



Alabama Board of Funeral Service

Meeting Minutes

April 25, 2012

Attendance

The following members were present: Noah Turner, Samuel Seroyer, Michael Morrison, Bart Kirtland, Calvin Meadows and Jason Wyatt. Staff present was Warren Higgins, Executive Secretary, and Charles M. Perine, Associate Executive Secretary, recording.

The following member(s) were absent: Thomas Maye.

Call to order

With six members and a quorum present Mr. Michael Morrison, Chair, called to order the third regular meeting of fiscal year 2012 of the Alabama Board of Funeral Service at 11:06 a.m. on April 25, 2012 in room P-104 of the Gordon Persons Building, 50 North Ripley Street, Montgomery, Alabama. (Note: The meeting was scheduled and advertised to be in Room-P103; due to over booking the Gordon Persons Building management moved the Board's meeting @ 9:10 a.m. on 4/25/12 to room P-104.)

Approval of minutes from last meeting

Mr. Wyatt moved to approve the minutes of the January 25, 2012 meeting, seconded by Mr. Meadows. The motion passed unanimously.

Old Business

- 1) House Bill 65 – Mr. Higgins reported that HB65, that was introduced to correct the language in section 34-13-50 of the Alabama Funeral Law requiring a funeral director to attend mortuary school, has passed the House of Representatives and been approved by the Senate committee and awaiting final passage by the Senate.
- 2) Administrative Laws – Mr. Perine advised the board that the changes to the administrative laws that the board approved at the January 25, 2012 meeting have been filed with Legislative Reference Service and became effective on March 5, 2012.
- 3) Clerical Assistant Position – Mr. Perine advised that the new position was approved by the Finance Director, Personnel Board and the Governor and became effective March 1, 2012.

New Business

Approval of Licenses:

- 1) Applicants who passed law exam given earlier:



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Mr. Seroyer moved to approve funeral director and/or embalmer license(s) for all applicants who passed the state law exam given earlier that day upon the passing certification from the Conference under the new testing format, or those who had otherwise qualified for licensing, seconded by Mr. Turner. The motion passed unanimously.

2) Apprentice Funeral Director with Previous Time Credited:

Mr. Higgins asked the board to consider for approval the re-registration of apprentice funeral director applications with previous time served as an apprentice credited to current registration for Carlos Woodard, Harriette A. Douglas, Thamus L. Douglas, William K. Lazare, Roy F. Peterson, Edward L. M^cCants, Juno D. Littles, Christopher J. McCarty and Rahfael R. Pleasant. Mr. Turner moved to approve the re-registration of apprentice funeral director's applications with previous time served credited to the current registration, seconded by Mr. Seroyer. The motion passed unanimously.

3) Apprentice Funeral Director and Embalmer with Previous Time Credited:

Mr. Higgins asked the Board to consider for approval the re-registration of apprentice funeral director and apprentice embalmer applications with previous time credited to current registration for DeVaria B.C. Conner. Mr. Wyatt moved to approve the re-registration of apprentice embalmer applications **with** previous time credited to current registration, seconded by Mr. Kartland. The motion passed unanimously.

4) Permanent License Re-registration:

Mr. Higgins asked the Board to consider Philip S. Modder and Jon G. Davidson for re-registration of permanent licenses as a funeral director and embalmer. Mr. Seroyer moved to approve the re-registration of permanent funeral director and embalmer's licenses for Philip S. Modder and Jon G. Davidson, seconded by Mr. Turner. The motion passed unanimously.

5) Permanent License Re-registration:

Mr. Higgins asked the Board to consider Bobby E. Deavers for re-registration of permanent licenses as a funeral director and embalmer. Mr. Higgins stated that Mr. Deavers has never taken the state law exam and would need to take it before a license could be issued. Mr. Seroyer moved to table the approval of Mr. Deavers until he has taken the state law exam, seconded by Mr. Meadows. The motion passed unanimously.

