

September 13, 2010

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

Present:

Wall V. McKneely, Secretary

Craig G. Gill

Belva M. Pichon *

Andrew W. Hayes, Consumer Representative

Paul "Wes" Castille

Louis Charbonnet, III

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

Board members Oscar Rollins, Kelly Rush, and Margaret Shehee were absent.

* Joined the meeting in progress.

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

Dr. Douglas J. Caulfield of Scott's Bluff Morticians, Baton Rouge asked to address the board members during Public Comment Time.

He advised that funeral directors are receiving an inordinate amount of death certificates back from the Vital Records in New Orleans with unclear directives regarding "errors" and "what is required to correct same".

It was the general consensus of opinion that Darlene Smith, State Registrar, and/or Devin George, Assistant State Registrar, be invited to meet with the board

members to discuss the concerns related to us by the funeral directors.

Board members were presented with a listing of the open matters remaining at the end of fiscal 2008/2009 together with a listing of the complaints filed for fiscal 2009/2010.

The inspector's report was presented to the board members.

Information regarding the C. M. Butler Funeral Home, L.L.C., Abbeville was provided to the members by Mr. Daigle

Motion was made by Mr. Gill, seconded by Mr. Castille and passed that a formal hearing be convened to address the allegations of possible violations as presented by Mr. Daigle, all as per the recommendations of the complaint review committee.

Information regarding the unacceptable inspection report for Richardson & Sims Funeral Home, Ferriday was presented to the board members for discussion.

Motion was made by Mr. Charbonnet, seconded by Mr. Gill and passed that a formal hearing be scheduled to address the allegations of possible violations as presented by Mr. Daigle, all as per the recommendations of the complaint review committee.

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

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

The request made by the LFDA for copies of funeral home renewal applications as a courtesy at no cost was presented to the board members.

Motion was made by Mr. Charbonnet, seconded by Mr. Hayes and passed that

the request for waiver of costs be denied.

Motion was then made by Mr. Gill, seconded by Mr. Charbonnet and passed that the report be approved as presented.

Minutes of the June board meeting minutes were previously e-mailed to the board members. Mr. Castille advised that there was an error contained therein with regard to Royal J. David's name.

Motion was made by Mr. Gill, seconded by Ms. Pichon and passed that the minutes as presented be accepted with the correction being duly noted and completed.

Financial information, an update upon the board's budget vs actual figures for fiscal 2010/2011, the Audit report for fiscal 2009/2010, as well as proposed revisions to the budget for this fiscal year were presented to the members for their consideration.

Motion was made by Mr. Gill, seconded by Mr. Castille and passed that the financial information be tabled until further review by the Board Members.

Formal Hearing entitled "In the Matter of Miller Funeral Home, Inc, Monroe," was convened at 10:10 a.m.

Mr. Rasch read into the record the correspondence received from Joseph H. Miller, Jr., owner and designated manager of the funeral home, with regard to his submission of a no context plea to the allegations contained within the complaint submitted by Jacqueline Roberson.

Motion was made by Mr. Gill, seconded by Mr. Castille and passed that the hearing be concluded at 10:20 a.m.

Motion was made by Mr. Gill, seconded by Mr. Castille and passed that following

the plea of no contest, as presented by the licensee to the board this date, the entity known and operating as Miller Funeral Home., Inc., Monroe is hereby found guilty of violating the provisions of LA R.S. 37:846. A. (5) and/or (6) in that an employee of the Miller Funeral Home, Inc., Monroe did in fact on or about November 27, 2008 present the wrong body to the family of Alice Roberson; and, that said body had been placed into the casket purchased by the family of Alice Roberson, for her use.

Motion was made by Mr. Charbonnet, seconded by Ms. Pichon and passed that the establishment known and operating as Miller Funeral Home, Inc., Monroe is fined the sum of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS plus all costs of the hearing which include court reporter fees of \$75.00 and general counsel fees of \$72.50.

Additionally, imposition of ONE THOUSAND (\$1,000.00) DOLLARS of the fine as levied herein above shall be suspended conditioned upon the satisfactorily completion of a one year of probation, beginning this date. Should it be determined that the establishment is found guilty of any further violations of the statutes, rules and/or regulations under which they are licensed to operate within the one year probationary period or that the fine and/or costs of the hearing are not received by the Board within thirty (30) days notification of these Findings and/or the costs due, then the license of the establishment known and operating as Miller Funeral Home, Inc., Monroe shall be suspended until such time as all directives of the Board, including the payment of the entire fine, are met.

