

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES LICENSING DIVISION
BOARD OF EXAMINERS IN MORTUARY SCIENCE**

BOARD MEETING MINUTES

March 6, 2008, 10:00 a.m.

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Board of Examiners in Mortuary Science met in Regular Session on March 6, 2008, at the Department of Labor & Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Room 1, Okemos, Michigan.

CALL TO ORDER

The regularly scheduled meeting for the Board of Examiners in Mortuary Science was called to order by Vice-Chairperson Akins at 10:05 a.m.

Present:	David Akins	Vice-Chairperson
	Thomas Lynch	Professional Member
	Thomas L. Starks	Professional Member
	Christine S. Daggett	Professional Member
	Stephen R. Kemp	Professional Member
	Dr. Donald J. Duford	Public Member
	Ida I. DeHaas	Public Member
Absent:	John E. Desmond	Professional Member
Staff:	Jean Boven	Licensing Director
	Ann Millben	Licensing Administrator
	Allison Cosgrove	Assistant Licensing Administrator
	Connie McCall	Secretary
	Archie Millben	Director of Enforcement
	Stephen Gobbo	Compliance/Legal Unit Manager
	Kimberly Breitmeyer	Compliance/Legal Unit
	William Wilhelm	Compliance/Legal Unit
	Barrington Carr	Enforcement Division
	Foye Longworth	Testing & Education staff
	Amy A. Shell	Policy Analyst
	Ann Paruk	Technical Support, Enforcement
	Jim Nelson	Compliance Manager
Visitors:	Rodney Wakeman	Wakeman Funeral Home
	Kevin McCabe	McCabe Funeral Home
	Elizabeth Smalley	Michigan Funeral Directors Association

ADDITIONS TO OR DELETIONS FROM AGENDA

Ms. Millben brought the Board's attention to Item 7 on the agenda. Items 7A: Legislative Reports, 7B: Licensee Statistics and 7C: Examination Information, were added on February 22, 2008.

Mr. Akins requested that Public Comments be moved to the end of the agenda, just before Election of Officers, so that the Board could accommodate those who want to make public comment but may not be present at the beginning of the meeting.

APPROVAL OF MINUTES FROM MEETING HELD NOVEMBER 28, 2006, AND THE OCTOBER 11, 2007, COMMITTEE OF THE WHOLE

Ms. Millben made comment on page 6 of the October 11, 2007, unapproved minutes regarding allowing resident trainees a third renewal. The Department has received inquiries about more than two renewals and the Department is seeking the Board's input. The minutes reflect that the Board looks favorably on a third renewal. Until the rules change the Department must follow them by enforcing only two renewals. This rule change could be either elimination of the cap of two renewals or increase the number to three or more renewals. This presents an additional issue for later discussion about whether we should review the entire rule-making process for all aspects of the administrative rules. The Board had intended to do that at one time. The minutes do not need to be changed; rather Ms. Millben was providing the Board with clarification.

Ms. Millben also brought to the Board's attention that the minutes from the November 28, 2006, Board meeting need to be formally approved. Since the Board did not have a quorum in October 2007, the Committee of the Whole was unable to approve November 2006 minutes; however, did recommend approval.

MOTION: After review and discussion, Mr. Kemp moved to approve both the November 28, 2006 Board meeting minutes, and the October 11, 2007, Committee of the Whole minutes. Dr. Duford seconded and the motion passed unanimously.

STIPULATIONS

Kevin B. Ferguson, Mortuary Science License No. 4501-401459, Complaint No 303649

MOTION: After discussion, Mr. Lynch moved to accept the Stipulation which states that (1) Respondent shall pay a \$5,000 fine to the Department within 60 days of the date of the mailing of the Final Order, (2) Respondent shall be placed on probation for a period of three (3) years from the mailing date of the Final Order, (4) In the event that Respondent violates R339.18937(1) or MCL 339.601(1) during the three-year probationary period, a sanction of a \$10,000 fine and a one-year suspension of license will be effective the mailing date of the Final Order and (5) failure to comply with the terms of this Stipulation shall result in the revocation of Respondent's license and no application for licensure, re-licensure, reinstatement or renewal shall be considered until all terms and conditions of the Stipulation and/or other Final Orders are in full compliance. Dr. Duford seconded and the motion passed. Mr. Akins abstained.

