

Minutes
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
DECEMBER 2, 2010
10:00 AM TO 12:00 PM

1. Call to Order and Roll Call

Mr. Jody Brandenburg, Chair, called the meeting to order at 10:00 am.

Mr. Doug Shropshire, Director, requested to make the usual prefatory comments for the record and then take the roll.

As a preliminary matter, let me state for the record that my name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, December 2, 2010. The time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the Florida Administrative Weekly. An agenda for this meeting had been made available to interested persons. Members of the Board are participating by Teleconference. Members of the Public have been invited to listen in via speakerphone with us here in the Alexander Building, Conference Room 230A in Tallahassee, Florida and in fact we have some members of the Public here with us. My Assistant, Ms LaTonya Bryant-Parker, will take minutes of the meeting.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. All persons participating by phone, other than the Chair and Board members while speaking, are asked to place their phones on mute at all times while listening. We ask this to enhance the audio quality of the Teleconference. If any Member is disconnected they can call back to the same number called initially.

At this time I will take the roll and Board members will please respond clearly with "present" when I call their name:

PRESENT (via phone):

Joseph "Jody" Brandenburg, Chairman
Gail Thomas-DeWitt, Vice-Chairman
Jean Anderson
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Ken Jones
Col. Don Stiegman

ALSO PRESENT:

Doug Shropshire, Executive Director
Allison Dudley, Board Counsel (via phone)
Anthony Miller, Assistant Director
LaTonya Bryant-Parker, Department Staff
Jasmin Richardson, Department Staff

ABSENT

Tracy Huggins

Mr. Chairman we have a quorum and the Board may proceed to address the matters on the agenda.

The Chair questioned whether all Board members received their packets. There was a positive response from the Board members.

2. Action on the Minutes

A. November 4, 2010

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on November 4, 2010.

MOTION: Ms. Gail Thomas-Dewitt moved to adopt the minutes of the meeting. Ms. Jean Anderson seconded the motion, which passed unanimously.

3. Request(s) to Undedicate Cemetery Property

A. Recommended for Approval without Conditions

(a) Remembrance Services of Florida, LLC d/b/a Gulf Pines Memorial Park (Englewood)

Remembrance Services of Florida, LLC d/b/a Gulf Pines Memorial Park requests approval to undedicate 12,736 square feet (.2924 acres) of dedicated cemetery land at Gulf Pines memorial park cemetery, for the placement of pet remains. The cemetery currently has a total of approximately 24.8 dedicated acres. The cemetery was licensed prior to 7-1-01, when the requirement under the Florida Statutes was that cemeteries have at least 15 acres as a condition of licensure.

The topic of undedication of cemetery land is addressed in s. 497.270. That statute indicates, among other things, that an undedication is not allowed if it would bring the cemetery below 30 acres in size. However, subsection 497.270(5) provides an exception, as follows: *“The provisions of subsections (1) and (2) relating to a requirement for minimum acreage shall not apply to any cemetery company licensed by the department on or before July 1, 2001, which owns a total of less than 30 acres of land....”*

It appears that Applicant herein qualifies under the quoted exception language. Furthermore, the requested undedication will not bring the cemetery below the previously statutorily required minimum of 15 acres. The licensee advises that no burials have occurred on, no human remains are located on, nor do any persons hold a right of interment on, the 12,736 square feet in question. The Division is recommending approval without conditions.

MOTION: Mr. Powell Helm moved to approve the request. Mr. Lew Hall seconded the motion, which passed unanimously.

4. Application(s) for Preneed Sales Agent

A. Informational Item (Licenses Issued without Conditions) – Addendum A

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

5. Application(s) for Preneed Branch License

A. Recommended for Approval without Conditions – Addendum B

The Division recommends approval of the application(s).

The Chair declared his affiliation with SCI Funeral Services of Florida Inc and stated it would not affect his judgment to remain fair and impartial in this or any other issues going forward.

MOTION: Mr. Ken Jones moved to approve the application(s). Mrs. Thomas-Dewitt seconded the motion, which passed unanimously.

