

October 6, 2010

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:25 AM by the board's President, Kelly Rush, at the board's office located at 3500 North Causeway Blvd., Suite 1232, Metairie, Louisiana.

Present: Kelly Rush, President  
Oscar Rollins, Vice-President\*  
1 Wall V. McKneely, Secretary  
2 Craig G. Gill  
3 Belva M. Pichon  
4 Andrew W. Hayes, Consumer Representative  
5 Paul "Wes" Castille  
6 Louis Charbonnet, III  
7

Also present: Michael H. Rasch, General Counsel  
8 Dawn P. Scardino, Executive Director  
9 Kim W. Michel  
10 Heidi L. Fontaine, Administrative Coordinator I  
11 M. Jude Daigle, Inspector/investigator  
12

13  
14 Margaret Shehee was not present at today's meeting.  
15

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

17 David Coughran, Director of Funeral Services Program at Delgado Community  
18 College was available and addressed the Board Members with a request for a  
19 restriction within the internship rule for students who have not passed the National  
20 Board Exam.

21 It was directed by Ms. Rush that this issue be referred to the Laws and Rules  
22 Committee for their review, consideration and recommendation.

23 Board members were presented with a listing of the open matters remaining at  
24 the end of fiscal 2009/2010 together with a listing of the complaints filed for fiscal

1 2010/2011.

2 Motion was made by Mr. Gill, seconded by Mr. McKneely and passed that the  
3 information be approved as presented.

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

5 Motion was made by Mr. Gill, seconded by Mr, Hayes and passed that the  
6 Inspector's report be approved as presented.

7 A discussion ensued with regard to the inspection report for Golden Meadows  
8 Funeral Home, Inc., St. Martinville.

9 [REDACTED] Motion was made by Mr. Charbonnet, seconded by Mr. Castille and passed that  
10 a letter be sent to the funeral home requesting that they voluntarily surrender their  
11 license until all issues have been resolved. It was also directed that Mr. Daigle obtain  
12 documents from the Sanitation Department with regard to the laws relating to same in  
13 order for the Inspector to be able to enforce.

14 [REDACTED] [\* Joined meeting in progress]

15 [REDACTED] A discussion ensued with regard to CM Butler Funeral Home, Abbeville.

16 Motion was made by Mr. Charbonnet, seconded by Ms. Pichon and passed that  
17 this matter be tabled as this issue will be discussed during the formal hearing scheduled  
18 for today's meeting.

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

21 Motion was then made by Mr. McKneely, seconded by Mr. Hayes and passed  
22 that the report be approved as presented.

1 [REDACTED] A discussion ensued with regard to the apparent failure or disregard of licensees  
2 to secure/receive certified return receipt mail, which are not being delivered, nor are  
3 notices of same given to the recipients or properly handled by recipients..

4 This issue was referred to the Laws and Rules Committee in order to update the  
5 existing rule with regard to mail being sent regular mail and the 30 day time limit  
6 beginning on the day of the postmarked item.

7 Information with regard to Disturbing the Peace at or during funerals was  
8 discussed and it was determined that funeral homes should have law enforcement  
9 available to maintain peace and order during same.

10 A request from one of the State associations for Mr. Daigle or Ms Scardino to  
11 appear and address the attendees at the scheduled function with updates and  
12 information from the Board was presented to the Board Members.

13 Information regarding the opinion of the Attorney General with regard to the  
14 board's inability to enforce the Continuing Education requirements is to be forwarded to  
15 the association who requested assistance, as the Board felt that it would not be proper  
16 to participate in a program which could lead a licensee to believe that they should  
17 secure the continuing education.

18 Information with regard to All Faith Funeral Home, Vivian and the establishment  
19 license being returned to the Board by Mrs. Byrd was discussed with the Board  
20 Members.

21 Unfortunately, the minutes from the September 13, 2010 meeting have not been  
22 completed for review by Board Members at today's meeting.

1 Motion was made by Mr. Gill, seconded by Mr. Charbonnet and passed that the  
2 financial information from the September 13, 2010 meeting be accepted as presented.

3 Financial information as well as an update upon the board's current budget vs  
4 actual figures for fiscal 2010/2011, as well as proposed revisions to the budget was  
5 presented to the members for their consideration.

6 Motion was made by Mr. Castille, seconded by Ms. Pichon and passed that the  
7 current financial information be accepted as presented.

8 It was also suggested to Ms. Pichon that her committee study the current  
9 financial position of the board and report the committee's findings to the board members  
10 at their next meeting.

