trade embalmer, License #	
<b>Crematory - ref. Part III; LA R.S. 37:871, et al, Title 46, Chapter I; 109.</b>		
	Does the establishment have an on-site crematory?	
	Retort Operators:	
	Suitable space devoted to cremation of deceased human bodies	
	Cremation Log: <i>manual or electronic</i>	
	(a) Name of the deceased	
	(b) Date & time deceased delivered	
	(c) Date & time cremation began & completed	
	(d) Name & signature of retort operator	
	Does the establishment have on-site refrigeration?	
	Equipment and Supplies for cremations stored in crematory	
	Proper ventilation in crematory	
	Is crematory clean?	
	Designated area for short term retention of human remains	
	Retort properly operating	
	Processing pulverization unit to complete the process	
	Heat resistant gloves	Apron Face Shield



Second Revision

LA State Board of Embalmers and Funeral Directors

3500 N. Causeway Blvd., Metairie, LA 70002

(504) 838-5109 PHONE / (504) 838-5112 FAX

Establishment Name:
Address:
Phone: Email:
City: No:
Parish: Date:
License #: on display: Main Branch Chapel
Number of Licensed Funeral Establishments Owned:
Has Ownership changed since last inspection: Yes No If so, to whom:
Manager in Charge: Present for Inspection: Yes No
License employees: Interns: Present for inspection
Temporary Licenses:

Funeral Establishment Inspection Report

Table with 2 columns: Requirement, Status. Sections include Documentation, Premises, Display Room, and Preparation Room.

Walls shall be finished with tile, or other material finished with enamel or other waterproof material		
Floors of tile, cement, linoleum, or like composition finished with a glazed surface or epoxy flooring		
A permanently installed backflow preventor for the hydro-aspirator		
Embalming room closed and locked, unless in a secure area from public access.		
Properly ventilated and climate controlled		
Sanitary embalming table of metal, glass or porcelain top, with running water draining from the table into a drain connected with a sewer or other receptacle		
Hot and cold running water with separate sink for disinfecting hands/ instruments		
Suitable Sanitary Plumbing		
Maintained in a clean and sanitary condition at all times		
Does the establishment have on-site refrigeration?	Is the temperature under 45 degrees?	LA R.S. 37:848
Embalming log containing any information at the discretion of the establishment in addition to the following required information concerning the deceased: manual/physical log (a) Name of the deceased (b) Date of embalming & place (if other than establishment) (c) Time embalming procedure took place (d) Name & Signature of the embalmer and License #		
<b>Crematory - ref. Part III; LA R.S. 37:871, et al, Title 46, Chapter 1; 109.</b>		
Does the establishment have an on-site crematory?		
Retort Operators:	Current retort operator licences displayed? - ref. LA R.S. 37:843	
Cremation Log: LA R.S 37:879 (h) Each Crematory Authority must maintain proper ID of remains Is there some type of log to maintain the identification of the remains? _____ Yes _____ No		
Holding Facility? LA R.S. 37:831 definition 51 (a) Comply with any applicable health laws; (b) Preserve the dignity of the human remains; (c) Recognize the integrity, health, safety, and welfare of the crematory authority personnel operating the crematory; (d) Secure from access by anyone other than authorized personnel. Does the Holding Facility meet the requirements? _____ Yes _____ No		
Is crematory clean?		
Cremation Container? LA R.S 37:831 definition 25 (a) Composed of materials suitable for cremation; (b) Provide a complete covering for the human remains; (c) Be resistant to leakage or spillage; (d) Be rigid enough for handling with ease; (e) Provide protection to safeguard the health, safety, welfare, and personal integrity of crematory personnel. Does the Cremation Container meet the requirements? _____ Yes _____ No		
If Temporary Container is used is it clearly marked with Name of Deceased, Name of Crematory Authority and indicated as a "Temporary Container" according to LA R.S. 37:879 Does the Temporary Container meet the requirements? _____ Yes _____ No		
Heat resistant gloves	Apron	Heat Reflective Face Shield

Motion was made by Mr. Boudreaux, with a second by Mr. Joseph and unanimously passed to withdraw the first drafted revised version and to accept the second revised inspection report with the new additions, which are highlighted, immediately for inspections.

