

MINUTES
South Carolina Board of Funeral Service
Board Meeting
10:00 a.m., June 3, 2008
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

Meeting Called to Order

William Horton, president, of Kingstree, called the meeting to order at 10:00 a.m. Other members present for the meeting included: Gloria Vessels, vice president, of Anderson; James McAlister, secretary, of Charleston; Todd Caughman, of Lexington; Homer Elwood, of Laurens; Kip Kiser, of Cheraw; Eddie Nelson, of Blythewood; and Tony Tipton, of Greer.

Staff members participating in the meeting included: Ernest Adams, Inspector; Doris Cubitt, Administrator; LLR-Office of General Counsel; Sandra Dickert, Administrative Assistant; Wendi Elrod, Administrative Specialist; Tony Kennedy, Investigator; Jeanie Rose, Administrative Specialist; Louis Rosen, Hearing Advice Attorney; and Sheridan Spoon, Associate General Counsel.

Mr. Horton announced that public notice of this meeting was properly posted at the S. C. Board of Funeral Service office, Synergy Business Park, Kingstree Building 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.

Pledge of Allegiance

All present recited the Pledge of Allegiance.

Invocation

Mr. Kiser delivered the invocation.

Introduction of Board Members and Persons Attending the Meeting

The Board members, staff and members of the public attending the meeting introduced themselves.

Approval of Excused Absences

Glen Crawford, of Lancaster, and Thomas Genoble, of Union, were granted excused absences.

Approval of Agenda

MOTION

Mr. Kiser made a motion, the approval of new facilities be placed ahead of the disciplinary reports and committee reports. Mrs. Vessels seconded the motion, which carried unanimously.

Approval of Minutes for the April 17, 2008 Meeting

Mr. Kiser noted one correction to page seven the minutes. He noted that Sandra Martin was granted licensure on August 18, 2003 instead of August 18, 2008.

MOTION

Mrs. Vessels made a motion, seconded by Mr. Elwood and unanimously carried, that the Board approve the minutes as amended.

President's Remarks – Billy Horton

Mr. Horton thanked staff and the Board members for their hard work during the April 17, 2008 meeting.

Administrator's Remarks – Doris Cubitt

*Advisory Opinions, If Needed, Office of General Counsel
Legislative Updates, If Needed, Legislative Liaison Office*

There were no advisory opinions or legislative updates during this meeting.

Mrs. Cubitt stated staff mailed 1,961 license renewal forms to funeral directors, embalmers, dual licensees and funeral homes. She further stated as of this date 931 licensees have renewed, of which 324 renewed online. She noted online renewals are picking up. She went on to say renewals are approximately one-half complete and the deadline for renewing licensure is June 30, 2008.

Mrs. Cubitt stated the agency is looking at using the Internet more and that staff will begin capturing email addresses for all licensees. She went on to say if an individual does not have an email address that individual may give the facility email address. She noted the email addresses would be utilized for email blasts to licensees regarding newsletters or any other pertinent information such as the deadline for renewals.

Mrs. Cubitt stated staff has been in discussion in regard to funeral homes which have received tentative approval for licensure from the Board more than one year ago but have not yet opened the facility. She asked the Board to take this matter into consideration for staff's guidance.

Mr. Adams stated staff tracks funeral home/crematory applications from the time it is submitted to the time the facility opens. He further stated it has sometimes taken more than one year for a facility to open during which time anything could occur, such as the manager having a criminal record. He suggested the Board issue a permit for one year and require the owner/manager to appear before the Board at the end of that year with another application.

New Business

1. Approval of New Facility

a. Sullivan-King Cremation Service – Albert Bolt McClain

On May 16, 2008 the Board received a new facility application from Sullivan-King Cremation Service. David C. King and Albert Bolt McClain are the facility owners and the proposed manager is Mr. McClain. Mr. McClain was first issued a dual license on July 11, 1990 and the license remains current and in good standing. He has no criminal history and lives 3.4 miles from the funeral home.

Albert Bolt McClain appeared before the Board and offered the following testimony.

Mr. King and Mr. McClain have met with B & L Cremation Services, which is located in Largo, Florida and are planning to add a crematory to their facility located in northeast Anderson. Approximately twenty percent of their business is cremations. At the time the facility opened in northeast Anderson it was zoned for a funeral home and crematory. Mr. King and Mr. McClain are hopeful the crematory would be completed by October 2008 or November 2008. Mr. King and Mr. McClain will appear before the local zoning board to ensure the facility would meet the local zoning codes.

MOTION

Mr. Elwood made a motion, seconded by Mr. Nelson and unanimously carried, that the Board approve the application pending final inspection.

