

MINUTES
South Carolina State Board of Funeral Service
Board Meeting

10:00 a.m., February 22-23, 2017
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Wednesday February 22, 2017

1. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of Funeral Service to order on January 31, 2017 at 10:01 a.m. Other Board members present for the meeting included: Charvis K. Gray, Secretary, of Piedmont; Stephen R. Gantt, of Greenwood; Wallace McKnight, Jr., of Andrews; William B. Horton, Jr., of Kingstree; Michelle A. Cooper, of Moncks Corner; and Stephen Lee McMillan, Jr. of Myrtle Beach.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Robbie Boland, Assistant Deputy Director, Office of Board Services; Amy Holleman, Administrator; Norma McAllister; Program Assistant; Monaca Harrelson, Administrative Assistant; Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement; Rodney Pigford, Investigator, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement; and William Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Elizabeth Simmons, South Carolina Morticians Association; Rion Rampey, Executive Director, South Carolina Funeral Directors Association; Matalie Mickens and Deborah Lockard of the South Carolina Department of Consumer Affairs; Lorin Peri Palmer, Palmer Memorial Chapel; Kenneth Young, Attorney; Robert Tyson, Attorney; William Jordan, Attorney, Fannie Murray; Elaine Clarkson; D.L. Grant, Sr.; Ephriam Stephens and Coralette Scriven of the Ephraim D. Stephens Funeral Home; Ingram Cox; Michelle Cox; Gini Ingram; Carson Cox; Catherine Kay; Theo Palmer; Vikki Palmer; Earl Fonvielte; Grayson Williams; Maggie Grant; David Green; Martha Scott; Corbett Scott; Stephanie Grant; Chuck Wilson; and Harvin Bullock

A. Public Notice

Mr. Nelson announced that public notice of this meeting was properly posted at the South Carolina State Board of Funeral Service office, Synergy Business Park, Kingstree Abuilding, 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 Absence

Jeffrey Temples, John Petty, and D'Michelle DuPre were not in attendance.

MOTION

Mr. McMillan made a motion to approve the absences, Mr. Gray seconded, and the motion carried unanimously.

4. Approval of Minutes for the January 31, 2017 board meeting.

Mr. Nelson called for a motion to approve the minutes for the January 31, 2017 board meeting.

MOTION

Mr. Gray made a motion to approve the minutes as presented, Mr. Gantt seconded, and the motion carried unanimously.

5. President's Remarks – Eddie Nelson

Mr. Nelson welcomed and thanked everyone for attending.

6. Administrator's Remarks – Amy Holleman

Ms. Holleman introduced Robbie Boland as the new Assistant Deputy Director, Office of Board Services. Mr. Boland said that he was looking forward to working with the Board and to let him know if he could help in any way.

Ms. Holleman reported that the Board's cash balance at the end of January 2017 was - \$407,465.05. Ms. Holleman also reported that the late renewal period is over. Licensees who have not renewed yet are considered lapsed and will have to reactivate the license.

Ms. Holleman reminded the Board that Dr. DuPre, Mr. Gray, and she will attend the 113th International Conference Annual meeting from Tuesday, February 28, 2017 through Thursday, March 2, 2017 in Hilton Head, South Carolina.

7. Approval and Presentation of Resolution for Ingram Lee Cox

Mr. Nelson called for a motion to approve the resolution for Lee Ingram Cox.

MOTION

Mr. Horton made a motion to approve the resolution. Mr. McMillan seconded the motion, which carried unanimously.

Mr. Nelson then called for a motion to present the resolution for Lee Ingram Cox.

MOTION

Mr. Horton made a motion to approve the resolution. Mr. McMillan seconded the motion, which carried unanimously.

THE CARE OF UNCLAIMED CREMAINS IN HORRY COUNTY

WHEREAS, the South Carolina State Board of Funeral Service, on this day, the 22nd of February, 2017, honor ~~Miss Ingram Lee Cox~~ in coordinating the burial of unclaimed cremains in Horry County. South Carolina.