Discussions ensued regarding the following:

Saturday and non-establishment inspections;

Ms. Harrington noted that the inspections that are performed on Saturdays and non-establishment are handled discreetly.

Motion was made by Mr. Boudreaux, with a second by Mr. Charbonnet and unanimously passed that Saturday and non-establishment inspections will be discontinued temporarily until a clear plan has been established.

Upon advice by general counsel, Mr. Seidemann, as he reiterated, that the board has the authority as outlined within the regulations to regulate licensees. Specifically, LA R.S. 8:40.

Photographs;

Motion was made by Mr. Charbonnet, with a second by Mr. Davis and unanimously passed to table or temporarily discontinue taking photographs until further evaluation of the issue.

Motion was made by Mr. Boudreaux, with a second by Mr. Luneau and unanimously passed to add on the agenda an item requesting an AG Opinion with regard to inspections, photographs, notations/comments, as well as regular routine inspections v complaint generated inspections.

Nick Barber mentioned that he has private issues.

Michael Bass mentioned that he has trust issues.

Boyd Mothe, Jr., stated that he finds it necessary to photograph records and any issues with inspections.

Chanel Debose, prosecuting attorney for the board, noted that there are no nefarious intentions with regard to photographs and that there needs to be sufficient proof for records and/or issues.

Mr. Boudreaux noted that he does not wish to withdraw the routine inspections.

Boyd Mothe, Jr., noted that there should be clarity with regard to signatures and deciphering signatures.

Ms. Michel informed the board regarding the inspections since July of 2022, and that there have been several issue observations that are not on file noting any exceptions for not meeting minimum requirements regarding specific funeral establishments and this was presented to the board;

- 1) Based upon an inspection, would a funeral establishment be allowed to renew their license if the minimum requirements are not met annually?
- 2) Can an establishment be "grandfathered" in or "exempt" if the regulations have changed in the past?
- 3) If the funeral establishment is not "grandfathered/exempted", how much time frame would they be allowed for meeting the minimum requirements or would they be addressed on a case by case basis?

Ms. Michel stated that since the new inspectors have been performing their inspections, several inquiries relating to some establishments that do not meet the minimum requirements have been posed. Based upon research by Ms. Michel with regard to the regulation changes and dates of those changes in the past, funeral establishments are assuming to have been "grandfathered" in.

Ms. Michel stated that there has never been a "base" established or communication for that matter regarding funeral establishments that do not meet the minimum requirements constructed upon the changes in regulations.

Ms. Michel noted an example of a funeral establishment licensed in 1990 with a chapel for five people, when the rules

for an establishment were created in 1979 that did not define specifics for a chapel. The rules were changed to implement additional requirements in 2004 and for a chapel it is required that there be enough room to seat thirty individuals comfortably.

According to general counsel, if a licensee does not meet the minimum requirements, then those licenses cannot be allowed to renew. Renewal of a license is based upon the continuation of meeting minimum requirements annually.

A directive from the President, Mr. McFarland, to Mr. Luneau, Chair, of the Laws and Rules Committee, that this needs to be discussed and address a solution moving forward for inspection requirements.

Ms. Michel received a letter from the LFDA with questions to be addressed by the board;

Continued Next Page...



**LOUISIANA FUNERAL DIRECTORS ASSOCIATION**

P.O. Box 82531  
Baton Rouge, LA 70884 Phone 225-767-7640  
Fax 225-767-7648

Email: [Irela@lfdaweb.org](mailto:Irela@lfdaweb.org) Website [www.lfdaweb.org](http://www.lfdaweb.org)

**Officers**

Nicole Charle! Wilcher  
*Charle! Funeral Home*  
President

Joe Eagan  
*Eagan Funeral Home*  
Vice-President

Troy Dennard  
*Dennard First National*  
*Funeral Home* Treasurer

Retanna Vitire  
*Vitire-Ardor Funeral Home*  
Secretary

Milton Robbins  
*Robbins Funeral Home of Gonzales*  
Sergeant-at-Arms

Anthony J. "Tiger" Istre  
*Istre-Ferguson Funeral Home*  
Past President

Shanna Bryant  
*Bryant Funeral Home*  
Southeast Governor

Emily Castille-Terrell  
*Terrell & Castille Funeral Home*  
Southwest Governor

Peter "Butch" Mulhearn  
*Mulhearn Funeral Homes*  
North Governor

Boyd Mothe, Jr.  
*Mothe Funeral Home* South  
Governor

**Staff**

David Tatman  
*Tatman Direct*

Jamie Freeman  
*Freeman Manager*

Lauren Giffin  
*Giffin Attorney*

September 2, 2022

Louisiana State Board of Embalmers & Funeral Directors  
3500 N Causeway Blvd#1232  
Metairie, LA 70002

