

MINUTES

South Carolina Funeral Board

10:00 a.m., December 14, 2000

110 Centerview Drive, Kingstree Building, Room 108

Columbia, South Carolina

Mr. Larry Hendrix, Chairman, of Seneca called the regular meeting of the S. C. Board of Funeral Service to order at 10:00 a.m., with a quorum present. Other board members participating during the meeting included: Mr. Mike Thornwell, Vice-President, of Ft. Mill; Mr. Ward Avinger, Secretary, of Holly Hill; Mr. Charles Green, of Charleston; Mr. James Adcock, of Orangeburg; Mr. Clarence Hampton, of Seneca; Mr. Bob Parks, of Charleston, Mr. Phillip Caulder, of Chesterfield; and Mr. Roger Finch, of Greenville.

Staff members participating during the meeting included: Ms. Lou Ann Pyatt, Administrator; Ms. Sharon Dantzler, Deputy General Counsel, LLR-Office of General Counsel; Mr. Charlie Jones, Inspector; Ms. Jeannie Rose, Administrative Specialist; Ms. Jackie Carter, Administrative Assistant; Ms. Misty Goldstein, Legislative Liaison, LLR-Legislative Liaison Office; and Ms. Sandra Dickert, Administrative Assistant.

Mr. Hendrix announced the meeting was being held in accordance with the Freedom of Information Act by notice mailed to The State Newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the bulletin boards at the two main entrances of the Kingstree Building.

Invocation

Mr. Green delivered the invocation.

Pledge of Alligence

All present recited the Pledge of Alligence.

Approval of Minutes for the October 5, 2000 Meeting

Mr. Caulder moved the board approve the minutes of the October 5, 2000 meeting as presented. Mr. Thornwell seconded the motion, which carried unanimously.

Introduction of Board Members and the Public

Mr. Hendrix welcomed everyone to the meeting.

The board members, staff and the individuals from the public attending the meeting introduced themselves.

President's Remarks

Mr. Hendrix noted that Mr. John Eggers would not be attending the meeting today due to his father's death on Monday. He went on to say the funeral would be taking place at 2:00 p.m. today in Boone, North Carolina.

Ms. Pyatt noted that Mr. Sam Halls contacted staff and indicated he was unsure if he would be attending the meeting.

Presentation of Awards to former Board Members

Mr. Hendrix presented plaques to former board members Mr. Ernest Adams and Ms. Leigh Branch in appreciation for their time served on the board. He further stated two other former members, Mr. James Cameron and Mr. Matt Way, were unable to attend today's meeting.

Administrator's Remarks

Information Items

Report of Renewals

Ms. Pyatt stated that 1,330 licensed funeral directors and embalmers and 464 licensed funeral homes have renewed since June 30th.

Continuing Education Classes

Ms. Pyatt presented the members with a list of continuing education classes, which have been pre-approved by the continuing education committee.

Ms. Pyatt stated the embalmers' continuing education class co-sponsored by the board and the Fraternity of the Mortician's Association was held on November 28, 2000. She further stated approximately 75 individuals attended the class. She noted there had been a change of format for that class. She said the speaker who contracted to speak at that class took ill over the Thanksgiving holidays and that Mr. Skip Mikell, of the Mortician's Association and Mr. Ezekial Trezvant filled in so the class would not have to be cancelled. She also said the first board sponsored class was held on December 10, 2000 in the Greenville area. She indicated continuing education classes have been scheduled for February 12, 2001 in James Island and May 21, 2001 in Florence. She stated staff is planning a class in the Columbia area in April 2001.

List of New Licenses Issued

Ms. Pyatt presented the members with a list of new licenses issued. She noted the list includes the funeral directors, embalmers, apprentices and funeral homes. This list is herewith attached and hereby becomes a permanent part of this record.

Ms. Pyatt stated the state law exam and the national exam were given on December 4, 2000.

Ms. Pyatt presented the members with a certificate to include the board members' names and signatures as well as the gold seal for their review.

Report of Approved Routine Change of Managers

Ms. Pyatt presented the Report of Approved Routine Change of Managers to the board. This report is herewith attached and hereby becomes a permanent part of this record.

