

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

10:00 a.m., January 31, 2017
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Tuesday, January 31, 2017

1. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of Funeral Service to order on January 31, 2017 at 10:06 a.m. Other Board members present for the meeting included: Charvis K. Gray Secretary, of Piedmont; Stephen R. Gantt, of Greenwood; Wallace McKnight, Jr., of Andrews; William B. Horton, Jr., of Kingstree; Michelle A. Cooper, of Moncks Corner; Stephen Lee McMillan, Jr. of Myrtle Beach; D'Michelle P. DuPre, of Chapin; and John L. Petty, of Landrum.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Monaca Harrelson, Administrative Assistant; Sharon Cook, Investigator, Office of Investigations and Enforcement; Kathy Meadows, Investigator, Office of Investigations and Enforcement; Holly Beeson, Office of Communication and Government Affairs; Rebecca Leach, Director of Business and Governmental Affairs, Office of Communications and Governmental Affairs; Ernest Adams, Inspector, Office of Investigations and Enforcement; and William Poole, Inspectors, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Faye Sandon; Mike Squires, South Carolina Funeral Directors Association; Rion Rampey, Executive Director, South Carolina Funeral Directors Association; Scott Fowler, South Carolina Funeral Directors Association; Elizabeth Simmons, South Carolina Mortician Association; Jacob Flowers, South Carolina Department of Consumer Affairs; Leonard Hicks, Callaham-Hicks Funeral Home, Inc.; and Rolanda Dunlap.

A. Public Notice

Mr. Nelson announced that public notice of this meeting was properly posted at the South Carolina State Board of Funeral Service office, Synergy Business Park, Kingstree Abuilding, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

B. Pledge of Allegiance

All present recited the Pledge of Allegiance.

2. Introduction of Board Members and Persons Attending the Meeting

The Board members, staff, and all other persons attending the meeting introduced themselves.

3. Approval of Excused Absence

Mr. Jeffrey Temples was not in attendance.

MOTION

Mr. McMillan made a motion to approve Mr. Temples's absence.
Dr. DuPre seconded the motion, which carried unanimously.

4. Approval of Minutes for the December 7, 2016 board meeting.

Mr. Nelson called for a motion to approve the minutes for the December 7, 2016 board meeting.

MOTION

Mr. McMillan made a motion to approve the minutes as presented.
Mr. Gray seconded the motion, which carried unanimously.

5. President's Remarks – Eddie Nelson

Mr. Nelson thanked everyone for attending. Mr. Nelson called for a motion to move item #13 of the agenda to item #5.

MOTION

Mr. Horton made a motion to move item #13 of the agenda to #5.
Mr. Gray seconded the motion, which carried unanimously.

Mr. Nelson called for a motion to approve the wording of the resolution to be presented to Mr. Mike Squires.

MOTION

Mr. McMillan made a motion to approve the wording of the resolution.
Mr. Gray seconded the motion, which carried unanimously.

Presentation of the Resolution for Mr. Mike Squires

The South Carolina State Board of Funeral Service presented Mr. Mike Squires with a Resolution that read as follows:

A Resolution in Appreciation of Mike Squires

WHEREAS, we are here today to express our appreciation to R.M. "Mike" Squires, CFSP, and honor him for his distinguished career as a Funeral Director, Executive Director of the SCFDA, Magazine Mogul and friend, and for his lifelong commitment to Funeral Service in South Carolina and the United States; and

WHEREAS, Mr. Squires began his funeral service career at a very young age providing funeral services and burials for pets in his backyard; and

WHEREAS, Mr. Squires is a licensed Funeral Director in the State of South Carolina and is a Certified Funeral Service Practitioner and has provided comfort and support to families for over 30 years; and

WHEREAS, Mr. Squires has been and continues to be a very strong advocate for the Funeral Service Profession in South Carolina and the United States; and

WHEREAS, none of the above could have been accomplished without the support and love of his beautiful wife Gloria;

NOW, THEREFORE, Upon his retirement as Executive Director of the South Carolina Funeral Directors Association, the members of the South Carolina State Board of Funeral Service express our gratitude to Mr. Squires for his untiring commitment to our profession and wish him "GODSPEED" as he continues to 'Follow His Dream'.