Formal Hearing entitled "In the Matter of Cornell Dukes and Verrette's Point

Coupee Funeral Home, New Roads,” was convened at 10:30 AM.

Testimony was taken from Heidi Fontaine, M. Jude Daigle, Alvin Verrette, and Cornell Dukes for the board’s consideration.

Motion was made by Mr. Castille, seconded by Mr. Gill and passed that the hearing be concluded at 12:15 p.m.

Motion was made by Mr. Gill, seconded by Mr. Hayes and based upon the testimony submitted during today’s hearing and after considering that testimony together with the exhibits submitted into evidence, it was passed that Cornell T. Dukes is guilty of violating the provisions of LA R.S. 37:846 A. (14), and/or LAC Title 46, Part XXXVII, Chapter 9 in that he was not employed on a full time basis at Verrette’s Pointe Coupee Funeral Home, New Roads; that his employment at Verrette’s Pointe Coupee Funeral Home, New Roads was not his principal occupation; and, that he failed to send in a monthly report in a timely fashion.

Motion was made by Mr. Castille, seconded by Mr. Gill and passed that the entity known and operating as Verrette’s Pointe Coupee Funeral Home., New Roads is guilty of violating the provisions of LA R.S. 37:846. A. (1), (5) and/or LAC Title 46, Part XXXVII, Chapter 9 in that Mr. Verrette only called in Cornell T. Dukes when needed and Mr. Dukes was not hired on a 40 hour/week full time basis; and, that the funeral home was not open during normal working hours on several occasions.

Motion was made by Mr. Charbonnet, seconded by Mr. Castille and passed that Cornell T. Dukes be fined the sum of FIVE HUNDRED (\$500.00) DOLLARS and his internship (#965) is cancelled as he was not a full time employee and also considering

his statement and testimony that he wished to withdraw his application for same.

Additionally the imposition of the fine as levied herein above shall be suspended based upon Mr. Dukes complying with the order of this Board that he not apply/reapply for an internship for at least two full years.

Motion was made by Mr. Charbonnet, seconded by Mr. Hayes and passed that Verrette's Pointe Coupee Funeral Home, New Roads is fined the sum of FIVE HUNDRED (\$500.00) DOLLARS for failing to properly follow the internship rules as a supervisor is required to do, plus the cost of the court reporter (\$335.00) and of the general counsel of the Board (\$507.50), and is placed upon probation for a period of one year.

Motion was made by Mr. Castille, seconded by Ms. Pichon and passed that Verrette's Pointe Coupee Funeral Home, New Roads is fined the sum of FIVE HUNDRED (\$500.00) DOLLARS for failing to have the funeral establishment open during normal working hours on several occasions. The imposition of the second fine, of \$500.00 shall be suspended conditioned upon satisfactory completion of the probationary period without a finding of further violations by the entity known and operating as Verrette's Pointe Coupee Funeral Home and further conditioned upon the timely payment of the remaining fine (\$500.00) due plus all costs of the hearing being received by the Board within thirty (30) days notification of these Findings. Should it be determined that all directives issued by the Board have not been met then the license of the establishment known and operating as Verrette's Pointe Coupee Funeral Home, New Road shall be suspended until such time as all directives of the Board are met.

The request from A. Ray Early, holder of W/P 0437, currently employed at Howard's Funeral Home, Jonesville, for issuance of reciprocal license was presented to the Board Members.

Motion was made by Mr. Charbonnet, seconded by Ms. Pichon and passed that Mr. Early be issued a reciprocal license.

The request from Stephen O'Connor, holder of W/P 0435, currently employed at Resthaven Funeral Home, Baton Rouge, for issuance of reciprocal license was presented to the Board Members.

Motion was made by Mr. Charbonnet, seconded by Ms. Pichon and passed that Mr. O'Connor be issued a reciprocal license.

Update regarding "In the Matter of Royal J. David vs Bagnell & Son, Covington," was presented to the Board Members.

Following a discussion of the lack of additional information requested from Mr Bagnell and/or A T & T which has not been forthcoming, motion was made by Mr. Castille, seconded by Mr. Charbonnet, that a formal hearing be scheduled in order to address the allegations found within the complaint filed by Mr. David, all as per the recommendation of the Complaint Review Committee

An update with regard to Louisiana Undertaking Co., Inc. and allegations of ownership changes was presented to the Board Members.