Dear members of the board:

As a result of question asked by our membership, the Louisiana Funeral Directors Association's Laws & Legislative Committee met on September 1, 2022 and discussed and compiled a list of questions for the Louisiana State Board of Embalmers & Funeral Directors, regarding board authority, meetings, and state inspectors.

1. Has the board considered the fiscal impact of hiring an additional inspector?
  2. Will the board seek an increase in license fees as a result of hiring an additional inspector?
  3. Does the board have the authority to hold a closed meeting without option for public comment?
  4. Why has the board conducted off premise inspections without a normal complaint?
  5. What are the board's guidelines when inspecting FTC required norms?
  6. Does the board have the authority to inspect on behalf of the Fire Marshal's office? If so, within what guidelines?
  7. Does the board have the authority to inspect on behalf of OSHA? If so, within what guidelines?
  8. Does the board have the authority to photograph funeral file and contents and logs without a subpoena?
  9. Does the board have the authority to inspect the same firm multiple times within weeks without complaint?
  10. How long after a meeting is the board required to post meeting minutes? How far in advance does the board post a meeting agenda?
  11. How long is the probationary period for the inspectors?

We, the members of the Committee, would appreciate an opportunity to meet with the members of the LSBEFD at a specially called meeting to discuss these issues at your earliest convenience.

Sincerely,

Boyd Mothe, Jr.  
LFDA Laws & Legislative Committee Chair



## Louisiana State Board of Embalmers and Funeral Directors New Orleans, LA

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Metairie, LA 70002  
504.838.5109  
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September 12, 2022

[www.lsbefd.state.la.us](http://www.lsbefd.state.la.us)

LFDA  
P.O. Box 82531  
Baton Rouge, LA 70884

RE: Response to letter submitted to the board on September 2, 2022

Dear Mr. Mothe and the LFDA LFDA Members,

I am providing answers to the questions within the letter that was submitted to the board as follows;

1. The board was presented with a budget and financial information prior to and during the prep for the hiring process.
2. The board has not formally discussed an increase of fees.
3. The board does not carry out any business in closed meetings.
4. The board does not require a complaint to perform inspections. Please refer to LA R.S. 37:840, LA. R.S. 37:848.
5. Refer to the funeral rule and that inspections are done in accordance with FTC requirements.
6. No. However, inspectors are free to note to licensees any potential issues in the interest of helping the licensees to be compliant with all laws applicable to operating a business.
7. No. However, inspectors are free to note to licensees any potential issues in the interest of helping the licensees to be compliant with all laws applicable to operating a business.
8. The board has the authority to perform inspections as needed and any photographs of files, embalming and/or cremation logs are not subject to public record.
9. The board has the authority and may inspect as often as necessary to ensure that the regulations are being met.
10. The minutes of a board meeting are drafted as soon as possible, however, the minutes must be approved by the board members at the next scheduled meeting before public posting. Agendas are posted in accordance with the open meetings law.
11. The probationary period for the new hired inspectors is ninety days.

Please do not hesitate to contact me if you need anything further.

Sincerely,

Kim W. Michel  
Executive Director

The minutes of the August, 9, 2022 meeting were presented to the board members for review and approval.

Motion was made by Mr. Davis, with a second by Mr. McKneely and unanimously passed that the minutes be accepted as presented.

Ms. Michel presented the Executive Director's report:

The office has been receiving a lot of complimentary telephone calls and email with regard to the inspectors, the process of inspections and accomplishments so far. The communication with the office staff and the inspectors has been excellent and progress is being made.