PROCLAIMED this 31st day of January, 2017

Signed by all members of South Carolina State Board of Funeral Service

6. Administrator's Remarks – Amy Holleman

- A. Ms. Holleman presented the financial report informing the Board that the cash balance at the end of December 2016 was -\$384,823.86.

Ms. Holleman informed the Board that after December 31, 2016, any licensee that still had not renewed their funeral license is considered lapsed. In order for the lapsed license to be renewed, the licensee will be required to pay the renewal fee in addition to a \$120.00 late fee.

Ms. Holleman reminded the Board that Dr. DuPre, Mr. Gray, and she will attend the 113th International Conference Annual meeting from Tuesday, February 28, 2017 through Thursday, March 2, 2017 in Hilton Head, South Carolina.

Ms. Holleman mentioned to the Board the special request to present a resolution to a Girl Scout in Myrtle Beach, South Carolina. Ms. Holleman, yielded to Mr. McMillan to provide the details. Mr. McMillan informed the Board that Ingram Cox was completing her service project for the Girl Scout Golden Award when she researched unclaimed cremains. Ms. Cox, based on her findings, contacted his funeral home for assistance with the burial of these remains. Ms. Cox contacted the Horry County Coroner and was informed the county had 75 unclaimed cremains. Mr. McMillan stated Ms. Cox, with the assistance of her mother, coordinated with Horry County Coroner's Office, McMillan-Small Funeral Home, Goldfinch Funeral Home, Carolina Doric, and Rosewood Cemetery to provide, identification, funeral services, Honor Guard service, and burial for unclaimed cremains in Horry County, SC.

MOTION

Ms. Cooper made a motion to present Ingram Cox with a resolution for her service at the February 23, 2017, South Carolina State Board of Funeral Service meeting. Mr. Horton seconded the motion, which carried unanimously.

Mr. McMillan agreed to provide the wording for the resolution and to work with staff to contact the parties involved with the project.

MOTION

Ms. Cooper made a motion that Mr. McMillan will provide assistance to board staff in this matter. Mr. Horton seconded the motion, which carried unanimously.

7. Reports

- A. Inspection Report

Mr. Adams informed the Board that he and Mr. Poole conducted 64 inspections between November 30, 2016 and January 20, 2017.

- B. Investigative Review Committee (IRC) Report – Sharon Cook

Ms. Cook informed the Board that the cases have been review, and no cases were currently with the Investigative Review Committee.

C. Office of Investigations and Enforcement (OIE) Report – Sharon Cook

Ms. Cook stated the Office of Investigations and Enforcement (OIE) currently has a total of cases in review status, and that in 2016 65 cases were received, 100 cases were closed. Mr. Nelson thanked Ms. Cook for the reports

D. Office of Disciplinary (ODC) Counsel – Tracey Perlman

Ms. Perlman presented the Office of Disciplinary Counsel (ODC) report as follows; as of December 2, 2016, 20 open cases; 8 pending action; 11 pending hearings; 1. Mr. Nelson thanked Ms. Pearlman for the report.

8. Legislative Update – Holly Beeson

Ms. Beeson updated the Board regarding House Bills 3049 and 3097, and Senate Bill 185
HOUSE BILL 3049 General Bill Sponsors: Rep. King

Introduced in the House on January 10, 2017, and currently residing in the House Committee on Labor, Commerce and Industry.

