

September 9, 2009

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

Present: Louis Charbonnet, III, President  
Oscar Rollins, Secretary  
Wall V. McKneely, Treasurer  
Margaret Shehee  
Belva M. Pichon  
Andrew Hayes, Consumer Representative  
Eugene B. Pellerin

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

Ms. Rush and Mr. Gill were not present at this meeting.

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

BobbiAnn Lewis, an Instructor at Delgado Community College, accompanied by her Mortuary Law students for their observance of the meeting. Ms. Lewis introduced the students and spoke briefly about Delgado Community College and their progress.

Mr. Charles W. Belsom, Jr. was present and was introduced as the Board's liaison with the Attorney General's office.

Nick Barber and Jan Barber were present and presented the Board with information regarding the funeral establishment which they are in the process of building.

For informational purposes, board members were presented with a listing of the complaint summary for 2009/2010, which was reviewed by the members of the Board.

The Inspector=s Report was then presented to the board members by Mr. Daigle.

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

The minutes of the July 2009 meeting were presented to the Board Members for their approval.

Motion was made by Mr. McKneely, seconded by Mr. Rollins and passed that the minutes as presented, be accepted.

The Executive Director=s Report was then presented to the board members by Ms. Scardino.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that the Executive Director's Report be accepted as presented.

Financial information with Budget Updates, as well as the 2008/2009 Audit Report from Baxley & Associates, was presented to the board members for their review and consideration.

Motion was made by Mr. McKneely, seconded by Mr. Pellerin and passed that the information be accepted as presented.

An opinion from the Attorney General, 09-0151, regarding continuing education, was presented to the Board members.

The Board's General Counsel, Mr. Rasch, advised that he and President, Mr. Charbonnet, visited with the Attorney General in regards to opinion 09-0151.

Mr. Rasch briefly outlined the opinion itself, noting discussions between he and Mr. Charbonnet with three members of the Attorney Generals Office, as it was determined, through this opinion that the Board had exceeded its power and authority in enacting the continuing education provisions by rule, in that there are no specific provisions within the statutes which provide for Continuing Education. Apparently, the writer of this opinion was initially of the opinion that the Board had certain authority, due to the provisions dealing with Education, however in as much as other boards have specific authority within their statutes, it was his opinion that this is what is necessary.

Furthermore, based upon the discussions held with representatives of the Attorney General's Office, the Board may still accept applications and approve same for continuing education, in that the board has the duty to insure that the licensed professionals of this State have the means to continue their education and training, but beginning now, the board may not refuse to renew a professional license due to the failure of the licensee to secure continuing education.

In that regard, Mr. Belsom, from the Attorney General's office, verified that the rule regarding continuing education could only be voluntary until a Statute is presented, passed and approved through the Legislation.

There was great concern expressed regarding the continuing education issue by the following individuals:

Mr. Gene Walters of the LFDA, Mr. Charles Muse, LFDMA, Mr. Victor Raphael, licensee from Jennings, Mr. Royal David, licensee from Covington, Ms. Lindsay Douglas, student of DCC, Mr. Douglas Caufield, LFDMA, Mr. Burl, NOEA, Ms. BobbiAnn Lewis, Instructor from DCC, Ms. Ce Ce Johnson, NOEA were all in favor of continuing education and expressed that this issue needs to be addressed and corrected so that continuing education will be a mandatory part of the profession.

Mr. Steve Newman, licensee from Baton Rouge, expressed his desire that continuing education be voluntary and not a requirement.

Motion was made by Mr. Pellerin, seconded by Mr. McKneely and passed that in keeping with the advisory opinion of the Attorney General's Office, the Board will no longer require 'mandatory continuing education hours' for the renewal of the annual licenses.

The issue will be addressed by the Rules and Regulations Committee to have a law in place, so as to be introduced into the Legislative process.

The Rules and Regulation Committee was also instructed to discuss the possible licensing of transport services, pre-need sales personnel and embalming services.

An update regarding the Acadian Funeral Home appeal case was presented to the Board Members, by Mr. Rasch.

A directive was given to the Board's General Counsel to continue to move forward with the opposition to the appeal process.

A discussion ensued regarding Licensees holding a LA license, living out of state, but working in LA.

The issue was passed to the Rules and Regulations Committee.

The office was advised that Hunter Roller Jenkins, holder of work permit 0423 with Hixson Funeral Home, Leesville has been terminated. .

Motion was made by Mr. McKneely, seconded by Mr. Rollins and passed that this item be removed from the agenda, as it is now moot.

Information gathered by the Board's staff in regards to the Right of Disposition Laws was presented to the Board Members.

This issue was also referred to the Rules and Regulations Committee.

As directed by the Board at their most recent meeting, an Admission and Consent was offered to Ms. Katherlan Stepter, Manager of/and Winnfield Funeral Home, Baton Rouge regarding her admission to violating LA R.S. 37:846 A. (11)(a) and/or LA R.S. 37:848 A. and/or in that directions were given be her individually and as the manager of that facility, to an unlicensed individual to perform duties, at the funeral services for Shirley Irene Wilson on or about February 13, 2009, which are reserved for a licensed funeral director.

The signed Admission and Consent form was presented to the Board Members for their consideration, acceptance and approval.