6) Establishment Applications:

Mr. Higgins asked the Board to consider the following establishments for licensure: Glover Funeral Home, Dothan and Prestige Memorial FH, Gadsden. Mr. Turner moved to approve the license request of the fore stated funeral homes, seconded by Mr. Wyatt. The motion passed unanimously.



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7) Operation Under Special Operating Permit

Mr. Higgins asked the Board to consider for approval the following establishment for continued licensure to operate by a special operating permit pursuant to Code of Alabama, 1975, Section 34-13-74 to: Central Funeral Services of Eufaula and Central Funeral Services of Louisville by Melissa Mixon Smith. Mr. Higgins stated that Ms. Mixon had attempted the funeral director exam and was unsuccessful and was asking for additional time to take the exam. Mr. Turner moved to approval the continuation of the special operating permit for one year, seconded by Mr. Meadows. The motion passed unanimously.

Executive Secretary Financial Report

Mr. Higgins reported the following to the Board for the 2nd quarter of operation:

Receipts: \$210,535.04 Budget: \$272,590.00
Expenditures: \$117,448.04

State Law Question

- 1) Mr. Perine explained to the board that due to the changes in the Funeral Service Law, it required the state law exam questions to be changed in order to agree. Mr. Perine asked the board to approve the April State Law Exam given earlier and the changing of future exams. Mr. Turner added that the motion should include the interpretation of vague questions. Mr. Meadows moved to approve the changing of state law exam questions and the interpretation of vague questions in order for the exams to agree with the new state funeral service law, seconded by Mr. Seroyer. The motion passed unanimously.

Jefferson County Coroner/Medical Examiner Commission

Mr. Higgins advised the board that every three years the Jefferson County Coroner/Medical Examiner Commission asks the board to appoint two Jefferson County funeral director representatives to their commission. The appointments were to be before March 26, 2012 but the request was not received until after the January meeting. Mr. Higgins recommended re-appointing Dr. William Counce and Ms. Rachel Arrington. Mr. Turner asked could someone else be nominated and appointed. Mr. Higgins replied yes. Mr. Turner stated that the board needs some time to decide who they would like to appoint. Mr. Turner moved to appoint Mr. Howard Johnson. Mr. Higgins we needed to know him he actually wanted to do it. Mr. Turner moved to table the motion until July, seconded by Mr. Seroyer. The motion passed unanimously.

Stewart Enterprises, Inc. Records

Mr. Perine advised the board that Stewart Enterprises, Inc. was requesting permission from the board to eliminate paper file keeping its establishments in Alabama and more to an electronic file keeping method and the paper documents shredded. He stated that he spoke with a representative of STEI and she stated that the electronic records would be



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available for inspection when requested. Mr. Turner asked Mr. Perine and Mr. Higgins if they thoughts this was a good idea. Mr. Perine stated that the representative say that Florida and Louisiana both have approved of their conversion to electronic record keeping. Mr. Turner moved to table consideration of STEI request until the July meeting, seconded by Mr. Seroyer. The motion passed unanimously.

ABFS Records Disposition Authority

Mr. Perine advised the board that the Records Disposition Authority authorizes the board to dispose of any records that are enactive or have already been audited by the public examiners. Mr. Perine stated that every record since the old Embalmer's Board was in boxes and being held for no purpose. Mr. Perine explained that the financial records, old vouchers, tests and logs had already been disposed of in accordance with the Records Disposition Authority. The Authority, which was signed in 2002, gives the board the authority to dispose of any enactive apprentice that has not had any activity in the last 15 years and any active licensee that has not had any activity in the last 20 years, Mr. Perine requested the board to take a position for or against disposing of the apprentice and licensee records before it was carried out. Mr. Higgins expressed opposition to disposal of the licensee records. Mr. Meadows stated if there is no reasons to hold them, the we should follow the authority. Mr. Meadows moved to disposal of the records in accordance with the Records Disposition Authority, seconded by Mr. Turner. The motion passed unanimously.

