

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

9:00 a.m., January 22, 2015  
Synergy Business Park  
110 Centerview Drive, Kingtree Building Room 108  
Columbia, South Carolina

**Thursday, January 22, 2015**

**1. Meeting Called to Order**

Wallace McKnight, Jr., President, of Andrews, called the regular meeting of the SC Board of Funeral Service to order at 9:17 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, Vice President, of Abbeville; Marcus D. Brown, Secretary/Treasurer, of Anderson; Thomas E. Baker, II, of Kershaw; Michelle Cooper, of Monks Corner; William B. Horton, Jr., of Kingstree; Eddie Nelson, of Blythewood; 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: Alex Imgrund, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Office of Disciplinary Counsel; Wendi Elrod, Program Assistant; Doris Cubitt, Administrator; Amy Holleman, Administrative Assistant; Jeanie Rose, Administrative Assistant; Ernest Adams, Inspector, Office of Investigations and Enforcement; Buddy Poole, Inspector, Office of Investigations and Enforcement; Charlie Ido, Assistant Deputy Director, Office of Board Services; and, Sharon Cook, Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Lou Ann Pyatt, of the SC Morticians Association (SCMA); Andrew Cone, SCI; Matt James, SCI; Shae S. Mills; Guy E. Grant; Charlotte Grant; Wayne F. Bryson; Ann Bryson; Richard Thompson; Kelly Rainsford, of SC Department of Consumer Affairs (SCCA); Doris R. Trezevant, of the SC Morticians Association (SCMA); and, Kenneth E. Beasley, of the SC Morticians Association (SCMA).

a. Public Notice

Mr. McKnight 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.

b. Pledge of Allegiance

All present recited the Pledge of Allegiance.

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

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

**3. Approval of Excused Absences**

There are no absences at this meeting.

**4. Reports**

A. Inspection Report – Ernest Adams

Mr. Adams informed the Board that he and Mr. Poole conducted 37 inspections from December 2, 2014 to January 14, 2015. He stated due to the holidays they had a lower number of inspections.

**B. Investigative Review Committee (IRC) Report – Sharon Wolfe**

January 15, 2015 IRC report

Ms. Cubitt stated that she will present the Investigative Review Committee (IRC) report since Ms. Wolfe had a conflicting meeting.

The IRC recommended that the Board issue cease and desists for case numbers 2014-64 and 2014-74; they recommended that the Board issue formal complaints for case numbers 2012-09, 2014-10, 2014-29, and 2014-42; and, dismiss case number 2014-26.

**MOTION**

Mr. Horton made a motion that the Board approve the IRC recommendations. Mr. Evans seconded the motion, which carried unanimously.

**C. Office of Investigations and Enforcement (OIE) Report**

Ms. Cubitt presented the Office of Investigations and Enforcement (OIE) report for Ms. Wolfe stating that there are currently 17 active investigations, 20 do not open cases, nine pending Board action, and 17 closed cases from January 1, 2014 through December 31, 2014. The oldest active case is 247 days.

**MOTION**

Mr. Horton made a motion that the Board approve the IRC recommendations. Mr. Evans seconded the motion, which carried unanimously.

**D. Office of Disciplinary (ODC) Counsel**

Ms. Perlman presented the Board with the report from the Office of Disciplinary Counsel (ODC). She included in the report that ODC opened 32 cases, ten cases are pending action, ten cases pending hearings, one pending final orders hearings, eleven pending final orders, and two closed.

**5. Approval of Minutes for the December 11, 2014**

**MOTION**

Mr. Baker made a motion on that the Board accept the meeting minutes for the December 11, 2014, as written. Mr. O'Steen seconded the motion, which carried unanimously.

**6. President's Remarks – Wallace McKnight**

Mr. McKnight welcomed everyone.

**7. Administrator's Remarks – Doris Cubitt**

**A. Financial reports**

Ms. Cubitt presented the financial reports for the Board's review.

