

MINUTES
South Carolina Board of Funeral Service
Board Meeting

10:00 a.m., November 14, 2014
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 108
Columbia, South Carolina

Friday, November 14, 2014

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 10:05 a.m. Other Board members present for the meeting included: Charlie Bradford Evans, Vice President, of Abbeville; Marcus D. Brown, Secretary/Treasurer, of Anderson; Michelle Cooper, of Monks Corner; 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; and, Sharon Wolfe, Chief Investigator, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Lou Ann Pyatt, of the SC Morticians Association (SCMA); Willie Aiken, of Heritage Funeral Home; Milton Barnwell, of Heritage Funeral Home; Linda Barnwell, of Heritage Funeral Home; James Davis, Davis Funeral Home; Deirdre Davis-Dicks, of Davis Funeral Home; Leonard Jackson, Davis Funeral Home; Deondra Martin, Martin Funeral Home; Robert B. Cooper, Jr., of Rhues Mortuary; Randolph Shives, of Shives Funeral Home; Sam Rhue, of Rhues Mortuary; Tanoka Acker, of Webb-Settles Funeral Home; Eric O'Dell, of Shives Funeral Home; Michael Glenn, of Michael A. Glenn Funeral Home; Norman Dawkins, of Community Mortuary; Judson Horner, of Bass-Cauthen Funeral Home; Alvin Dimery, of Dimery & Rogers Funeral Home; Helen Dimery, of Dimery & Rogers Funeral Home; Gloria W. Outlaw, of Dimery & Rogers Funeral Home; James Wright, of J. W. Woodward Funeral Home; Shannon M. Chandler, Esq., attorney for Brendolyn L. Jenkins; Willie Benton, of Walkers Mortuary; Christy McFadden, of Walkers Mortuary; Bakari Sellers, Esq., of Strom Law Firm; Robyn Madden, Esq., of Strom Law Firm; John H. Martin, of Martin Funeral Home; Synatra W DeLoach, of Walkers Mortuary; Lillie D Walker, of Walkers Mortuary; Willie Frick; Alton B Cumbie, III, of Robinson Funeral Home; and, Jimmy E. Wilson, of Robinson Funeral Home.

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

Thomas E. Baker, II, of Kershaw; and, William B. Horton, Jr., of Kingstree were granted excused absences.

MOTION

Ms. Cooper made a motion that the Board excuse Mr. Baker's and Mr. Horton's absences. Mr. O'Steen seconded the motion, which carried unanimously.

4. Reports

A. Office of Investigations and Enforcement (OIE) Report

Ms. Wolfe informed the Board that there are currently 23 active investigations, twelve do not open cases, three opened case, eleven pending Board action, and eight closed cases from January 1, 2014 through November 5, 2014, and two pending IRC. And the oldest active case is 245 days.

MOTION

Mr. Evans made a motion that the Board accept the OIE report as information. Mr. Temples seconded the motion, which carried unanimously.

B. 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 28 cases, twelve cases are pending action, thirteen cases pending hearings, three pending final orders hearings, and two closed.

MOTION

Mr. Nelson made a motion that the Board accept the ODC report as information. Ms. Cooper seconded the motion, which carried unanimously.

5. Approval of Minutes for the October 23, 2014

Mr. Nelson stated that he noticed on line 67 there was a committee formed. He wanted to know what this committee is for.

Mr. Evans stated this committee is for giving administrative authority for Ms. Cubitt to approve applications.

Mr. Nelson stated he was late to that meeting and stated this Board is made up from two associations so the committee should be made up from the Board members from both associations.

MOTION

Mr. Temples made a motion on that the Board accept the meeting minutes for the October 23, 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 Boards review.

B. Invalidation of National Board Exam scores

Ms. Cubitt stated that the International Conference has notified staff that there has been a breach in the national exam security.

As a result specific exam grades have been deemed invalid across the country. In South Carolina there were two candidates that were affected. Those candidates may retake the exam(s) and the new grades will be accepted.