6. Continuing Education Course Approval(s)

- A. *Recommended for Approval without Conditions – Addendum C*
 - (1) *American Academy McAllister Institute of Funeral Service #9808*
 - (2) *CENTEROFEXCELLENCEFORFUNERALSERVICE... #11008*
 - (3) *Funeral Review.Com, LLC #122*
 - (4) *FuneralCE #43*
 - (5) *Matthews International #6802*
 - (6) *National Funeral Directors Association #136*
 - (7) *The Dodge Institute for Advanced Mortuary Studies #81*

These courses have been approved by the Continuing Education Committee and are recommended for approval of the course(s) for the number of hours indicated in the materials before you.

Col. Don Stiegman expressed concern re: “Mystery Shopping: Funeral Homes Inside the Minds of the Consumer.” Col. Stiegman requested that Ms. Huggins or Mr. Hall elaborate on the course description as he was concerned as there are no consumer representatives on the Continuing Education Committee. Col. Stiegman recommended that the Chair appoint a consumer to the Committee, perhaps someone from the education field.

The Chair stated that Ms. Huggins was not present on the call.

Mr. Hall stated that he did not recall anything alarming on any of the courses submitted for approval.

Col. Stiegman questioned whether the Committee checks the qualifications of the instructors.

Mr. Hall stated that he would be very comfortable with those of the National Funeral Directors Association.

The Chair added that the National Funeral Directors Association is an approved provider and stated that Col. Stiegman’s suggestion would be taken into consideration.

MOTION: Mr. Jones moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

The Chair requested that the Division provide Col. Stiegman with the information submitted to the Committee re: “Mystery Shopping Funeral Homes Inside the Minds of the Consumer.”

Mr. Shropshire stated that the information would be forwarded to Col. Stiegman.

- 7. **Application(s) for Florida Laws and Rules Examination**
 - A. *Recommended for Approval without Conditions –Addendum D*
 - (1) *Funeral Director by Internship*
 - (a) *Kent, Justin M*
 - (2) *Funeral Director and Embalmer by Endorsement*
 - (a) *Pineros, William E*

The Division recommends approval of the application(s).

MOTION: Ms. Jean Anderson moved to approve the application(s). Ms. Nancy Hubbell seconded the motion, which passed unanimously.

- B. *Recommended for Approval without Conditions (Previous Adverse Licensing History)*

(1) Funeral Director and Embalmer by Endorsement

(a) Razler, Jason A

The Applicant submitted an application to become a Funeral Director and Embalmer by Endorsement on September 7, 2010. The application was incomplete when submitted. All deficient items were returned on November 1, 2010. The Applicant submitted a fingerprint card and was returned with no criminal history,

The Applicant did submit adverse licensing history from the state of Pennsylvania (final order enclosed). In October 1996 Applicant, in Pennsylvania, signed a statement of funeral services prior to being issued a license as a funeral director. The Applicant was reprimanded and ordered to pay a fine of \$500 by Pennsylvania licensing authorities. Applicant subsequently received his funeral director license and is currently in good standing as a funeral director in Pennsylvania. Mr. Shropshire noted a clarification that The Chair asked for. In Pennsylvania, a funeral director license by definition includes embalming.

The Division is recommending approval without conditions.

MOTION: Ms. Hubbell moved to approve the application(s). Mr. Jones seconded the motion, which passed unanimously.

8. Application(s) for Internship

A. Recommended for Approval without Conditions – Addendum E

(1) Funeral Director and Embalmer

(a) Gibbs, Monica W

(b) Martinez, Nulka

(c) Soto, Bridgette V

The Division recommends approval of the application(s).

MOTION: Mr. Hall moved to approve the application(s). Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

9. Application(s) for Embalmer Apprentice

A. Recommended for Approval without Conditions – Addendum F

(1) Earnhardt Sr., Joseph C

The Division recommends approval of the application(s).

MOTION: Ms. Hubbell moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

10. Registration(s) as a Training Agency

A. Recommended for Approval without Conditions – Addendum G

(1) Funeral Directing

(a) Hiers-Baxley Funeral Services Inc (The Villages) (F051204)

(2) Funeral Directing and Embalming

(a) Moss-Fester Funeral Homes & Cremation Services (Dunedin) (F040918)

(b) SCI Funeral Services of Florida Inc d/b/a Memorial Plan Kendall (Miami) (F050786)

The Division recommends approval of the application(s).

