

1 **MINUTES (Work session)**  
2 **South Carolina Board of Funeral Service**  
3 **Board Meeting**

4 10:00 a.m., Wednesday, June 29, 2011  
5 Synergy Business Park  
6 110 Centerview Drive, Kingstree Building Room 105  
7 Columbia, South Carolina  
8

9 **Wednesday, June 29, 2011**

10 **1. Meeting Called to Order**

11 Eddie Nelson, President, of Blythewood, called the work session meeting of the SC Board of  
12 Funeral Service to order at 10:00 a.m. Other Board members present for the meeting  
13 included: Michelle Cooper, Vice-President, of Moncks Corner, Glen Crawford, secretary, of  
14 Lancaster; Billy Horton, of Kingstree; John Petty, III, of Landrum; C. Brad Evans, of  
15 Abbeville; Kenneth Beasley, of Fountain Inn; Jeff Temples, of Columbia and Margery  
16 McWhorter, of Columbia.  
17

18 Staff members participating in the meeting included: Doris Cubitt, Administrator; Jeanie  
19 Rose, Administrative Specialist; Amy Holleman, Administrative Specialist; Jennifer Cooper,  
20 Administrative Assistant with Division of Legal Services; Christa Bell, Division of Legal  
21 Services.  
22

23 Members of the public attending the meeting included: Mike Squires, of the SC Funeral  
24 Directors Association (SCFDA); Lou Ann Pyatt; of the SC Morticians Association (SCMA);  
25 Liz Simmons; of the SC Morticians Association (SCMA); Alicia Clark, of SC Dept of  
26 Consumer Affairs (SCDCA); Joni Green, of SC Dept of Consumer Affairs (SCDCA); Danny  
27 Collins, of SC Dept of Consumer Affairs (SCDCA); Carri Lybarker, of SC Dept of Consumer  
28 Affairs (SCDCA); Ken Middlebrooks, of SC Dept of Consumer Affairs (SCDCA) and Bryon  
29 Gibbs, of SC Dept of Consumer Affairs (SCDCA).  
30

31 **A video of this meeting can be viewed at [www.lfr.state.sc.us/POL/Funeral](http://www.lfr.state.sc.us/POL/Funeral). On the Board's**  
32 **home page, click 'Board Information' and follow the link to the video.**  
33

34 a. Public Notice

35 Mr. Nelson announced that public notice of this meeting was properly posted at the SC  
36 Board of Funeral Service office, Synergy Business Park, Kingstree Building, and  
37 provided to all requesting persons, organizations, and news media in compliance with  
38 Section 30-4-80 of the South Carolina Freedom of Information Act.  
39

40 b. Pledge of Allegiance

41 All present recited the Pledge of Allegiance.  
42

43 **2. Introduction of Board Members and Persons Attending the Meeting**

44 The Board members, staff and all other persons attending the meeting introduced  
45 themselves.  
46

47 **3. Approval of Excused Absences**

48 Thomas Baker, of Kershaw; was excused because he will be late.  
49

50 **4. President's Remarks – Eddie Nelson**

51 Mr. Nelson welcomed everyone to the meeting.

52

53 **5. Administrator's Remarks – Doris Cubitt**

54 Ms. Cubitt stated that if things don't change with Ms. Catherine Templeton's schedule she  
55 will make an appearance later during the meeting to meet the Board members. Ms. Cubitt  
56 also stated that when the Board is reviewing the statute and regulations they need to be  
57 more specific in regards to any statute and regulation changes. She stated that in the past  
58 the administration wanted the statute and regulation to be very general and broad and write  
59 a lot of policy. She stated the current administration would like the statute and regulations to  
60 address the issues more specifically and you can have a policy. But the policy should just  
61 be for clarification on the statute and regulations. She stated that Ms. Bell and have spoken  
62 and if the Board would like to make any changes then they will take some of the language  
63 from the meeting today and tomorrow so they can do a notice to draft so they can present  
64 some of the changes at the next Board meeting so it will be possible to pre-file at the next  
65 session.

66

67 Ms. Templeton addressed the Board stating that it is refreshing to see a Board taking an  
68 interest in knowing the law and making changes when it isn't clear. She stated that she has  
69 no intension in interfering with the Board since they know their business. She stated she  
70 would ask even though this isn't directed at this Board but she must say it since it doesn't  
71 affect other Boards within LLR. She stated it is very important to make sure the law is clear  
72 so when the Board makes decisions it can cut down on things that need to come before the  
73 Board. But sometime things need to go before the Board for a decision.

74

75 **Discussion on the End of Cremation Societies Registration Fees and Licensing All**  
76 **Branches**

77 a. Mr. Nelson introduced the spokesperson from Consumer Affairs, Ms. Clark. Ms.  
78 Clark asked if they could first begin with the licensing with Branches and Chapels.  
79 Ms. Clark stated that they have had issues with Branches and Chapels since they  
80 have taken over the pre-need about five years ago. Ms. Clark stated she  
81 understands that the Board licenses Funeral Establishments for Parents, Branches,  
82 Chapels and Crematories for every location in SC. She stated the main location has  
83 a pre-need license but say thirty miles away they have a Chapel of that main Funeral  
84 Establishment which also services the public. She stated that Consumer Affairs  
85 feeling is that the other Funeral Establishment location should also have a pre-need  
86 license if they want to administer funeral services out of that location or refer the  
87 family back to the main funeral home location if the other location isn't licensed to  
88 sell pre-need. She stated that they wanted to get the Board's opinion in this matter.  
89 She stated that there are a lot of Funeral Establishments that have several locations  
90 through out the state but only have one pre-need license for the main Funeral  
91 Establishment. There were many discussions back and forth regarding this issue.  
92 Ms. Cubitt stated that if the Funeral Establishment is a true Branch and business is  
93 being conducted for arrange of funeral services out of that location then that Branch  
94 should hold a LLR license and a pre-need license for that location. Mr. Templeton  
95 stated that he has three Funeral Establishment locations and he is the manager of  
96 two and he has someone else who holds a license manager of the third location. He  
97 stated she believes that the other location that has a separate manager should hold  
98 a separate pre-need license even though they are part of the Parent Funeral  
99 Establishment and owned by the same owner. Mr. Collins stated that the statute