Legislative Update, Legislative Liaison Office

Ms. Misty Goldstein, the agency's legislative liaison, stated a drafted bill including crematories and retail sales has been received by her office and has been forwarded to the Legislative Council. She went on to say the Legislative Council would format the bill in legal form to be presented to the legislature. She noted she has spoken with Senator Tom Alexander who informed her he had spoken with Mr. Hendrix regarding the bill. She also said she has mailed a letter to Senator Alexander as well as Representative Bill Sandifer asking them to contact her regarding sponsoring the bill. She went on to say the House of Representatives has set a pre-file date for pre-filing bills and that the last pre-file date is Wednesday, December 20, 2000. She indicated that the Senate did not set pre-file dates this year. She indicated she sent a letter to Representative James Barrett asking him to co-sponsor the bill.

Mr. Hendrix stated he has spoken with Representative Sandifer who indicated there could be a problem with the recommended \$100,000 bond for the retail sales outlets. He went on to say the board may have to accept a smaller bond for the outlets since there is no bond requirement for department stores. However, due to the preneed situation in Saluda he feels the board may be able to get a smaller bond.

Ms. Goldstein stated she doesn't see a need to change the amount unless it does become a

problem. She advised the board they would need to be willing to amend the bond amount if a problem arises so the bill would not die.

Advisory Opinions, Office of General Counsel

Requirements of Funeral Director Manager

Mr. Hendrix stated the definition of a manager has been questioned many times since he has been on the board. He feels it is time for the board to obtain a clean definition of 'manager'.

Ms. Dantzler stated when she began researching this matter she came to the conclusion the board did answer the question when the board promulgated regulation 57-10(c). She further stated she doesn't know if it was the only answer the board could have given, however, it was the answer which was promulgated in regulations. She said if the definition of manager as it appears in the regulations is not the definition the board wants, the board would have to amend the regulations.

Ms. Dantzler stated the board has decreed, by regulation, that in order to be permitted a funeral home must have a manager who is a full time regular employee who is responsible and in charge of the establishment. She went on to say that should be taken as an interpretation of section 40-19-270(c), which says that an establishment must have a funeral director accessible at all times. She noted that most legal terms of manager turn on the responsibility for the operation of the establishment. She indicated most legal definitions of manager do not have anything to do with the number of hours an individual spends at the facility or the time put in. She went on to say when the board interpreted accessible at all times the establishment is open the board did not have to say it meant the manager was a full time employee on site. She stated when the regulation was written for manager the board, for its purposes, would require that manager to be a full time employee in addition to being legally and ethically responsible.

Ms. Dantzler stated most labor statutes view full time employees as being anyone who has regular duties and who is decreed by the employer to be full-time. She went on to say there is no standard number of hours a full time employee works. She said the forty hour work week society is accustomed to thinking of as a bench mark for full-time employees is the break point where non-exempt employees get overtime. She noted it is not really a mandatory figure for a full time employee. She indicated there is no magic number of hours for employees who are full time. She said an employee who is hired to be on call twenty-four hours a day, even if that individual never went to the establishment could be considered a full-time employee if the company considered that individual as being full-time.

Mr. Green asked Ms. Dantzler if the board could impose a minimum time for full-time employees. Ms. Dantzler stated that law does not impose time, it is imposed by the contract between the employer and employee. She said there is no legal guidance as to what a full-time employee is.

Mr. Hendrix stated the board's major problem comes when an individual has another job in addition to being a funeral home manager, how is the board going to be assured that the individual will be accessible during regular business hours.

Ms. Dantzler stated she doesn't think the board can say the employees are not full-time employees but they should ask the applicant if he or she would be available during regular business hours and how can the applicant demonstrate to the board that he or she is a full-time employee accessible to the business. She went on to say the board should not ask if

the applicant has another job, does the applicant spend forty hours a week at the funeral home.

Mr. Hendrix asked Ms. Dantzler how the board can get the employee to prove they are accessible to the establishment. He stated he feels the board is on strong ground when the board denies a request for an individual to be a manager of two firms.