MOTION: Mr. Powell Helm moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

11. Change in Location of Establishment

A. Informational Item (Licenses Issued without Conditions) – Addendum H

- (1) *Coleman's Mortuary (F040636) (Hastings)*
- (2) *D. Alan Moore, Licenses Funeral Director (F049909) (Ellenton)*
- (3) *Fourtowns Cremation Inc (F040697) (Debary)*

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

12. Application(s) for Cinerator Facility

A. Recommended for approval with Conditions

- (1) *Flagler Palms Crematory LLC (Flagler Beach)*

An application for a Cinerator Facility was received on September 29, 2010. The application was incomplete when submitted. All deficient items were returned on November 2, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Salvatore Passalacqua (F042515). The Division is recommending approval with conditions.

MOTION: Mr. Hall moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

- (2) *Gendron Funeral & Cremation Services Inc d/b/a Hope Memorial Crematory (Sarasota)*

An application for a Cinerator Facility was received on November 8, 2010. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Melanie Gendron (F058560). The Division is recommending approval subject to the condition(s) as follows:

- (1) That the establishment passes an on-site inspection by a member of the Division staff.
- (2) That the closing occur within 60 days of the date of this Board meeting.
- (3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.
- (4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

MOTION: Mr. Jones moved to approve the application subject to the conditions proposed by the Division. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

13. Application(s) for Direct Disposal Establishment

A. Recommended for Approval without Conditions

- (1) *A Cremation-Affordable Alternative LLC (Gainesville)*

An application for a Direct Disposal Establishment was received on September 2, 2010. The application was incomplete when submitted. All deficient items were returned on October 28, 2010. The fingerprint cards for all principals were returned with no criminal history. The Direct Disposer in Charge will be Elgan Altizer (F044988). The establishment passed the inspection on November 8, 2010. The Division is recommending approval without conditions.

MOTION: Mr. Helm moved to approve the application. Ms. Hubbell seconded the motion, which passed unanimously.

B. Recommended for Approval with Conditions

(1) Southern Crematory Inc d/b/a Blue Horizon Cremation Center (Palm Coast)

An application for a Direct Disposal Establishment was received on October 29, 2010. The application was incomplete when submitted. All deficient items were returned on November 9, 2010. The fingerprint cards for all principals were returned with no criminal history. The Direct Disposer in Charge will be Jessica Watts (F021405). The Division is recommending approval with the condition the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Ms. Anderson moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

14. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) Gendron Funeral & Cremation Services Inc (Sarasota)

An application for a Funeral Establishment was received on November 8, 2010. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Melanie Gendron (F058560). The Division is recommending approval subject to the condition(s) as follows:

(1) That the establishment passes an on-site inspection by a member of the Division staff.

(2) That the closing occur within 60 days of the date of this Board meeting.

(3) Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred.

(4) Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

MOTION: Mr. Jones moved to approve the application subject to the conditions proposed by the Division. Ms. Hubbell seconded the motion, which passed unanimously.

(2) GF Ventures LLC d/b/a Glick Family Funeral Home (Boca Raton)

An application for a Funeral Establishment was received on October 22, 2010. The application was incomplete when submitted. All deficient items were returned on November 3, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Timothy Glick (F045571). The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Ms. Hubbell moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Mr. Jones seconded the motion, which passed unanimously.

15. Application(s) for Removal Service

A. Recommended for Approval without Conditions

(1) Executive Removal Service Inc (Pompano Beach)

Executive Removal Service Inc (F050172) submits this request for approval of a change in location of the removal service, as required by s. 497.385(1)(g)2, Florida Statutes.

The application for a Removal Service was submitted on October 7, 2010. The application was incomplete when submitted. All deficient items were returned on November 2, 2010. The fingerprint cards for all principals were submitted and returned without criminal history. The service passed the inspection on October 5, 2010. The Division is recommending approval without conditions.

Mr. Hall questioned what is meant by "criminal history forms on file" as indicated on page 4 of 6.

Ms. Jasmin Richardson stated that the Applicant previously had a criminal history, however, the time for reporting such has lapsed and it no longer applies to the application.

Mr. Shropshire added that pursuant to Chapter 497, to be considered a criminal history, the crime has to have occurred within a specified time period. Once that period has lapsed, the crime is no longer reportable criminal history.

MOTION: Mr. Jones moved to approve the application. Mr. Helms seconded the motion, which passed unanimously.

B. Recommended for Approval with Conditions
(1) Quality Removal Inc (Miami)

Quality Removal Inc (F041092) submits this request for approval of a change in location of the removal service, as required by s. 497.385(1)(g)2, Florida Statutes.

