

MINUTES
South Carolina Board of Funeral Service
Board Meeting

11:30 a.m., Thursday, September 13, 2012
Synergy Business Park
110 Centerview Drive, Kingstree Building Room 202
Columbia, South Carolina

Thursday, September 13, 2012

1. Meeting Called to Order

Thomas E. Baker, II, Secretary, of Kershaw, called the meeting of the SC Board of Funeral Service to order at 11:45 a.m. Other Board members present for the meeting included: Kenneth E. Beasley, of Fountain Inn; Wallace McKnight, Jr., of Andrews; Michelle Cooper, of Moncks Corner; John L. Petty, III, of Landrum; and, Jeffrey K. Temples, of Columbia.

Eddie J. Nelson, of Blythewood; was replace by John H. Martin, of Estill.

Staff members participating in the meeting included: Wendi Elrod, Program Assistant; Jeanie Rose, Administrative Assistant; Amy Holleman, Administrative Assistant; Sara McCartha, Advice Counsel, Division of Legal Services; Jennifer Cooper, Division of Legal Services; and, Buddy Poole, Inspector, Office of Investigations and Enforcement.

Members of the public attending the meeting included: Danny Collins, of SC Dept of Consumer Affairs (SCDCA); Matalie Mickens, of SC Dept of Consumer Affairs (SCDCA); Mike Squires, of the SC Funeral Directors Association (SCFDA); and, Greg Dunbar, Dunbar Funeral Home.

A video of this meeting can be viewed at www.llr.state.sc.us/POL/Funeral. On the Board's home page, click 'Board Information' and follow the link to the video.

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

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.

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

William B. Horton, Jr., of Kingstree; Charlie Bradford Evans, of Abbeville; Mark R. O'Steen, Spartanburg; and, John H. Martin, of Estill; were granted an excused absence.

MOTION

Mr. Temples made a motion that the Board approve Mr. Horton's, Mr. Evans', Mr. O'Steen, and Mr. Martin's absences. Mr. Petty seconded the motion, which carried unanimously.

4. Items

1. Discussion of possible Statute and Regulation changes
Resubmit the suggested changes from 2011 with a few minor changes.

Chapter 40-19 (statute) changes

- 40-19-20(3)

Full-Time Employee – There was some discussion regarding an apprentice working a full time job with the funeral home and working other outside employment. Mr. Temples stated he believes these should be brought before the board on a case by case basis.

- 40-19-20(12)(a)

Chapel – Mr. Baker opened the floor for discussion on how many seats should a chapel have. Ms. Cooper stated some areas are small so she believes thirty seats should be enough. Mr. Temples stated he thinks it fifty seats should be the minimum.

The changes should read:

“a chapel or parlor in which funeral services may be conducted should have seating for at least fifty persons”.

- 40-19-20(12)(d)

Hearse – Ms. Cooper stated that depending on the area this could be a van or SUV with landau bars.

The changes should read:

“at least one operating motor hearse, licensed in SC to the funeral establishment using the vehicle, for transporting human remains”.

The Board requested that Ms. Holleman research other states to see what how a hearse is defined.

- 40-19-20(20)

Preceptor – Ms. Cooper stated a preceptor should have been licensed a minimum of five years before they start training an apprentice. Mr. Temples stated the preceptor should be involved in funeral service for five years immediately preceding the application.

The changes should read:

“means a teacher, expert, and/or specialist who gives practical experience and training to a student or apprentice, and must be licensed a minimum of five years in South

Carolina and be actively involved in funeral service for a minimum of five years immediately preceding the application”.

- 40-19-200

Violations of chapter; submission of false licensing information; offense; penalties – Ms. Cooper stated the board has always been told they could only fine no more than \$500 per violation. She stated she believes it should be a minimum of \$500 and no more than \$5,000. Mr. Temples asked what is the most a board fines for a violation. Ms. McCartha stated she believes the most any board with LLR charges is \$10,000 per violation. He then asked can the board ask for criminal charges depending on the violation. Mr. Danny Collins from Consumer Affairs stated the pre-need law was changed for two parts. Part one is for administration fines and the second part is for criminal charges. Mr. Temples suggested that the board use the pre-need law as a guide to word the fine and criminal charges.

The changes should read:

“A person who practices or offers to practice funeral service in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars per violation or imprisoned for not more than six months, or both”.

- 40-19-235

Licensure requirements of applicant holding valid license in another state

There was discussion on what the board’s current policy is when someone holds a license in another state. Board staff stated if someone is licensed in another state with similar requirements and has passed the national exam they can apply in SC and will need to take the SC law exam.

If it is a state that isn’t substantially equivalent then they must have been license in another state or territory for a minimum of five years and passed an exam approved by the board and must pass the SC law exam.

The changes should read:

(A) “A person holding a valid embalmer or funeral director license in another state or territory having substantially similar requirements to the requirements of this chapter may apply for a license to practice in this State by submitting the appropriate nonrefundable fee, an application on a board-approved form, and a board-certified statement from the state or territory in which the person holds the license and has successfully taken and achieved a passing score on a national examination approved by the board and the South Carolina state law examination”.

(B) “The board may approve an applicant who presents evidence of licensure in another jurisdiction, even though that jurisdiction does not require substantially similar requirements, upon a showing that the applicant has engaged in the licensed practice of funeral service for at least five years and the applicant has achieved a passing score on an examination approved by the board as well as the South Carolina state law examination”.