Further discussion revealed that if an establishment designates an individual as being full-time and the applicant demonstrates accessibility, he or she has met the criteria; the board cannot require an individual to work a forty-hour week; and that the board can require an establishment to designate its full-time individual and explain how that person is accessible during normal business hours on the initial and renewal applications.

Ms. Dantzler suggested Mr. Hendrix appoint a subcommittee to revise the application. She volunteered to work with the committee on revising the application.

Mr. Hendrix stated he had initiated a policy review committee, which should revise the application. The committee includes Mr. Eggers (chairman), Mr. Green, Mr. Caulder and Mr. Hampton to revise the application.

Mr. Thornwell moved Mr. Hendrix direct the policy review committee to review and revise the application, to answer the board's questions in which the board would like to have answered as far as the management or the operating manager of the establishment. The motion was seconded by Mr. Caulder and unanimously carried.

Action Items

New Business

Request for Approval of New Facility

Foothills Crematory, Ronald D. George

Mr. Hendrix asked Mr. George if the new facility would fall under the Seawright Funeral Home Corporation. Mr. George he replied negatively because he was not sure whether it was or not. He went on to say he had asked Ms. Pyatt about this question. She had indicated since is was on the property it would be doing business as. He went on to say since the new facility is in the preliminary stages and has a different name it may be good legally to incorporate it as a separate entity.

Mr. Hendrix stated Mr. George had appeared at the February 2000 meeting and was placed on a one-year probation. Mr. George replied he had appeared at the December 1999 meeting. Mr. Hendrix stated this action was a result of a death in the firm and he does not think it had anything to do with the operation of the funeral home. He further stated the board may want to extend the probation to this facility until the probation has been discontinued. He asked Mr. George if he would have a problem with the probation being extended to this facility. Mr. George replied negatively.

Mr. Parks moved the board approve the new facility application for Foothills Crematory. The motion was seconded by Mr. Adcock and carried unanimously.

United Family Funeral Services, Leroy Wright

Ms. Pyatt stated the owner of United Family Funeral Services contacted her this morning. She indicated the funeral home has a service this morning; however, the owner is planning to attend but may be running late. She went on to say the owner requested that the board review her application at the time she arrives if it is still in session.

Mr. Thornwell asked if there was information missing from the application package. He indicated there was a note attached indicating the SLED report and the character references are not attached to the application. Ms. Pyatt stated there is a note that the SLED report is pending, however, the character references are attached.

Request for Approval of Additional Facility Location

G. L. Brightharp & Sons, Inc., George L. Brightharp

Ms. Pyatt stated the application is in order and indicated that the application is for a branch. She noted there is another location in Aiken.

Mr. Thornwell stated question number nine, regarding employment, has not been answered.

Mr. Brightharp stated he is the owner of the funeral home and has been there for twenty-two years.

Mr. Avinger moved the board approve the additional facility application for G. L. Brightharp & Sons, Inc. Mr. Caulder seconded the motion, which carried unanimously.

Foggie Home for Funerals, Frank Foggie, Jr.

Ms. Pyatt stated the SLED report is pending and that Mr. Foggie has indicated he has made a request for the report however staff has not yet received it.

Mr. Caulder moved the board discuss this matter in executive session. The motion was seconded by Mr. Parks and carried unanimously.

Anderson Funeral Home, Inc. (Yemasee, SC), Francis A. Fletcher

Mr. Avinger moved the board approve the additional facility application for Anderson Funeral Home pending staff inspection. Mr. Caulder seconded the motion, which carried unanimously.

Superior Funeral Service, (Greenville, SC), Michael A. Glenn

Ms. Pyatt stated all of the paperwork was in order with the exception of the SLED report. She noted Mr. Glenn has requested an updated SLED report, however, staff has not yet received it.

Mr. Parks moved the board discuss this matter in executive session. The motion was seconded by Mr. Green and unanimously carried.