WHEREAS, the South Carolina State Board of Funeral Service recognizes her outstanding love for her fellow citizens by her assisting in the burial process

WHEREAS, the South Carolina State Board of Funeral Service acknowledges that Miss Cox, along with the help of her mother, Michelle Cox, Robert Edge, and the staff of the Horry County Coroner's Office, McMillan-Small Funeral Home, Goldfinch Funeral Home, Carolina Doric, and Rosehill Memorial Gardens, has shown the true meaning of what funeral service to our community is supposed to be.

WHEREAS, the State of South Carolina, and all Funeral Homes and Funeral Directors across the state, applaud her work and interest of preserving the spirit of the Funeral Profession as a part of her Girl Scout Golden Award Project.

WHEREAS, the Board hopes that Miss Cox's determination will inspire others to learn that life is a gift, and by treating others how you would hope to be treated even in death, is truly a gift to mankind.

NOW, THEREFORE LET IT BE PROCLAIMED BY THE STATE FUNERAL BOARD OF SOUTH CAROLINA, that ~~Miss Ingram Lee Cox~~ is honored for all she has done to allow seventy-five unclaimed cremains to reach their final resting place so that they may forever rest in peace.

This 22nd day of February, 2017.

Signed by members of South Carolina State Board of Funeral Service

8. Reports

A. Inspection Report

Mr. Poole reported that he and Mr. Adams conducted 34 inspections between January 20 and February 14, 2017.

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

Ms. Wolfe reported no cases were currently with the Investigative Review Committee.

C. Office of Investigations and Enforcement (OIE) Report – Sharon Wolfe

Ms. Wolfe reported that the Office of Investigations and Enforcement through February 16, 2017(OIE) has opened seven cases and closed six.

D. Office of Disciplinary (ODC) Counsel – Tracey Perlman

Ms. Perlman reported that the Office of Disciplinary Counsel (ODC) currently has 20 cases open with eight pending actions, eight pending hearings, three pending Final Orders, and one under appeal.

9. Approval of Consent Agreements

Ms. Perlman presented Consent Agreements for licensees who had failed to submit timely renewals and had continued to practice while not renewed. The licensees had renewed by December 31, 2016. Funeral Establishments that failed to timely renew are King Funeral Home, Kistler-Hardee Crematory, Kistler-Hardee Funeral Home, Latimer's Funeral Home, Shellhouse Funeral Home, Inc., Shellhouse-Rivers Crematory, Shellhouse Rivers Funeral Home, Shields Funeral Home, Inc., Summerton Funeral Home, LLC, and Sumter Funeral Service, Inc. Dual Licensees and Funeral Directors that failed to timely renew are Frederick A. Fielding, Joyce D. King, George H. Latimer, Jr., Marvin K. Latimer, and Annie D. White.

MOTION

Mr. McMillan made a motion to approve the Consent Agreements, Ms. Cooper seconded, and the motion carried unanimously.

10. Disciplinary Hearings – Tracey Perlman – Case Nos. 2016-8, 2016-12

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

Tracey Perlman represented the State while Robert Tyson and William Jordan of Sowell Gray Robinson represented the Respondents.

The State alleges that:

Respondent, Palmer Memorial Chapel Inc. ("Respondent-Establishment") is licensed to practice as a Funeral Establishment in Sumter, South Carolina and was so licensed at all times relevant to the matters asserted in this case. Respondent-Establishment was is owned and managed by Lori Peri Palmer ("Respondent-Owner"), acting as Funeral Director. For the purpose of this complaint, unless otherwise noted, Respondent-Establishment and Respondent- Owner will be collectively referred to as "Respondents."

The Board received an initial complaint and has investigated the conduct of Respondents. The Board has jurisdiction over Respondents and the subject matter contained herein.