Motion was made Mr. Castille, seconded by Ms. Pichon 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 and the matter will be tabled indefinitely.

Information gathered by the Board's staff with regard to a complaint filed by Wilma Williams against Rodney Byrd, All Faith Funeral Home, Vivian, was presented to the board members.

Motion was made Mr. Charbonnet, 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.

Information gathered by the Board's staff with regard to a complaint filed by Robert Bradford and John Harris against Huey Taylor, Benevolent Funeral Home, Minden, was presented to the board members.

Motion was made Mr. Charbonnet, seconded by Ms. Pichon 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 Michelle Burris against Eric Singleton, Kinchen Funeral Home, Lafayette, was presented to the board members.

Motion was made Mr. Charbonnet, seconded by Mr. Pichon 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 discussion ensued with regard to the management and handling of medical/infectious waste and funeral homes disposing of their own medical/infectious waste with the proper training and a permit issued through DEQ.

Information gathered by the Board's staff with regard to a complaint filed by Carolyn Lincoln against Brandon Patterson, Patterson Funeral Home, Shreveport, was presented to the board members.

Motion was made Mr. Charbonnet, seconded by Mr. Castille and passed that this matter be tabled until further investigation can be made by the inspector, in keeping with the request of the Complaint Review Committee.

A discussion ensued regarding R.S. 9:1551 Burial of unclaimed bodies, as well as CC199 regarding the "Effect of Adoption" and CHC 1256 regarding the "effect of final decree of adoption".

Boyd Mothe, Jr. was present to address the Board Members regarding a matter relating to abandonment of human remains. Mr. Mothe asked the Board if a request from the Attorney General can be requested in order to clarify the current law as it relates to unclaimed bodies.

Board members were also advised of concerns addressed by Louis Muhleisen, Jr. with regard to the rights of adopted children being included in final disposition arrangements for their biological parent.

Motion was made by Mr. Charbonnet, seconded by Mr. Castille and passed that the Board's General Counsel be directed to obtain an opinion from the Office of the Attorney General with regard to the coroner advising that they will not accept unclaimed

remains for a year and a day, and that an opinion also be secured regarding whether or not an adopted child must be included in the decision making process with regard to final disposition of the natural parent who gave him up for adoption, or after the adoption has been approved, by Judgment.

Information gathered by the Board's staff with regard to a complaint filed by Tressia Ashley against Oran Haynes, W.D. Walker, Our Christian Funeral Home, Ruston, was presented to the board members.

Motion was made Mr. Pichon, seconded by Mr. Castille and passed that a formal hearing be scheduled, all in keeping with the recommendation of the Complaint Review Committee.

Information gathered by the Board's staff with regard to a complaint filed by Christine Cargol against Barry Donewar, Mothe Funeral Home, New Orleans, was presented to the board members.

Motion was made Mr. Charbonnet, seconded by Ms. Pichon and passed that there appear to be no violations 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. Mr. Gill, did however, ask that the board members review the letter provided by the family which was forwarded to the Better Business Bureau prior to the next scheduled board meeting to determine if there are any other matters contained within this correspondence which the board may wish to address.

A discussion followed with regard to the problems with the removal of the residency requirement and inquiries about the new solicitation statute.

It was directed by Mr. Gill that this matter be handled by the Laws and Rules Committee at their next meeting which is tentatively scheduled for October 5th.

Information gathered by the Board's staff with regard to a complaint filed by Annette C. Neal against Delores Robinson, Winnfield Funeral Home, Alexandria, was presented to the board members.

Motion was made Mr. Castille, seconded by Ms. Pichon 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 discussion followed with regard to the cremation of body parts and that there are no papers (i.e., death certificates, burial transit permits) issued to be presented to the crematory.

Ms. Pichon advised the Board that Mr. Charbonnet as well as herself were honored at the recent National Funeral Directors and Morticians Convention held in Florida for their contributions to the funeral service industry.

Due to lack of time for review, it was determined that the financial report, etc., be tabled until the next board meeting so the members could peruse all of the information presented to them.

Motion was made by Mr. Charbonnet, seconded by Ms. Pichon and passed that the board go into executive session in order to discuss pending litigation at 2:00 p.m.

Motion was made by Mr. Charbonnet, seconded by Mr. Castille and passed that the board go back into regular session at 2:50 p.m.

There being no further business to be addressed upon today's agenda, the meeting was adjourned at 2:55 p.m.

Wall V. McKneely, Secretary

Approved ____December 9, 2010_____

Kelly Rush, President