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-19-105 SO AS TO PROVIDE WHEN DEAD HUMAN BODIES ARE TRANSFERRED FROM ONE FUNERAL SERVICE PROVIDER TO ANOTHER FUNERAL SERVICE PROVIDER, THE TRANSFEROR MAY RECOVER CERTAIN UNPAID SERVICE FEES AND LEGAL FEES FROM THE TRANSFEREE IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE THESE ACTIONS MUST BE HEARD IN MAGISTRATES COURT REGARDLESS OF THE JURISDICTIONAL AMOUNTS INVOLVED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 19, Title 40 of the 1976 Code is amended by adding:

“Section 40-19-105. When a funeral home, funeral director, or embalmer (‘transferor provider’) provides services for a dead human body and the body subsequently is transferred to another funeral home, funeral director, or embalmer (‘transferee provider’) for additional services, the transferor provider has a cause of action against the transferee provider if the transferee fails to compensate the transferor for the services provided by the transferor. The transferor may recover its usual fee plus reasonable attorney fees and costs. An action brought pursuant to this section may be brought and tried in magistrate’s court regardless of the amount of money involved, and the monetary jurisdictional limits of magistrate’s court do not apply.”

SECTION 2. This act takes effect upon approval by the Governor.

HOUSE BILL 3097 General Bill Sponsors: Rep. King

Introduced in the House on January 10, 2017, and currently residing in the House Committee on Labor, Commerce and Industry.

TO AMEND SECTION 17-5-600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS FOR CREMATION WHICH MUST BE ISSUED BY CORONERS, SO AS TO PROVIDE THAT NO FEE FOR A PERMIT FOR CREMATION MAY BE CHARGED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17-5-600 of the 1976 Code is amended to read:

“Section 17-5-600. When the body of ~~any~~ a dead person who died in the county is to be cremated, the person who has requested the cremation must secure a permit for the cremation from the coroner, deputy coroner, medical examiner, or deputy medical examiner. A person who willfully fails to secure a permit for cremation is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty dollars and not more than five hundred dollars. A permit for cremation promptly must be acted upon by the coroner or medical examiner and no fee for a permit for cremation may be charged.”

SECTION 2. This act takes effect upon approval by the Governor.

SENATE BILL 185 General Bill Sponsors: Senator Shealy

Introduced in the Senate on January 10, 2017, and currently residing in the Senate Committee on Labor, Commerce and Industry.

TO AMEND SECTION 40-19-20(1) OF THE 1976 CODE, RELATING TO THE DEFINITION OF “ADVERTISEMENT” AS USED IN REGARD TO EMBALMERS AND FUNERAL DIRECTORS, BY ADDING THE TERM “INTERNET” TO THE DEFINITION OF ADVERTISEMENT; TO AMEND SECTION 40-19-20 OF THE 1976 CODE BY ADDING A DEFINITION FOR THE TERM “THIRD PARTY FUNERAL SERVICE PROVIDER”; AND TO AMEND CHAPTER 19, TITLE 40 OF THE 1976 CODE, BY ADDING SECTION 40-19-40, TO PROVIDE THAT THIRD PARTY FUNERAL SERVICE PROVIDERS MUST BE LICENSED BY THE STATE FUNERAL SERVICE, TO PROVIDE NOTICE AND DISCLOSURE REQUIREMENTS FOR THIRD PARTY FUNERAL SERVICE PROVIDER ADVERTISEMENTS, TO PROVIDE FOR LICENSE REVOCATION FOR VIOLATIONS OF THE ADVERTISING REQUIREMENTS, TO PROVIDE THAT THE STATE BOARD OF FUNERAL SERVICE SHALL PRESCRIBE THE FORMAT OF ADVERTISEMENT DISCLOSURE BY REGULATION, AND TO PROVIDE THAT THIRD PARTY FUNERAL SERVICE PROVIDERS MUST DISCLOSE TO CUSTOMERS THE NAME AND CONTACT INFORMATION OF THE FUNERAL ESTABLISHMENT THAT WILL BE IN CHARGE OF HANDLING ALL FUNERAL ARRANGEMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 40-19-20(1) of the 1976 Code is amended to read:

“Section 40-19-20. (1) ‘Advertisement’ means the publication, dissemination, circulation, or placing before the public an announcement or statement in a newspaper, magazine, or other publication in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over radio, ~~or~~ television, or internet. The term does not include funeral or death notices and obituaries.”