Risko-Ferguson Funeral & Cremation, Establishment License No. 4502-003191, Complaint No. 303650

MOTION: After discussion, Mr. Lynch moved to accept the Stipulation which states that (1) Respondent shall pay a \$5,000 fine to the Department within 60 days of the date of the mailing of the Final Order, (2) Respondent shall be placed on probation for a period of three (3) years from the mailing date of the Final Order, (4) In the event that Respondent violates R339.18937(1) or MCL 339.601(1) during the three-year probationary period, a sanction of a \$10,000 fine and a one-year suspension of license will be effective and (5) failure to comply with the terms of this Stipulation shall result in the revocation of Respondent's license and no application for licensure, re-licensure, reinstatement or renewal shall be considered until all terms and conditions of the Stipulation and/or other Final Orders are in full compliance. Dr. Duford seconded and the motion passed. Mr. Akins abstained.

Harold L. Williams, License No. 4501-005323, Complaint No. 304434, Docket No. 2007-878

MOTION: After discussion, Mr. Lynch moved to accept the Stipulation which states that (1) Respondent's license shall be immediately revoked upon the date of the mailing of the Final Order, (2) upon receipt of the Final Order, Respondent must return all wall and/or pocket licenses to the Department of Labor & Economic Growth, Bureau of Commercial Services, (3) Respondent may appear before the Board of Examiners in Mortuary Science one (1) year after the date of mailing of the Final Order to request re-licensure at the discretion of the Board and (4) failure to comply with the terms of this Stipulation within sixty (60) days of the date of the mailing of the Final Order shall result in the revocation or continued revocation of all licenses or registrations of Respondent; or in the denial of any license or registration renewal, and the denial of future applications for licensure or registration until all terms and conditions of the Stipulation and/or other final orders have been fully complied with. Mr. Starks seconded and the motion passed. Mr. Kemp and Mr. Akins abstained.

HEARING REPORT

Ramsey Memorial Funeral Home Inc., Establishment License No. 4502-003677, Complaint No. 306700, Docket No. 2007-1399

MOTION: Ms. Daggett moved to receive the Hearing Report. Mr. Starks seconded and the motion passed. Mr. Kemp abstained.

MOTION: After discussion, Mr. Lynch moved that (1) Respondent pay a civil fine of \$1,500 payable within 60 days of the date of the Final Order and (2) Respondent pay restitution of \$6,256.70 to Victor L. Bonaparte payable within 60 days of the date of the mailing of the Final Order and (3) In the event that the civil fine and restitution have not been paid within 60 days following the issuance of the Final Order, then all Article 18 licenses should be suspended and no new or renewal licenses will be issued until the civil fine and restitution have been paid. Mr. Starks seconded and the motion passed. Mr. Kemp abstained.

STAFF REPORTS

Legislative Update

Amy Shell updated the Board with information regarding pending cemetery Legislation. Senate Bill 674, sponsored by Senator Judd Gilbert, introduced in August of 2007 would move the regulation of State-regulated cemeteries from the DLEG Bureau of Commercial Services to the DLEG Office of Financial and Insurance Services. The Department does not support this bill and has had ongoing discussion with the Cemetery Association about an alternative bill; however, nothing has been proposed at this time. There has been very little movement on this bill recently, but it does have some support by Senator Stack. Mr. Lynch inquired as to what this Board can do to voice its opinion. Ms. Shell stated that Board members can voice their opinions from a personal or professional standpoint, but should not represent that their opinion represents the position of the Board. DLEG has not been involved in these discussions, except to state that they would want to keep cemetery regulation under the DLEG Bureau of Commercial Services.