11 Mrs. Scardino made inquiry as to which board members were planning to attend  
12 the NFDA Convention which will take place in New Orleans October 10 - 13<sup>th</sup>.

13 Ms. Pichon and Mr. Charbonnet advised that they let Ms. Scardino know at a  
14 later date. Mr. Gill advised he would be attending the entire convention. Mr. McKneely  
15 advised he would be attending Tuesday, October 12<sup>th</sup> only.

16 Formal Hearing entitled "In the Matter of Cassandra M. Butler and C.M. Butler  
17 Funeral Home, Abbeville" was convened at 10:45 a.m.

18 Motion was made by Mr. Gill, seconded by Mr. Castille and passed that the  
19 hearing be concluded at 11:20 AM.

20 Motion was subsequently made by Mr. Charbonnet, seconded by Mr. Rollins and  
21 passed that considering the sworn testimony of the witness and the admissions which  
22 were made a part of the record this date, that the Admissions be accepted as presented

1           Following the Acceptance of the Admissions, motion was then made by Mr.  
2 Charbonnet, seconded by Mr. Rollins, and passed that Cassandra Marie Butler, a  
3 licensed individual (E-2471), owner and designated manager of the establishment  
4 known as C. M. Butler Funeral Home, L.L.C., Abbeville and the C. M. Butler Funeral  
5 Home, L.L.C., Abbeville are each guilty of violating the provisions of LA R.S. 37:846 A.  
6 (4), (5), (6), (14); LA R.S. 37:848 D. (2), (3); LAC Title 51, Part XXVI, §103. B.; and LA  
7 R.S. 37:861, in that the remains of Roy Davee were not embalmed, buried or cremated  
8 within 30 hours of death (nor refrigerated); in that there were only two caskets within the  
9 display room on July 27, 2010; in that the embalming room was not properly equipped  
10 in keeping with the minimum standards (in that the aspirator has not worked for  
11 approximately one year and the embalming machine was leaking); in that the file for  
12 Roy Davee was not maintained at the funeral home; in that the General Price List does  
13 not meet the requirements of the Federal Trade Commission; in that the caskets in the  
14 display room do not match prices on the Casket Price List; and, in that pre need funds  
15 were deposited within the general funeral establishment operating account for Dominga  
16 Bonnett on at least nine occasions and not in keeping with the provisions of our pre-  
17 need statute.

18           Motion was then made by Mr. Gill, seconded by Mr. Rollins and passed that the  
19 license of the funeral establishment known as C. M. Butler Funeral Home, L.L.C.,  
20 Abbeville be and it is hereby revoked.

21           Motion was then made by Mr. Charbonnet, seconded by Mr. Hayes and passed  
22 with a vote of four to three that Cassandra M. Butler be granted a period of ninety (90)

1 days within which to submit a business plan to the Board for the further consideration  
2 and approval of the Board President. Should the business plan be timely submitted,  
3 and should it be found, in the opinion of the Board President to meet the necessary  
4 criteria for meeting the ongoing expenses of a licensed funeral establishment's  
5 continued operation, with sufficient funding available to be able to meet all minimum  
6 requirements of a funeral establishment, then the President of the Board and the  
7 Complaint Review Committee are directed to consider if they should allow the license of  
8 the establishment to be conditionally reinstated (according to necessary regulations).  
9 The Board is to be appraised of the status of this particular matter at the next regularly  
10 scheduled Board meeting so as to follow through and or adopt the decision made by the  
11 President and the Complaint Review Committee, should one even be made.

12 For the record it should be noted that Ms. Pichon, Mr. McKneely and Mr. Gill  
13 voted against the motion.

14 **ADDITIONALLY, IT IS ORDERED BY THE BOARD THAT** costs of the hearing  
15 including the court reporter fees (\$125.00) and general counsel fees (\$145.00) are due  
16 and payable thirty (30) days from the date of receipt of these Findings of Fact and  
17 Decision of the Board.

18 Ms. Butler advised that there are currently three bodies in house (Baby Hermoni  
19 Collins, Leonard Darby, and Alvin Winters). She was directed by the board to handled  
20 these cases so that the families will not be caused any problems; **that she accept no**  
21 **additional death calls**; and, that she temporarily disconnect the funeral establishment  
22 phone and cover the funeral home sign after these three cases are completed.

1 Mr. Rasch advised the members that the additional information which he  
2 requested from William Bagnell, with regard to the formal complaint filed about the  
3 advertisement in The Yellow Pages of his crematory being misleading was received and  
4 is provided for their perusal. He further advised that he is satisfied with the explanation  
5 as contained within the communication from The Yellow Pages.