100 states that it is location specific so if it is going to be done at a certain location then  
101 each location should be licensed if not transferred to some other location. Ms.  
102 Cooper stated that she agrees with Mr. Collins that if a licensee is selling pre-need  
103 out of a different location then they should be licensed separately. Ms. Cubitt stated  
104 the definition of a "Branch funeral home" means an establishment separate and  
105 apart from the licensed parent funeral home that has embalming facilities, a chapel,  
106 a lay-out room, or a sales room, or any combination of these" so a Chapel does fit a  
107 Branch by definition and does hold a license. Mr. Horton states that he believes that  
108 Mr. Collins cleared it up by Consumer Affairs statute that states it is location specific.  
109 Ms. Cooper stated that she disagrees with the Chapel having to hold a pre-need  
110 license because she doesn't conduct funeral services out of that location. She  
111 stated it is just a Chapel used for visitation only. Mr. Horton stated if funeral  
112 merchandise or funeral services are sold out of that location even though it is a  
113 Chapel then it should also hold a separate pre-need license. Mr. Collins stated that  
114 their statute states, "where services are rendered" which isn't that clear. To make  
115 sure Ms. Simmons understanding correctly she stated if her brother has a Funeral  
116 Establishment in Orangeburg and she has a Funeral Establishment in Elko and he  
117 sales pre-need and she doesn't sale pre-need. She stated suppose he sold pre-  
118 need arrangements to someone in New York and when it is time for services then  
119 the family uses her establishment since that is closest to where they will be buried  
120 the per Consumer Affairs statute then she should also have a pre-need license. Mr.  
121 Collins stated that it isn't that clear in the statute. Mr. Horton stated she isn't selling  
122 pre-need. She will just be giving services that were already arranged. Ms. Cooper  
123 stated there isn't anything wrong with Ms. Simmons administering the services she  
124 just can't arrange the pre-need since she doesn't have a pre-need license. Mr.  
125 Squires inquired then who would be paid for the services. Ms. Cooper stated that  
126 Ms. Simmons establishment in Elko would be paid since she administered the  
127 services. Mr. Squires then asked what if something goes wrong with the services.  
128 Ms. Cooper stated Ms. Simmons would be responsible for abiding by the pr-need  
129 contract that was written by the other Funeral Establishment for accepting the funds  
130 for what the contract was written for. Ms Simmons stated she would not be  
131 collecting any funds. Ms. Cooper stated all Ms. Simmons will be doing is loaning her  
132 facility to her brother for the visitation and conducting the service since it is closer to  
133 the burial site. Ms. Cubitt stated for clarification that the Branch does need to hold a  
134 pre-need license if they are conducting pre-need arrangements at that specific  
135 location. Mr. Horton stated if a Funeral Establishment has services that may be an  
136 issue until you get into what constitute as services but the majority of the services  
137 include the preparation of the body and the arrangements are made at the primary  
138 location that is licensed and the Board opinion is that is where services are being  
139 rendered. He stated that if you look at services rendered is where the visitation  
140 location is then if you have a funeral service at a church then it would appear, as the  
141 church would need to hold a Funeral Establishment license that isn't correct. Mr.  
142 Collins that is why they are raising the question because they don't believe that was  
143 the intent of the statute to imply that the "services rendered" meaning where the  
144 services are conducted so that is why they need clarification so they can work with  
145 that terminology. Ms. Cubitt restated the scenario and question as she understood it,  
146 which was that if there is Parent A and Branch B, and Parent A holds a pre-need  
147 license, but Branch B, which is also a full service Funeral Establishment selling  
148 Funeral Merchandise and Funeral Services at-need but not pre-need, does not hold  
149 a pre-need license, how does one determine if the pre-need contract was written  
150 from Parent A or Branch B if a pre-need contract is fulfilled at Branch B? Ms.

151 Cooper stated that if they are a full service Funeral Establishment and sale Funeral  
152 Merchandise and Funeral Services then the location should hold a pre-need license.  
153 So if there are five Funeral Establishments owned by the same owner and all five  
154 locations sale Funeral Merchandise and Funeral Services then they should hold a  
155 separate pre-need license for each location. Ms. Cubitt stated so the only location  
156 that would be exempt from having to have a pre-need license would be the Chapel  
157 since that should only be used for visitation only. The question was then raised if  
158 both locations hold a pre-need license separately if the pre-need contracts for both  
159 locations can be housed at one location. Mr. Horton stated that the Funeral Service  
160 Board doesn't have the authority on where the pre-need contracts are housed. He  
161 stated that would be under Consumer Affairs jurisdiction. Mr. Petty then asked if  
162 Parent A and Branch B both have a pre-need license and the contracts are keep at  
163 location A then does that mean that both locations A and B have to have a bond. Mr.  
164 Collins stated that would be correct since you must have a bond to get the pre-need  
165 license. Ms. Simmons asked again if her brother came to her location to sale  
166 services but took everything back to his location to write the pre-need then does her  
167 location also have to hold a pre-need license. Ms. Cubitt asked if Ms. Simmons and  
168 her brother own the Funeral Establishments separately or does the same company  
169 or person own them. Ms. Simmons stated that her brother owns both Funeral  
170 Establishments but he is manager of the Orangeburg location and she is manager of  
171 the Elko location. The Board stated that would be correct because A would be going  
172 to B's location and selling the pre-need so it would also have to hold a separate pre-  
173 need license. Again it was stated that if the Funeral Establishment is selling or  
174 offering funeral merchandise or funeral services and sold out of that location even  
175 though it is a Branch or Chapel then it should also hold a separate pre-need license.  
176 Mr. Horton stated he believes if Consumer Affairs is going to take that position then  
177 they need to send a letter out to all pre-need firms informing them that if they have a  
178 Branch that they are selling Funeral Merchandise and Funeral Service then they are  
179 required to have a separate pre-need license. Mr. Crawford stated that he has a  
180 Branch office and at his Parent office he has letterhead and stationary for both the  
181 Lancaster and Kershaw locations. He stated the Kershaw location has no  
182 embalming room and no merchandise basically it is a Chapel. The Board stated  
183 then he isn't required to have a separate pre-need license. Mr. Collins stated that it  
184 the statute that needs more clarification as far as "rendering services". Ms. Cooper  
185 stated that "rendering services" means making funeral arrangements and selling  
186 caskets. Ms. Cubitt inquired on if Consumer Affairs has reviewed the Funeral  
187 Service Boards statute regarding "Practices of Funeral Services". Mr. Collins stated  
188 they have not. Ms. Cubitt stated the statute reads "Practice of funeral service"  
189 means:

- 190 (a) engaging in providing shelter, care, and custody of the human dead;
- 191 (b) the practice of preparing the human dead by embalming or other methods for  
192 burial or other disposition;
- 193 (c) arranging for the transportation of the human dead;
- 194 (d) making arrangements at or before the time of death, financial or otherwise,  
195 including arrangements for cremation, for providing these services, or the sale of  
196 funeral merchandise, whether for present or future use; provided, that no funeral  
197 director, embalmer, funeral company, cemetery, or related entity shall charge a fee  
198 for the assignment to the funeral director, embalmer, funeral company, cemetery, or

199 related entity of an insurance policy providing burial expenses, excluding preneed  
200 contracts as provided in Section 32-7-35; and

201 (e) engaging in the practice or performing any functions of funeral directing or  
202 embalming as presently recognized by persons engaged in these functions.

203  
204 Ms. Cubitt pointed out that a Chapel needs to be defined in the statute because it is  
205 a Branch and merchandise and services are being sold at that location then a  
206 separate pre-need license is required. Mr. Crawford stated that he sees both sides  
207 to this issue. He stated that as far as the Funeral Service Board is concerned then  
208 both locations must be licensed. But on the Consumer Affairs side you don't have to  
209 have a license to sell pre-need. Ms. Cubitt inquired on if Consumer Affairs in  
210 requesting a definition on Parent, Branch and Chapel so they can get a better  
211 understanding so they can make sure that all facilities are licensed properly for pre-  
212 need if required. Ms. Green stated they want consistency regarding the regulation.  
213 She stated this is the beginning of the discussion that they have started internally  
214 and wanted to get the Funeral Services Boards input before they disperse any  
215 interpretation and send out to all the agencies and associations.

216  
217 b. Ms. Clark stated that there are a several funeral homes across the state that is  
218 cremation societies. She stated that an issue has come up when a Consumer Affairs  
219 investigator visited a cremation society and there are fees being charged without  
220 contracts done. Mr. Middlebrooks stated that cremation societies charge a  
221 membership fee for people to become a member of their society and many of the  
222 members are preneed license holders. He then stated that there are some members  
223 that are at-need meaning prior to service they must enroll into the cremation society  
224 and they are charged a registration fee. He stated on an annual basis the member is  
225 charged a renewal fee to stay part of the society. He stated the members are given  
226 a 10% discount for being a member of the society. He stated for accepting fees prior  
227 to service that brings up the question on if that would be considered pre-need or at-  
228 need. Mr. Horton stated that if an issue for Consumer Affairs not the Funeral Service  
229 Board. He stated that he agrees that they have entered into a pre-need price  
230 contract however if it is just an annual fee for rejoining and none of the money is  
231 going to be applied to the pre-need price contract then that is nothing more than a  
232 renewal membership charge. He stated that is for Consumer Affairs to determine  
233 how to handle that.

234  
235 Mr. Horton was appointed as the liaison for any questions that Consumer Affairs may  
236 have regarding the statute or regulation since he is on the regulatory committee.

237  
238 **9. Discussion on Preceptor Training Course – Piedmont Tech. College**

239 The statute states that the supervisor must be present as per Section 57-1 (A). When the  
240 apprentice is assisting with funeral directing activities or embalming activities, the supervisor  
241 must be present. Ms. Cubitt stated that the definition when it is in that wording means that  
242 the supervisor must be there with the apprentice. Mr. Horton stated that the Regulations  
243 once stated that a supervisor just had to be on the premise. Mr. Evans stated that the  
244 Regulations for Apprenticeship requirements in Section 57-06 states direct supervision. Mr.  
245 Horton stated that direct supervision to him means right there while the apprentice is  
246 performing the task.