R.L. Lumzy Funeral Home Cremains

Mr. Perine advised that the board office was contacted by the Bessemer Hall of History, owners of the building where R. L. Lumzy Funeral Home was located, about some cremains that were found in the building. The business owner Mr. R.L. Lumzy, III abandon the business and left four boxes of cremains. Mr. Perine stated he contacted Bill Garrett of the attorney general's office and he advised that it would be a good idea him he could try and locate the next of kin and if not the cremains should be turned over to another funeral home. Mr. Perine stated he went and found the records in the building and the next of kin information was no longer good. Mr. Perine contacted Mr. Arthur Steckel at the Jefferson County Morgue who is over the Jefferson County Burials about burying the cremains in the county cemetery. Mr. Steckel, approved the burials and advised the cremains should be brought to the county morgue. Mr. Perine stated that the Hall of History turned the cremains over to Mr. Aubrey Bushelon of Aubrey Bushelon Funeral Directing and Cremation Services who transported the cremains to the county morgue for burial. Mr. Perine also stated that all supporting documents were kept.



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Approval of Licenses that Need Board Approval

- 1) **James C. Simon** - Applying for permanent license as a funeral director after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Turner moved to accept Mr. Simon's application for permanent license as a funeral director, seconded by Mr. Meadows. The motion passed unanimously.
- 2) **John D. Oakes** - Applying for permanent license as a funeral director and embalmer through reciprocity after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Turner moved to accept Mr. Oakes' application, seconded by Mr. Meadows. The motion passed unanimously.
- 3) **Katrina L. Moore** - Applying for apprentice licenses as a funeral director and embalmer after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Wyatt moved to accept Ms. Moore's application for apprentice licenses as a funeral director and embalmer, seconded by Mr. Turner. The motion passed unanimously.
- 4) **Robert B. Clayton** - Applying for apprentice licenses as a funeral director and embalmer after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Turner moved to accept Mr. Clayton's application for apprentice licenses as a funeral director and embalmer, seconded by Mr. Seroyer. The motion passed unanimously.
- 5) **Jason A. Foster** - Applying for apprentice licenses as a funeral director and embalmer after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Seroyer moved to accept Mr. Foster's application for apprentice licenses as a funeral director and embalmer, seconded by Mr. Wyatt. The motion passed unanimously.
- 6) **Wayne F. Thomas** - Applying for apprentice license as a funeral director after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Meadows moved to accept Mr. Thomas' application for apprentice license as a funeral director, seconded by Mr. Seroyer. The motion passed unanimously.
- 7) **Perry J. Hicks** - Applying for apprentice licenses as a funeral director and embalmer after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Turner moved to table Mr. Hicks' application for apprentice licenses as a funeral director and embalmer until the July meeting and requesting Mr. Hicks to appear before the board, seconded by Mr. Turner. The motion passed unanimously.
- 8) **Darren L. Flott** - Applying for apprentice license as a funeral director after committing acts that are grounds for revocation, suspension or refusal to issue or renew licenses. Mr. Turner moved to table Mr. Flott's application for apprentice licenses as a funeral director until the July meeting and requesting Mr. Flott to appear before the board, seconded by Mr. Seroyer. The motion passed unanimously.



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Settlement Agreement

Mr. Perine reported that in the course of investigating a complaint it was found that an operator violated Alabama Funeral Service Law and Regulation, specifically §34-13-70 (a). Mr. Perine recommended that since the violation occurred under the old funeral service law that the following settlement agreement be offered which agrees with other settlement agreements that were offer for similar violations under the old law:

- 1) Fine of \$500
- 2) Establishment license suspended for thirty (30) days with said suspension stayed for two years.

Mr. Turner moved to offer the settlement agreement as stated, seconded by Mr. Seroyer. The motion passed unanimously.

Other Business

Mr. Morrison yielded the chair to Mr. Seroyer to discuss a matter before the board. Mr. Seroyer denied the chair. Mr. Morrison then asked if anyone would be willing to chair the meeting in order for him to discuss a matter before the board. Mr. Wyatt stated that he would. Mr. Morrison yielded the chair to Mr. Wyatt. Mr. Wyatt recognized Mr. Morrison to discuss the matter.