A public records request was made in the latter part of August with quite a few subsequent requests for further records that have proved to be quite enormous. These requests have been forwarded to our general counsel for guidance and assistance in order to honor the request as it relates to the Public Records Law. With the first request, I thought I would be able to get this out as soon as possible within the week, but upon further evaluation, it involved more than a great deal of time extending beyond the possibility of a week, that deadline was extended to October 3. With the second request, a deadline of Nov. 2, and the third request has a deadline of Dec. 2. I have not reviewed the fourth, fifth and sixth requests yet. With only 2 office staff, the requests will be gathered as quickly as we can.

License and registry since the last meeting;

## License & Registry Update

Updated on 09/08/2022

### Funeral Establishments - new issue

Fields Funeral Home	-	2974
Robinson Family Mortuary		2983

### Establishment Ownership/Location/Name Change

### Crematory Establishment - new issue

### Embalmer and Funeral Director License - new issue

### Funeral Director License - new issue

Thomas Sanson	U-1768	Patrell McKenzie	U-1770
Mary Sellers	U-1769	Geraldine Baloney	U-1771

### Retort Operator License - new issue

Kevin Piper	436	Keosha Brooks	439
Amanda Lieblong	437	Oscar Goodie	440



Shona McCullough	438	Molly Mahan	441
<b>Internships Registered</b>			
Ashley Rose	0679	Whitney Douglas	0684
Aaron Foreman	0680	James Boatner	0685
Bryant Wright	0681	Brandy Jones	0686
Tynesha Pierre	0682	Kellie Washington	0687
Juanesha Davis	0683		

Motion was made by Mr. Southall a second by Mr. Luneau and unanimously passed to accept the Executive Director's report as presented.

Greetings to the President of the Board, Mr. Secretary, Members of the Board and the Executive Director; Since our last meeting in August, I have completed 28 inspections, covering Districts B & C. There have been a few challenges encountered over the past month such as car breakdown and the weather. The weather has not only been a challenge for us but, for many of the firms that have been inspected. It has highlighted to many firms the need of roof repairs because of the vast amount of rain that has been presented. Even though this is not on the check list, the firms have brought this to our attention during the inspection.

During my inspections, I have also had the pleasure of meeting several interns that are seeking to join the ranks as Licensed Funeral Directors and/or Embalmers. Many of the Interns accompany myself and the Manager of the location on the inspection tour and find it very educational and informative. It is very encouraging to see that several Interns are nearing the end of their internship. I would like to Thank those Professionals that accepted the duty of becoming a preceptor and mentor to those that had that thirst for knowledge and extension of their horizons. A nod to Kim & Heidi for being available to them when they are in need of a question being answered. The interns speak of the them making the process smooth during their internship.

I would also like to say Thank You to many of the firms that have been inspected for their cooperation during the inspection and for the positive feedback about the process. As famous and world-renowned author Maya Angelou said *"I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel."* The inspected firms really make myself, and from feedback from Demale, my fellow inspector, welcome and are very excited to meet us. We strive to make our industry the **best** it can be. It's called pride in working so hard to serve others. As famous philosopher Cornel West says *"You can't lead the people if you don't **love** the people. You can't save the people if you don't serve the people."* It's simply about serving not only our colleagues and the Member of the Board but also our consumers. Serving also consist of compassion for others. So, I employ each of you to take a dose of compassion each day for everyone in our industry.

As a reminder the Inspection Checklist is online on the website of the State Board for review.

At this time, I will answer any questions or accept comments from the Members of the Board, Executive Director or the Boards Legal Counsel.

Respectfully submitted

Marybeth Harrington

Inspector for The State Board of Embalmers and Funeral Director

Motion was made by Mr. Southall, with a second by Mr. Luneau and unanimously passed that the Inspector Bowden's report be accepted as presented.

## INSPECTOR II INSPECTOR'S REPORT

September 14, 2022

Louisiana State Board of Embalmers & Funeral Directors

President McFarland, Board Members, & Executive Director Michel:

As of today, I have performed and completed a total of **38** inspections which include inspecting: **32** funeral establishments, **4** crematories, and **2** new establishment inspections. Inspector Harrington and I have still been working both independently and together doing inspections since our last meeting, as we continue to learn the state and have been introducing ourselves to licensees, interns, and funeral home/crematory owners. We are still being welcomed into establishments and are appreciative of the courtesy shown to us by the inspected establishment managers, funeral directors, and embalmers.

