

State Board of Embalmers and Funeral Directors

April 24-25, 2012
Division of Professional Registration
3605 Missouri Blvd
Jefferson City, MO 65109

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 8:30 a.m.

Roll Call

Board Members Present

D. Todd Mahn, Chairman

James Reinhard, Vice Chairman – present via telephone on April 24, 2012. He left the meeting at 10:30a.m. on April 24, 2012 for the day but was present on April 25, 2012

John McCulloch, Secretary

Gary Fraker, Board Member – left the meeting on 4/25 at 10:05a.m.

Archie Camden, Board Member

Board Members Not Present

Martin Vernon, Board Member

Staff Present

Sandy Sebastian, Executive Director

Lori Hayes, Inspector

Tabatha Lenzini, Administrative Assistant

Lisa Wildhaber, Examination Supervisor

Randall Jennings, Examiner – present for April 24, 2012

Michelle Hankinson, Examiner– present for April 24, 2012

Bob Beck, Examiner– present for April 24, 2012

Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Archie Camden and seconded by Gary Fraker to approve the Open Agenda. Motion carried with John McCulloch and James Reinhard voting in favor with no votes in opposition. Martin Vernon was not present.

Approval of Open Minutes

A motion was made by Gary Fraker and seconded by Archie Camden to approve the following open minutes:

- December 7, 2011 board meeting
- December 27, 2011 board conference call
- January 25, 2012 board meeting
- February 8, 2012 examination committee call
- March 2, 2012 board conference call
- March 5, 2012 examination committee call
- March 28, 2012 board conference call
- April 4, 2012 examination committee call
- April 9, 2012 examination committee call

April 11, 2012 board conference call

Motion carried with John McCulloch voting in favor with no votes in opposition. Martin Vernon and Jim Reinhard were not present.

Executive Director Report

Sandy Sebastian gave a report on the conference she attended in Arkansas put on by "The International Conference of Funeral Service Examining Boards".

Information relating to expense account must be submitted within 60 days from the event. If not submitted within the 60 day timeframe, the division will require a justification for the delay and the expenses could become 099 reportable as taxable income.

Members were asked if they had any questions relating to the license statistics (new, closed/ceased, disciplined since last report) information that was included with the open material. There were no questions.

Senate Bill 875 was discussed which related to individuals being able to put their money in to a small trust and not have to have a contract. It was shared that at the time of the meeting it did not appear that the bill was likely to move through the senate. Sandy shared that HB1770, which requires preneed agents to be licensed funeral directors, and HB1769, which requires education for funeral director applicants, have not had hearings and do not look to be moving through the legislative process.

It was announced that the Central Investigative Unit has hired Randy McDowell and to replace Pete Fleischman who retired. It was also announced that Katie Orbals resigned her position with the board. Bob Beck was introduced as a part time financial examiner that will assist with conducting financial examinations of preneed seller records.

D. Todd Mahn thanked the board for reelecting him as chairman of the board.

A member of the public questioned how many financial examinations had been done to date and how much is each examination costing and asked that the information be available at the following meeting.

Sandy reported that as of April 15, 2012 1135 out of 3475 licensees have renewed and that second notices will be going out on May 1, 2012.

Legal Counsel Report

Sharon Euler reported that the matters relating to NPS in the court system are still pending.

Sharon also reported that the matters relating to Buescher Memorial Home are still in circuit court and pending.

436 Task Force Update

Todd gave up an update stating that the group had met recently and that the primary focus of the last meeting was final expenses and that members of the insurance division were invited to present information to the board regarding such and were scheduled later on the agenda. A member of the public expressed concerns that the board is meeting with other agencies and we are outside our scope and without minutes the industry won't know what's going on. Sharon reported that this task force is for an internal staffing and if something that pertains to the board they will bring it to the board.

Introduction of Craig Ward, State Registrar, Bureau of Vital Statistics

Craig Ward and Lexi Hall were present. Craig was introduced to the board and stated that became the state registrar with Vital Statistics effective February 1, 2012. Lexi Hall provided an update regarding

electronic death certificate system and stated that as of April 12, 2012 out of 846 funeral homes in Missouri that they are aware of 618 are electronic. Lexi also reported that 1078 out of 2558 funeral directors, 629 out of 1268 embalmers and 98 out of 115 coroners have registered. Lexi stated that out of the 2430 physicians that file more than 8 death certificates a year 862 have registered and that they are working to electronically register the physician's assistants which will be able to do everything but release the record.