Mr. Morrison stated that in late January members of the Board received letters from the Alabama Funeral Directors Association (AFDA). Mr. Morrison stated that he was contacted by the Association concerning the Board's lack of attention and response to the letter.

Mr. Morrison read the letter.

Mr. Morrison stated that he does not speak for the Board as a whole, but as for himself he is very concerned with the letter and that the vote of no confidence in Mr. Higgins as Executive Secretary by the AFDA has lowered the creditability of Mr. Higgins. "If our peers have no confidence or have lost the respect, then how much value does the executive secretary bring to the office?"

Mr. Meadows asked did anyone know what grounds AFDA based their vote on. He stated that none those individuals were present at the meeting and he realizes that some time people have agendas, concerns, and vendettas.

Mr. Seroyer and Mr. Meadows stated that they never received a letter.

Mr. Turner stated that the Board calls the shots and whatever the Board feels is necessary then that's what they will do. He also stated, at the January meeting the room was pack with the individuals who could have spoken at that time about their concerns and Mr. Morrison should let them know that the Board runs the Board.



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Mr. Seroyer stated that the Board needs to deal with this and put it behind them before the matter gets worse. He has never had the opportunity to sit down with Mr. Higgins. If someone had brought their concerns to his attention, he would have had Mr. Higgins down as his supervisor and addressed the concerns. Mr. Seroyer stated that he would not make a decision concerning the letter. He asked, "Has any of the other Boards taking action against Mr. Higgins? How many funeral homes are in the AFDA?" Mr. Morrison replied, about 200.

Mr. Meadows asked, "Is there any documentation to go with their vote of no confidence?" Mr. Morrison replied, no. Mr. Meadows stated, "No confidence but no complaints or other information in the letter."

Mr. Wyatt asked Mr. Higgins if he had any statements. Mr. Higgins replied, he has no problem responding to any letter, but he has not received a letter. If all the letter states is no confidence and does not state the complaint, then he cannot respond.

Mr. Morrison stated that he recognizes everyone's concerns and he does realize that some people have personal grievances. Being a member of the AFDA and also being on the Board, he felt he needed to bring the letter to the Board's attention.

Mr. Seroyer stated, he does not know what their problem with Mr. Higgins is, but maybe the Board needs to supervise the office more. Mr. Turner stated maybe employee evaluations should be implemented, because how can the Board say everything is good when they do not check.

Mr. Kirtland stated that he was not at the meeting when the vote by the AFDA was taken, so he does not know their concerns and he thinks the Board needs to know more about their concerns.

Mr. Wyatt stated that he needed to know more specific their concerns.

Mr. Morrison stated that he would respond to the AFDA with Mr. Higgins and the Board members responses and let them know that the Board will not be taken action at this time.

Mr. Seroyer asked what action they are expecting the Board to take. Mr. Morrison stated he could not speak for them, but he assumed termination.

Mr. Tuner stated that Mr. Higgins and Mr. Perine are doing a good job. Mr. Higgins is a human being and has financial obligations and it would be wrong, without knowing specifics as to the concerns and where they are coming from, to take action at this time.

Mr. Meadows suggested that Mr. Morrison compose a letter and state that the Board has received their letter and has not found any basis for the no confidence vote at this time.



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Other Business

Mr. Higgins stated that the July meeting would be long, because we have other matters and disciplinary actions to take. It could be a two day advent.

Mr. Howard Johnson stated that the Board should reconsider about issuing special operating permits, because the Board is allowing those individuals to practice without a license.

Adjournment

Being no other business, Mr. Wyatt asked for a motion to adjourn. Mr. Morrison moved to adjourn the meeting at 12:54 p.m., seconded by Mr. Turner. The motion passed unanimously.

Minutes submitted by: Charles M. Perine

X

Michael Morrison
Chair

X

Warren Higgins
Executive Secretary