C. Continuing Education (CE) Timeline

Ms. Cubitt stated that there have been issues in getting the CE approved timely. She stated we currently stated that we must receive the CE material at least 30 days prior to course date for review. She stated that it usually takes longer than that for processing. So she suggested that the Board increase the time to 60 days to allow the Board to notify the provider and give them adequate time to notify licensees.

MOTION

Mr. O'Steen made a motion that the Board increase the time to 60 days. Mr. Temples seconded the motion, which carried unanimously.

Amend Agenda

MOTION

Mr. Evans made a motion that the Board amend the agenda to move items 11) new funeral home, 12) manager change, 13) reciprocity, 14) accept completion of embalming apprenticeship early, 15) request to serve apprenticeship 2nd time while attending mortuary college, and, 16) acceptance of apprenticeship, to after item 8) Approval of MOA. Mr. Nelson seconded the motion, which carried unanimously.

8. Approval of Consent Agreement (CA) – Tracey Perlman

1. Case No. OIE – 2013-67 – Franklin P. Cannon, II

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

Ms. Perlman stated that respondent was contacted on November 28, 2013, when the complainant's husband passed away. The complainant's husband died in Georgia and agreed to have his body transferred to Landrum because his mother resides there. On December 12, 2013, the decedent's body arrived in Landrum. The complainant did not think the body would be preserved until the day of services and allegedly informed the respondent to cremate the deceased as soon as the body was received. The next day, respondent embalmed the body after the complainant asked them not to.

The respondent was initially given directions regarding the services by the mother of the deceased. The respondent attempted to contact the wife regarding the physical condition of the body, but he was not able to reach her and embalmed the body. The respondent performed services on the deceased before consent could be obtained.

The respondent admits that the conduct in this matter is in violation of 40-19-290(A), 40-19-290 (B), 40-19-290(D) and 57-13(A)(3).

MOTION

Mr. Evans made a motion that the Board accept the consent agreement for Case Number 2013-67 as written. The Respondent will be on probation for one (1) year and pay a Two Thousand Dollar

(\$2,000.00) fine within ninety (90) days of the effective date of the Board's Order. Ms. Cooper seconded the motion, which carried unanimously.

9. Approval of Memorandum of Agreement (MOA) – Tracey Perlman

1. Case No. OIE – 2009-43 John H. Martin
2. Case No. OIE – 2012-44 John H. Martin
3. Case No. OIE – 2013-26 John H. Martin

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

Ms. Perlman stated that the respondent is the owner/operator of Martin Funeral Home. Prior to the respondent taking over the funeral home, the funeral home was known as Cave Funeral Services and operated by Michael G. Cave. On June 2, 2009, Cave Funeral Services and Michael G. Cave had its licenses revoked.

In reviewing the respondents' application to take over Cave Funeral Home, the Board specifically stated that Mr. Michael Cave and Mr. Charlie Cave were not to be involved in the funeral home's day to day operations.

Michael Cave and Charlie Cave continued to participate in funeral services at Martin Funeral Home.

On or about May 25, 2012, the respondent acted as funeral director for a decedent. On or about March 12, 2013, the South Carolina Department of Health and Environmental Control (DHEC) mailed respondent a certified letter regarding his failure to file decedent's death certificate within five (5) days of decedent's death.

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. Temples 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 all violations. Based on the facts of violating Sections 40-1-110(1)(f), 40-19-110(7), 40-19-110(14), 40-19-110(15), and 61-19-18(a). The Board feels that the appropriate sanctions are for the Respondent's license be revoked. Mr. Temples seconded the motion, which carried unanimously.

10. Disciplinary Hearing – Tracey Perlman

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

Ms. Perlman stated that they have requested a continuance which was granted.

2. Case No. OIE – 2013-23 Brendolyn L. Jenkins

Ms. Perlman stated that on or about February 15, 2013, Respondent forged the name of the wife of the deceased, Willie Lee Dicks, to an Irrevocable Assignment of Death Benefits Special Power of Attorney.