Upon information and belief, Respondents have violated the Rules and Regulations of the Board of Funeral Services, S. C. Code Ann. § 40-19-5, *et. seq.* (1976, as amended) by committing the following acts:

CASE NUMBER: 2016-12

1. Before June 2014, the decedent originally had a preneed policy with Respondent-Establishment In or around June 2014, the preneed policy was allegedly transferred to Ephraim Stephens Funeral Home from the Respondent-Establishment.
2. On or about July 14, the decedent passed. Respondent-Owner was told by one of the decedent's children that her mother had passed away and for the Respondents to collect the body. With the knowledge that there was an existing preneed held at a different funeral home, Respondent-Owner authorized her funeral home to obtain the remains of descendent.
3. On or about July 15, 2015, the Complainants requested that the Respondent-Establishment release the decedent's remains to Ephraim Stephens Funeral Home. Respondent disregarded the requests and did not transfer the remains. A copy of the letter that was sent to the Respondents along with documents indicating with whom the preneed was rightfully with is attached hereto and included herein as EXHIBIT #1.
4. On or about January 19, 2016, a complaint was filed with the Department of Labor, Licensing and Regulation in regards to this matter. Thereafter, Investigatory Kathy Meadows was assigned to the case.
5. On or about March 7, 2016, Investigator Meadows gave the Respondents a copy of the notice of complaint.

6. On or about March 8, 2016, Investigator Meadows spoke to the owner of Ephraim Stephens Funeral Home and discovered that he never received a copy of the original preneed. The only thing Mr. Stephens received in regards to the preneed was a \$360 check; however, he explained how the remainder of the preneed was going to be paid by the decedent's insurance policy.

7. On or about March 21, 2016, the Respondents submitted a response, along with accompanying documents, in regards to the notice of complaint. A copy of the response along with the accompanying documents are attached hereto and included herein as EXHIBIT #2.

CASE NUMBER: 2016-8

1. This case hereby adopts all facts (1-7) and accompanying exhibits (1-2) listed above in "Case Number: 2016-12" as applicable herein.

2. Respondent-Owner is the owner of the funeral establishment where the alleged facts and violations of Respondent-Establishment relevant to Case Number 2016-12 occurred. Respondent-Owner knowingly and intentionally allowed the continued violation of a state law concerning funeral establishments.

As a result of the acts of misconduct alleged above, Respondent has violated the Rules and Regulations of the Board of Funeral Service in the following particulars:

CASE NUMBER: 2016-12

1. Respondent-Establishment has violated S.C. Code Ann. § 40-1-110(l)(f) in that Respondent-Establishment has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public through their failure to fully execute the transfer of a preneed contract and their failure to release the decedent.

2. Respondent-Establishment has violated S.C. Code Ann. § 40-1-110(l)(g) in that Respondent-Establishment lacks the professional or ethical competence to practice the profession or occupation through their failure to fully execute the transfer of a preneed contract.

3. Respondent-Establishment violated S.C. Code Ann. § 40-19-110(9) in refusing to properly release a dead human body to the custody of the person or entity who has the legal right to effect a release.

CASE NUMBER: 2016-8

1. Respondent-Owner has violated S.C. Code Ann. § 40-1-110(l)(f) in that Respondent-Owner has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public through their failure to fully execute the transfer of a preneed contract and their failure to release the decedent.

2. Respondent-Owner has violated S.C. Code Ann. § 40-1-110(l)(g) in that Respondent-

Owner lacks the professional or ethical competence to practice the profession or occupation through their failure to fully execute the transfer of a preneed contract.

3. Respondent-Owner violated S.C. Code Ann. § 40-19-110(9) in refusing to properly release a dead human body to the custody of the person or entity who has the legal right to effect a release.

Pursuant to S.C. Code Ann. Sections 40-19-110 and 40-1-120 (1976 as amended), the Board may, among other actions, issue a public reprimand, impose a fine, place a licensee on probation or restrict or suspend the individual's license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension, including but not limited to, satisfactory completion of additional education, of a supervisory period, or continuing education programs, permanently revoke the license.

