

July 24, 2007

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:15 a.m. by the board's president, Eugene B. Pellerin, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Eugene G. Pellerin, President
Stephanie R. Navarre, Vice-President
Craig G. Gill, Secretary
Oscar A. Rollins, Treasurer
Robert Babineaux
Gregory Strother
Andrew W. Hayes, Consumer Representative

Also present: Michael H. Rasch, General Counsel
Dawn P. Scardino, Executive Director
Kim W. Michel, Administrative Coordinator II
Heidi L. Fontaine, Administrative Coordinator I
M. Jude Daigle, Inspector/Investigator

As has been required by law, time was set aside for "Public Comment Time."

No one was present who wished to address the Board during this time.

For informational purposes, board members were presented with a listing of the complaint summary for 2006/2007, complaints pending at the close of fiscal year 2006/2007, and a listing of complaints filed for fiscal 2007/2008 to date.

The inspector's report was then presented to the board members by Mr. Daigle.

Motion was made by Mr. Rollins, seconded by Mr. Gill and passed that the inspector's report be accepted as presented.

Falgout Funeral Home, Lockport and Bunkie Mortuary, Bunkie were reported as being unacceptable by the Inspector.

Samart Funeral Home, Cutoff, was reported as being marginal by the Inspector

A directive was given by Mr. Pellerin that a letter be sent by the Board's General Counsel to Falgout Funeral Home and Samart Funeral Home confirming that they had 30 days from the date of the inspection to correct reported problems.

Ms. Scardino advised that Bunkie Funeral Home's burial transit permit privileges will be reinstated once a licensed manager has been hired to staff the establishment.

An invoice from American Office Machines, Inc. was presented to the Board members from the Inspector for approval of a lap top computer with a color printer which will be purchased under the current state contract.

Motion was made by Mr. Gill, seconded by Ms. Navarre and passed that the Inspector be able to acquire the needed equipment for the performance of his job duties.

The executive director's report was then presented to the board members by Ms. Scardino.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the Executive Director's report be accepted as presented.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that an informal meeting be scheduled for Mr. LaKeeshire Bateaste in regards to his signing a death certificate for West Funeral Home, Natchez, MS.

Ms. Navarre suggested that Ms. Scardino send a letter to The Conference as a "good hospitality" measure with regard to offering assistance with the planning of the District meeting to be held in New Orleans in early September.

Minutes of the June 2007 board meeting were previously mailed to the board members for their review.

Motion was made by Mr. Gill, seconded by Ms. Navarre and passed that the minutes be accepted as presented.

Financial information, update on the board's budget for fiscal 2006/2007, as well as Profit & Loss Budget vs. Actual were presented to the board members for their consideration.

Motion was made by Mr. Babineaux, seconded by Mr. Strother and passed that the financial information, as well as the budget update be approved as presented.

A formal hearing entitled "In the Matter of Acadian Funeral Home, New Iberia re failure to timely refund excess insurance proceeds collected" was called to order at 10:20 a.m.

Mr. Pellerin recused himself from the hearing and turned the chair over to Mr. Craig Gill.

Testimony was taken from David Delahoussaye, Alvin Stutts, Dawn Scardino, and M. Jude Daigle.

The hearing was recessed at 11:30 AM and reconvened at 1:30 PM.

At 3:30 p.m. the matter was turned over to the board and the hearing was concluded as an open matter at that time.

At the request of the board's general counsel, Mr. Gill advised that the case is to be held as an "open matter" pending a video deposition of Mr. Eddie Provost, a witness who was subpoenaed but unable to travel to Metairie for the hearing. Mr. Moity and or his office is to advise Mr. Rasch as to the earliest date this deposition may be set up and a decision will be made by the board following their viewing/reviewing of same.

Kirk M. Mabile was present to request reinstatement of his license. Mr. Mabile

presented a letter from the Division of Probation and Parole that verified his having received a First Offender Pardon.