3. Request for Approval of Change of Facility Name and Facility Manager

Macon Funeral Home, Inc. to Macon's Mortuary, Inc., Christine E. Macon

Mr. Thornwell moved the board approve the change of facility name and manager for Macon's Mortuary, Inc.

Ms. Pyatt stated she has spoken with Ms. Christine Macon and has not been able to confirm her attendance at today's meeting. She went on to say when she had spoken with Ms. Macon, who is elderly, her husband had just passed away and she has unanswered questions regarding the incorporation of the current business.

Mr. Thornwell stated it appears Ms. Macon appears to be attempting to: (1) change the name and (2) changing the name to Macon's Mortuary, Inc., which would constitute obtaining Articles of Incorporation. Ms. Pyatt stated Ms. Macon indicated she would like for the company to be incorporated. She further stated Ms. Macon is also requesting she be approved as the new manager since her husband has passed away.

Mr. Thornwell rescinded his motion and moved the board direct staff to contact Ms. Macon to inform her what documentation is needed to complete the application, that the application be resubmitted to staff, and that Ms. Mason be allowed to operate the funeral home until the

next meeting. Ms. Pyatt noted that Ms. Macon has complied with the requirement to notify the board that the facility manager has passed away. Mr. Hampton seconded the motion, which carried unanimously.

Leggette Funeral Home to Leggette-Troy Funeral Home, William Penn Troy (name change only)*

Mr. Thornwell moved the board approve the facility name change and facility manager application for Leggette-Troy Funeral Home. The motion was seconded by Mr. Green and unanimously carried.

Request for Change of Manager and Notification of Change of Owner
Anderson Funeral Home, Inc. (#27, Beaufort, SC), Francis A. Fletcher

Mr. Avinger moved the board approve the change of manager and notification of change of owner application for Anderson Funeral Home. Mr. Caulder seconded the motion, which carried unanimously.

Request for Change of Manager
Good Shepherd Funeral Home, Matthew Isaac

Ms. Pyatt stated the board approved the new facility at the October 2000 meeting. She noted this request is for change of manager and indicated that the funeral home is not yet open.

Mr. Green asked Mr. Isaac how long it would be before the facility opened. Mr. Isaac stated the facility is waiting for one piece of equipment, which is scheduled to arrive December 22, 2000. He went on to say the facility should be ready to open in January 2001.

Ms. Dantzler asked Mr. Isaac if he would be a full-time employee of the establishment and if he lived within twenty-five miles of the establishment. Mr. Isaac replied affirmatively to both questions.

Mr. Green moved the board approve the application for change of manager for Good Shepherd Funeral Home. Mr. Thornwell seconded the motion, which unanimously carried.

7. Request for Approval of Embalmer's License

Joseph T. Bannister

Mr. Hendrix asked Mr. Bannister if he was able to obtain information regarding the actual date he sat for the exam from national board. Mr. Bannister replied affirmatively and indicated the date was August 18, 1973.

Ms. Pyatt stated staff has not received information regarding Mr. Bannister's passing of the exam.

Mr. Bannister stated when he attended the February 2000 meeting Ms. Jeannie Rose, staff member, provided him with the national board's address. He mailed certified funds for \$30.00 for documentation that he passed the exam. He went on to say the national board that it would take a good while to locate the information since he took the exam a number of years ago. He further stated the national board asked him he received a certificate when he took the exam. He replied affirmatively after which the national board staff member indicated he made at least 75.

Ms. Pyatt stated she has had conversations with and has exchanged e-mails with the International Conference of Funeral Service Boards who has assured her that if Mr. Bannister took the exam within the last thirty years, they would have the records. She further stated that if a request is made with the appropriate information they would provide

certification. She has given the information to Mr. Bannister.

Mr. Bannister stated he sent that information, with certified funds, to the International Conference of Funeral Service Boards on February 21, 2000.

Mr. Thornwell moved the board discuss this matter in executive session. Mr. Caulder seconded the motion, which carried unanimously.

8. Approval of Applications - Reinstatements

McCloud, Lucretia C.