Both parties presented arguments and witnesses. Ms. Perlman noted that the State would like to request dismissal of any alleged practice act violations in Case No. 2016-12 against the Respondent-Establishment. Respondent's counsel consented. Ms. Perlman also noted that the State would also request dismissal of allegation #2, S.C. Code Ann. § 40-1-110(l)(g), in Case No. 2016-8 against Respondent-Owner. Respondent's counsel consented. Ms. Perlman noted the State still alleges practice act violations #1, S.C. Code Ann. § 40-1-110(l)(f), and #3, S.C. Code Ann. § 40-19-110(9) against Respondent-Owner.

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice. Mr. McMillan seconded the motion which was passed unanimously.

Return to Public Session

MOTION

Mr. Horton made a motion to come out of Executive Session. Mr. McMillan seconded the motion which was passed unanimously.

Mr. Nelson noted that no action was taken in Executive Session.

MOTION

Ms. Cooper made a motion that allegations #1 and #3 of Case No. 2016-8 be dismissed. Mr. McKnight seconded the motion which was passed unanimously.

11. Adjournment

MOTION

Mr. Horton made a motion to adjourn the meeting, Mr. McMillan seconded, and the motion passed unanimously.

Mr. Nelson adjourned the February 22, 2017 meeting for the South Carolina State Board of Funeral Service at 5:31 p.m. The meeting will be reconvened on February 23, 2017 at 10:00 am

**South Carolina State Board of Funeral Service
Board Meeting
Thursday, February 23, 2017**

14. Meeting Called to Order

Eddie M. Nelson, President, of Blythewood, called the regular meeting of the South Carolina State Board of Funeral Service to order on February 23, 2017 at 10:05 a.m. Other Board members present for the meeting included: Charvis K. Gray Secretary, of Piedmont; Stephen R. Gantt, of Greenwood; Wallace McKnight, Jr., of Andrews; William B. Horton, Jr., of Kingstree; Michelle A. Cooper, of Moncks Corner; and Stephen Lee McMillan, Jr. of Myrtle Beach.

Staff members participating in the meeting included: Donnell Jennings, Advice Counsel, Office of Advice Counsel; Tracey Perlman, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; Norma McAllister, Program Assistant; Holly Beeson, Office of Communication and Government Affairs; Darra Coleman, Office of Advice Counsel; Sharon Wolf, Chief Investigator, Office of Investigations and Enforcement; Ernest Adams, Inspector, Office of Investigations and Enforcement, and William Poole, Inspectors, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Scott C. McCall of Union, SC; Daniel Jordan of Stoudenmire-Dowling Funeral Home; Samuel Dowling of Stoudenmire-Dowling Funeral Home; Johnathan Holley of JP Holley Funeral Home; Sylvia Holley of JP Holley Funeral Home; Joya Holley of JP Holley Funeral Home; Israel M. Broderick of The Palmetto Mortuary, Inc.; Ethel Broderick of Mt. Pleasant, SC; Gloria Snipes of Mt. Pleasant, SC; Alberthe Buster of Mt. Pleasant, SC; Adrian Snell of Mt. Pleasant, SC; Elizabeth Simmons, South Carolina Mortician Association; and Jacob Flowers, South Carolina Department of Consumer Affairs;

A. Public Notice

Mr. Nelson announced that public notice of this meeting was properly posted at the South Carolina State Board of Funeral Service office, Synergy Business Park, Kingstree Abuilding, 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.

15. Introduction of Board Members and Persons Attending the Meeting

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

16. Approval of Excused Absence

Mr. Jeffrey Temples, Dr. D'Michelle DuPre, and Mr. Stephen McMillan were not in attendance.

MOTION

Mr. Horton made a motion to approve the absences.

Mr. Gray seconded the motion, which carried unanimously.

New Business

Application Hearings

18. New Funeral Home/Crematory and/or Change of Ownership

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

1. J P Holley Crematory – Johnathan P. Holley

Mr. Johnathan P. Holley, Ms. Sylvia Holley, and Ms. Joya Holley was present on behalf of the crematory. Mr. Holley is the proposed manager of the crematory, and the current manager of J P Holley Funeral Home. Inc. Mr. Holley is requesting the approval of this new facility and to be manager of record.

