

September 5, 2007

Meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:17 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
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."

Gerard Schoen addressed the Board Members regarding the finalization of

the rebuilding of Lake Lawn Metairie Funeral Home since Hurricane Katrina in 2005.

The Grand Opening is set for November 1, 2007. Mr. Schoen also discussed the Katrina Memorial and the unveiling was held on the second anniversary of Hurricane Katrina which was August 29, 2007. Funding of the Memorial has been privately acquired although \$1,000,000.00 was donated by Mayor Ray Nagin on behalf of the City of New Orleans. The National Funeral Director's Association (NFDA) will present a

\$5,000.00 check for the Memorial Fund at their scheduled conference meeting in Las Vegas later this year. The Matthews Corporation, builders of the Memorial, will be contacted to set up the additional memorials that will honor the deceased with plaques that will take the shape of 2 semi circles resembling a hurricane's motion. Perpetual Care will be set up through the Katrina Memorial.

Mr. David Coughran, the new Mortuary Science Program Director at Delgado Community College, was present to address the Board Members regarding the status of Delgado's present state of accreditation. Mr. Coughran advised the Board that Delgado is in fact, listed as "Show Cause" status and that the program needs to be strengthened, restructured and reorganized with emphasis on studies to assist the student's abilities to pass the National Conference Exam (ICFSEB). The program has had no positive remarks or comments from various interviews as well. Mr. Coughran, as well as Mrs. Bobbie Ann Lewis, his assistant, are eager to turn the program around. The final date set for the restructuring is in February 2008. He will report to the National Conference Board at a meeting to be held in October 2007. Mr. Coughran has a Masters Degree in Education as well as his Funeral Service License in Missouri. He has been active in the Funeral Industry for 17 years. Mrs. Bobbie Ann Lewis, who was present also, has acquired her Masters Degree in Human Resources and has an Embalmer's license in Louisiana.

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. Babineaux, seconded by Mr. Rollins and passed that the inspector's report be accepted as presented.

Miller Pioneer Funeral Home of Minden, LA was reported as being marginal. Mr. Daigle will follow up in 30 days to insure that they have resolved the issues and complied with the regulations. A letter is to be forwarded to Joseph H. Miller, Jr., the owner of this establishment regarding the areas of concern.

Mr. Daigle addressed the issue with his computer as progressing and is scheduled to meet with the computer technician to rework the program and format the necessary reports to be utilized.

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

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

Mr. Rasch will serve notice to Mr. Moity, counsel to Mr. Stutts, Acadian Funeral Home, and Mr. Provost, in order to schedule the video deposition of Mr. Eddie Provost, witness in the hearing entitled "In the Matter of Acadian Funeral Home, New Iberia re their apparent failure to timely refund excess insurance proceeds collected" from three known individual services.

Minutes of the July 2007 board meeting were previously e-mailed to the board members for their review.

Motion was made by Ms. Navarre, seconded by Mr. Rollins 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 information and consideration.

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

Hearing entitled "In the Matter of Charles R. Curtis, Jr. and Mortuary Services of LA." was convened at 11:05 a.m.

Testimony and/or various admissions were received from Charles R. Curtis, and testimony was also received from Rose-Neath employees; Ronnie Payne, John Tomb and Randy Tawwaters, as well as Jude Daigle.

Motion was made by Mr. Rollins, seconded by Mr. Babineaux and passed that the formal hearing portion of the administrative hearing process be completed at 2:30 p.m. and the board then deferred further consideration at this time, with the understanding that the matter would be brought to a final conclusion before the two day meeting was adjourned.

Following a short discussion as to the internship of Deanna Gremillion and the management of Magnolia Funeral Home, motion was made by Mr. Strother, seconded by Mr. Gill and passed that this matter be tabled for a short period of time.

Information gathered by the board's staff with regard to the complaint filed by Larry Ryan McCathern concerning services rendered by Constance Selico and Murray Henderson Undertaking Co. was presented to the board members.

Motion was made by Ms. Navarre, seconded by Mr. Rollins and passed that the matter be deferred until such time as additional information can be gathered with regard to the number of children involved in the arrangement process.

Information gathered by the board's staff with regard to the complaint filed by Michele Martin regarding services rendered by Robert Jones and Rabenhorst Funeral Home for her daughter was presented to the board members.

Motion was made by Mr. Babineaux, seconded by Mr. Rollins and passed that there appeared to be no violation of the statutes, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee.

The request from Heidi A. Brown, holder of W/P 0407, currently employed at Renaissance Funeral Service, Gonzales, for issuance of reciprocal license was presented to the Board Members.