247

248 Mr. Beasley inquired on if this if for Apprentice requirements or is this for a Preceptor  
249 Training Course. Ms. Cooper inquired on if that is meaning for a licensed Funeral Director  
250 or Embalmer to take a class to learn how to train an apprentice. Ms. Cubitt stated that the  
251 Board had discussed this in the past with Piedmont Tech on having a Preceptor Training  
252 Course since many apprentices where not getting the training they needed. Mr. Horton  
253 stated this is about a Preceptor Training Course. He stated he doesn't believe that a  
254 Preceptor Training Course is needed as long as each Funeral Home takes care of that in  
255 house and each supervisor signs off that they are responsible for the training of the  
256 apprentice. Ms. Cooper also stated that the apprentice is also responsible since they are  
257 signing off that they have read and understand the law.  
258

## 259 **6. Discuss Regulation of Transportation Services**

260 Ms. Cubitt stated that there has been questions on who regulations transportation services.  
261 Ms. Cubitt stated that the Funeral Service statute does not currently regulate transportation  
262 services. Ms. Cubitt stated that anyone can transport or move a body. Ms. Cubitt stated  
263 that the issue is that there are individuals doing it for the public and not contracting with a  
264 funeral home. Mr. Temples stated that there are also transportation services that are  
265 advertising in Red Book and in the Yellow Book as Transportation and Embalming Services  
266 and they are not a license Funeral Director or Embalmer nor is the Funeral Home licensed.  
267 Mr. Temples stated his understanding of the practice act is if someone takes a call, embalm  
268 then they are practicing Funeral Services so therefore they would need to be licensed. Mr.  
269 Horton stated with them advertising in the Red Book that is a trade journal which isn't  
270 disbursed to the public it is to the trade only. Ms. Cubitt stated that if they can't legally  
271 embalm they cannot advertise. Ms. Cooper stated that is like a stand-alone crematory  
272 where they can do it for a funeral home because they would be working as an agent for the  
273 funeral home. Ms. Holleman stated that there has been a situation where individuals are  
274 transporting bodies but not on behalf of neither the funeral home nor the coroner's office.  
275 She stated that licensees have been calling to complain that individuals are offering this  
276 service but not for the funeral homes or the coroner's office. Ms. Cooper stated so they are  
277 offering that service to the public so they should be governed. Mr. Horton stated No they  
278 should not be governed by the Funeral Service Board if they are transporting bodies only  
279 but if they are Embalming then yes they should be licensed. Ms. Cubitt stated that she has  
280 never heard that they are Embalming but the Board staff has received calls as to the  
281 transportation. Ms. Holleman stated that the situation is that Funeral Homes licensees are  
282 calling stating that individual's are transporting bodies without a license because they are  
283 not doing it on behalf of neither the Funeral Home nor the coroner's office and the statute  
284 outlines the Practice of Funeral Service which includes transportation of the body in Section  
285 40-19-20 (18). Ms. Cooper then stated that a family can go and transport their love one's  
286 body without a license. Mr. Temples stated the one in question is transporting the body to a  
287 green cemetery and charging the family that is acting as a Funeral provider. Ms. Cubitt  
288 stated they would have the care and custody of the body so that would be acting as an  
289 agent providing funeral services that would require a funeral director's license. However if  
290 they are serving as an agent for the funeral home then that falls under the funeral homes  
291 license. Ms. Cooper stated that the problem isn't that they are offering the services but they  
292 are offering it without a licensed funeral home. So to be a transportation service company  
293 then they need to be actively transporting as an agent on behalf of the funeral home who is

294 licensed or they must hold a license themselves as a funeral home and meet the  
295 requirements for a funeral home. Ms. Bell stated she doesn't believe there needs to be any  
296 further clarification in the statute. She stated the Board just needs to issue a cease and  
297 desist. For clarification Ms. Cubitt stated so if the Board staff is notified that someone is  
298 transporting bodies for the public then the Board should issue a cease and desist. Mr.  
299 Petty stated what if they are transporting bodies for the public and has a business license.  
300 Ms. Cooper stated a cease and desist should be issued because they are operating without  
301 a Funeral Home license and not as an agent of a funeral home. Then the question came up  
302 what if they don't have a business license. Then Ms. Cooper stated they may then also be  
303 in trouble with the county for not being properly licensed with the county. Ms. Bell stated  
304 that the transportation of the body isn't against the funeral statute but the arranging of the  
305 transportation is in violation of the statute if not licensed as a funeral home. Ms. Bell stated  
306 that the licensed funeral home would have to make the transportation arrangements an  
307 individual can transport the body on behalf of the funeral home. Mr. Squires stated he  
308 believes the issue is for green burials. He asked if the green burial cemetery only requires a  
309 blanket the body to be wrapped in so the family can call up a removal service to take their  
310 love one and the cemetery will burial the remains. Ms. Cooper stated if the removal service  
311 is licensed they can. Mr. Squires stated he thought the Board just stated that the removal  
312 service would not have to be licensed. Ms. Cooper stated they would not have to be  
313 licensed it the removal service is working as an agent for a licensed funeral establishment.  
314 Mr. Squires then stated that Ramsey Creek Natural Preserve Cemetery is doing that for the  
315 family for their cemetery and they are not licensed as a funeral establishment in SC. Ms.  
316 Cooper stated if they are offering the arranging of transportation for the family that is the  
317 practice of funeral service then they are doing it illegally. Mr. Squires then stated the family  
318 has the right to bury their own loved one. It was then stated there is no law defining  
319 transportation service. Ms. Cooper stated that is correct however the statute does define  
320 the practice of funeral services that includes arranging transportation of the deceased. Mr.  
321 Evans asked doesn't green burial fall under the arranging and deposition of the body. Ms.  
322 Cubitt stated when the green burial are doing it they are not charging a fee for the removal.  
323 But if they are charging a fee for the removal then they would have to be licensed as a  
324 funeral establishment. Ms. Cooper stated if a transportation service is working for their self  
325 and charging a fee for removal of deceased remains then they are acting as a funeral  
326 establishment and should be licensed as such. Ms. Cubitt stated that the Board would have  
327 to receive a complaint if an establishment is working as such. She also stated that the  
328 Board will also do FAQ on the website regarding transportation of remains. Mr. Evans  
329 asked if there are any laws regarding green burials or societies. Ms. Cubitt stated NO that is  
330 for cemetery which are regulated under the Perpetual Care Cemetery Board and that statute  
331 states "that Nature Preserve Cemeteries are except from that chapter" which means green  
332 burial would have to meet the definition of a nature preserve cemetery. So the question was  
333 asked if the nature preserve cemetery has a chapel on the premise for funeral services. Ms.  
334 Cubitt stated they do have a chapel on the premise for funeral services that can be for the  
335 funeral home or the family to use. The question was asked who files the death certificate  
336 and transports the body. Mr. Horton stated they family can transport the body as long as  
337 they have a Burial Transit Permit. Ms. Pyatt asked who files the death certificate. Mr.

338 Evans stated the family can file the death certificate because it states the on the death  
339 certificate the funeral director or person acting as such. Ms. Cubitt stated that Ramsey  
340 Creek Natural Preserve Cemetery is a true natural preserve. She stated she has visited the  
341 cemetery and stated they have identified the native plants and animals.

342 Mr. Petty asked so what is the Board going to do regarding transportation. Ms. Cooper  
343 stated that anyone transporting remains must be either an employee of the funeral home or  
344 acting as an agent for the funeral home.

345 Ms. Bell stated if the Board wants to regulate transportation services then they will have to  
346 have major changes to the statute. Ms. Cooper stated that the Board needs to leave that  
347 alone. She stated the Board just wants to make sure that all transportation services are  
348 working with the Funeral Home and not being sold directly to the public. She stated this is  
349 to protect the public.