MOTION

Ms. Cooper made a motion to approve the new facility pending a favorable inspection, and to approve Mr. Johnathan P. Holley as the manager.

Mr. Gray seconded the motion, which carried unanimously.

19. Extension of Apprenticeship

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

1. Samuel G. Dowling

Mr. William Horton recused himself from the hearing.

Ms. Holleman informed the Board that Mr. Dowling completed his Funeral Director apprenticeship within two years. He began his apprenticeship on December 18, 2013, and completed it on December 18, 2015. The board staff received an extension request on January 12, 2017.

Mr. Dowling is currently employed at Stoudenmire-Dowling Funeral Home and has been employed with Stoudenmire-Dowling since November 2007.

Mr. Dowling enrolled at Piedmont Technical College in August 2016, and is currently enrolled. Mr. Dowling's anticipated graduation date is August 2018.

Mr. Dowling is applying for an extension of his apprentice Funeral Director license while completing his education.

Executive Session

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice.

Mr. McKnight seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Mr. McKnight made a motion that the Board return to public session,

Mr. Gray seconded the motion, which carried unanimously.

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

MOTION

Ms. Cooper made a motion to approve Mr. Dowling's request to extend his apprenticeship for two years for him to take the exam, and that Mr. Dowling must obtain a student permit.

Mr. Gray seconded the motion, which carried unanimously.

2. **Scott Clifton McCall**

Mr. Horton returned to the hearings.

Ms. Holleman informed the Board that Mr. McCall's apprenticeship Funeral Director and Embalmer permit was initially issued on June 15, 2005 through June 15, 2007. In March 2011, Mr. McCall submitted an application to extend his apprenticeship, which was approved from March 31, 2011 through March 31, 2012. In June 2012 Mr. McCall was approved for his second extension, from June 11, 2012 through June 11, 2013.

On September 24, 2014, Mr. McCall informed Board Staff that he had completed the Funeral Services Education Certificate program at Piedmont Technical College, and requested to be licensed as a Funeral Director only at that time. Mr. McCall completed his apprenticeship, and was licensed as a Funeral Director on April 27, 2015.

Mr. McCall has an active Funeral Director's license (FD 3842), and is currently employed at Davenport Funeral Home. Mr. McCall stated he began his employment with Davenport Funeral Home in 2008.

Mr. McCall re-enrolled at Piedmont Technical College in the Funeral Service (A.A.S.) program on January 11, 2017, and anticipates graduating in the summer of 2018.

Mr. McCall is applying for an extension of his apprentice Embalmer license while completing his education.

Ms. Holleman informed the Board that Statute 40-19-240(B) states...the apprenticeship is to be served and is renewable twenty-four months after registration for twelve months..... A certificate may not be renewed more than three times. Ms. Holleman stated Mr. McCall has renewed his apprenticeship twice, therefore he is limited to a one year extension.

Executive Session

MOTION

Ms. Cooper made a motion to go into Executive Session to receive legal advice.

Mr. Horton seconded the motion, which carried unanimously.

Return to Public Session

MOTION

Ms. Cooper made a motion that the Board return to public session,

Mr. Gray seconded the motion, which carried unanimously.

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

MOTION

Ms. Cooper made a motion to approve Mr. McCall's apprenticeship extension for one year, during this period Mr. McCall is required to complete 25 embalming cases. Mr. Gray seconded the motion, which carried unanimously.

The Board informed Mr. McCall that if he is not licensed within the one year, and continues to practice he would be practicing as an unlicensed embalmer which is illegal.

20. Acceptance of Completed Apprenticeship

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

1. Israel Monroe Broderick

Ms. Holleman informed the Board that Mr. Broderick is asking the Board to accept his apprenticeship that was completed on February 20, 2009. Mr. Broderick passed the State Funeral Arts Exam in December 2016. Board staff received Mr. Broderick's application for Funeral Director on January 9, 2017

Executive Session

MOTION

Mr. Horton made a motion to go into Executive Session to receive legal advice. Mr. Gray seconded the motion, which carried unanimously.