This month I have done inspections in the areas of Area B, C, & D from the dates of August 10, 2022 – September 7, 2022.

These are my recommendations:

- More clarity on the existing laws, rules, regulations, and the inspections, as everyone has their own interpretations of them. \*\*\*Please note, I was able to attend the Laws & Rules Committee Meeting on yesterday led by Board member Terry Luneau and had the opportunity to express some of my findings from out in the field as an inspector. Finally, as of September 7, 2022, the mileage on the 2022 Chevrolet Malibu is 3,646 miles.

As I conclude my report, I would like to leave you with a quote by Roy T. Bennett which says, "It doesn't matter how many times you get knocked down. All that matters is you get up one more time than when you were knocked down." In service to you the board, licensees, and interns of the Louisiana State Board of Embalmers & Funeral Directors, R. DeMale Bowden, Jr., CFSP, CCSP - Inspector II

License: E-2646 Retort Operator#: 431

Motion was made by Mr. Southall, with a second by Mr. Luneau and unanimously passed that the Inspector Bowden's report be accepted as presented.

The financial report and budget for FY 22/23, was presented for review and consideration.

Ms. Michel noted that the board operates, financially, by the licensing and permit fees only, that this board is considered as "self-funded" and that the State of Louisiana does not provide funding of any kind and there are no state tax or taxpayer funds extended to this agency.

## Accounting Summary

10.19.2022

	\$
Chase - MM	100,020.62
	\$
Liberty 12mo CD (32025)	54,106.52
<u>0.25% - DOM = 7/7/2023 (1050.72)</u>	
	\$
First Bank & Trust	159,297.03
<u>.35% - DOM = 12/8/2022 (1050.73)</u>	
	\$
Liberty Bank 12 mo CD (32225)	61,079.60
<u>0.25% - DOM = 12/28/22 (1050.71)</u>	

	\$
Chase check account (1030)	21,582.34
	\$
Total	396,086.11

#### Chase x 2 are operating funds

October - December = dependent funds received are renewals = establishments, embalmers & funeral directors

March - May = dependent funds received are renewals = crematories & retort operators

#### 3 x Certificates of Deposit for reserve account funds (non-operating funds)

CDs are not figured into the operating account budgets that are presented.

Motion was made by Mr. McKneely, with a second by Mr. Southall and unanimously passed that the financial report be accepted as presented.

The Complaint Review Committee's report was presented to the Board by Ms. Debose, Prosecuting Attorney.

Ms. Debose reiterated that the complaints are presented anonymously in numerical format to the Board with the Complaint Review Committee's decision based upon the information presented at the time of review. The numbered complaints presented in an open meeting remain anonymous while a complaint is pending further investigation and/or until such time as the complaint file has been closed.

It was noted that nine complaints were reviewed with two complaints recommended for a formal hearing, five complaints were recommended for an informal hearing and two complaints were recommended as no apparent violation, all as per the recommendations of the Complaint Review Committee.

Motion was made by Mr. Charbonnet, with a second by Mr. Davis and unanimously passed that the complaint report be accepted as presented per the recommendations of the Complaint Review Committee.

Ms. Michel requested that the board consider continuing Zoom as an option for continuing education for licensees that are not able to physically attend board meetings.

Motion was made by Mr. Luneau, with a second by Mr. Boudreaux and unanimously passed to continue Zoom for continuing education and observation only.

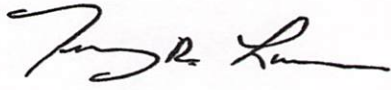
With regard to the massive public records request that was made, a motion was made by Mr. Charbonnet, with a second by Mr. Southall and unanimously passed that Ms. Michel must follow the law regarding charges for printing of public records and to collect the fees prior to releasing.

Mr. Luneau, Chair of the Laws & Rules Committee, is planning a meeting to include the LFDMA and LFDA with regard to a discussion regarding the current laws and rules in order to update and clarify the language.

#### NEW BUSINESS

The next scheduled meeting of the board will be on Thursday, October 20, 2022.

There being no further business, the meeting was concluded.



Terry Luneau, Secretary



Rodney McFarland, Sr., President