Ms. Pyatt stated that staff received a request from Ms. McCloud advising them that due to her work schedule she would be unable to attend today's meeting. She went on to say Ms. McCloud also requested that the board review her application in her absence. She indicated Ms. McCloud has provided all of the required information and an additional statement from the applicant regarding her practice and her places of employment since her license lapsed. She noted that Ms. McCloud has paid all back fee and attended all back continuing education classes.

Mr. Caulder moved the board approve Ms. McCloud's reinstatement application. The motion was seconded by Mr. Green and unanimously carried.

Reid, Byron

Mr. Avinger stated Mr. Reid's application indicates his permanent address is in Inman, South Carolina; however, a copy of his driver's license indicates a Sumter address. Mr. Reid stated his permanent legal address is in Inman. He went on to say he is currently working and residing four days a week in Sumter. He has been licensed since 1983.

Mr. Parks moved the board approve Mr. Reid's reinstatement application. Mr. Green seconded the motion, which carried unanimously.

Request for Approval of Preneed Policies

Mr. Avinger asked if the insurance companies realize that a licensed practitioner within the State of South Carolina must sell the policies. He went on to say he never hears of several of these companies and is concerned several of these policies are slipping through and are being sold by unlicensed practitioners.

Ms. Pyatt stated staff sends the companies a letter notifying them of the approval. She went on to say staff could revise the letter to include a reminder to use only licensed funeral directors.

Mr. Thornwell moved the board accept the policies as submitted with the stipulation that the insurance companies be notified, and all other subsequent insurance companies be notified, that to bring a policy before the board they be notified of the statutes of the State of South Carolina regarding the sale of preneed policies. The motion was seconded by Mr. Avinger and unanimously carried.

1. MTL Insurance Company

- a. Form #777(SC) – Single Premium
- b. Form #791(SC) – Five (5) day Preneed Policy

2. Unity Financial Life Insurance Company

- a. Forms #97201(SC), 97202(SC) and 97203(SC)

10. Discussion/Information Items

NFDA Model Preneed Guidelines

Ms. Pyatt stated she included this document for the board's information and/or discussion.

She said staff received the document from NFDA and indicated she forwarded a copy to the State Board of Financial Institutions, Mr. Willie Jacob.

Mr. Hendrix stated there is also an article included in the New Director Magazine on the model guidelines for preneed policies. He went on to say he believes that the board has everything covered with the exception of solicitation, which the board does not allow.

Mr. Adams stated he has been attempting, for the last two years, to reduce the number of continuing education units required for a preneed license funeral director. He went on to say a funeral director currently needs twelve credits, which he is attempting to reduce to three. He said twenty-four hours are required within a two-year period. He noted that when he renewed his license to sell preneed he did not take any classes pertaining to preneed. He feels it is discriminatory to require twenty-four hours to market and sell preneed policies. He indicated Senator Ralph Anderson introduced the bill last year but did not move due to the flag issue. He solicited the board's support in the bill.

Mr. Hendrix stated he believes everyone is aware of the situation in Saluda. He further stated he was contacted by the Banking Commission and indicated that agency has not been flooded by calls although they have had a few calls asking if their funeral director was licensed. He said he asked the Banking Commission to guard against is attempting to pass legislation which individuals who are already licensed and doing business.

The Conference Report

Ms. Pyatt presented the members with The Conference Report for their information.

Mr. Thornwell moved the board accept this document as well as the NFDA Model Preneed Guidelines as information. Mr. Adcock seconded the motion, which carried unanimously.

Public Comments

There were no public comments made during the December 14, 2000 meeting.

Executive Session

Mr. Caulder moved the board enter executive session to discuss disciplinary matters. The motion was seconded by Mr. Adcock and unanimously carried.

At this time Ms. Yvonne King, owner of United Family Funeral Service came before the board.

Return to Open Session

Mr. Thornwell indicated the application package is not complete. He asked Ms. King if she had requested a SLED report. Ms. King replied she had requested the report and had included an envelope addressed to the board with the request so the report could be mailed to the office. She went on to say she would like Mr. Leroy Wright, who is currently managing the Shipman Funeral Home in Latta, to become the manager of United Family Funeral Service. She noted he has been managing a funeral home for twenty years.