6 In as much as a motion had been made at the last meeting for a formal hearing  
7 to be convened to address this matter, motion was made by Mr. Gill, seconded by Mr.  
8 Charbonnet and passed that the motion to schedule a formal hearing be rescinded and  
9 that the recommendation of the Complaint Review Committee to accept the explanation  
10 from The Yellow Pages be accepted and made the Order of the Board.

11 The request from Charles Pattman, holder of W/P 0438, currently employed at  
12 Winnfield Funeral Home, Shreveport, for issuance of reciprocal license was presented  
13 to the Board Members.

14 Motion was made by Mr. McKneely, seconded by Mr. Hayes and passed that Mr.  
15 Pattman be issued a reciprocal license.

16 An update with regard to In the Matter of Carolyn Lincoln vs Brandon Patterson  
17 and Patterson Funeral Home, Shreveport was presented to the Board Members.

18 Motion was made Mr. Gill, seconded by Mr. McKneely and passed that this  
19 matter be tabled pending further investigation by Mr. Daigle, as per the request of the  
20 Complaint Review Committee.

21 Information gathered by the Board's staff with regard to a complaint filed by  
22 Marilyn Jackson against Gethsemana's Paradise Funeral Home, Natchitoches, was

presented to the board members.

Motion was made Mr. Gill, seconded by Mr. Charbonnet and passed that there appears to be no violation of the statutes, rules and/or regulations under which the Board is empowered to operate, all as per the recommendations of the complaint review committee.

Information gathered by the Board's staff with regard to a complaint filed by Bessilyn Spikes against Raymond Fondel and Fondel Memorial Funeral Chapel, Lake Charles, was presented to the board members.

Motion was made by Ms. Pichon, seconded by Mr. Rollins and passed that there appears to be no violation of the statutes, rules and/or regulations under which the Board is empowered to operate, all as per the recommendations of the complaint review committee.

Information gathered by the Board's staff with regard to a complaint filed by Anthony Bennett against Byron Jones and Jones Funeral Home, Morgan City, was presented to the board members.

Motion was made by Ms. Pichon, seconded by Mr. Hayes and passed that there appears to be no violation of the statutes, rules and/or regulations under which the Board is empowered to operate, all as per the recommendations of the complaint review committee.

Information gathered by the Board's staff with regard to a complaint filed by Mark Olden against Rush Funeral Home, Oakdale, was presented to the board members.

Ms. Rush recused herself from the discussion and turned the chair over to Mr.

Rollins.

Motion was made by Mr. Hayes, seconded by Mr. Castille and passed that there appears to be no violation of the statutes, rules and/or regulations under which the Board is empowered to operate, all as per the recommendations of the complaint review committee.

Ms. Rush resumed the chair.

A discussion ensued with regard to the management and handling of medical/infectious waste and those funeral homes who are not contracted with a medical waste disposal service and who do not have a permit from DEQ to dispose of waste themselves, with the directive that they will be reported to DEQ as non compliant.

Information gathered by the Board's staff with regard to a complaint filed by Barbara Smith against Rick Miller, Miller Funeral Home, Monroe was presented to the board members.

Motion was made Ms. Pichon, seconded by Mr. Rollins and passed that there appears to be no violation of the statutes, rules and/or regulations under which the Board is empowered to operate, all as per the recommendations of the complaint review committee.

A request from Stewart Enterprises with regard to changing the company to L.L.C. was presented to the Board Members.

It was directed by Ms. Rush that the request would entail an ownership change and therefore that Stewart Enterprises would be required to complete the necessary applications with the necessary fees and the representative who notified the board of

the proposed change is to be no informed.

The agenda item from September's meeting with regard to In the Matter of Christine Cargol vs Barry Donewar and Mothe Funeral Home was revisited.

It was the general consensus of the members that the previous motion of no apparent violation was proper and as such should not be modified.

Due to the continuance granted for tomorrow's hearing and that being the only item on the agenda, tomorrow's scheduled meeting has been cancelled.

Motion was made by Mr. Gill, seconded by Mr. Charbonnet and passed that the board to into executive session in order to discuss pending litigation at 2:25 p.m.

Motion was made by Mr. Rollins, seconded by Mr. Castille and passed that the board go back into regular session at 3:05 p.m.

There being no further business to be addressed upon today's agenda, the meeting was adjourned at 3:10 p.m.

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Secretary

Approved \_\_\_\_ December 9, 2010

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President