

MINUTES (conference call)
South Carolina Board of Funeral Service
(special call) Board Meeting

9:00 a.m., Tuesday, January 21, 2014
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 202-13
Columbia, South Carolina

Tuesday, January 21, 2014

1. Meeting Called to Order

Thomas E. Baker, II, of Kershaw, President, called the special called meeting of the SC Board of Funeral Service to order at 9:07 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, of Abbeville, Secretary; Kenneth E. Beasley, of Fountain Inn; Michelle Cooper, of Moncks Corner; William B. Horton, Jr., of Kingstree; Mark R. O'Steen, of Spartanburg; John L. Petty, III, of Landrum; and, Jeffrey K. Temples, of Columbia.

Staff members participating in the meeting included: Wendi Elrod, Program Assistant; Doris Cubitt, Administrator; Mary League, Advice Counsel, Office of Advice Counsel; Ernest Adams, Inspector, Office of Investigations and Enforcement; Buddy Poole, Inspector, Office of Investigations and Enforcement; and, Sharon Cook, Investigator, Office of Investigations and Enforcement.

a. Public Notice

Mr. Baker announced that public notice of this meeting was properly posted at the SC 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.

2. Approval of Excused Absences

Wallace McKnight, Jr., Vice President, of Andrews; was granted excused absence.

MOTION

Mr. Horton made a motion that the Board approve Mr. McKnight's absence. Mr. Evans seconded the motion, which carried unanimously.

3. Response to Regulatory Review Task Force Recommendation

Ms. League informed the Board that the Governor's Office has established a Regulatory Review Task Force which proposes numerous recommendations that will streamline administrative functions and repeal many costly, unreasonable, unnecessary, or overly-burdensome regulations, policies, and statutes.

The task force recommendations are "amend the statute and repeal the regulation regarding the sales of funeral merchandise, to allow all retail businesses, not just "Funeral Retail Sales Outlets", to sell caskets and other funeral merchandise, opening up the market and ultimately driving down costs to consumers".

Ms. League stated that Retail Sales Outlets are defined in the Statute 40-19-20(19) and means, "an establishment wherein funeral merchandise is sold or provided, or both, to the

general public. A retail sales outlet may not contain lay-out or chapel facilities and is restricted solely to the sale of funeral merchandise and may not handle or arrange for the handling or disposition, or both, of dead human remains and may not offer or execute preneed funeral contracts, except as authorized by Chapter 7, Title 32.”

She stated that it is also defined in the Regulation 57-15 for inspection guidelines.

Inspection guidelines include the following:

- (1) An embalming room of at least 100 square feet working space excluding tables, cabinets and other equipment;
- (2) A preparation room equipped with sanitary floor and necessary drainage, ventilation, necessary approved tables, hot and cold running water and a sink separate from table drainage, an OSHA-approved shower and eye wash station, hydro or electric aspirator (if hydro, it must be equipped with a backflow preventor on the facility's water system), embalming machine, or gravity bottle or bulb or hand pump, at least one scalpel, two aneurysm needles, assorted canulae, suture needles, trocar, antiseptic soap, twelve (12) bottles of arterial fluid, and two bottles of cavity fluid;
- (3) Handicapped accessible restrooms, water fountains and accessibility to and throughout the facility;
- (4) One working and licensed motor hearse for transporting casketed and non-casketed human remains;
- (5) Sanitary waste receptacle and hazardous waste receptacle;
- (6) Ventilating system that is screened and has an air exchange of twelve (12) times per hour to the outside;
- (7) Six (6) adult caskets on the premises displayed or available for display in conjunction with the display of cut-away caskets, an online kiosk or other means of funeral merchandise display;
- (8) Multiple copies of the General Price List, a Casket Price List, an Outer Burial Container Price List, and multiple copies of the Statement of Goods and Services in compliance with federal and state law;
- (9) An approved COMPLETED PERMIT APPLICATION or CURRENT FACILITY PERMIT DISPLAYED;
- (10) If a chapel or parlor for funeral services is provided, it must be inspected for safety and cleanliness.

Mr. Horton stated that he doesn't understand the repeal of the statute or regulations regarding the sale of funeral merchandise to be sold by all retail businesses. He asked what they are trying to do, prevent the Board of Funeral Service from regulating and just allow anyone to sell without having to come before the Board to obtain a license or to be inspected? Mr. Evans concurred with Mr. Horton's understanding of this letter when he read it. He stated that the Board doesn't know who this task force is and where this is coming from. He stated when they sell funeral merchandise they know what they are selling to the

consumer. He stated that any type of retail outlet should be subject to some sort of inspection for consumer protection. Mr. Baker stated the records as well as the facility should be subject to inspection at any given time by a licensing board that handles that profession. Mr. Baker asked Ms. League if there are any professions under Labor, Licensing and Regulation (LLR) that are not subject to some sort of inspection. Ms. League stated that is a very broad question. She stated that if you are a regulated business, then there is some type of enforcement to make sure everyone is following the practice act. Ms. Cubitt stated that some professions do not require inspections, such as Architectures, Engineers, Residential Builders, or Contactors. Mr. Baker stated that if any kind of good is sold to the public, then the consumer needs some type of recourse to go back on.