Mr. Hendrix asked Ms. King if Mr. Wright would continue to manage the Shipman Funeral Home. She indicated Mr. Wright's wife, Mrs. Luvenia Wright, is the manager at Shipman Funeral Home. She indicated Mr. Wright is an owner of Shipman Funeral Home but she does not believe he is a manager of Shipman.

Ms. Dantzler asked Ms. King if Mr. Wright would be a full-time employee of her establishment. Ms. King replied affirmatively.

Mr. Adcock asked Ms. King if Mr. Wright would be accessible at all times. Ms. King replied affirmatively.

Mr. Hampton asked Ms. King if Mr. Wright would continue to work at the other establishment

in addition to working at her establishment. Ms. King replied affirmatively.

Ms. Pyatt stated staff's records indicates Mr. Wright is currently the manager of Shipman, however, he and his wife own that establishment.

Ms. King stated Mr. Wright has agreed to manage her establishment and have his wife manage Shipman until such time as she can become licensed.

Mr. Avinger moved the board discuss this matter in executive session. Mr. Thornwell seconded the motion, which carried unanimously.

Executive Session

Mr. Green moved the board enter executive session to discuss disciplinary matters. The motion was seconded by Mr. Thornwell and carried unanimously.

Open Session to Report on Results of Executive Session

Mr. Hendrix noted for the record that no votes were taken while the board was in executive session.

United Family Funeral Services

Mr. Avinger moved the board issue a temporary permit to United Family Funeral Services with the following conditions: (1) Mr. Wright needs to relinquish his duties as manager of Shipman Funeral Home, (2) pending inspection of the establishment (United) and a favorable SLED report on Mr. Wright. Mr. Thornwell seconded the motion, which carried unanimously.

Foggie Home for Funerals

Mr. Thornwell moved the board approve the application pending the manager change for the Abbeville location showing Mr. Foggie is no longer the manager of that location; pending a favorable SLED report on Mr. Foggie and inspection of the facility. The motion was seconded by Mr. Caulder and unanimously carried.

Superior Funeral Home

Mr. Hampton asked Mr. Glenn what the mileage distance is from the parent funeral home to the new facility. Mr. Glenn stated he believes it is just beyond twenty-five miles.

Mr. Hampton moved the board deny the application for Superior Funeral Home, that the establishment resubmit the appropriate application and that Mr. Glenn appear at the February 21, 2001 meeting. Mr. Avinger seconded the motion, which carried unanimously.

Request for Approval of Embalmer's License – Joseph T. Bannister

Mr. Thornwell stated that the burden of proof is on Mr. Bannister to provide the board with the necessary documentation that he did pass the exam administered by the International Conference of Funeral Service Board. He moved the board deny Mr. Bannister's application at this time. The motion was seconded by Mr. Green and unanimously carried.

Approval of Approval Reports and Disposition Reports

Mr. Caulder moved to accept the Approval Report, dated December 6, 2000. Mr. Adcock seconded the motion, which unanimously carried.

Mr. Parks moved the board accept the Disposition Report, dated December 6, 2000, with the exception of the following cases: 45-221, 45-194, 45-270, and 45-268. His motion went on

to say that these cases be sent back to the IRC for further consideration due to the nature of the offense and, in some specific cases, the seriousness of the offense. Mr. Thornwell seconded the motion, which carried with a majority vote. Mr. Avinger abstained from voting in this matter.

Mr. Thornwell stated the CEU committee would meet at 8:00 a.m. prior to the February 21, 2001 board meeting.

Mr. Hampton moved the board change its February 2001 meeting date from February 15, 2001 to February 21, 2000 at 9:00 a.m.

Adjournment

There being no further business, Mr. Avinger moved the meeting be adjourned. The motion was seconded by Mr. Caulder and unanimously carried. The December 14, 2000 meeting of the South Carolina Board of Funeral Service adjourned at 1:52 p.m.

The next meeting of the S. C. Board of Funeral Service is scheduled for 9:00 a.m., Wednesday, February 21, 2001.