**B. Conference Attendees**

October 23, 2014 Board meeting

Ms. Cubitt informed the Board that the Conference meeting will be in Dallas on February 25, 2015 thru February 26, 2015. She stated that the Board may want two (2) Board members and one (1) staff member to attend if LLR approves due to budget constraints.

**MOTION**

Mr. Horton made a motion that there be two attendees to The Conference Annual Convention. Mr. Evans seconded the motion, which carried unanimously.

The Board has had another Board member express interest in attending the Conference meeting in Dallas, TX.

**MOTION**

Mr. Baker made a motion that Mr. Evans, Mr. Temples and Ms. Holleman attend to The Conference Annual meeting. Mr. Nelson seconded the motion, which carried unanimously.

C. Administrative Authority recommendations

Mr. Evans stated that the Board should table this until the February 3, 2015 Board meeting so the minutes can be completed from the January 21, 2015 committee meeting.

D. Economic Interest Forms

Ms. Cubitt reminded the Board members that their economic interest forms are due by March 30, 2015, and stated that if they are not filed there are very stiff penalties.

E. Upcoming changes

Ms. Cubitt stated that LLR will be undergoing some changes such as hiring a new administrator for the Funeral and Cemetery boards.

**8. Can funeral homes make arrangements with families at other funeral home and/or cemetery locations owned by the same corporation**

Ms. Cubitt stated that the question has arisen whether or not a funeral home can sell funeral services to customers on behalf of one of their corporate owned facilities while meeting with the families at their other funeral home or cemetery locations.

Mr. Horton stating that the location doesn't matter just the general price list (GPL) for the funeral home handling the funeral.

**9. Reinstatement of license to be manager**

December 11, 2014 Board meeting

Ms. Cubitt stated that the question has come up if a licensee lets their license lapse and reinstates the license can they be a manager immediately following the reinstatement.

Mr. Evans stated in Section 40-19-20 (16) "Manager" - means a licensed funeral director who has been licensed in this State for at least one year, who is a fulltime regular employee, and who is responsible for and has the binding authority from the owner for the day-to-day management of funeral establishments or crematories including compliance with all applicable laws governed by this chapter.

He stated the Boards position is the license must be active and in good standing for one (1) year prior to being a manager.

Mr. Nelson inquired on if the manager of the crematory has to be a crematory operator as well. Ms. Cubitt stated the manager of a crematory does not need to be a crematory operator unless the manager is the operator of the crematory.

**MOTION**

Mr. Evans made a motion that they move this item to the February 3, 2015 board meeting. Mr. Horton seconded the motion, which carried unanimously.

**New Business**

**Application Hearings**

**10. Licensure and acceptance of her apprenticeship**

1. Melissa L. Clarke – Funeral Director/Embalmer

Mr. Evans, Mr. Horton, and Ms. Cooper all stated that they know Mr. McAlister, Ms. Clarke's supervisor, or know Ms. Clarke so they will recuse themselves if need be.

Ms. Clarke stated that will not be necessary.

Ms. Clarke completed her apprenticeship on March 22, 2009, which is over the five year requirement for licensure. Ms. Clarke has been actively employed with James A. McAlister Funeral Home. During this time Ms. Clarke attended the funeral service program at Piedmont Technical College, which was completed on December 10, 2014.

Ms. Clarke passed the National Exams. Ms. Clarke is requesting the Board accept her completed apprenticeship and allow her to take the SC State Law exam and become licensed.

**MOTION**

Mr. Baker made a motion that the Board approve Ms. Clarke to be eligible to take the SC Law exam. Mr. Brown seconded the motion, which carried unanimously.

**11. Request to serve Apprenticeship for 4<sup>th</sup> time**

1. Korie Allen Galloway – Apprentice Embalmer

Ms. Rose stated that Mr. Galloway is applying to extend his embalming apprenticeship. While reviewing the application we noticed that this will be his fourth time doing the embalming apprenticeship.

Mr. Galloway has his cases but does not have the required months. Mr. Galloway needs seven months to complete his embalming apprenticeship.

**Executive Session**

**MOTION**

Mr. Horton made a motion that the Board enter into executive session for legal advice. Ms. Cooper seconded the motion, which carried unanimously.