Motion was made by Mr. Strother, seconded by Mr. Babineaux and passed that Mr. Mabile's license be reinstated with a probationary stipulation that if he resigns from his current employer before 3 years, he will be required to advise the Board's office of his resignation and also advise his new employer of his probationary requirement to the Board and the circumstances surrounding this case.

Motion was made by Mr. Babineaux, seconded by Mr. Strother and passed that the meeting be adjourned

There being no further business, the meeting was adjourned at 3:45 p.m., with the agenda to be continued and completed tomorrow morning.

Secretary

Approved _____ September 5 _____, 2007

President

July 25, 2007

The continuation of the scheduled meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:15 a.m. by the board's President, Eugene G. Pellerin, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Eugene B. Pellerin, President
Stephanie R. Navarre, Vice-President
Oscar A. Rollins, Treasurer
Craig Gill, Secretary
Robert Babineaux
Gregory Strother
Andrew W. Hayes, Consumer Representative

Also present: Michael H. Rasch, General Counsel
Dawn P. Scardino, Executive Director
Kim W. Michel, Administrative Coordinator II
Heidi L. Fontaine, Administrative Coordinator I

As has been required by law, time was set aside for "Public Comment Time."

Jerry Schoen of Stewart Enterprises was present to advise the board with regard to Lake Lawn Metairie Funeral Home's progress going well and that the Grand Opening is still scheduled for November 2007. He also informed the Board that St. Bernard is doing well since opening. Mr. Schoen also advised that the Katrina Memorial is progressing well and on schedule.

A discussion followed regarding the letter which was forwarded to the Attorney General's Office for his opinion (September 27, 2005) with regard to which entity (Funeral Establishment or Individual licensed under Title 22 to sell contracts of funeral insurance) can make pre need arrangements (See LA R.S. 37:861) and can a funeral establishment "guarantee" merchandise and services in a pre arrangement

Motion was made by Mr. Babineaux and seconded by Mr. Strother that the board not ask the Attorney General's office for an opinion and that the members work toward the possibility of creating a new license for insurance people to sell pre-need.

Ms. Navarre, Messrs. Hayes, Gill and Rollins voted against the motion. Therefore, the motion failed.

Motion was then made by Mr. Babineaux and seconded by Mr. Strother that the request for an Attorney General's opinion be tabled and that the members work toward creating a third tier license with regard to those who sell pre-need arrangements.

Ms. Navarre, Messrs. Hayes, Gill and Rollins voted against the motion. Therefore, the motion failed.

Motion was then made by Mr. Gill, seconded by Ms. Navarre and passed that the formal request for a ruling on the above mentioned subject matter be forwarded to the Attorney General's office as soon as possible.

Mr. Babineaux opposed this motion which passed by a vote of five to one.

Therefore, it was noted that, "It be resolved that the Opinion Request concerning pre need arrangements and the guarantee of merchandise/services by funeral establishments be forwarded to the Attorney General's office, together with the notice of this Board Resolution concerning same, for further response".

A survey from the American Board of Funeral Service Education regarding a "Funeral Director" only certification course was presented to the board members for review. Responses to the questions were discussed and notation of same were made in order that the staff prepare and return the questionnaire to the ABFSED.

The Louisiana Compliance Questionnaire from the auditor was presented to the

Board members for review and approval. At the direction of the president, both he and Ms. Scardino signed same after the questionnaire was read, discussed and approved.

The request from Joshua Rouse, holder of W/P 0406, currently employed at Westside Leitz Eagan, Marrero for issuance of reciprocal license was presented to the Board Members.

Motion was made by Mr. Babineaux, seconded by Mr. Rollins, and passed that Mr. Rouse be issued a reciprocal license.

The request from Rodney F. Byrd, holder of W/P 0404, currently employed at Foreman's Funeral Service, Inc., Shreveport for issuance of reciprocal license was presented to the Board Members.

Motion was made by Mr. Babineaux, seconded by Mr. Rollins, and passed that Mr. Byrd be issued a reciprocal license.