## 350 **7. Discuss Regulatory changes for Crematories and Funeral Homes**

351 Ms. Cubitt stated that the Board staff has had a question that could two separate business  
352 be ran out of the same funeral home. She stated her thought would be no because that  
353 would be misleading to the public. Mr. Evans asked that she clarify the question. Ms. Cubitt  
354 stated that she has a funeral home and someone else has a different funeral home. She  
355 stated that she doesn't have the money to have a complete facility she and the other person  
356 go together and have two separate funeral homes run out of the same building. She stated  
357 that it is common in big cities such as Chicago, New York. Mr. Petty stated the thinks that  
358 will be misleading to the public.

359  
360 Ms. Cubitt stated there is a term Death Midwife that will go to the home to help the family  
361 care for the dying person at home and charges a fee. They will sometimes even go as far  
362 as to washing and dressing the body after death. The question came up if this is like  
363 Hospice. Ms. Holleman stated it is similar to Hospice were as Hospice is no long involved  
364 after death. The Death Midwife will act as Hospice would then would go further and wash  
365 and dress the body. Ms. Cooper asked how regulates Hospice if they are arranging for the  
366 family. Mr. Evans stated his understanding is that Hospice will assign a social worker and  
367 they may go as far as collecting pricing information and suggest a funeral home but they  
368 don't make the arrangements. Ms. Holleman stated that Board staff has heard that there  
369 are some people going through certification in SC to become a Death Midwife so staff just  
370 wanted to get the opinion of the Board prior to if being questioned. Mr. Petty asked who  
371 licenses Death Midwives. Ms. Bell stated that they may be licensed through DHEC or they  
372 may not need a license at all and just need a certification. She stated staff needs to do a  
373 little more research.

374

### 375 **Changes**

376 In statute - define "Crematory" they must also be a licensed Funeral Home or be an agent  
377 for a licensed funeral home.

378

## 379 **8. Define Chapel**

380 Ms. Cubitt stated that the statute doesn't define a Chapel.

381

## 382 **9. How many seats should a chapel have**

383 She stated the question has come up because of county zoning inquiring on how many  
384 seats a chapel must have. Since zoning had a problem with the seating then they were not



385 going to allow assembly. The next question was what is an assembly? Also how many  
386 people does a chapel have to seat? Mr. Temples stated neither the statute nor the  
387 regulations cover a chapel expect that it must have an entrance and exit door. He stated  
388 can the Board not state the city or county supersedes the Funeral Service Board regarding  
389 the seating. Ms. Cubitt stated that she has been told that the building codes state an  
390 assembly seating is 50 or more. Mr. Temples stated that the building codes vary by county.  
391 Such as Richland County must have 250 seats. A Chapel definition was defined and  
392 submitted for regulation changes in the past for a minimum of 100 seats but was not  
393 passed. Ms. Cubitt stated that was because there were many small funeral homes that  
394 have chapels that will have a problem having 100 seats. Mr. Crawford stated he thinks it  
395 needs to be introduced to legislation again.

396  
397 Mr. Horton stated he believes that the Board would be better off by stating that a funeral  
398 home isn't required to have a chapel. However every funeral home if they are really  
399 interested in serving the public then they will have a chapel for the convenience of the  
400 family. Ms. Cubitt stated that the Board does have the requirement that they must have at-  
401 least one chapel. Mr. Horton stated that is correct that there is a requirement that they must  
402 have at-least one but it doesn't have any minimum requirements expect have an entrance  
403 and exit door.

#### 404 **10. Discussion of Fee/Fine Structure and Limits**

405 Ms. Cubitt stated current statute states that the maximum fine is \$500 per violation. She  
406 stated the some funeral homes would rather pay the \$500 fine and continue doing business  
407 as they always have. Mr. Horton stated that he believes it should have different fines like 1<sup>st</sup>  
408 offense (fine and probation of the license), 2<sup>nd</sup> offense (a larger fine and suspension of the  
409 license) or 3<sup>rd</sup> offense (an even larger fine and jail time). Ms. Cooper asked if the Board can  
410 up the fine amount in the statute and make an internal policy on how to handle the 1<sup>st</sup>, 2<sup>nd</sup> or  
411 3<sup>rd</sup> offense depending on the type of violation. Ms. Bell stated that is the best was to handle  
412 it.  
413

#### 414 **Changes**

415 In statute – Fine up to \$10,000 per violation – Survey other states.  
416

#### 417 **11. Discussion on Requiring FBI National Criminal Violation Reports**

418 Ms. Cubitt stated that applications are currently required to submit a state-wide criminal  
419 background check from SLED if they have lived in SC for at-least 1 year. If they have lived  
420 in another state for the past year then they must get a state-wide criminal background check  
421 from the state they are coming from. Sometime there are problems with getting background  
422 checks from other states because they are not state wide they are only for that county. Ms.  
423 Cubitt stated that she has had a case were the applicant had a perfect record in SC.  
424 However went to FL and was arrested for distributing drugs. She stated her belief is that the  
425 FBI check will cover all of that.

426  
427 Ms. Cooper asked how hard is it for an applicant to obtain a FBI check since currently SLED  
428 can be done online. Also what is the cost? Ms. Cubitt stated that the applicant will have to  
429 be fingerprinted and she believes the cost is less than \$100. She stated that the Nursing  
430 Board currently has a requirement that the FBI be done. She stated the Nursing Board has  
431 contracted with a provider and they go to their location and are fingerprinted and they submit  
432 the fingerprints to FBI and the results would be sent to LLR. Mr. Beasley inquired on if the  
433 Board can ask for that or does that need to be in the statute. Ms. Bell stated that there is a  
434 federal law stating that you have to have a reason to get an FBI check so it should be

435 addressed in the statute. Ms. Cubitt stated that they may want to consider adding it for all  
436 new applicants and periodically require an updated FBI check.

437 **Changes**

438 In statute – Require FBI checks – check Nursing Board statute for language.  
439

440 **12. Discussion of the Six Casket Requirement**

441 Ms. Cubitt stated that the current statute states that a minimum of six caskets must be on  
442 site. She stated that the question has been if the funeral home is doing cut aways or  
443 computer displays if they are delivered the next day. Mr. Horton stated he thinks the statute  
444 and regulations regarding caskets need to remain as it currently reads with full size caskets  
445 on premises.  
446

447 **13. Discussion of “Unclaimed Bodies”**

448 Ms. Cooper stated this is the item she has a problem with. She stated suppose you go and  
449 pick up Mr. Smith at 3am from his residence you don’t ask the family for proof of insurance.  
450 The once the remains are back at the funeral home and the family then informs the funeral  
451 director that they don’t have any money for burial or cremation so the funeral home can  
452 keep the remains. So what should the funeral home do and what rights do they have? She  
453 stated that the Coroner will not take the body. She believes that there need to be a law that  
454 is clear so everyone understands what the law states. She stated there has been a case  
455 that this happened but it wasn’t until the Attorney General’s office ruled on it that something  
456 was done. She stated she doesn’t have the room at her funeral home to hold a body for a  
457 long period of time. Ms. Cubitt asked what the opinion of the Attorney General’s office was.  
458 Ms. Cooper stated that after 30 days the unidentified remains after the coroner forwarded  
459 the body to the medical university of SC or other facility preserving the body immediately  
460 notify SLED. She stated that the case is for unidentified people. She stated that she has NC  
461 statute stating that they are given xxx amount of days then the funeral home has the right to  
462 embalm the body if necessary. She then stated if the body remains unclaimed for final  
463 disposition for ten days the person having possession or funeral home shall notify a  
464 commission of anatomy. Upon request from the commission of anatomy the person having  
465 possession may deliver the dead body to the commission of anatomy at a time and place  
466 specified by the commission or should permit the commission of anatomy to take and  
467 remove the body. All dead bodies not claimed for final disposition within 10 days of the  
468 deceased death may be received and delivered by the commission of anatomy pursuant to  
469 the authority. Upon receipt of a body by the commission of anatomy all interest in and rights  
470 to the unclaimed body should invest in the commission of anatomy. The recipient to which  
471 the commission of anatomy delivers the body shall pay all expenses for the embalming and  
472 delivery of the body and reasonable expenses rising for efforts to notify family or others.  
473