**Return to Public Session**

**MOTION**

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

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

**MOTION**

Mr. Horton made a motion that the Board grant Mr. Galloway one year to complete the required seven months. He also stated that he must submit all quarterly reports and this will be the last time he will be allowed to do the embalming apprenticeship. Mr. Nelson seconded the motion, seven ayes and Mr. Baker opposed.

**Break - Mr. McKnight stated the Board will break for a 10 minute recess**

**12. Disciplinary Hearing – Tracey Perlman**

1. Case No. OIE – 2012-25 McAlister-Smith Funeral Home, FE 750

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

Mr. Evans and Ms. Cooper recused themselves since they have knowledge of this case.

Ms. Perlman notified the Board that they have entered into a Memorandum of Agreement (MOA).

She stated the Respondent has agreed to the stipulation and admits to the facts but not the violations.

Respondent admits that on or about April 16, 2008, Complainant's mother executed an irrevocable guaranteed price preneed funeral contract with Respondent for a graveside burial.

Respondent admits that on or about November 1, 2010, Complainant's mother executed a preneed cremation authorization form. The original preneed contract and statement of goods and services was not amended in writing.

Respondent admits that on February 21, 2012, Complainant's mother died and was cremated pursuant to her November 1, 2010 request and the request of her next of kin.

Respondent admits that at the time of Complainant's mother's death, Complainant was provided a statement of goods and services selected.

Respondent admits that Complainant was advised that the cost of the cremation would be at "today's price for cremation" and there was no excess money to be returned to Complainant.

Respondent admits that the charges for the funeral director and staff, copies of certified death certificates and newspaper notification at the time of death are not the same as those agreed to in the statement of goods and services dated April 16, 2008.

Respondent admits that sometime after March 20, 2014, Respondent paid Complainant \$1,400.00 in an attempt to rectify the situation.

Respondent contends that the facts, as stated, do not amount to a violation of the Board of Funeral Service practice act.

**Executive Session**

**MOTION**

Mr. Baker made a motion that the Board enter into executive session for legal advice. Mr. Petty seconded the motion, which carried unanimously.

**Return to Public Session**

**MOTION**

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

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

**MOTION**

Mr. Baker made a motion that the Board find the Respondent in violation of Section 40-1-110(f). The Board feels that the appropriate sanction is to issue a letter of caution. Mr. Temples seconded the motion, which carried unanimously.

**Lunch break**

**MOTION**

Mr. Horton made a motion that the Board break for lunch at 11:47 a.m. and return at 1:00 p.m. Mr. O'Steen seconded the motion, which carried unanimously.

2. Case No. OIE – 2014-8 Whitesell Funeral Home, FE 684

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

Witnesses for the case are: Ms. Ann Bryson, Mr. Wayne Bryson, Mr. Guy Grant, Ms. Shae Mills and Mr. Steve Whitesell.

Ms. Perlman stated that the Respondent was contacted prior to decedent's death on January 23, 2014, to provide funeral arrangements and funeral services for decedent. Respondent was made the beneficiary of decedent's insurance policy with Unity Financial to cover these potential expenses. Respondent did not execute a pre-need contract with decedent regarding the funeral arrangements and services.

When decedent passed, his son changed arrangements to occur in North Carolina rather than with Respondent. Complainant, a funeral home in North Carolina, received the decedent's body in January 2013 and conducted funeral services as contracted by decedent's son. Complainant contacted the Respondent to obtain the insurance proceeds to cover the funeral expenses and was informed that Steven A. Whitesell was the beneficiary of the policy and that no payment would be issued as Respondent understood that the change in funeral services went against decedent's wishes.

**Executive Session**

**MOTION**

Mr. Evans made a motion that the Board enter into executive session for legal advice. Mr. Temples seconded the motion, which carried unanimously.