Licensee Statistics

Allison Cosgrove presented the statistics for licensing: Two licensed funeral directors, 730 funeral homes, 2,068 mortuary science licensees and 83 resident trainees. These counts are as of March 6, 2008.

Examination Information

Foye Longworth distributed the Monthly Portion Pass Rate and Monthly Site Totals reports for examinations administered during the period of January 1, 2007, through January 31, 2008, for review and discussion. Mr. Longworth also distributed the most recent PSI Examination Candidate Information Bulletin for the Board review and information.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS

MOTION: Mr. Lynch moved to discuss a motion that the State Board Examiners in Mortuary Science adopt a resolution and requested that this motion and any further action of this Board on this matter be entered into the minutes of this meeting. Mr. Kemp seconded and the motion passed unanimously.

MOTION: After discussion, Mr. Lynch moved that the Board (1) consider a proposal to request and encourage public representation with the Cemetery Commissioner, (2) that the Department petition the Government Affairs Office to request formation of a Cemetery Commission open to the citizens of Michigan and representation by Board members of mortuary science to oversee cemetery regulation, inspection and monitoring of State regulated cemeteries. Ms. DeHaas seconded and the motion passed unanimously.

Resolution
(Original submitted as hard copy)

“Whereas the State of Michigan has seen unprecedented scandal and consumer abuse related to the misappropriation of prepaid cemetery trust and perpetual care funds under the oversight of the State Cemetery Commissioner resulting in the loss of tens of millions of dollars in consumer funds; and whereas consumers in the State of Michigan and national and local media often do not distinguish between funds paid in advance to cemeteries and mortuaries; and whereas licensed funeral directors in the State of Michigan are often called upon to serve families who have lost funds trusted with cemeteries in the State of Michigan; and whereas both reputable funeral directors and reputable cemetery operators in the State of Michigan are damaged by the failure of consumer confidence in the prepaid funeral and cemetery marketplace and in the State of Michigan’s oversight of same; be it therefore resolved that the Board of Examiners in Mortuary Science does hereby request and encourage the Director of the Department of Labor and Economic Growth to augment the office of the Cemetery Commissioner with a Board of Cemetery and Crematory Inspectors, to be composed of an equal number of public and professional volunteer members, appointed by the Governor and charged with the oversight, regulation, promulgation and enforcement of State laws relative to the operation of those cemeteries currently under the purview of the office of the Cemetery Commissioner.”

Thomas Lynch
March 6, 2008

PUBLIC COMMENT

Kevin McCabe from McCabe Funeral Home, Farmington Hills, inquired if there had been an investigation into the missing cemetery trust funds. Ms. Boven directed Mr. McCabe to Andrew Metcalf, Bureau of Commercial Services Director. Mr. McCabe addressed his concerns regarding State regulation of cemetery monies and trust funds of funeral homes.

Rodney Wakeman from Wakeman Funeral Home, Saginaw, brought to the Board's attention that the State's website for Mortuary Science did not accurately depict the names of current Board members. He also expressed his support for Mr. Lynch's motion and resolution, and pointed out that there is no forum for public representation for the Cemetery Commission.

ELECTION OF OFFICERS

Ms. Millben opened the floor to accept the nominations for the office of Board Chairperson.

MOTION: Mr. Lynch moved to nominate Mr. David Akins as Board Chairperson. Dr. Duford seconded and the motion passed unanimously.

New Chairperson Akins opened the floor to accept the nominations for the office of Vice-Chairperson.

MOTION: Mr. Lynch moved to nominate Dr. Don Duford as Board Vice-Chairperson. Mr. Kemp seconded and the motion passed unanimously.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board of Examiners in Mortuary Science will be held on October 9, 2008 at 10:00 a.m.

ADJOURNMENT

There being no further business to be brought before the Board, Ms. DeHaas moved to adjourn, seconded by Dr. Duford, and the meeting was adjourned at 12:10 p.m.

/s/
David Akins, Vice-Chairperson

10/9/08
Date

/s/
Ann Millben, Licensing Administrator

10/9/08
Date