Additional information gathered by the board's staff with regard to "The Casket House" including the ad in *The Daily Iberian* advising of the pre need sale of casket by Mr. Merrill and Mr. Rhoades of "The Casket House" was presented to the members.

After a recommendation by the complaint review committee for a hearing to be scheduled, motion was made by Mr. Gill, seconded by Mr. Rollins and passed that a hearing be scheduled for the September meeting with regard to the allegations of violations of LA R.S. 37:848 and 37:861.

A copy of the four page report of the Rule Committee was presented to the members for discussion. Each proposed rule change/rule addition was discussed and the possibility of addressing several new types of licenses was also presented.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the

following rules be amended and/or added to and that Ms. Scardino be requested to implement the requirements of the Administrative Procedure Act with regard to same:

Chapter 1. §111. Mandatory Disclosure - Add Section G. When money is made available to the funeral home over and above the amount owed for merchandise and services under no circumstances should the excess funds be utilized for any funeral home operating expenses and arrangements shall be made within a 30 day period for refund of same.

Chapter 7. §701. Renewal and Reinstatement - When the holder of a combination or funeral director license has failed to renew the license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement. Applicant may also be required to take a written Louisiana laws and regulations test (addition).

Chapter 9. §901. Requirements for Combination License.

8. The internship may be registered and the intern receive up to six months credit prior to matriculation in an accredited college of mortuary science (funeral service). **Delete - The internship must be completed within 12 months after graduation from embalming school.**

Chapter 9. §903. Requirements for Funeral Director License

9. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years (Addition).

Chapter 11. §1105. Charge of Establishment

- A. All funeral establishments must have a licensed funeral director designated as the manager of the facility and in charge of the day to day operations of the funeral home. The manager shall be available to perform all of the routine functions of the licensed establishment as provided within the

provisions of R. S. Title 37, Chapter 10, Section 831 et seq., within normal business hours. The manager must personally carry out his responsibilities as defined within paragraph 35 of Section 831 and/or as provided within the statute; and, to adequately serve the public, the manager shall reside within a forty (40) mile radius from the funeral home which the licensee is to manage (addition).

- B. In order to be designated as a manager, the licensee shall have a license issued by this board and have been actively engaged in the practice of funeral directing and/or the science of embalming for a least five (5) years. Any individual designated as manager with less than five (5) years experience who changes positions is not automatically grand fathered so as to be allowed to continue as manager of another facility (addition).

§1109. Closure of a Funeral Establishment

Upon the closure of a funeral establishment the license shall be returned to the board within a period of 15 days; any and all signs designating the building as a funeral home shall be removed or fully covered within 15 days; and, the telephone for the funeral establishment shall be disconnected within 15 days (addition).

§1111. Signage on vacant lots

Within one year of the erection a sign stating "Opening Soon, "Soon to Open:, etc., there shall be on going construction or completion shall be anticipated within that one year or the sign shall be removed. (Addition)

Chapter 17. §1703. Instructions needed to change cash deposited in a pre need account

In the event a funeral establishment desires to transfer cash deposited in a pre need account through their firm the following steps shall be adhered to:

§ Written notification shall be sent via certified mail to each consumer advising of the proposed change in funding for their pre need arrangement and requesting authorization for said transfer.

§ Upon receipt of written authorization for transfer from the consumer, the transfer can take place.

§ If requested, pre need cash on deposit shall be refunded to those who

request same; or,
§ If authorization for transfer is not given/received for any reason, the funeral establishment shall maintain all funds on deposit in the bank or savings and loan where originally deposited. (addition)

Chapter 23. Injunction Proceedings; Penalty; Continuance of Hearings and/or Release of Witness from Subpoena

§2301. Injunction Proceedings

A. The board may bring legal proceedings to enjoin a person or establishment violating the Rules and Regulations of this board from practicing the science of embalming or conducting the business of funeral directing or operating a funeral establishment, as may be the case, until such person complies with the requirements of these Rules and Regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or establishment enjoined shall be cast for attorney's fees and court costs.