Mr. Horton asked if this regulation is repealed, then who will oversee the casket stores, who will be responsible, and what kind of regulation is there going to be? Or, does the Board just do away with it and the consumer is on their own? Ms. Cubitt stated if it is repealed, then it will be consumers beware, and they may need to file a complaint with Consumer Affairs or the Better Business Bureau, but they are not technically regulated by any governing body at that point. Mr. Horton then asked how that would affect funeral homes since they have to have so many caskets on display. Would that do away with the requirement for the funeral homes also? Ms. Cooper then asked what about the caskets that are made somewhere else and the funeral homes must keep the label on the casket or do they not have to do that anymore since the casket stores wouldn't be required to?

Ms. Cooper stated that Architectures and Engineers also have to apply for a permit in the county that they intend to practice. And she believes that they have to take a special test to obtain a license, and, once that is obtained, it is their responsibly. So basically, it is their license on the license if something goes wrong with any project they oversee. So, there is accountability by LLR or some other licensing agency.

Mr. Adams stated that if the funeral home is not regulated by the Board of Funeral Service regarding the six caskets, it will still be regulated by the Federal Trade Commission (FTC), so they will still have to meet the requirements. He stated that his other concern is if any retail business is allowed to sell caskets it will allow them to do anything they want and will not be required to have the six caskets on the premises, price list, or be required to have the prices in the casket with the description of the casket. Mr. Adams stated that one thing the Judge said years ago when this was added to the practice act was in his opinion that the only thing that the Board of Funeral Service couldn't do was to require the people operating the retail sales outlet to get a funeral director license, which was holding them to one standard and the funeral directors to another. Mr. Horton stated that was his point, that everyone be held to the same standard. He stated he is not for restraint of trade. He stated he does not care who opens a casket store as long as there is some oversight if they mess up and to protect the consumer.

Mr. Baker stated that Walmart could sell caskets to consumers. Ms. Cubitt stated that Walmart and Costco sell caskets online, but they do not ship or bill to an address in South Carolina.

Ms. Cubitt stated that to her knowledge the Board has never denied anyone a retail sales outlet license that has submitted an application and met the requirements.

Mr. Baker stated that he believes a letter should be sent back stating that the Board of Funeral Service does not deny anyone a retail sales outlet who meets the requirements;

however, the Board feels that the retail sales outlets need to be held accountable just like the funeral establishments are when it comes to following the law.

Mr. Horton stated that he heard someone mention that if this is repealed, then Consumer Affairs or the Better Business Bureau could assist the consumer if something goes wrong. He stated that may take time if the consumer was not happy or if something went wrong. He stated that the Board of Funeral Service would have more leverage and take a lot less time if they had the oversight if there was consumer fraud. Ms. Cooper stated that if this is repealed and something happens with a casket then the public will not understand that the Board of Funeral Service does not have the authority to handle it.

Mr. Baker stated the Board is all for protecting the consumer.

MOTION

Mr. Horton made a motion that Ms. League draft a letter for review for the Chair, responding to the Governor's Regulatory Review Task Force, stating that the Board opposes amending the statute and regulations to remove the licensing of retail sales outlets, as they believe it is an appropriate consumer protection with minimum burden on business, but they would consider not requiring restroom availability for a retail sales outlet.

Several board members inquired on where it is written in the statute or regulations requiring a restroom. Ms. Cubitt stated in regulations 57-10(B)(5) states, "submit evidence that the facility meets all State and local building and fire codes; and." So it is not that the Board of Funeral Service requires the restroom, but it will be required as part of the building code to get the business license. Mr. Horton stated that he has to meet restroom and handicap accessible restrooms for his business.

Amended MOTION

Mr. Horton made a motion that Ms. League draft a letter for review for the Chair, responding to the Governor's Regulatory Review Task Force, stating that the Board believes that Statute and Regulations are already a minimum burden and provide consumer protection and they do not recommend change. Mr. Temples seconded the motion, which carried unanimously.

4. Public Comments (No Vote May Be Taken)

No public comments at this time.

5. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn. Mr. Horton seconded the motion, which carried unanimously.

The January 21, 2014, conference call meeting of the SC Board of Funeral Service adjourned at 9:53 a.m.

The next meeting of the SC Board of Funeral Service is scheduled for March 20, 2014 and March 21, 2014.