Return to Public Session

MOTION

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

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

MOTION

Ms. Cooper made a motion to accept Mr. Broderick's apprenticeship, and that Mr. Broderick must pass the state exam within six months of the date of the final order, and become licensed as a Funeral Director, if Mr. Broderick does not complete exam, and become licensed as a Funeral Director within the six months, Mr. Broderick will be required to reappear before the Board.

Mr. Horton seconded the motion, which carried unanimously.

21. Board Member Training

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

Ms. Darra Coleman, Office of Advice Counsel, provided the introduction, and explained the purpose for the overview. Ms. Coleman provided an overview of the Selected Board Issues section.

Ms. Wolfe presented the information for the Office of Enforcement and Investigations. Ms. Perlman. Office of Disciplinary Counsel provided clarification regarding the investigation process, and recommendations/actions, and she explained the procedures of the Office of Disciplinary Counsel.

22. Legislative Committee Report

Ms. Beeson informed the Board at this time the Funeral Practice Act is open. Ms. Cooper initiated a discussion if consideration should be given Statute 40-19-265(D)(4) regarding a crematory manager, and should the language be changed to exclude a stand-alone crematory.

Mr. Horton presented the Committee Report for SENATE BILL 185

SENATE BILL 185 General Bill Sponsors: Senator Shealy

Introduced in the Senate on January 10, 2017, and currently residing in the Senate Committee on Labor, Commerce and Industry.

- TO AMEND SECTION 40-19-20(1) OF THE 1976 CODE, RELATING TO THE DEFINITION OF “ADVERTISEMENT” AS USED IN REGARD TO EMBALMERS AND FUNERAL DIRECTORS, BY ADDING THE TERM “INTERNET” TO THE DEFINITION OF ADVERTISEMENT;
- TO AMEND SECTION 40-19-20 OF THE 1976 CODE BY ADDING A DEFINITION FOR THE TERM “THIRD PARTY FUNERAL SERVICE PROVIDER”;
- AND TO AMEND CHAPTER 19, TITLE 40 OF THE 1976 CODE, BY ADDING SECTION 40-19-40, TO PROVIDE THAT
 - THIRD PARTY FUNERAL SERVICE PROVIDERS MUST BE LICENSED BY THE STATE FUNERAL SERVICE,
 - TO PROVIDE NOTICE AND DISCLOSURE REQUIREMENTS FOR THIRD PARTY FUNERAL SERVICE PROVIDER ADVERTISEMENTS,
 - TO PROVIDE FOR LICENSE REVOCATION FOR VIOLATIONS OF THE ADVERTISING REQUIREMENTS,
 - TO PROVIDE THAT THE STATE BOARD OF FUNERAL SERVICE SHALL PRESCRIBE THE FORMAT OF ADVERTISEMENT DISCLOSURE BY REGULATION,
 - AND TO PROVIDE THAT THIRD PARTY FUNERAL SERVICE PROVIDERS MUST DISCLOSE TO CUSTOMERS THE NAME AND CONTACT INFORMATION OF THE FUNERAL ESTABLISHMENT THAT WILL BE IN CHARGE OF HANDLING ALL FUNERAL ARRANGEMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 40-19-20(1) of the 1976 Code is amended to read:

“Section 40-19-20. (1) ‘Advertisement’ means the publication, dissemination, circulation, or placing before the public an announcement or statement in a newspaper, magazine, or other publication in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over radio, ~~or~~ television, or internet. The term does not include funeral or death notices and obituaries.”

B. Section 40-19-20 of the 1976 Code is amended by adding:

“(21) ‘Third party funeral service provider’ means an out-of-state broker, which is a licensed funeral director working through a licensed home in the state that the broker

is located, that arranges, via telephone, email, mail, the internet, or by other means, for funeral services to be performed by licensed funeral directors and funeral establishments in this State.”

SECTION 2. Chapter 19, Title 40 of the 1976 Code is amended by adding:

“Section 40-19-40. (A) A third party funeral service provider, its officers, employees, agents, or assigns must be licensed with the State Board of Funeral Service.