Motion was made by Ms. Shehee, seconded by Mr. Rollins and passed that the Admission and Consent form be accepted as presented.

There followed a presentation by Ms. Stepter concerning her actions, and she confirmed that it was indeed her desire to submit the Admission and Consent.

Motion was then made by Mr. Rollins, seconded by Ms. Pichon and passed that Ms. Stepter and Winnfield Funeral Home, Baton Rouge, be found guilty of violating the provisions of LA R.S. 37:846 A. (11) (a) and LA R.S. 37:848 A. and B, and as such, that Ms. Stepter be fined FIVE HUNDRED (\$500.00) DOLLARS, which fine will be suspended, based upon her satisfactorily completing one (1) year of probation.

Motion was then made by Ms. Shehee, seconded by Mr. Pellerin and passed that Winnfield Funeral Home, Baton Rouge, be fined the sum of FIVE HUNDRED (\$500.00) for the admitted violation, which fine will be suspended, with one (1) year of probation.

A hearing was scheduled with regard to J. H. Miller, Jr., John Pierce and/or Miller Pioneer Funeral Home, Minden. Board Members were advised that John Pierce has chosen to submit an Admission and Consent form, accepting responsibility, thus negating the need for a Formal Hearing.

Motion was made by Mr. McKneely, seconded by Mr. Rollins and passed that the Admission and Consent form be accepted as presented.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that John Pierce be found guilty of violating the provisions of LA R.S. 37:846 A.(14), LA R.S. 37:842. D (3) and/or Title 46, Chapter 11, § 1107. B.1., and as such, that Mr. Pierce be and he is hereby fined the sum of FIVE HUNDRED (\$500.00) DOLLARS, which fine will be suspended, based upon his satisfactorily completing one (1) year of probation.

Motion was made by Mr. MckNeely, seconded by Ms. Shehee and passed that Miller Pioneer Funeral Home be fined ONE THOUSAND (\$1000.00) DOLLARS for the admitted violation.

Discussion as to the matter in regards to a complaint filed by Carolyn Jacobi vs Winnfield Funeral Home, Shreveport.

Motion was made Mr. McKneely, 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 recommendations of the complaint review committee.

Information gathered by the board's staff in regards to a complaint filed by Sheila Fields vs Malcolm Gibson, Tiffany Phillips and/or Professional Funeral Services, Inc., New Orleans was presented to the board members.

Motion was made Mr. McKneely, seconded by Ms. Shehee and passed that a formal hearing be scheduled, all as per the recommendations of the complaint review committee. .

Information gathered by the board's staff with regard to a complaint filed by Mr. Daigle concerning Anthony Smith (Smith Transportation Service) and Beverly S. Griffin (Griffin Mortuary Services) was presented to the board members. .

Motion was made by Mr. McKneely, seconded by Ms. Pichon and passed that a Formal Hearing be scheduled.

Information gathered by the Board's staff in regards to a complaint filed by Shirley Brasseaux concerning the Robison Funeral Home, Sulphur was presented to the board members.

Motion was made by Ms. Shehee, seconded by Mr. Hayes and passed that this matter be tabled until further investigation may be conducted.

Information gathered by the Board's staff with regard to a complaint filed by Iveson B. Noland, IV (The Guest House) vs Robottom Mortuary, Reserve was presented to the board members. .

Motion was made Mr. Rollins, seconded by Ms. Pichon 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 recommendations of the complaint review committee.

Information gathered by the Board's staff with regard to a complaint filed by Andrea Theodore vs Arthur Hickerson and/or Heritage Funeral Directors, Inc., New Orleans was presented to the board members.

Motion was made Mr. Hayes, seconded by Ms. Pichon and passed that this matter be tabled until further investigation may be conducted.

Information with regards to the Dominion Tower and the possibility of the board's office moving to that location and the Executive Tower lease info request from the Division of Administration was presented to the Board Members. It appears that the rent per square foot at the Dominion Tower will be somewhere around \$24.00 with an annual increase required in the lease. Currently, the board is paying \$17.00 per square foot and Security National Partners has extended an offer for a new three lease at the same cost per square foot. Any costs involved in the move would be paid from the board's fund balance as their funds are self-generated.

Motion was made by Mr. McKneely, seconded by Ms. Shehee and passed that the lease be renewed at the Executive Tower pending the outcome of the Dominion



Tower location by the Division of Administration and the possible relocation of the office of the Board.

Information with regard to the Conference offering to make LRR exam available at the testing facilities was presented to the Board for informational purposes only.

A request for approval of Forest Park Cremation Web site and a bill board ad for Clark Griffin Funeral Co. was presented to the Board Members.

A directive was given to the Board's General Counsel to send a letter regarding the regulations and compliance.

Kevin Tranchina with the LFDA was present to inform the Board Members in regards to EDR, Electronic Death Registration, and the progress of the cooperation with Vital Records. Mr. Tranchina requested the Board Members to write a letter to Vital Records inviting them to a Board meeting to advise/inform their progress with the EDR program.

There being no further matters to be discussed, the meeting was adjourned at approximately 12:45 PM.

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Oscar A. Rollins, Secretary

Approved     October 21, 2009    

Louis Charbonnet, III, President