



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

Attendance

The following members were present: Mark Craddock, Joe Lewis, Samuel Seroyer, Bart Kirtland, Calvin Meadows, John C. Rudder and Jason Wyatt. Staff present; Charles M. Perine, Executive Secretary, and E. Denise Grogan, Associate Executive Secretary, recording. Also present legal counsel Cameron McEwen from the Attorney General's Office.

Absent-None

Call to order

Being a quorum present, Mr. Mark Craddock, Chairman of the Board called to order the Public Hearing regarding proposed rule changes of the Alabama Board of Funeral Service Administrative Code at 10:00 a.m. on June 05, 2014 in Room-123 of the State House, 11 South Union Street, Montgomery, Alabama.

Mr. Craddock asked for any verbal comments by individuals in attendance. It was noted that there were only two individuals present neither of which had any comment.

Mr. Craddock asked Mr. Perine for any additional verbal comments made by individuals not in attendance. Mr. Perine stated the only comment noted was one made to Mr. Craddock by SCI concerning the radius for a centralized embalming facility, asking that the radius be readdressed. It was decided to increase the radius from 20 to 25 miles. SCI was ok with the change. (See review of proposed rule).

Mr. Perine informed the board of the two written comments received. Mr. Mark Bement stated concern regarding the embalming radius requirement and the time requirement for submitting proof of continuing education credit hours. Mr. Jeffrey Jones stated concern requiring the elderly licensees to complete continuing education and establishments not being required to have an embalming room. Both comments were addressed by increasing the radius, removing the non-compliance fee and noting that there was an exemption for the elderly in the statute. (See review of proposed rule).

Review of Proposed Rule

Mr. Perine informed the board that there were some corrections to the original proposed rule which needed to be approved by the board.

395-X-1-.02 Nomination and Appointment. Amended to include



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

“If an appointment is not made before the expiration of the term of a board member, then the board member may continue to serve until a successor has been appointed.”

395-X-1-.03 Meetings. Amended to remove

“administering examinations for funeral directors and/or embalmers and for”

395-X-2-.02 Renewal of License. Amended to remove/include

“Renewal notices shall be mailed by the Board office” “The Board shall provide notice by electronic format to each apprentice, funeral director, embalmer and establishment” ... “of said licensee that his or her renewal fee is due”. Mr. Perine informed the board that all licensees would be made aware of the move to electronic renewals, but individuals would still be able to renew via the form on the board’s website. The board would no longer have the expense associated with mailing renewals. The estimated start date for online renewals will be July 2014.

395-X-2-.03 Fees. Amended to include

“Funeral Establishment-License Transfer (Temporary-Relocation) \$25.00”

“Establishment Change of Ownership \$250.00”

395-X-2-.07 (h)(2) Continuing Education. “New Rule” Amended to remove

... “\$300.00 noncompliance penalty must be paid”... “before a license is subject to renewal if the individual” ... “not”. Mr. Perine recommended removing the \$300.00 penalty, because it would appear to Legislators the penalty was a revenue generator. The recommendation was that the license not be renewed until the continuing education hours were completed.

395-X-2-.07(h)(2) Continuing Education. “New Rule” Amended to include

“licensee who fails to obtain the required number of continuing education hours prior to the expiration date appearing on the license shall not have their license renewed”... “until the licensee”... “hours” ... “and paid all applicable fees and penalties”.

395-X-2-.07(h)(2)(A) Continuing Education. “New Rule” Amended to remove

“The noncompliance fee does not eliminate the requirement for obtaining the required continuing education hours during the two year period. Repeat offenders will be subject to further disciplinary action by the Board before a license is renewed.”

Mr. Rudder asked about renewals being every two years. Mr. Perine stated that would not coincide with the current statute and would have to be addressed by legislation. Mr. Craddock stated the board did not need to present any new legislation for the next few years. Mr. Perine



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

informed the board that agencies have been asked to review their statues to insure they are not out dated, and this could be an opportunity to address the topic.

395-X-4-.01(a)(2) Original Inspection of Funeral Establishments. Amended to include “The establishment must obtain a current business license from the county or city municipality where the establishment is located.”