Ms. Rose noted that staff must receive the certificate of training on the retort within thirty days of the opening of the facility.

b. A. A. Dicks Funeral Home – Anthony Au Dwin Dicks, Sr.

On May 20, 2008 the Board received a new facility application from A. A. Dicks Funeral Home. Anthony Au Dwin Dicks, Sr. is the owner and proposed manager of the facility. Mr. Dicks was initially issued a dual license on July 8, 1987 and the license remains current and in good standing. His criminal history report reflects three misdemeanor arrests and convictions. He lives approximately two and one-half miles from the proposed facility. He currently has a facility and is building a larger facility to replace the current facility. Once the new facility is completed, the current facility will be closed. The new facility would receive a new permit number and pre-need license number.

Anthony Au Dwin Dicks, Sr. appeared before the Board.

Mr. Horton informed Mr. Dicks he must present a letter from the Department of Consumer Affairs stating the pre-need accounts have been audited and are in order.

MOTION

Mr. Nelson made a motion the Board approve the facility pending final inspection and receipt of a letter from the Department of Consumer Affairs stating the pre-need accounts have been audited and are in order. Mr. Tipton seconded the motion. Discussion ensued regarding the regularity of the Department of Consumer Affairs inspections in regard to pre-need policies. The motion carried unanimously.

c. Bass-Cauthen Funeral Home and Cremation Center (Crematory) – Danny Gibson

On January 30, 2008 the Board received a new facility application from Bass-Cauthen Funeral Home and Cremation Center. Pinnacle Funeral Service, LLC is the owner of the facility and Danny Gibson is the proposed manager. Mr. Gibson was initially issued a dual license on April 9, 1996 and the license remains current and in good standing. He lives approximately ten miles from the funeral home and does not have a criminal history.

Danny Gibson and Greg Rollings, on behalf of Pinnacle Funeral Service, LLC appeared before the Board at this time and offered the following testimony.

Mr. Rollings and Mr. Gibson are in the process of adding a crematory to the garage of the funeral home. Mr. Rollings and Mr. Gibson have appeared before the local zoning board to have the crematory approved and are now working with an architect on the project.

MOTION

Mr. McAlister made a motion, seconded by Mr. Elwood and unanimously carried, that the Board approve the application pending final inspection.

Disciplinary Reports

2. Investigative Review Committee (IRC) Report/Consent Orders – Tony Kennedy and Ernest Adams

The Investigative Review Committee did not meet prior to this meeting.

3. Inspection Report – Ernest Adams

Mr. Adams presented the inspection report to the members.

Mr. Adams stated he hopes the Board would conduct a continuing education audit following the renewal period and prior to September.

4. Number of Open Complaints

Mr. Kennedy stated there are currently 14 open complaints regarding the funeral profession of which five are pending Board action.

Committee Reports

Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed – James McAlister, Billy Horton, Tom Genoble, Doris Cubitt

Mr. Adams stated in October 2007 Mr. Fulton reported on the problems the industry has been having in regard to the price ranges on caskets. He noted the problem is rampant. He further stated if he inspects ten funeral homes in one day he finds that eight of the ten funeral homes would not have the price range correct. He finds that the smaller funeral homes that do not belong to either association are ones that have the most problems with the general price list.

Mr. Adams stated he hopes to bring a recommendation to the Board during the next meeting regarding fines on this matter.

Mr. Spoon stated funeral homes should be accessing the FTC regarding the Funeral Rule and noted the Board's web page contains a link to the FTC's information on the Funeral Rule. He said Section 40-19-110 of the Board's practice act reflects grounds for misconduct which includes violating a federal law.

Mr. Horton asked the associations to reiterate to the members the importance of complying with FTC and that the Board would begin taking action against those funeral homes in noncompliance.

Mr. McAlister suggested staff send letters, with Mr. Spoon's advice on verbiage, to all permitted facilities within sixty to ninety days stating the Board would take disciplinary action against a facility's license that choose to be in noncompliance with the FTC Funeral license and that the Board give Mr. Adams the authority, range and discretion to begin necessary action against the facilities in noncompliance. He asked that the Regulatory Compliance Committee further discuss this matter prior to the Board making a final decision on this matter.

Mr. Horton asked that the committee meet prior to the next Board meeting to further discuss this matter.

Unfinished Business

There was no unfinished business for discussion.

Executive Session

Board Member Orientation

MOTION

Mr. Kiser made a motion, seconded by Mr. Elwood and unanimously carried, that the Board enter executive session to seek legal advice.

Return to Public Session

MOTION

Mr. Elwood made a motion, seconded by Mr. McAlister and unanimously carried, that the Board return to public session.

Mr. Horton noted for the record that no official action was taken during executive session.

Mr. Horton noted that Mrs. Vessels left the meeting at 12:30 p.m. to attend to business.