Respondent also notarized the document using her own notary stamp.

Policy Express, Inc. of Cayce, South Carolina, released a loan in anticipation of receiving death benefits to the respondent, who was acting on behalf of Sunset View Mortuary, Batesburg, South Carolina.

At the time of Mr. Dicks' death, Brendolyn L. Jenkins was not a Funeral Director at Sunset View Mortuary and was not authorized to quote or render services on behalf of Sunset

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. Temples made a motion that the Board return to public session. Mr. Petty 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 all violations, Sections 40-1-110(1)(f), 40-19-110(1), and 57-13(6). The Board feels that the appropriate sanctions are for a public reprimand the Respondent's license, pay a Thousand Dollar (\$1,000.00) fine paid within 30 days of the effective date of the Board's Order. Mr. Evans seconded the motion, which carried unanimously.

New Business

Application Hearings

11. New Funeral Home or Ownership change

1. Community Mortuary Inc – Norman D. Dawkins
2. Michael A. Glenn Funeral Home – Michael A. Glenn

Ms. Rose stated that Ms. Ashley Glenn Robinson is the proposed owner of Community Mortuary Inc and Michael A. Glenn Funeral Home. Mr. Norman D. Dawkins is the proposed manager for Community Mortuary Inc and Mr. Michael A. Glenn is the proposed manager for Michael A. Glenn Funeral Home.

Mr. Glenn stated that his daughter, Ashley Glenn Robinson, is purchasing Michael A. Glenn Funeral Home LLC and Michael A. Glenn Funeral Home LLC is purchasing Community Mortuary Inc. So both funeral homes will be owned by Michael A. Glenn Funeral Home LLC.

Executive Session

MOTION

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

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

Mr. Nelson asked how many funeral homes the corporation currently owns. Mr. Glenn stated that currently Community Mortuary, Inc. has one funeral home, and Michael A. Glenn Funeral Home has three funeral homes. He stated once the purchase is complete there will only be two funeral homes, Community Mortuary, Inc. and Michael A. Glenn Funeral Home.

MOTION

Mr. Evans made a motion that the Board approve the applications with the proposed managers pending passing final inspection for both facilities and after all four current funeral home permits are turned in to the Board. Mr. Temples seconded the motion, which carried unanimously.

3. Dimery & Rogers Funeral Home LLC (PAR) – Alvin Dimery
4. Dimery & Rogers Funeral Home & Chapel of Florence (BRAN) – Alvin Dimery

Ms. Rose stated that she noticed at the time of renewal that they had a different taxID number for the parent funeral home and the branch. When she called she was informed that the parent was owned by the mother, and the branch was owned by the son and sisters. Ms. Rose stated that they cannot have different owners and have a parent and a branch. To have a true parent and branch you must have the same owners. Ms. Dimery stated no her brother misspoke because both are owned by all siblings. Ms. Rose stated our records showed two different owners on the previous applications. Ms. Dimery stated that the parent funeral home was owned by the mother, but she relinquished her shares to her children years ago. Ms. Rose stated that will still be an ownership change that the Board was not aware of. So she would have to submit an ownership application and go before the Board.

MOTION

Mr. Evans made a motion that the Board approve the application with Mr. Dimery as manager. Mr. Nelson seconded the motion, which carried unanimously.

5. Rhue's Mortuary LLC – Robert Benjamin Cooper Jr.

Ms. Rose stated that when the renewal was received she noticed that they were using three different corporation names, Rhue, Rhue and Williams, LLC, Rhues' Mortuary, LLC and Rhue's Mortuary, Inc. and when she asked why; she was told that the shares had changed over the years. Ms. Rose stated that is an ownership change; they would have to appear before the Board; and, they must choose one corporation name.