395-X-6-.01(a)(7) Preparation Room. Amended to remove/include.

... “or” ...

... “waste disposal”.

395-X-6-.01(a)(8) Preparation Room. Amended to remove

“All contents or items shall be kept clean of blood when not in use and at no time will the preparation room be used as a storage area.”

395-X-6-.01 Preparation Room. Amended to remove

(b) ... “on the premises a” ...

(b)(1) ... “in the same county or a 10 mile radius in the adjacent county” ...

(b)(6) “The lighting shall be adequate”

(b)(7) “All contents or items shall be kept clean of blood when not in use”

(b)(8) “At no time shall the preparation room or holding room be used as a storage area.”

395-X-6-.01 Preparation Room. Amended to include

(b)(1) ... “25” ...

(b)(6) It shall have adequate lighting.

(c) “All contents or items shall be kept clean of blood when not in use and at no time shall the preparation room or holding room be used as a storage area.”

Mr. Perine states that these changes came as suggestions from counsel and legislative reference to insure there would not be a substance change, in addition to the written and verbal comments from licensees.

395-X-6-.02 Display or Selection Room. Amended to included

... “Each funeral establishment shall have a card or brochure in each full-size and cut casket and a clear statement on each photograph and electronic image of a casket stating the unit price of that casket.” ...

395-X-6-.09 Inspection Penalties “New Rule”. Amended to remove/include.



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

(a) ... "remit" ...

(a) ... "pay" ...

Mr. Perine stated these fines would be at the discretion of the inspector and would be used as a compliance tool not a revenue generator. This would lessen administrative costs incurred by the board. The licensee would be able to choose to pay the fine or submit to an administrative hearing.

395-X-6-.09 Inspection Penalties "New Rule". Amended to remove/include

(b) ... "In addition to the disciplinary actions authorized in the statute and subsection (a)," ...

(b) ... "If the board finds a licensee guilty of any violation of Chapter 13, Title 34, Code of Alabama 1975 or Chapter 395 of the administrative code, including but not limited to any violation of subsection (a) and the infraction therein," ...

Mr. Perine stated that repeat offenders would come before the board for additional disciplinary action. Mr. Perine asked the board for their opinion on the proposed changes, this was the time to speak up and make changes that all licensees' could live with. Mr. Rudder noted again that there was no one in attendance so that must mean licensees did not have an issue with the proposed changes. Mr. Perine asked the board if they wanted to vote on the changes individually or as a whole and this was the time to speak up if they did not want to make the changes at all.

Mr. Rudder made a motion to accept the proposed changes to the administrative code as amended, and have these changes certified through the legislative reference service to go into effect as law in 35 days, seconded by Mr. Wyatt. Mr. Craddock called for a roll call vote.

Yea votes: Mr. Craddock, Mr. Lewis, Mr. Seroyer, Mr. Kirtland, Mr. Rudder, Mr. Meadows, Mr. Wyatt

Nay votes: None

The motion passed unanimously.

ABFS 14-009

Alabama Board of Funeral Service v Joseph L. Bonner-Bey and Tri-State Mortuary, Inc.

Mr. Perine informed the board of the recommendation of Administrative Law Judge Randy Salle', and of their options concerning the recommendation. Mr. Perine stated the board could accept the recommendation as written, choose to reject the recommendation and come with their own, choose to amend the recommendation as they see fit. Mr. Perine informed the board that they could make a decision today after deliberations or could notify Mr. Bonner-Bey by mail within 30 days. After the board members reviewed the recommendation of Judge Salle', Mr.