Legislative Committee – Kip Kiser, Tom Genoble, Sheridan Spoon

This committee had no report.

Examination/CEU/Education/Reciprocity/Endorsement/Felonies-Active Apprentices with Prior Felonies – Gloria Vessels, Todd Caughman, Glen Crawford, Ernest Adams

Mr. Kiser briefed the Board regarding the committee's recommendations and stated the committee would further discuss the recommendations during the next meeting.

Substantially Equivalent Education

The committee recommends that an individual who has successfully completed an approved certificate program be allowed to take the SBE (the arts only portion) exam. Once the apprenticeship program has been completed the individual may take the state law exam. The individual would be issued a South Carolina funeral director license, however, that license would not be transferable to another state.

The committee recommends that the Board accepts the certificate programs from Piedmont Technical College and Fayetteville Technical College as equivalent to the educational requirements pertaining to funeral directors only, and that they are approved certificate programs.

The committee recommends that South Carolina enter into an agreement with the states in District 3 (excluding Puerto Rico) to consider those states as substantially equivalent. Individuals applying from those states will have to pass the South Carolina Law Exam and pass the criminal background check in order to receive a license.

Apprenticeship

The committee recommends the preceptor be licensed for a minimum of five years and that the preceptor must be certified through a one day program at Piedmont Technical College and recertified periodically. The preceptor training program would begin in January 2009.

The committee recommends the facility must be licensed for a minimum of three years and must conduct a minimum of 40 cases per year in order to be eligible to have an apprenticeship program.

The apprentice must complete a minimum of 50 cases as a funeral director and 50 cases in embalming in a minimum of one year with a two year maximum. If an additional year is needed to complete the apprentice program, the individual must appear before the Board for approval of a one year extension.

An individual must be licensed within five years of completing an apprenticeship. The Board would allow a five year grandfathering window for individuals who completed their apprenticeship more than five years ago and have not gained licensure. An individual who has not licensed within this time frame must start the program as a new applicant.

Felonies

The committee recommends the Board take the following position on individuals with felonies.

No license will be issued to an individual who has been convicted of a violent crime or found guilty of a felony or crime of moral turpitude. This includes apprentices, funeral directors, embalmers, and dual licenses.

Mr. Kiser stated clarification is needed on the state law exam fees as the practice act states the exam fee could be as much as \$30; however, the pre-need contract fee is only \$20. He also stated if an apprentice is training under a preceptor the apprentice would know that the questions on the current exam do not include changes the Board has made in recent meeting. He would like for the Board to review the current law exam during the next meeting.

5. Publications / Newsletter / Website – Tony Tipton, Glen Crawford, Sandra Dickert
This committee had no report.

Discussion Topic(s)

Board's position on funeral homes which have not opened within one year after Board Approval
Mr. Kiser suggested the Board set a two year limit unless a violation has been noted by the inspector prior to the issuance of a permit.

Mr. Adams stated there is one facility the Board approved three years ago which has not yet opened.

The Board asked that this matter be placed on the agenda for the August 28, 2008 meeting.

Public Comments

There were no public comments made during this meeting.

Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Elwood made a motion the meeting be adjourned. Mr. Nelson seconded the motion, which carried unanimously.

The June 3, 2008 meeting of the SC Board of Funeral Service adjourned at 1:03 p.m.

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Pledge of Allegiance

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Approval of Minutes for the April 17, 2008 Meeting

Approval of Agenda

President's Remarks – Billy Horton

Administrator's Remarks – Doris Cubitt

Advisory Opinions, If Needed, Office of General Counsel
Legislative Updates, If Needed, Legislative Liaison Office

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6. Inspections Report – Ernest Adams
7. Number of Open Complaints

Committee Reports

8. Legislative Committee – Kip Kiser, Tom Genoble, Sheridan Spoon
9. Examination/CEU/Education/Reciprocity/Endorsement/Felonies-Active Apprentices with Prior Felonies – Gloria Vessels, Todd Caughman, Glen Crawford, Ernest Adams
10. Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed – James McAlister, Billy Horton, Tom Genoble, Doris Cubitt
11. Publications / Newsletter / Website – Tony Tipton, Glen Crawford, Sandra Dickert

Unfinished Business

New Business

12. Approval of New Facility
 - a. Sullivan-King Cremation Service – Albert Bolt McClain
 - b. A.A. Dicks Funeral Home – Anthony Au Dwin Dicks, Sr.
 - c. Bass-Cauthen Funeral Home and Cremation Center (Crematory) – Danny Gibson

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Discussion Topic(s)

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Public Comments

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Board Member Orientation

Return to Public Session

Adjournment

The next meeting of the SC Board of Funeral Service is scheduled for August 28, 2008.