474 Mr. Evans stated that he had a case where a gentleman died and they found his address  
475 book and found that he had children. The coroner did a research and found a daughter in  
476 Charleston and a son up north. They contacted the daughter and she was from a second  
477 marriage and she has not association with the children from the first wife. She stated she  
478 didn’t know what to do since her dad didn’t have any money she hadn’t spoken to him in 10  
479 years and she didn’t want to take legal responsibility. The coroner then asked if she had  
480 any contact information on the other children. She stated that she hasn’t spoken to them in  
481 twenty something years. After more research they found contact information on a son and  
482 when they called the person who answered stated they didn’t know anyone by that name  
483 and hook up on them. Then the 3<sup>rd</sup> child couldn’t be found. So the bottom line is that the  
484 coroner had to contact the probate judge. He stated they didn’t want to make a decision so

485 they were told they had to hold the body for 45 days and small counties doesn't have the  
486 room to hold a body that long. So they call the daughter back and informed her that  
487 cremation may be the best and she stated she didn't want to cremate him but really didn't  
488 have the money to pay for anything cremation or otherwise. It finally turned out that the  
489 gentleman was a veteran so they got him a free burial place. However this issue is  
490 becoming more common.

491  
492 Mr. Evans stated that Piedmont Tech has also gone to the coroner's office and stated they  
493 will take any unclaimed bodies for training their students.

494  
495 **Changes**

496 In statute – Unclaimed bodies check NC statute – form a committee to check with the  
497 medical schools and Piedmont Tech to see if they will take the bodies.

498

499 **14. Funeral Directors/Embalmers education requirements**

500 Ms. Cubitt stated that she believes the education requirements for a funeral director or  
501 embalmer is clear in the regulations.

502

503 She stated for the funeral director it states an applicant for initial licensure as a funeral  
504 director must:

505 (C) submit evidence of a high school diploma, or its equivalent and successful  
506 completion of a one-year course in an accredited mortuary college.

507 She stated that is what the Board uses for students that are receiving their certificate at  
508 Piedmont Tech. So she has received the question if they still have to have 60 semester  
509 hours. She stated she felt sure that the student just has to have proof they completed the  
510 certificate program at Piedmont Tech. that is directed strictly for funeral directors.

511

512 She stated the people that have the 60 semester hours of education are general hours at an  
513 accredited college. Mr. Temples asked if the one year certificate hours will reciprocate to  
514 other states for licensure. Ms. Cubitt stated the hours would not allow a person to  
515 reciprocate to another state but the student is advised of that. Ms. Cooper inquired on it the  
516 student will get an associate's degree if they complete the certificate program. Ms. Cubitt  
517 stated they would get the associate's degree if they complete the Funeral Service program  
518 that includes the funeral directing and embalming. She stated they would get a certificate  
519 that they have completed the funeral director program and are eligible for a license as a  
520 funeral director in SC.

521

522 **15. Regulatory changes for licensing requirements for Apprentice and Students**

523 Ms. Cubitt stated that the statute doesn't restrict licensing if an apprentice or a student has a  
524 felony like it does for the funeral director or embalmer. Ms. Cubitt stated that the Board  
525 does ask for a criminal background check. However it doesn't require a criminal background  
526 check. She stated under current statute a student or an apprentice and receive a permit if  
527 they have a felony but will then be denied a license because of the felony that may have  
528 occurred prior to completing the school and the apprenticeship.

529

530 **Changes**

531 In statute – for apprentice and student licenses to change the requirements to mirror those  
532 for funeral director and funeral director/embalmer license.

533

534 **16. Minimum requirements to be manager**

535 Ms. Cooper stated that the law currently states that the manager must be licensed for 1 year  
536 to manager a funeral home. She stated years ago the law stated that a manger of a funeral  
537 home must have held a license for a minimum of 5 years. Mr. Squires inquired how did the  
538 law get changed from 5 years to 1 year for a manager. Mr. Horton stated that many times  
539 the Board isn't aware of any changes until it is introduced to legislation. The Board never  
540 has any input into the changes. So one else is introducing legislation and the Board is  
541 never asked their opinion and it is passed. Ms. Bell stated she would check into that to see  
542 who may be introducing the changes. Mr. Horton stated hopefully those days are over. He  
543 stated he believes the hopes of the Board are for the Board members to work with LLR staff,  
544 Morticians Association and Funeral Directors Association to make the statute and  
545 regulations clear. Mr. Squires stated what if an issue comes up that a person may have  
546 been licensed in NC for 21 years and has only been licensed in SC for 2 years. Is the Board  
547 going to make the licensee been licensed another 3 years before they can be a manager of  
548 a funeral home? Mr. Horton stated that the current statute and regulations stated that to be  
549 a manager a licensee must be licensed in SC for 1 year and a resident of SC for 1 year. He  
550 suggested leaving the resident requirement at 1 year but change that they must have held a  
551 license in SC for 5 years. Mr. Horton stated that it is one thing to hold a license in any other  
552 state but to manage a funeral home in SC is completely different so he believes you must  
553 hold a license in SC for a minimum of 5 years prior to becoming a manger.

554

555 **Changes**

556 In statute - "Manager" must be licensed in SC for 5 years before they can be a manager.

557

558 **17. Minimum requirements to be a preceptor**

559 Mr. Evans inquired on how long a licensee has to be licensed before training an apprentice.  
560 Ms. Cubitt stated that current statute doesn't address it so as soon as someone is licensed  
561 they can start training an apprentice. Ms. Cooper stated she believes to train an apprentice  
562 the Preceptor must have held a license for a minimum of 5 years.

563

564 Ms. Pyatt stated that neither the statute nor the regulations define a preceptor. Mr.  
565 Crawford inquired on if they are proposing changes to the statute. Ms. Cubitt stated that is  
566 correct that they are making suggestions for proposed changes to the statute so LLR can  
567 work on proper language for the next legislation session.

568

569 Ms. Cubitt stated at the August 3, 2010 Board meeting the preceptor topic was discussed.  
570 She stated that Mr. Elwood made a motion the Board make a policy that a funeral director or  
571 embalmer must be licensed in the State of South Carolina for five years prior to becoming a  
572 preceptor. Ms. Cooper seconded the motion, which carried unanimously. She stated  
573 unfortunately it isn't in the statute or regulations and that is why the topic is being discussed  
574 again so the Board can work on language to put it in the statute and regulations.

575

576 **Changes**

577 In statute - define "Preceptor".

578 In statute - preceptor must be licensed a minimum of 5 years before they can train an  
579 apprentice.

580

581 **18. Acceptance of Certificate Program from Piedmont Tech College and other states**  
582 **institutions**

583 Mr. Horton stated he doesn't see anything that needs to be changed on this. Ms. Cubitt  
584 asked to clarify that the Board is ok with the 1 year certificate program with Piedmont

585 Tech and Fayetteville Tech. She stated that the students in both programs are not  
586 eligible to take the National Funeral Director exam. They are only eligible to take the  
587 State Funeral Director exam and are required to take the State Law.  
588

589 **19. Does a licensed person have to be at a wake; funeral; memorial service; grave site;**  
590 **direct burial**

591 Ms. Cubitt stated that question has come up recently asking if a licensed funeral director  
592 must be at the wake, funeral, memorial service, grave site or direct burial. Mr. Horton  
593 stated the statute states a funeral director must be at the place of final disposition. Ms.  
594 Cubitt stated does that mean a funeral director must be at the grave site? Mr. Horton  
595 stated the statute states a funeral director must be at the place of final disposition not  
596 stay there the entire time. Other Board members stated they don't believe so because  
597 the family can do that themselves.  
598

599 **20. Crematory Operators Roster**

600 Ms. Cubitt stated that the regulations state that the Board must maintain a roster of  
601 crematory operators and a roster for certified crematory trainer/preceptor. She stated  
602 that the regulations state that:  
603

604 **57-14.3. Training of crematory operators.**

605 (A) Persons who complete the following training will be listed on the official roster of the  
606 Board as Certified Crematory Operators.