Motion to Close

A motion was made by John McCulloch and seconded by Gary Fraker to close for #2. Motion carried with Archie Camden and James Reinhard voting in favor with no votes in opposition. Martin Vernon was not present.

Discussion regarding final expense insurance policies

Mark Stahlhuth, Angie Nelson, and Ross Caplin with Department of Insurance, Financial Institutions & Professional Registration presented information to the board relating to final expense insurance policies and discussed how the policies may be called such for marketing purposes but from the insurance perspective were life insurance policies like any other life insurance policy.

Discussion regarding \$36 fee for preneed contracts entered into when qualifying for state assistance

The board reviewed proposed language from Darlene Russell relating to preneed contracts that are entered into with consumers that are attempting to qualify for state assistance. The board discussed waiving the per contract fee in certain circumstances involving insurance funded and annuity funded preneed contracts that did not have a cap on the insurance policy/contract value. The board also discussed criteria for when the policy was purchased and the possibility of establishing a 2 year timeframe as a determiner for waiving the per contract fee. Following discussion by the board regarding the language and how different per contract fees could be set for different types of contracts, a motion was made by Gary Fraker and seconded by John McCulloch directing counsel to research a possible rule relating to beneficiary changes on insurance policies, including annuities, be exempt from the \$36 per contract reporting fee. Motion carried with D. Todd Mahn voting in favor. Archie Camden voted no. Martin Vernon and James Reinhard not present.

Discussion on purposed rule: "Abandoned Preneed Funds"

Following review of the draft rule from a previous meeting, a was made by John McCulloch and seconded by Gary Fraker to not pursue the abandoned preneed funds rule. Motion carried with D. Todd Mahn voting in favor. Archie Camden voted no. James Reinhard and Martin Vernon were not present.

Ceased/closed seller licenses – notifications

John McCulloch asked that notification be sent out when licenses close so that those that have relationships with the licensees that are ceasing/closing can take necessary steps to ensure they don't inadvertently conduct business with them and are aware they are no longer licensed. Following discussion a motion was not made regarding a process.

Inspection of funeral establishment updates/statistics

The board viewed information reporting that as of April 19, 2012 out of 59 establishment inspections 85 violations had been written. The top five violations found: backflow, register log matters, licenses not displayed, preneed contract related matters, problems with purchase agreements. Todd Mahn mentioned that he felt inspections needed to be focused on the sanitary conditions of the preparation rooms.

Sandy asked the board if they would want to add to as a part of the inspection process the inspectors to check web sites to see if the individuals that are listed on the web sites are licensed. A motion was made by Archie Camden to conduct as a pilot for 6 months and evaluate the outcome. Motion died for lack of a second.

Legislative Proposals

The board was provided with proposed language that had been previously discussed and approved to pursue as a board initiative as an opportunity to review and prepare for discussion at the following meeting. No decisions were made.

A member of the public indicated that they did not understand why the embalmer oral examination was removed as a requirement for licensure and that some times that is the only time that the new licensees know there is a board and that the association does not regulate the profession. Sandy stated that the rationale used in the board's proposal to remove such was that the candidates were receiving adequate testing on matters that related to such during the written Missouri law examination. Sandy also shared with the board that if they want to pursue legislation to reinstitute the oral examination as a licensure requirement they have to come up with a justification as to why in the previous legislative session the board did not feel it was necessary and that the justification would need to be substantial.

Open Discussion/Dialogue

A member of the public stated that there was proposed legislative language that exempts the funeral vehicles from the same regulations as an 18 wheeler and that the proposed bill to eliminate the requirement to be licensed as an embalmer doesn't appear to be moving.

Motion to Close

A motion was made by John McCulloch and seconded by Gary Fraker to move into closed for 1, 2, 4, 7, 8, 9. Motion carried with Archie Camden voting in favor with no votes in opposition. Martin Vernon and James Reinhard were not present.

Adjournment

A motion was made John McCulloch and seconded by Jim Reinhard to adjourn the meeting on April 25, 2012 at 2:45p.m. Martin Vernon was not present.

Executive Director: Sandy Sebastian

Approved by the Board on: 7-10-11-2012

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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