B. The board may also bring legal proceedings to enjoin a person or crematory violating the Rules and Regulations of this board from operating a crematory retort or a crematory, as may be the case, until such person complies with the requirements of these Rules and Regulations. The injunction, if granted, shall not be suspended by bond or appeal and the person or crematory enjoined shall be cast for attorney's fees and court costs. (addition)

§2305. Continuance of Hearings and Authority to Release an Individual from _____ Obligation to appear as ordered by the Subpoena Authority of the Board

Based on circumstances presented, the president of the board shall be authorized to grant a continuance of formal hearings or informal meetings scheduled by the board and to release an individual from the obligation to appear before the board as ordered by the subpoena authority of the board. (addition)

With regard to funeral establishments being "designated as owners of insurance policies", Ms. Scardino was requested to request information from other boards regarding this practice and to ascertain if embalming reports are mandated. The staff is

also to contact SSI with regard to this question of ownership.

A Memorandum of Understanding between DHH and the Embalming Board was presented to the Board Members for discussion and approval.

Mr. Pellerin requested that Mr. Rasch and Ms. Scardino prepare the form for submission to DHH to supply a copy of same to each board member prior to the next scheduled meeting.

Information gathered by the board's staff with regard to the complaint filed by Kathy Corley concerning Charles Curtis and Mortuary Services of LA delivering cremains to the wrong family member and failure to provide all death certificates as requested was presented to the members.

Motion was made by Mr. Gill, seconded by Mr. Strother and passed that there appeared to be no violation of the statues, rules and/or regulations under which the board is empowered to operate, however, a letter of admonishment is to be sent to Mortuary Services of LA outlining the fact that Mr. Curtis and his staff need to be more attentive to the needs of the consumers that they service, all as per the recommendation of the complaint review committee.

Information gathered by the board's staff with regard to the complaint filed by Dotti Foster concerning Charles Curtis and Mortuary Services of LA's failure to timely have the remains of her mother, Dorothy Garland, cremated and failure to adequately respond to the inquires regarding same. .

Motions was made by Mr. Rollins, seconded by Mr. Gill and passed that there were no apparent violations of the statues, rules and/or regulations under which the

board is empowered to operate by Charles Curtis and Mortuary Services of LA, Shreveport with regard to the complaint filed by Ms. Foster, all as per the recommendations of the complaint review committee.

Board members were advised of Mr. Daigle's discovery of approximately 51 boxes of cremains being stored on shelves in an open area at Mortuary Services of LA. Motion was made by Mr. Strother, seconded by Mr. Babineaux and passed that Mr. Curtis be instructed to store the cremains in a secure area at his establishment and/or to contact a local cemetery to inquire about the storage of these cremains in one crypt/burial space and report the proper disposition to the board within the next 30 days.

Mr. Daigle's Inspector's report of Mortuary Service of LA concerning the discovery of several containers of untagged viscera in the establishment's refrigeration unit; the strong odor of chemicals throughout the establishment; and, the failure to remove old cars from the premises as previously requested was presented to the members.

Motion was made by Mr. Rollins, seconded by Mr. Strother and passed that the matters found within this inspection report be added to the formal hearing scheduled for September and that the subpoena as originally served be amended to address this matters as well, all as per the rec recommendations of the complaint review committee.

Board members were presented with a copy of Department of State Civil Service General Circular No 1706 and 1707 as well as Executive Order No. KBB 2007-15 issued by Governor Blanco regarding general pay increases for classified and unclassified state employees.

Motion was made by Mr. Strother, seconded by Mr. Rollins and passed that as

required, the classified employee's increase is recognized and mandatory and due to the fact that funds are available, that the general pay increase be approved for the board's two unclassified employees as well.

There being no further items on today's agenda, motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the meeting be adjourned at 1:55 p.m.

Secretary

Approved _____ September 5 _____, 2007

President