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

Bonner-Bey was allowed to address the board. Mr. Bonner-Bey told the board the facts of the case as he saw them and stated that he needed one more chance to pay the fines and penalties. He stated it was his intention all along to pay the fines but was unable to do so because he could not use his building. Mr. Bonner-Bey asked to pay the fine 90 days from today (June 5) or he would surrender all his licenses. Mr. McEwen, legal counsel informed the board of Mr. Bonner-Bey's continued failure to comply with the consent agreement which was agreed on by all parties. Mr. McEwen stated that the board had made many attempts to assist Mr. Bonner-Bey with payment schedules but Mr. Bonner-Bey did not make any attempt to comply with payments to the board. Mr. McEwen recommended that the board revoke Mr. Bonner-Bey's personal license and Tri-State Mortuary establishment license if payment is not made in full. Implement a 24 month probationary period, and that Mr. Bonner-Bey stop the slander of Board members and Mr. Perine across the state. Mr. McEwen recommended he comply with all recommendations within 30 days.

Executive Session

With a quorum present Mr. Rudder made a motion to go into Executive Session at 11:10 p.m. for 45 minutes to discuss the recommended order from Judge Randy Salle' concerning Joseph L. Bonner-Bey and Tri-State Mortuary. The motion received a second by Mr. Meadows. The motion was approved unanimously.

Mr. McEwen informed the board that because all seven members were contacted by Mr. Bonner-Bey and had prior knowledge concerning the case, legal counsel recommended using Administrative Law Judge Randy Salle' to hear the case in a hearing with no board members present. That hearing took place on April 22. All members would vote on what to do based on his recommendation. The audience was informed that the board would reconvene in 45 minutes, they were then cleared from the room to allow the Board to discuss the recommended order from Judge Randy Salle' concerning Mr. Bonner-Bey and Tri-State Mortuary.

With a quorum present and all parties called back into the room, Mr. Craddock called the Board meeting back to order at 11:35 p.m. with the board having a decision.

Mr. Meadows made a motion for Mr. Bonner-Bey to (1) Pay the total outstanding fine of \$15,300.00 on or before July 5, 2014; (2) Be on two (2) years probation starting on June 5, 2014 and ending on June 5, 2016; During the two-year probationary period if either Bonner-Bey or Trip-State are found guilty of violating any part of ABFS's laws and regulations, Bonner-Bey



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

and Tri-State's licenses will be subject to suspension, or revocation. After the two-year period, provided there are no other violations of the Alabama Service's laws and regulation and all terms and fines imposed are complied with and paid in full, Bonner-Bey and Tri-State may practice without any stipulations. If Bonner-Bey fails to pay the total outstanding fine of \$15,300.00 on or before July 5, 2014, then Bonner-Bey's funeral director license and Tri-State's funeral establishment license will be revoked. If Bonner-Bey and Tri-State's licenses are revoked or suspended and they continue to operate as a funeral director and funeral establishment, respectively, ABFS will immediately request criminal legal action to be taken against Bonner-Bey with the Alabama Attorney General's Office and the Mobile County District Attorney's Office. The motion was seconded by Mr. Rudder. Mr. Craddock asked for a roll call vote.

Yea votes: Mr. Craddock, Mr. Lewis, Mr. Seroyer, Mr. Kirtland, Mr. Rudder, Mr. Meadows, Mr. Wyatt

Nay votes: None

The motion passed unanimously.

Other Business

State Law Test

Mr. Perine informed the board that the state law test would be available online through The Conference beginning July 1st. The July 8th exam would be the last exam given by the board in Montgomery. Mr. Perine recommended due to the large number of individuals registered taking the exam that the board allow the test to be given in two locations within the State House.

Personal Service Contract

Mr. Craddock asked if any individuals had applied for the investigator position. Mr. Perine informed the Board of two applications that had been received by the office. Mr. Perine stated the need for one more application in order to turn the applications into the purchasing department for approval.

Inspections

Mr. Wyatt asked the status of inspections and Mr. Perine stated there were 107 inspections remaining and they would be completed by August 1, 2014

Adjournment



Alabama Board of Funeral Service

Public Hearing Minutes

June 05, 2014

Being no other regular business, Mr. Craddock asked for a motion to adjourn. Mr. Meadows moved to adjourn the meeting at 11:47a.m., seconded by Mr. Rudder. The motion passed unanimously.

Minutes submitted by: E. Denise Grogan

X

Mark N. Craddock
Chair

X

Charles M. Perine
Executive Secretary