Motion was made by Mr. Rollins, seconded by Mr. Gill, and passed that Ms. Brown be issued a reciprocal license.

By general consensus, the Report from the Rule Committee and discussion of same was postponed until the next day's meeting.

Information gathered by the board's staff concerning the complaint filed by Shannon McKenzie regarding the apparent failure of Jackie Wesley and A. Wesley Funeral Home to provide her with the cremains of her late husband and to properly correct his death certificate was presented to the members.

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

there appeared to be no violation of the statues, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee.

Information gathered by the board's staff with regard to the complaint filed by Alice A Walker re Douglas Caulfield and Scott's Bluff Morticians.

Motion was made by Mr. Babineaux, seconded by Mr. Rollins and passed that there appeared to be no violation of the statues, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee. However, Mr. Rasch was instructed to send a letter to Mr. Caulfield regarding his handling of the services for Ms. Walker's grandson.

Information gathered by the board's staff concerning the internship of Deanna Gremillion and the management of Magnolia Funeral Home, Alexandria was presented to the members.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that a formal hearing be scheduled for the October 24, 2007 meeting to address the matter.

Information gathered by the board's staff regarding the complaint filed by Catherine Aulds and Aulds Florist concerning flowers and plants delivered to Mortuary Services of Louisiana and either not received by the family or given to the wrong family was presented to the members.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that as per the recommendation of the complaint review committee, there appears to be no apparent violation of the statutes, rules and/or regulations under which the board is empowered to

operate as this appears to be a civil matter.

Mr. Rasch advised that the matter of the inspection report dated August 17, 2007 for Mortuary Services of Louisiana has been addressed due to the findings during this inspection being addressed during the hearing earlier this date.

Additionally, board members were provided with a copy of the letter from Charles Curtis, Jr., manager of Mortuary Services of Louisiana, advising that the cremains in his possession have been locked away in a storage cabinet.

There followed a lengthy discussion regarding Grant's Westside Funeral Home's request for approval of an ad which they propose to have published.

Motion was made by Mr. Gill, seconded by Mr. Strother and passed that Mr. Rasch be directed to respond to the licensee's request. Messrs. Babineaux and Hayes as well as Ms. Navarre voted against the motion. Mr. Pellerin voted for the motion which broke the tie. As such, motion passed.

A letter from the Academy of Professional Funeral Service Practice regarding approval of continuing education programs was presented to the Board Members.

Motion was made by Mr. Rollins, seconded by Mr. Babineaux and passed that more information be requested from the organization in order for approval to be considered.

Motion was made by Mr. Babineaux, seconded by Mr. Strother and passed that the first scheduled day of the meeting be adjourned, to resume tomorrow morning.

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 _____, 2007

President

September 6, 2007

The continuation of the scheduled meeting of the Louisiana State Board of Embalmers and Funeral Directors was called to order at 9:50 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 once again set aside for "Public Comment Time." No one stepped forward to address the Board.

There followed a discussion and review by the board members as to the

testimony taken during the Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport hearing so that a decision could be reached regarding the allegations pending.

Motion was made by Mr. Babineaux, seconded by Mr. Gill and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport be found guilty of violating the provisions of LA R.S. 37:846 A. (5) and 37:848 in that the remains of Williene Delcore were not properly cared for, and that the remains of Williene Delcore were not embalmed within thirty hours after death, and were not properly refrigerated causing flies and maggots to be present upon the remains when Ms. Delcore was brought to the Rose-Neath Crematory to be cremated.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are not guilty of violating the provisions of LA R.S. 37:846 A. (5) with regard to the proper care of the remains of Hesterly Mayton.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are guilty of violating the provisions of LA R.S. 37:848 in that the remains of Hesterly Mayton were not embalmed within thirty hours after death, and his remains were not properly refrigerated.

Motion was made by Mr. Navarre, seconded by Mr. Gill and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are guilty of violating the provisions of LA R. S. 37:846 A. (14) (See LAC, Title 46, Part

XXXVII, Chapter 11. §1107. A. h.) in that deleterious odors were allowed to enter into other parts of the establishment and living quarters from the embalming/preparation room.

Motion was made by Ms. Navarre, seconded by Mr. Strother and passed that the alleged problems with the ventilation be tabled until such time as the inspector for the board could revisit the premises of Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport to determine if a improper ventilation system has been installed.