607 (B) Training will include completion of a minimum of fifty (50) cremation cases under the  
608 supervision of a certified trainer/preceptor.

609 (C) Training will cover the following topics. The preceptor will document the time and  
610 date of specific training on these topics:

- 611 (1) Documents required prior to cremation authorization;
- 612 (2) Compliance with the record keeping requirements of this chapter;
- 613 (3) Operation of the retort and processing cremains, including specific safety  
614 precautions.

615

616 **57-14.4. Training of certified crematory trainer/preceptors.**

617 (A) Persons who complete the following training and documented experience will be  
618 listed on the official roster of the Board as Certified Crematory Trainer/preceptors.

619 (B) Training will include the following components:

- 620 (1) Factory approved instruction in the operation of the on-site unit;
- 621
- 622 (2) Documents required prior to cremation (e.g. authorization, BRT, DC, Coroners'  
623 Permit);
- 624
- 625 (3) Compliance with the record keeping requirements of this chapter;
- 626
- 627 (4) Operation of the retort and processing cremains, including specific safety  
628 precautions;
- 629
- 630 (5) Packaging and delivery of cremains.

631

632 (C) Experience will be documented by a log showing records of at least one hundred  
633 (100) cremations, performed according to law.

634  
635 She stated that from her understanding that the manufacture goes out and trains and  
636 certifies the operator to run the machine. She stated that being the case, how is the  
637 operator supposed to get the required 50 cases to be certified. Also how would the  
638 Preceptor get the required 100 cases to train someone else? She stated the Board  
639 staff needs some guidance on how this is accomplished so an official roster can be  
640 developed.

641  
642 Mr. Horton stated that he is fine with the preceptor getting the 100 cases before training  
643 someone else and meeting all other requirements. Mr. Temples stated that sometimes  
644 you have a crematory and the funeral director is the only one allowed to cremate at that  
645 crematory. Mr. Evans stated he thought that was the case because you have to have a  
646 funeral directors license to operate the crematory. Ms. Cooper stated not anymore.  
647 She stated the regulations changed so anyone can be a crematory operator as long as  
648 they have the certificate that they were trained on the crematory.

649  
650 Ms. Cubitt stated you could have an issue if you have a funeral director which managers the  
651 crematory that is gone at the moment and you have a crematory operator that has been  
652 operating the crematory for years and the only training they have had is the factory training  
653 only. If something goes wrong then you can't do anything to the person since they are not  
654 licensed nor have they met the required training. Ms. Pyatt stated that is the problem  
655 because the requirement is in the regulations but not in the statute so you can't do anything  
656 to the person.

657  
658 Mr. Horton stated he believes that the 50 cases for the crematory operator should be  
659 dropped from the regulations. He thinks the 100 cases and the other requirements for the  
660 preceptor needs to remain in the regulations and added to the statute.

661  
662 Mr. Temples stated he doesn't believe a crematory operator should be allowed to operate  
663 the crematory without a funeral director on site at the time of cremation. Mr. Horton stated  
664 that the statute states that a licensed funeral director at the place of final disposition. Ms.  
665 Cooper suggested that the definition of "Crematory" be changed to funeral establishment to  
666 read as "Crematory" means a funeral establishment in which the dead body is reduced to  
667 residue by intense heat.

668  
669 Ms. Cubitt clarified that the Board wants the statute and regulations definition of a  
670 "Crematory" to be changed to funeral establishment or to include acting as an agent of a  
671 licensed funeral establishment.

672  
673 **Public Comments**

674 No comments were made during the meeting.

675  
676 **Adjournment**

677  
678 The June 29, 2011 meeting of the SC Board of Funeral Service adjourned at 1:23 p.m.

679  
680 The next meeting of the SC Funeral Service Board is scheduled for June 30, 2011.

681  
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**MINUTES**  
**South Carolina Board of Funeral Service**  
**Board Meeting**

10:00 a.m., June 30, 2011  
Synergy Business Park  
110 Centerview Drive, Kingstree Building Room 108  
Columbia, South Carolina

**Thursday, June 30, 2011**

9  
10

**1. Meeting Called to Order**

11 Eddie Nelson, President, of Blythewood, called the regular meeting of the SC Board of Funeral  
12 Service to order at 10:00 a.m. Other Board members present for the meeting included:  
13 Michelle Cooper, Vice-President, of Moncks Corner, Glen Crawford, secretary, of Lancaster;  
14 Billy Horton, of Kingstree; John Petty, III, of Landrum; Thomas Baker, of Kershaw; Kenneth  
15 Beasley, of Fountain Inn; Jeff Temples, of Columbia and Margery McWhorter, of Columbia.

16  
17 Staff members participating in the meeting included: Doris Cubitt, Administrator; Jeanie Rose,  
18 Administrative Specialist; Amy Holleman, Administrative Specialist; Michael Teague,  
19 Administrative Assistant; Paula Magargle, Division of Legal Services; Dean Griggs, Division of  
20 Legal Services; Sheridan Spoon, Division of Legal Services and Jamie Saxon, Division of Legal  
21 Services.

22  
23 Members of the public attending the meeting included: Mike Squires, of the SC Funeral  
24 Directors Association (SCFDA); Sam W. Halls, President of the SC Morticians Association  
25 (SCMA); Alicia Clark, of SC Dept of Consumer Affairs (SCDCA); Ken Middlebrooks, of SC Dept  
26 of Consumer Affairs (SCDCA); James B. Bowdre, of Myrtle Beach Funeral Home; Jacquelyn  
27 Duncan, Gilmore Mortuary and Henry C. Gilmore, Gilmore Mortuary.

28  
29 **A video of this meeting can be viewed at [www.llr.state.sc.us/POL/Funeral](http://www.llr.state.sc.us/POL/Funeral). On the Board's**  
30 **home page, click 'Board Information' and follow the link to the video.**

31  
32

a. Public Notice

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

37  
38

b. Pledge of Allegiance

39 All present recited the Pledge of Allegiance.

40  
41

**2. Introduction of Board Members and Persons Attending the Meeting**

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

43  
44

**3. Approval of Excused Absences**

45 C. Brad Evans, of Abbeville; had to leave for an emergency so he was granted an excused  
46 absence.

47

**MOTION**

48 Mr. Crawford made a motion the Board approve Mr. Evans' absence. Ms. Cooper seconded the  
49 motion which carried unanimously.

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**4. Approval of Minutes for the May 5, 2011 and May 23, 2011 Meeting**

**MOTION**

Mr. Crawford made a motion the Board approve the minutes of the May 5, 2011 and May 23, 2011 meetings. Ms. Cooper seconded the motion which carried unanimously.

**5. Hearing – Case No. 2010-5 and 2010-7**

In the matter of Robert M. Gwinn, FDE 1965, Case No. 2010-5 and Lanford Funeral Home, FE 313, Case No. 2010-7

Mr. Nelson stated that Mr. Gwinn has waived his right to counsel. Ms. Magargle was presenting the case for the state. Ms. Magargle stated that both parties wish to present a Memorandum of Agreement.

The Memorandum of Agreement agrees to the following facts. At the times relevant Mr. Gwinn was a licensed Funeral Director and Embalmer and performed these services for Lanford Funeral Home in Woodruff, and had a license to engage in pre-need services. On or about September 16, 2007, a person known by Mr. Gwinn transferred her existing guaranteed price pre-need contract and funds in the amount of \$3,988 from JF Floyd Mortuary in Spartanburg, SC to Lanford Funeral Home in Woodruff. She didn't receive any correspondence from the bank about her pre-need interest the entire time she had her pre-need contract with Lanford Funeral Home and became concerned about why she was not receiving the information.

It was revealed that Mr. Gwinn had placed the funds received for the pre-need contract into the Funeral Home's general business account instead of the pre-need trust account and admitted to the same to Investigator Ken Middlebrooks with SC Department of Consumer Affairs.