MOTION

Mr. Nelson made a motion that the Board approve the application with Mr. Cooper as manager pending final receipt of documents for LLC and updating of their website for LLC. Mr. Brown seconded the motion, which carried unanimously.

6. Walker's Mortuary Chapel of Peace, LLC – Willie Benton

Ms. Rose stated that Mr. Chris Walker had passed away and the ownership had been finalized with probate. She also noticed that they were using three different corporation names, Walker's Mortuary Chapel of Peace, LLC, Walker's Mortuary Chapel of Peace, and Walker Mortuary Chapel of Peace, LLC. She stated they must appear before the Board for ownership change and they must choose one corporation name.

Ms. Cooper stated that Mr. Benton is currently manager of Milligan's Funeral Home so he can't be manager of Walker's Mortuary Chapel of Peace. Mr. Benton stated that Milligan's Funeral Home closed in October 2014, and Board staff confirmed.

MOTION

Mr. Brown made a motion that the Board approve the application with Mr. Benton as manager pending receipt of the remaining fees of \$190. Mr. O'Steen seconded the motion, which carried unanimously.

12. Manager Change

1. Heritage Funeral Home – Willie Aiken

Ms. Rose stated that Mr. Aiken has other fulltime employment with Jasper County school district.

Mr. Aiken stated the funeral home doesn't do enough business to warrant him quitting his current fulltime job to work for the funeral home. So he requested the Board waive the 35 hours a week requirement for manager of the funeral home and give them more time to work it out.

Ms. Barnwell spoke to the Board requesting that they please reconsider since their funeral home only has about twelve cases a year, and that is on a good year. She stated they are Allendale, and that is a very poor community, so they do more free funerals verses paid funerals.

She stated they are trying to get a funeral director that meets the manager requirements such as working fulltime and the mileage. She and Mr. Barnwell requested the Board allow them time to get a funeral director manage for the funeral home.

Mr. Evans pointed out that the statute states they have 30 days to get a manager. He stated that the Board is sympathetic with their issue, but the law is very clear.

MOTION

Mr. Evans made a motion that the Board deny the application with Mr. Aiken as manager since the law states they must have a manager within 30 days that meet the manager requirements. Ms. Cooper seconded the motion, which carried unanimously.

2. Webb-Settles Funeral Home – Darryl J. Mattison

Mr. Brown recused himself since he is the owner's apprentice supervisor.

Ms. Acker stated she is the owner of the funeral home and isn't sure why Mr. Mattison isn't at the meeting since he hasn't returned any of her phone calls.

Mr. Imgrund read a letter received from Mr. Darryl J. Mattison that was received the morning of the meeting.

"To Whom It May Concern,

This correspondence is a follow-up to the telephone conversation I had with Wendi Elrod on Thursday morning, November 13, 2014. The reason for the call was to notify LLR that I was no longer associated with Webb-Settles Funeral Home of Greenville, SC and I have not acted in capacity as manager since the deadline for the facility's permission for temporary manager ceased on October 15, 2014."

Executive Session

MOTION

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

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

Mr. Imgrund stated since the Board has received the letter from Mr. Mattison the funeral home doesn't have a licensed funeral director. So Ms. Acker will need find a new manager and send in the application packet to the Board so we may put them on the next agenda after the application is received.

Amend Agenda

MOTION

Mr. Evans made a motion that the Board amend the agenda to move back to items 9) 1 thru 3 Approval of MOA, cases 2009-43, 2012-44 & 2013-26. Ms. Cooper seconded the motion, which carried unanimously.

13. Reciprocity

1. James Cleveland Wright – Funeral Director/Embalmer

Mr. Wright is reciprocating from North Carolina. Mr. Wright has been licensed in North Carolina since 1968. When Mr. Wright was licensed there were no educational or exam requirements in North Carolina. Mr. Wright's license is current and in good standing. The South Carolina statute from 1962 did not require education; however, it did require the taking and passing of an exam.