Motion was made by Mr. Babineaux, seconded by Ms. Navarre and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are guilty of violating the provisions of LA R.S. 37:846 A. (5) in that there were containers [at least four (4)] of “viscera” found within the insulated, air conditioned separate room constructed near the funeral establishment with no visible sign of identification noted thereon. Mr. Gill voted against this motion.

Motion was then made by Ms. Navarre, seconded by Mr. Strother and passed that Charles R. Curtis, Jr. and Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport have been found guilty of violating the provisions of LA R.S. 37:846 A. (5) and 37:848 as it relates to the care of and the lack of proper refrigeration of the remains of Williene Delcore and the failure to timely embalm the remains of Williene Delcore, and as such are hereby fined the sum of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS for each of the offenses referred to herein above plus all costs of the hearing, including the board's general counsel fees and the court reporter fees.

Motion was then made by Mr. Babineaux, seconded by Mr. Gill and passed that

Charles R. Curtis, Jr. and the establishment known and d/b/a/ Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are found guilty of violating the provisions of LA R.S. 37:848 relating to the lack of proper refrigeration of the remains of Hesterly Mayton; are found guilty of violating the provisions of LA R.S. 37:846 A. (14) (See Title 46, Part XXXVII, Chapter 11. §1107 A. h.) as it relates to the deleterious odors which were allowed to enter other parts of the establishment and living quarters from the embalming/preparation room; and, are found guilty of violating the provisions of LA R.S. 37:846 A. (5) as it relates to the findings of the containers of "viscera" within the insulated, air conditioned room at the funeral establishment with no visible sign of identification noted thereon and are fined the sum of ONE THOUSAND (\$1,000.00) DOLLARS.

Motion was then made by Mr. Babineaux, seconded by Mr. Gill and passed that considering the fact that Charles R. Curtis, Jr. and the establishment known and d/b/a Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport have been found guilty of the above noted violations of the statutes and/or rules under which the board and its licensees must operate, and considering the serious nature of these charges and these violations, and the total lack of professional care which this board has determined was provided as to the remains of Williene Delcore and Hesterly Mayton, that the licenses of Charles R. Curtis, Jr. and of the entity d/b/a Mortuary Services of Louisiana, Magnolia Funeral Chapel, Shreveport are revoked. Mr. Strother voted against this motion.

Mr. Curtis was advised that the fines and costs assessed are due and payable to

the board within thirty days of receipt of the notification of same.

Formal Hearing entitled "In the Matter of Heather Nelson, Jesse Wilkerson and Community Mortuary, DeRidder" was convened at 11:20 a.m. .

Heather Nelson and Jessie Wilkerson [individually and on behalf of the funeral establishment] voluntarily agreed to enter into an admission as to violation of LA R.S. 37:846 A. (14) (See LA R.S. 37:842 D. 1.) And entered said admission into the record, with explanations.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that the admissions made by Ms. Nelson and Mr. Wilkerson be accepted.

Motion was then made by Mr. Gill, seconded by Mr. Rollins and passed that the hearing be closed at 12:00 noon.

Motion was made by Ms. Navarre, seconded by Mr. Strother and passed that Ms. Heather K. Nelson be fined the sum of FIVE HUNDRED (\$500.00) DOLLARS . Messrs. Babineaux and Hayes voted against the motion.

Motion was then made by Mr. Strother, seconded by Ms. Navarre and passed that Jessie Wilkerson, Jr. and the establishment known as Community Funeral Home, Deridder are fined the sum of ONE THOUSAND FIVE HUNDRED (\$1,500.000) DOLLARS plus the cost of the hearing (including the general counsel's fees and the court reporter fees) and Mr. Wilkerson shall be required to obtain four hours of continuing education given by a representative of the board on the statutes, rules and regulations under which the board is empowered to operate by December 31, 2007. Should the fine and/or costs not be received by the board within thirty days notification of same or should

Mr. Wilkerson not obtain the four hours of continuing education as directed, then the license of the establishment known as Community Mortuary, Inc., Deridder shall be suspended until such time as all directives of the board are met.

Motion was then made by Mr. Hayes, seconded by Mr. Babineaux and passed that the fine levied against Heather K. Nelson be suspended conditioned upon her attending an additional four hours of continuing education given by a representative of the board on statutes, rules and regulations under which the board is empowered to operate prior to December 31, 2007. Failure of Ms. Nelson to obtain the additional four hours of continuing education shall cause her funeral director's license to be suspended until such time as the additional hours are obtained, and shall cause the fine to be immediately due. Mr. Gill abstained from voting on this motion.

Formal Hearing entitled "In the Matter of Samuel Rhoades, David Merrill d/b/a, and/or the Casket House, New Iberia was convened at 2:50 p.m.