As a result of the acts of misconduct alleged Mr. Gwinn and Lanford Funeral Home has violated SC Code Ann 32-7-50 (A); and the Rules and Regulations of the Board (1976, as amended) has violated applicable state laws relating to the prearrangement or pre-financing of a funeral as per SC Code Ann 40-19-110 (12) and has had a violation for not placing the preneed funds in trust in a federally insured account.

These proceedings were recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.

**Executive Session**

**MOTION**

Mr. Temples made a motion the Board enter executive session. Mr. Beasley seconded the motion which carried unanimously.

**Return to Public Session**

**MOTION**

Ms. Cooper made a motion the Board return to public session. Mr. Crawford seconded the motion which carried unanimously. Mr. Nelson noted for the record that no decisions were made nor were actions taken during executive session.

**MOTION**

Mr. Horton made a motion the Respondent be publicly reprimanded, pay a \$500 fine within thirty (30) days from the date of the Final order, Respondents license will be placed on probation for a



101 period of one (1) year beginning from the date of the Final order. At the end of the one (1) year  
102 probation period the Respondent will be required to reappear before the Board and submit a  
103 variable audit from the Dept of Consumer Affairs of all preneed accounts. The audit shall not  
104 occur until the one (1) year probation period has run. The Respondent will be responsible for  
105 paying any additional cost that may occur as well as submit any additional as the Board may  
106 require of him. Mr. Crawford seconded the motion which carried unanimously.

107  
108 These proceedings were recorded by a court reporter in order to produce a verbatim transcript if  
109 requested in accordance with the law.

#### 110 111 **6. President's Remarks – Eddie Nelson**

112 Mr. Nelson stated in his remarks that the purpose of the Board is for the business of the state of  
113 SC and the good of the Funeral Service Board. And anything the Board does is in consideration  
114 for the citizens of SC and the SC state Board of Funeral Services. He stated he has passed out  
115 a letter from Dr. Gere Fulton with the Funeral Consumers Alliance of SC. Mr. Nelson requested  
116 that the Board members and the Board Administrator review the letter from Dr. Fulton and  
117 address the issues stated in the letter. Mr. Nelson stated he has stated he will send a courtesy  
118 email to Dr. Fulton informing him that the letter has been presented to all Board members for  
119 review.

#### 120 121 **7. Information Update**

##### 122 A. OGC/DLS – Office of General Counsel/Division of Legal Services

123 Ms. Magargle presented the Board with the report from the Division of Legal Services (DLS).  
124 She included in the report that DLS currently has six open cases, three which the consent  
125 agreement will be signed today and three more pending. Mr. Nelson asked what may be the  
126 timing on when the complaints is received to when they are presented to the Board. Ms. Cubitt  
127 stated that all cases are 2010 cases so they are not that old. She also stated she will check the  
128 ageing by reviewing the reports and will report to the Board at the next meeting.

#### 129 130 **MOTION**

131 Mr. Crawford made a motion the Board accept as information. Mr. Petty seconded the motion  
132 which carried unanimously.

##### 133 134 B. Financial Statements – Doris Cubitt

135 Ms. Cubitt stated that they have the fiscal year 2009 and 2010 and every time they meet they  
136 will get an updated report. She stated that the report shows the total revenue and the total  
137 expenditures. She stated that transfers are for services that the Board receives from other  
138 areas. She also stated that every year the Board donates 10% of its revenue to the general  
139 fund. She stated the licensee's renewals will be up again in April 2012 to June 2012. Mr.  
140 Nelson inquired on the general fund if there is any stipulation on what those funds can be used  
141 for once it is placed in the general fund. Ms. Cubitt stated that the general fund is used to run  
142 the state.

#### 143 144 **MOTION**

145 Mr. Petty made a motion the Board accept as information. Mr. Horton seconded the motion  
146 which carried unanimously.

#### 147 148 **8. Administrator's Remarks – Doris Cubitt**

149 Ms. Cubitt informed the Board that there are changes for Division of Legal Services for the  
150 agency. She stated Ms. Melina Mann is now over Division of Legal Services. She stated there

151 have also been changes for advice counsel who will be split between Mr. Saxon, Mr. Griggs and  
152 Mr. Spoon for all Boards with the agency.

153  
154 She stated that she has contact Mr. Homer Elwood per the request of the Board to request that  
155 he serve as the IRC member and he has agreed.

156  
157 Ms. Cubitt stated that Mr. Ernest Adams has been the inspector for the Board and now the  
158 agency has hired another inspector Mr. Buddy Poole and they will inspect for Funeral and  
159 Cemeteries.

160  
161 She stated the website is currently being redesigned to be more user friendly.

162  
163 She stated that the Board staff has sent out a letter to all Apprentice's and Funeral Homes  
164 regarding the new quarterly report and the new requirements for the Apprenticeship.

165  
166 She stated she hasn't heard anything in regards to a Public member to serve on the Board so  
167 Mr. Tipton's slot is still vacant.

168

169 **9. Disciplinary Reports**

170 A. Investigative Review Committee (IRC) Report/Consent Orders/OIE Report – Tony  
171 Kennedy and Ernest Adams

172 Mr. Kennedy stated due to scheduling conflicts they were unable to schedule an IRC meeting  
173 prior to the Board meeting. He stated that tentatively they are trying to schedule it for the  
174 following week. Once the report has been finalized the report will be emailed to all Board  
175 members.

176  
177 B. Inspections Report – Ernest Adams  
178 Mr. Nelson stated since Mr. Adams isn't present to present the inspection report they will  
179 discussion this at the next meeting.

180

181 C. Approval of Consent Agreements

182 a. Case No.: 2010-16

183  
184 In the matter of case No. 2010-16, Shuler-Marshall Funeral Home, Ms. Magargle presented the  
185 case for the state. Ms. Magargle stated that both parties wish to present a Consent Agreement  
186 to the Board for their consideration and approval.

187  
188 The Consent Agreement agrees to the following facts. At the time relevant Mr. Samuel B.  
189 Marshall was a licensed Funeral Director and serves as Funeral Director and manager for  
190 Shuler-Marshall Funeral Home in Holly Hill. In 1993 an irrevocable preneed funeral contract was  
191 purchased. At the time the preneed funeral contract was purchased the respondent was not  
192 licensed to sell preneed required by law.

193  
194 It was revealed that Mr. Marshall had deposited the preneed into the Funeral Home's general  
195 business account instead of the preneed trust account. Also the preneed funeral contract did  
196 not contain the name and Funeral Service license number of the provider and seller as required.

197  
198 As a result of the acts of misconduct alleged Mr. Marshall and Shuler-Marshall Funeral Home  
199 has violated SC Code Ann 32-7-50 (A), (C), (F), (H) and (G) has violated applicable state laws  
200 relating to the prearrangement or pre-financing of a funeral as per SC Code Ann 40-19-110 (12)  
201 and has had a violation for not placing the preneed funds in trust in a federally insured account.

202  
203 These proceedings were recorded by a court reporter in order to produce a verbatim transcript if  
204 requested in accordance with the law.

205  
206 **MOTION**

207 Mr. Petty made a motion the Board accept the consent agreement for case # 2010-16. Ms.  
208 Cooper seconded the motion which carried unanimously.

209  
210 **10. New Business**

211 A. Approval of New Facility

212 1. Gilmore Mortuary Services, LLC – Jacquelyn Elaine Duncan

213 Mr. Crawford recused himself from participating and voting in this matter.

214  
215 Mr. Nelson stated the purpose of this application is for a new facility and establish if Ms. Duncan  
216 should be granted approval to be manager of Gilmore Mortuary Services. Mr. Nelson inquired if  
217 Ms. Duncan has submitted a complete licensing packet to the Board. Ms. Rose stated that a  
218 complete licensing packet has been received and Ms. Duncan has held a license since 1989.

219  
220 Ms. Duncan stated that since she has held a license she had hoped to have the opportunity to  
221 be a manager of a funeral home.