B. Section 40-19-20 of the 1976 Code is amended by adding:

“(21) ‘Third party funeral service provider’ means an out-of-state broker, which is a licensed funeral director working through a licensed home in the state that the broker is located, that arranges, via telephone, email, mail, the internet, or by other means, for funeral services to be performed by licensed funeral directors and funeral establishments in this State.”

SECTION 2. Chapter 19, Title 40 of the 1976 Code is amended by adding:

“Section 40-19-40. (A) A third party funeral service provider, its officers, employees, agents, or assigns must be licensed with the State Board of Funeral Service.

(B)(1) Third party funeral service providers must disclose the following information in all advertisements:

- (a) license number;
- (b) address and phone number;
- (c) conspicuous disclaimer if located out of state;
- (d) name of owner; and
- (e) list of all participating funeral establishments.

(2) The State Board of Funeral Service must revoke the license of a third party funeral service provider if the provider fails to prominently disclose the information required by subsection (B)(1).

(C) Third party funeral service providers must disclose to customers the name and contact information of the funeral establishment that will be directly providing, assisting, or otherwise participating in the practice of funeral service.

(D) The State Board of Funeral Service, by regulation, shall prescribe the format of all advertisement disclosures.”

SECTION 3. This act takes effect upon approval by the Governor.

The Board expressed concern with Senate Bill 185, especially the definition of “Third Party Funeral Service Provider.”

MOTION

Mr. Nelson recommended a committee made up of Mr. Horton, Mr. McMillan, and Mr. Gray, be formed to work with Ms. Beeson on defining the language. Dr. DuPre made the motion, Mr. Gantt seconded, and it passed unanimously.

9. Disciplinary Hearings

This proceeding was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

Tracey Perlman represented the State while Roland Dunlop represented herself after waiving the right to be represented by Counsel of her own choosing.

Mr. Nelson called for a motion to go into Executive Session to receive legal advice.

Executive Session

MOTION

Mr. McKnight made a motion to go into Executive Session to receive legal advice. Mr. McMillan seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. McMillan made a motion that the Board return to public session, Mr. Gray seconded the motion, which carried unanimously.

Mr. Nelson stated, for the record, that no votes were taken during executive session

1. Case No. 2015-41

Rolanda Elaine Dunlap (hereinafter "Respondent") is duly licensed in this state by the South Carolina Board of Funeral Services (hereinafter the "Board") as a Funeral Director Apprentice at Callaham-Hicks Funeral Home Inc. (License No.: FE.388 PAR) located at 228 N. Dean Street in Spartanburg, South Carolina. Leonard J. Hicks (License No.: FD.2120 FD) serves as her preceptor. Respondent was first licensed on May 1, 2014 and has been made inactive since August 24, 2015.

The Board received an initial complaint and has investigated the conduct of the Respondent. Pursuant to S.C. Code Ann. § 40-19-115 (1998, as amended), the Board has jurisdiction over Respondent and the subject matters contained herein.

Upon information and belief, Respondent has violated the rules and regulations of the Board of Funeral Services, S. C. Code Ann. § 40-19-5, *et seq.* (1976, as amended) by committing the following acts:

1. On July 10, 2014, September 30, 2014, and January 5, 2015, Respondent submitted quarterly reporting forms stating that she participated in the sale of funeral services, that she conducted funeral services and that she prepared death certificates for 43 different cases listed in the reports. The Respondent had her preceptor sign the reports stating that she was properly supervised and that her statements were true and correct to the best of his knowledge and belief.
2. On or about March 23, 2015, Respondent presented a potential fourth quarterly report for her preceptor's signature. The preceptor noticed that there were items reported as having been performed by Respondent that in fact had not been done. The preceptor refused to sign the potential fourth quarterly report and advised Respondent how the quarterly reports were to be completed truthfully. The preceptor then reported his error in signing the three quarterly reports already submitted to the Board for Respondent.