(B)(1) Third party funeral service providers must disclose the following information in all advertisements:

- (a) license number;
- (b) address and phone number;
- (c) conspicuous disclaimer if located out of state;
- (d) name of owner; and
- (e) list of all participating funeral establishments.

(2) The State Board of Funeral Service must revoke the license of a third party funeral service provider if the provider fails to prominently disclose the information required by subsection (B)(1).

(C) Third party funeral service providers must disclose to customers the name and contact information of the funeral establishment that will be directly providing, assisting, or otherwise participating in the practice of funeral service.

(D) The State Board of Funeral Service, by regulation, shall prescribe the format of all advertisement disclosures.”

SECTION 3. This act takes effect upon approval by the Governor.

The Committee made the following preliminary findings, and recommendations:

1. The Committee agreed with the amendment to Section 40-19-20(1), adding the term, “Internet“ to the definition of advertisement.
2. The Committee stated the South Carolina Board of Funeral Service does not have jurisdiction outside of the State of South Carolina.
3. The Committee determined that if Section 40-19-21 is deleted since the Board does not have out-of-state jurisdiction, then Section 40-19-40 would not be needed.
4. The Committee stated the best course of action may be reinforcing/strengthening, existing statutes to discourage South Carolina State Board of Funeral Service licensee from conducting business with an out-of-state “Third Party Service Providers:”
 - A. 40-19-110(4) employing persons known as “cappers” or “steerers” or “solicitors” or other persons to obtain business for the licensee by better defining “cappers”, “steerers” and “solicitors” and better defining the word “employing.”
 - B. 40-19-110(6) directly or indirectly paying or offering to pay a commission by a licensee or a licensee’s agents, assistants, or employees to secure business
 - C. 40-19-110(7) aiding or abetting an unlicensed person to engage in the practice of funeral service; (Define the words aiding or abetting in the Practice Act)
 - D. 40-19-110-(15) permitting an unlicensed person to engage in the practice of funeral service (Most online services do not have licensed funeral personnel)
5. The Committee stated misleading advertisements by out-of-state providers can be referred to the Federal Trade Commission
6. The Committee stated there are two third-party funeral services business models that are being used: business to business and business to the public.

7. The Committee recommended that the Bill be structured to protect the public.
8. The Committee recommended, if the Senate Bill 185 continues to be introduced as is, that the term "out-of-state broker" in 40-19-21 be removed, that the "Third party funeral service provider be defined; that in Section 40-19-40(A) that it be written "A third party funeral service provider located in South Carolina; that in 40-19-40(B)(2) the wording be changed to state, "The State Board of Funeral Service may".
9. The Committee recommended that the Administrator research and contact her colleagues in the states of North Carolina, Georgia, Florida, Tennessee, Virginia, and Alabama regarding its state laws/statutes on aiding and abetting an unlicensed person and whether or not they have any statutes or regulations pertaining to third-party funeral services providers and/or have issued any public orders on those practicing as such. Ms. Holleman stated will email the results to Donnell Jennings and Holly Beeson.

In conclusion, the Committee requested additional time to research, present concerns, provide findings, and recommendations pertaining to Senate Bill 185. Mr. Jennings recommended the Board designate a legislative liaison.

MOTION

Mr. McKnight made a motion to designate Mr. Horton as the legislative liaison.
Mr. Gray seconded the motion, which carried unanimously.

24. Public Comments (no votes taken)

No comments were made by the public.

25. Adjournment

MOTION

Ms. Cooper made a motion to adjourn the meeting,
Mr. Gray seconded, and the motion passed unanimously.

Mr. Nelson, after ensuring there being no further business to discuss, adjourned the February 23, 2017 meeting for the South Carolina State Board of Funeral Service at 2:33 p.m.

The next meeting of the South Carolina Board of Funeral Service is scheduled for March 28, 2017 at 10:00 a. m., at Synergy Business Park, 110 Centerview Drive, Kingstree Building, Room 108, Columbia, South Carolina.