222  
223 Mr. Beasley inquired on if Ms. Duncan is working currently. Ms. Duncan stated she is working  
224 part-time at Horizon Eye Care. Mr. Beasley then asked if she will continue working at Horizon  
225 Eye Care if granted approval to manage the funeral home. She stated she will continue working  
226 part-time until December. Mr. Beasley asked Mr. Gilmore if the funeral home is up to code. Mr.  
227 Gilmore stated that they have gone through the zoning board in Rock Hill and have complied  
228 with the cities laws and codes for the facility.

229  
230 Ms. Cooper inquired on how many hours a week does Ms. Duncan work and if she feels by  
231 working another job does she feel that she has the time to manager a funeral home. Ms.  
232 Duncan stated she works about 20 hours a week and she does feel she has time to manage a  
233 funeral home. Ms. Cooper then stated that on item 13 of the licensing application it asks to list  
234 all Funeral Directors who will be employed at this location and it doesn't have her name listed.  
235 Ms. Duncan and Mr. Gilmore stated that was an oversight. Ms. Cooper asked if Ms. Duncan  
236 understands that if she is granted approval to be the manager of the funeral home then she is  
237 required to be at the funeral home a minimum of 35 hours a week. Ms. Duncan stated she  
238 understands the requirements.

239  
240 This matter was recorded by a court reporter in order to produce a verbatim transcript should  
241 one be necessary.

242  
243 **MOTION**

244 Ms. Cooper made a motion the Board approve the application with Ms. Duncan as manager  
245 pending final inspection. If Ms. Duncan is unable to meet the requirements as manager LLR  
246 staff will not be able to process the request. The new purposed manager must appear before  
247 the Board for approval. Mr. Horton seconded the motion which carried unanimously.

248  
249 2. Myrtle Beach Funeral Home, Inc – James Blair Bowdre

250 Mr. Nelson stated the purpose of this application change of ownership. Ms. Rose stated that a  
251 complete licensing packet has been received and Mr. Bowdre has held a license since 2009.

252

253 Mr. Bowdre stated that the funeral home has been in the business for 3 years as of June 5 and  
254 he has been the manager for the last year. He stated he wishes to buy the funeral home and  
255 continue in the business since Mr. J. McGregor Everett is a busy man and doesn't have the time  
256 to run the funeral home.

257  
258 This matter was recorded by a court reporter in order to produce a verbatim transcript should  
259 one be necessary.

260  
261 **MOTION**  
262 Mr. Horton made a motion the Board approve the application pending final inspection. Ms.  
263 Cooper seconded the motion which carried unanimously.

264  
265 B. Approval of Criminal Background  
266 1. Andre Locke – Apprentice Funeral Director

267  
268 The Board tabled action on this matter until such time Mr. Locke is able to appear  
269 before the Board.

270  
271 2. Rodriquez Jenkins – Apprentice Funeral Director/Embalmer

272  
273 The Board tabled action on this matter until such time Mr. Jenkins is able to  
274 appear before the Board.

275  
276 **11. Discussion Items for vote**  
277 1. Approval for Administrator to attend Death Care Regulators Conference  
278 (August 7-9, 2011)

279 Ms. Cubitt stated that the Death Care Regulators Conference is a meeting of all State Regulator  
280 Board to discuss issues for all states. She stated per the agenda they will cover cremations,  
281 crematories and professionals. Also they will discuss cremation inspector regulations,  
282 investigative techniques for cemetery and funeral homes.

283  
284 Ms. Cubitt stated that the new agency policy is for the Board to approve all travel for any  
285 conferences or meetings off site.

286  
287 **MOTION**  
288 Mr. Beasley made a motion that the Board approve Ms. Cubitt to attend the Death Care  
289 Regulators Conference. Ms. McWhorter seconded the motion which carried unanimously.

290  
291 2. Approval of Work Session items

292 Ms. Cubitt presented a summary of all discussed items. In some areas of the summary she  
293 stated to check the Nursing Boards statute because they already have the proper language.  
294 She stated if approved then LLR will work on the language and present to the Board at the next  
295 Board meeting for approval.

296  
297 **a. Discussion on the End of Cremation Societies Registration Fees and Licensing All**  
298 **Branches**

299  
300 **b. Discussion on Preceptor Training Course – Piedmont Tech. College**  
301

- 302 **c. Discuss Regulation of Transportation Services**  
303  
304 **d. Discuss Regulatory changes for Crematories and Funeral Homes**  
305 A. In statute - define "Crematory" they must also be a licensed Funeral Home or be  
306 an agent for a licensed funeral home.
- 307 **e. Define Chapel**  
308  
309 **f. How many seats should a chapel have**  
310  
311 **g. Discussion of Fee/Fine Structure and Limits**  
312 A. In statute – Fine up to \$10,000 per violation – Survey other states.
- 313 **h. Discussion on Requiring FBI National Criminal Violation Reports**  
314 A. In statute – Require FBI checks – check Nursing Board statute for language.
- 315 **i. Discussion of the Six Casket Requirement**  
316  
317 **j. Discussion of "Unclaimed Bodies"**  
318 A. In statute – Unclaimed bodies check NC statute – form a committee to check with  
319 the medical schools and Piedmont Tech to see if they will take the bodies.
- 320 **k. Funeral Directors/Embalmers education requirements**  
321  
322 **l. Regulatory changes for licensing requirements for Apprentice and Students**  
323 A. In statute – for apprentice and student licenses to change the requirements to  
324 mirror those for funeral director and funeral director/embalmer license.
- 325 **m. Minimum requirements to be manager**  
326 A. In statute - "Manager" must be licensed in SC for 5 years before they can be a  
327 manager.
- 328 **n. Minimum requirements to be a preceptor**  
329 A. In statute - define "Preceptor".  
330 B. In statute - preceptor must be licensed a minimum of 5 years before they can  
331 train an apprentice.
- 332 **o. Acceptance of Certificate Program from Piedmont Tech College and other states**  
333 **institutions**  
334  
335 **p. Does a licensed person have to be at a wake; funeral; memorial service; grave**  
336 **site; direct burial**  
337  
338 **q. Crematory Operators Roster**  
339

340 **MOTION**

341 Mr. Baker made a motion to approve the items that were discussed at the work session and for  
342 Ms. Cubitt to work with legal on the proper language to be presented to Legislation. Mr.  
343 Temples seconded the motion which carried unanimously.  
344

345 3. Approval of Citation document

346 Ms. Cubitt stated that the Boards policy in the past was for the inspector to issue a citation  
347 during the inspection if something was wrong with the inspection. The agency policy now it that

348 the inspection is conducted, if something is wrong with the inspection then it is given to the  
349 Board Administrator and if there are items on the inspection should raise to the level that a  
350 citation should be issued then a formal citation will be issued. Mr. Horton inquired if the Board  
351 needs to discuss penalties. Ms. Cubitt stated that the current statute only allows for a fine of  
352 \$500 per violation. She stated this is approval for the citation document that will be used. Also  
353 they can suggest any penalty guidelines that should be used in the future.

354

355 **MOTION**

356 Mr. Petty made a motion that the Board approve the Citation document. Ms. Cooper seconded  
357 the motion which carried unanimously.

358

359 **12. Committee Reports**

- 360 A. Legislative Committee – Christa Bell
- 361 B. Examination/CEU/Education – Glen Crawford, Ernest Adams
- 362 C. Regulatory Compliance (Federal and State) / FTC / OSHA / ADA / PreNeed –  
363 Billy Horton, Doris Cubitt
- 364 D. Publications / Newsletter / Website – Glen Crawford, Jeff Temples

365

366 Mr. Nelson said there were no committee reports to discuss; therefore, he was foregoing this  
367 section of the agenda.

368

369 **13. Public Comments**

370 No comments were made during the meeting.

371

372 **14. Adjournment**

373 **MOTION**

374 Mr. Baker made a motion the Board adjourn. Mr. Horton seconded the motion which carried  
375 unanimously.

376

377 The June 30, 2011 meeting of the SC Board of Funeral Service adjourned at 1:14 p.m.

378

379 The next meeting of the SC Board of Funeral Service is scheduled for August 4, 2011.

380

381

382