MOTION

Mr. Evans made a motion that the Board approve Mr. Wright to sit for the SC Law exam and once passed the reciprocal license to be issued. Mr. Nelson seconded the motion, which carried unanimously.

14. Accept completion of Embalming Apprenticeship early

1. Judson Horner – Apprentice Embalmer

Mr. Horner is currently licensed as a funeral director and he is completing his embalming apprenticeship. When he started his apprenticeship he applied for a dual apprentice, but as a result of transition within the company he had to switch his preceptor, which was only a funeral director. Six months later he was able to switch back to a dual licensed funeral

director/embalmer. Unfortunately, the embalming portion of his apprenticeship would have to be extended six months. He currently has 22 months and 10 days for his embalming apprenticeship and he has met all the case requirements.

He has a unique job opportunity coming available to him within the month. This new job opportunity will require him to make the move to Florida within a month. He has met all the apprenticeship requirements except for the time frame. He requests that the Board accept his embalming apprenticeship as complete so he may be issued a dual license early based upon his faithful diligence.

MOTION

Mr. Evans made a motion that the Board deny Mr. Horner's request per statute 40-19-230 (A)(5) and regulations 57-04(E) and 57-06.1 stating that a 24 month apprenticeship must be completed. Ms. Cooper seconded the motion, which carried unanimously.

15. Request to serve Apprenticeship 2nd time while attending Mortuary College

1. Eric R O'Dell – Apprentice Funeral Director/Embalmer

Mr. Temples recused himself since he knows Mr. O'Dell.

Ms. Rose stated that once the apprenticeship is completed the apprentice is unable to extend unless they haven't met the apprentice requirements. Apprentices may extend for no more than five (5) years to meet the apprentice requirements. Ms. Rose stated that Mr. O'Dell is requesting to extend his apprenticeship for one more year while he completes his educational requirements.

Mr. O'Dell stated he is currently enrolled at Piedmont Tech and will graduate in early 2015.

MOTION

Mr. Evans made a motion that the Board allow him to extend his apprenticeship for one year while completing his education. Mr. Nelson seconded the motion, which carried unanimously.

16. Acceptance of Apprenticeship

1. Jimmy Ellis Wilson, Jr. – Apprentice Funeral Director/Embalmer

Ms. Cubitt stated that Mr. Wilson applied for the funeral director license, but we noticed that he had not completed his funeral director/embalmer apprenticeship. He served his apprenticeship September 5, 2007, thru September 5, 2009, but didn't complete the months or cases. On December 29, 2009, Mr. Wilson submitted his 2nd apprentice application to extend the apprenticeship; however, it wasn't issued as it was not complete. So on January 6, 2010, a deficiency letter was sent to him at his current address indicating the items that were missing from the application.

On January 24, 2011, Mr. Wilson called inquiring on why the permit for the apprenticeship wasn't issued in 2010 since the check was cashed. He was informed that a deficiency letter was mailed to him on January 6, 2010, to his address, which he confirmed was the correct address. He was told that since a year had passed since the deficiency letter was sent he needs to reapply by submitting the complete application packet again, which included application, documents and fees.

Mr. Evans asked on how many months are missing from Mr. Wilson's apprenticeship. Ms. Cubitt stated that once he realized that he hadn't met the requirements, he submitted two quarterly

reports, April-June 2009 and July-September 2009, but the reports were unsigned by the apprentice and supervisor.

She stated we have not received October-December 2008 at all.

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

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

MOTION

Mr. Temples made a motion that the Board deny Mr. Wilson's request. He must complete the requirements by showing proof that he has completed three quarters and met all case requirements. Mr. Nelson seconded the motion, which carried unanimously.

17. Public Comments (no votes taken)

No public comments at this time.

18. Adjournment

MOTION

Mr. Evans made a motion the Board adjourn and the next meeting start at 9:00 a.m. Mr. O'Steen seconded the motion, which carried unanimously.

The November 14, 2014, meeting of the SC Board of Funeral Service adjourned at 4:49 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for December 11, 2014.