Upon information and belief, by the conduct described above, the Respondent has violated the following statutory provisions governing the practice of funeral services in this State:

1. Respondent violated **S.C. Code Ann. § 40-19-110(1)** in that Respondent made misrepresentations or committed fraud while engaging in the practice of funeral service.

2. Respondent violated **S.C. Code Ann. § 40-1-IIO(I)(d)** intentionally used a fraudulent statement in a document connected with the practice of the individual's profession or occupation.
3. Respondent violated **S.C. Code Ann. § 40-1-IIO(I)(a)** in that Respondent used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure under this article.
4. Respondent violated **S.C. Code Ann. § 40-1-IIO(I)(t)** in that Respondent committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public.
5. Respondent violated **S.C. Code Reg. § 57-13 (A)(6)** in that Respondent made misrepresentations concerning any aspect of the services rendered or the funeral furnishings or disposition alternatives.

Both parties pled their cases and made closing statements. Ms. Perlman argued that the State has not met its burden of proof of Respondent violating **S.C. Code Ann. § 40-19-110(1), § 40-1-IIO(I)(d), § 40-1-IIO(I)(a), § 40-1-IIO(I)(t), § 57-13 (A)(6)**. Ms. Perlman recommends dismissal of the case and that Respondent be granted credit for all months and cases submitted.

MOTION

Ms. Cooper made a motion to dismiss the case and to allow Respondent to be granted credit for all hours and cases submitted. Mr. Petty seconded the motion

Ms. Cooper then amended the motion that the quarterly report from January through March of 2015 also be included in the months and case count. Mr. Petty seconded the motion and it was approved unanimously.

10. Advice Counsel – Reporting Requirements Under Section 63-7-310

Mr. Jennings noted that according to Section 63-7-310 an undertaker or funeral home director or employee of a funeral home must report if he or she has received information which gives a reason to believe that a child has been or may be abused or neglected.

Mr. Horton made a motion that this information be sent out via an email blast to licensees and posted to the website. Mr. McMillan seconded the motion and it was passed unanimously.

11. Funeral Director Role in Reinterment After Natural Disaster

MOTION

Mr. Horton made a motion to amend the Funeral Director Role in Reinterment After Natural Disaster policy made at the December 7, 2016 meeting so the phrase “the required DHEC forms be signed and documented” be removed as there are no applicable forms.

The policy now reads “After a natural disaster if a previously interred casket or vault surfaces above ground that a Funeral Director must be at the reinterment”.

Dr. Dupre seconded the motion and it was passed unanimously.

12. Student Permits

Ms. Holleman reported that staff has generally issued student permits that were valid for two years, but statute does not provide for the length of time a student permit is valid, and Regulation 57-07(A) says that the permits expire whenever the licensee ceases to be a mortuary science student. Closer review of Regulation 10-17(3) lists a student renewal fee. How should staff handle expiration of student permits? The Board decided to continue with the two year expiration and the permit automatically expires when the student leaves school. If a student needs to renew a permit the application will be reviewed by the President and Administrator. Mr. Jennings noted that Section 40-19-245 requires a student permit to be issued for students enrolled in a mortuary science college, even if already licensed as an apprentice.

Ms. Holleman will work with the President and Counsel to draft a letter concerning these items.

MOTION

Mr. McMillan made a motion to invite representatives from Piedmont Technical College's Funeral Services department to discuss these items. Dr. DuPre seconded and the motion was passed unanimously.

MOTION

Ms. Cooper made a motion to implement that all mortuary college students have a student permit. Mr. Horton seconded and the motion was passed unanimously.

13. Public Comments (no votes taken)

No comments were made by the public.

13. Adjournment

MOTION

Ms. Cooper made a motion to adjourn the meeting, Mr. Petty seconded, and the motion passed unanimously.

Mr. Nelson, after ensuring there being no further business to discuss, adjourned the January 31, 2017 meeting for the South Carolina State Board of Funeral Service at 1:50 p.m.

The next meeting of the South Carolina Board of Funeral Service is scheduled for February 22-23, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.