**Return to Public Session**

**MOTION**

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

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

### **MOTION**

Ms. Cooper made a motion that the Board find the Respondent in violation of both violations, Sections 40-1-110(1)(f), and 40-19-110(12). She stated based on the violations in Section 32-7-50(A)(1) "*The State Board of Funeral Service must revoke the license of a funeral home or funeral director, or both, if the funeral home or funeral director: (a) accepts funds for a preneed funeral contract or other prepayment of funeral expenses without a license to sell preneed funeral contracts, or (b) is licensed to sell preneed funeral contracts and fails to deposit the funds collected in trust in a federally insured account as required by Section 32-7-20(H)*". The Board feels that the appropriate sanctions are to Revoke the funeral home license, a public reprimand, pay a Five Hundred Dollar (\$500.00) fine for each violation, for a total of \$1,000, which should be paid within ninety (90) days of the effective date of the Board's Order. Mr. Temples seconded the motion, which carried unanimously.

3. Case No. OIE – 2014-19 Mitchell Dillard, FDE 1700

Ms. Perlman stated that Mr. Dillard was mailed a regular mail and certified mail notice of hearing, but the certified mail was returned, and, due to the severity of the case, we should move this case to the March 19 & March 20, 2015 board meeting.

4. Case No. OIE – 2014-22 Richard Keith Thompson, FDE 2745

5. Case No. OIE – 2014-23 James D. Davis, FDE 1235

Ms. Perlman stated that case 2014-22 and 2014-23 were both granted a continuance.

Mr. Baker left at 4:14 p.m. because he had an appointment.

### **13. Pre-need Proposed Regulation changes**

Ms. Rainsford stated that they have provided the Board with a copy of the proposed preneed regulation changes for their review.

Mr. Evans asked what her thoughts are on the changes. Ms. Rainsford stated that the preneed licensing has been handled by Consumer Affairs since 2006. She stated that her understanding is that over time a few issues have arisen. There are some common questions that they receive on a regular basis. They thought it may help to clarify some of these issues and questions by clarifying it in the regulations.

She stated a few of the changes are: defining the financial responsibility, record keeping, when a transfer occurs addressing irrevocable contracts and prearrangement insurance policies.

Mr. Evans asked where is the issue with transferring from a trust account to an insurance account if it is irrevocable. Ms. Rainsford stated she doesn't believe there is a problem if it is irrevocable.

Mr. Evans inquired on if they are trying to resolve some of the cases they have.

Ms. Rainsford stated they do have cases pending, and they are pursuing administratively and criminally. She stated they currently have a case coming up before the administrative law court on February 12, 2015.

Mr. Imgrund asked if Ms. Rainsford can elaborate on the insurance policy change. Ms. Rainsford stated one of the biggest shocks to everyone is the prearrangement insurance policy section. This is where the funeral home has someone on-site that is licensed as a full producer but doesn't have a license to sale preneed insurance. So when the person comes in to make prearrangements they state they will meet the person down the street and sale them an insurance policy making the funeral

home the beneficiary of the policy. So what they are trying to address is the issue of where someone is trying to get around the preneed contract law.

Mr. Evans stated for clarification to process a preneed contract you have to have a preneed license, have an insurance license to sale preneed, and be a licensed funeral director. He also stated that he believes you can go to the Department of Insurance website to see who may hold a license for that. Mr. Evans stated that some funeral homes are allowing a third-party to sale an insurance policy to a person naming the funeral home as the beneficiary.

Ms. Rainsford stated they are seeing more and more of this situation so that is why they are making the proposed regulation changes.

Mr. Temples pointed out that the insurance law states that you cannot hold a funeral director license and a life insurance license at the same time. He stated if you hold one you must surrender the other.

Mr. Horton stated that you can have a funeral director license and a preneed insurance license at the same time.

**14. Public Comments (no votes taken)**

No public comments at this time.

Mr. Horton requested that the March meeting be two days to clear up some of the past due pending disciplinary cases.

**15. Adjournment**

**MOTION**

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

The January 22, 2015, meeting of the SC Board of Funeral Service adjourned at 4:32 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for February 3, 2015 at the Columbia Metropolitan Convention Center, 1101 Lincoln Street, Columbia, SC