Mr. Pellerin recused himself from participating in the hearing with Ms. Navarre taking over as Chairwoman.

Samuel Rhoades and David Merrill advised that they have to date not sold any caskets "retail" and plan to sell wholesale to funeral establishments only. They also advised that they will cease to advertise "retail sales" at The Casket House.

Testimonies were taken to verify that they will voluntarily cease and desist operations of retail sales of caskets and an order is to be issued by the board in this regard.

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

hearing be closed at 3:10 p.m.

Motion was made by Mr. Babineaux, seconded by Mr. Gill and passed that further action against Mr. Rhoades and Mr. Merrill be tabled at this time.

There followed a discussion regarding the advertisements which are still appearing in the Shreveport Times for the Matter of Central Monument and Casket Co., Shreveport.

Motion was made by Mr. Babineaux, seconded by Mr. Rollins and passed that Mr. Rasch begin filing the necessary judicial proceedings for an injunction to have Central Monument and Casket Co. withdraw their advertisement of selling caskets in a Louisiana Newspaper.

Information gathered by the board's staff with regard to the complaint filed by Beta Capital Corp. concerning the alleged failure of Keith Robinson/Agape Funeral Home to timely provide them with a death certificate.

Motion was made by Mr. Strother, seconded by Mr. Rollins and passed that there appeared to be no violation of the statutes, rules and/or regulations under which the board is empowered to operate, all as per the recommendation of the complaint review committee.

The Lake Lawn Metairie General Price List was presented to the Board Members for review of a listed package offering a discount for burial policies up to \$1,500.00. Gerard Schoen and James Bass were present to address the Board Members and explain the discount that was being offered.

Pending further review and investigation, the matter will be tabled.

Memorandum of Understanding between DHH and Embalming Board was presented to the Board Members for a decision regarding an area for relocation in the event of an emergency.

Board Members unanimously decided that in the event of an emergency, the Board's office would relocate to Alexandria, LA.

It was suggested that an invitation be sent to Mr. Robinson, the Director of the Mortuary Sciences Program at Southern University, Shreveport, to attend one of the next meetings in order to get an update on the program.

Mr. Pellerin addressed the Board Members as to who would be attending the Convention in Las Vegas. Attendees will be Mr. Pellerin, Mr. Babineaux, Ms. Navarre.

Mr. Daigle expressed an interest in attending the Convention as well.

Motion was made by Mr. Gill, seconded by Mr. Rollins and passed that Mr. Daigle be allowed to attend the Convention in Las Vegas.

Mr. Rasch advised the Board Members regarding the FARB Annual Forum that is to be held January 25-27, 2007. He suggested that a decision be made as to who will be attending from the Board by the next scheduled meeting so Ms. Scardino can make the necessary travel regulations as required.

Motion was made by Mr. Rollins, seconded by Mr. Strother and passed that the report given by the Law Committee be approved and the staff be directed to begin the required process to adopt the following "new" rules:

Chapter 17. Prepaid Funeral Services or Merchandise

§1705. Change of ownership of the establishment (as defined in §1101)

Within 60 days of a change of ownership of a funeral establishment, the owner(s) of said establishment shall notify all pre need account holders by certified mail, return receipt requested of the change in ownership. The notification shall request written authorization for one of the following options:

- \$ Maintain their current pre need trust account with the new owner(s);
- \$ Request a refund of the principal deposited and the interest accrued in the pre need trust account;
- \$ Change the named beneficiary of the insurance policy purchased to a new funeral establishment, so as to fund a pre need;
- \$ Request that the insurance policy be cashed in. However, the pre need account holder should be advised to check the financial consequences of this option with the insurance company.

§1707. Right to pre need funds; ownership of insurance policies

The funeral establishment shall not have the right to take possession of any pre need funds until such time as the service is performed after death. Additionally, the funeral establishment shall not be named as the owner of a life insurance policy for a pre need funeral.

Motion was made by Ms. Navarre, seconded by Mr. Gill and passed that the board to into Executive Session at approximately 4:00 p.m. to meet with the inspector as well as to discuss an ongoing investigation into alleged problems at Mortuary Services of Louisiana and the appeal of the board's decision which will be filed in New Orleans Civil District Court.

Motion was made by Ms. Navarre, seconded by Gill and passed that the board return to the regular meeting at approximately 4:15 p.m. .

There followed a discussion regarding the need of the Pre need committee to begin meeting once again.

There being no further business, the meeting was adjourned at 4:20 p.m.

Secretary

Approved _____, 2007

President