- 40-19-240(E)

Apprentices; application; certificate; periodic reporting; eligibility for licensure; sponsor limitations

Ms. Cooper stated that the preceptor should really only needs to be a resident for one year but they need to be actively involved in funeral service for five years.

The changes should read:

“Only two apprentices at a time are permitted to register under any one person licensed as a funeral director or embalmer. Each sponsor for a registered apprentice must be actively connected with a funeral establishment. When the apprentice is assisting with funeral directing activities or embalming activities, the supervisor and/or preceptor must be present on the premises and readily available. A supervisor and/or preceptor must be licensed a minimum of five years before he or she can train an apprentice, and a supervisor and/or preceptor must be licensed and a resident of this State for a minimum of one year, and be actively involved in funeral service for a minimum of five years”.

- 40-19-265(A)(4), (B)(4), and (D)(4)

Ms. Cooper stated that she believes that the manager should reside within a thirty-five mile radius from the funeral home. Ms. Rose pointed out that Mr. Horton, in 2011 stated that he thought twenty-five miles should be enough. Mr. Beasley asked why not split the difference.

Mr. Temples stated that all crematories should be in compliance with the new statute. Mr. Beasley indicated that he thinks the board should give all crematories one year to be in compliance with the new statute.

The changes for 40-19-265(A)(4) and (B)(4) should read:

“designates a manager who meets the requirements of Section 40-19-20(17) and is current and in good standing with the board and lives within a radius of thirty miles of the establishment”.

The changes for 40-19-265(D)(4) should read:

“designates a manager who meets the requirements of Section 40-19-20(17) and is current and in good standing with the board, is a certified crematory operator, and lives within a radius of thirty miles of the establishment”.

- 40-19-270 Identification Prior to Cremation

Ms. Cooper stated that she thinks the coroner’s or medical examiners identification needs to be added.

The changes should read:

A) Positive identification of the body must be made prior to cremation by means of:

- (1) a current photograph; or
- (2) positive identification by next-of-kin; or
- (3) positive identification by an authorized agent of the next-of-kin; or
- (4) a designated agent of the deceased; or
- (5) a coroner's or medical examiner's identification

Chapter 57 (regulations) changes

- 57-06 (1)(4) Apprenticeship Requirements

Mr. Temples stated that he believes "direct" should be deleted because the supervisor should be on the premises. But the way he reads the current regulation the meaning of "direct supervision" means that the supervisor needs to be right there with the apprentice.

The changes should read:

"The apprentice embalmer or funeral director must conduct all embalming and funeral direction activities under the supervision of the designated supervising licensee as approved by the Board. When the apprentice is assisting with funeral directing activities or embalming activities, the supervisor must be present".

- 57-09 Provisions for Biennial Renewal of Licenses and Reactivation of Expired Licenses

Ms. Elrod stated since the board is on a two year license period then the regulation should be changed from annual to biennial. In (A) the "one (1)" year should be changed to "two (2)" years. In (B) we need to add "even" before year so it will read "June thirtieth (30) each even year".

The changes should read:

"(A) All licenses and renewals expire on the thirtieth (30th) day of June unless sooner revoked or canceled. No license may be issued or renewed for a period exceeding two (2) years".

Section 57-12 (fees) changes

Ms. Cooper stated fees submitted in 2011 should be doubled since the statute and regulations are being changed from annual to biennial.

The changes should read:

- 57-12 Fees

(A) Fees as follow:

- (1) Initial Application and License Fee
 - (a) Funeral Director Apprentice \$50.00
 - (b) Embalmer Apprentice 50.00
 - (c) Embalmer 175.00

- (d) Funeral Director 175.00
 - (e) Dual Application 250.00
 - (f) Endorsed Funeral Director 175.00
 - (g) Endorsed Embalmer 175.00
 - (h) Endorsed Dual Application 250.00
 - (i) Funeral Establishment: parent 400.00, branch 300.00
 - (j) Funeral Director Student Permit 25.00
 - (k) Embalmer Student Permit 25.00
- (2) Annual License renewal
- (a) Funeral Director Apprentice \$50.00
 - (b) Embalmer Apprentice 50.00
 - (c) Embalmer 150.00
 - (d) Funeral Director 150.00
 - (e) Dual License 200.00
 - (f) Funeral Establishment: parent 300.00, branch 200.00
 - (g) Funeral Director Student Permit 25.00
 - (h) Embalmer Student Permit 25.00
- (3) Late Renewal Penalty (1-6 months) 60.00
- (4) Reactivation (Revival) (6 months or more) 60.00 + renewal fee for each year license was expired
- (5) Examination Fee
- (a) National State Examination actual fee charged by examination provider (One part)
 - (b) National State Examination actual fee charged by examination provider (Two parts)
 - (c) State Statutes and Regulations Exam fee charged by examination provider
- (B) All fees are nonrefundable

Other suggested changes

1. Outside full time employment for apprenticeship/manager?

Mr. Temples stated that full time employment at the funeral home should be based during the hours of operation stated on the funeral home application.

2. Can funeral homes pass fees for funding companies on to the customer

Ms. Holleman stated section 40-19-110 does not allow it. The Board asked if Ms. Holleman can research other state statutes regarding funding companies.

5. Public Comments

No comments were made during the meeting.

6. Adjournment

MOTION

Mr. Temples made a motion the Board adjourn. Mr. McKnight seconded the motion, which carried unanimously.

The September 13, 2012 meeting of the SC Board of Funeral Service adjourned at 2:42 p.m.

The next meeting of the SC Board of Funeral Service is scheduled for October 4, 2012.