The application for a Removal Service was submitted on November 10, 2010. The application was complete when submitted. The fingerprint cards for all principals were submitted and returned without criminal history. The Division is recommending approval subject to the establishment passing an on-site inspection by a member of the Division staff.

MOTION: Ms. Anderson moved to approve the application subject to the establishment passing an on-site inspection by a member of the Division staff. Ms. Hubbell seconded the motion, which passed unanimously.

16. Application(s) for Course of Study
A. Recommended for Approval without Conditions
(1) St Petersburg College (St Petersburg)

St. Petersburg College submitted an application for approval for the Type 2 Course of Study. The licensee certifies that the Type 2 course of study submitted for approval under this application covers the subject matters examined on in the national funeral service arts examination administered by the conference of Funeral Service Examining Boards. The Division is recommending approval of this application for course of study.

MOTION: Mr. Hall moved to approve the application. Mr. Helm seconded the motion, which passed unanimously.

17. Contract(s) or Other Related Forms
A. Recommended for Approval with Conditions
(1) Neptune Management Corporation d/b/a Neptune Society (Plantation)
(a) Preneed Funeral Agreement

The Applicant, Neptune Management Corporation d/b/a Neptune Society (Neptune), submitted a Preneed Funeral Agreement (NEP-FL-999-PN) to be sold solely through preneed licensed establishments and branches. Neptune is filing this as an amendment to the former preneed services contract due to a transfer of the preneed trust from Comerica Bank to Forethought Federal Savings Bank. The Division recommends approval with the condition that the Department receives within 60 days two full-sized print-ready copies.

MOTION: Ms. Hubbell moved to approve the agreement with the condition that the Department receives two full-sized print-ready copies within 60 days of this meeting. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

18. Trust Transfer Request(s)

A. Recommended for Approval with Conditions

(1) Neptune Management Corporation d/b/a Neptune Society (Plantation)

(a) Ch 497.429 (pre 2005) Preneed Funeral Trust from Comerica Bank to Forethought Federal Savings Bank

Neptune Management Corporation d/b/a Neptune Society has appointed Forethought Federal Savings Bank (Forethought) as successor trustee and requests transfer of the above mentioned trust account currently held by Comerica Bank (Comerica) to Forethought. The transfer includes the trust account for the preneed trust funds for the preneed establishment and preneed branches that are currently owned by Neptune Management Corporation in accordance with 497.458, F.S. Forethought will continue to operate under the existing Florida Preneed Master Trust Agreement (please see attached).

It should be noted that the Master Trust Agreement in place with Comerica Bank formerly was not the Board approved version of the trust agreement as filed with the Division in September 2008. The licensee discloses that due to a clerical error, the draft version was executed and utilized in place of the actual Board approved version of the agreement (please see enclosed timeline provided by licensee). Despite this oversight, Neptune Management advises that it has trusted all funds in accordance with 497.585, F.S. as approved by the Board for use and referenced in its preneed funeral sales agreements with customers. No customers were harmed by this error and Comerica has agreed to correct this oversight by execution of the proper approved Master Trust Agreement.

The Division recommends approval of this request to transfer the aforementioned trust account from Comerica to Forethought with the condition that certification of the transfers is received by the Department within 60 days of this Board Meeting date.

MOTION: Ms. Hubbell moved to approve the request with the condition that certification of the transfers is received by the Department within 60 days of this Board meeting date. Mr. Hall seconded the motion, which passed unanimously.

19. Executive Director's Report

A. Proposed Rules Package for Consideration

The Board's Executive Director, Mr. Shropshire, presented the Board with remarks concerning the package of new and amended rules and forms provided to the Board members in advance of the meeting, for Board review and action at the December 2, 2010 Board meeting. The following rules and forms were included in the package.

69K-100.027 Application for Funeral Director License [NEW]

69K-100.035 Courses of Study: Criteria; Procedures for college or university to obtain approval [New]

69K-100.037 Educational Requirements for funeral director licensure [NEW]
69K-100.036 Proof of satisfying educational requirements. [NEW]
69K-18.002 Funeral Director Internship [AMENDED]
69K-18.003 Concurrent Internships. [AMENDED]
69K-18.004 Intern Training Agencies. [AMENDED]
69K-100.028 Application for Embalmer License. [NEW]
69K-25.003 Licensure as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration [AMENDED]
69K-16.0001 Law and Rules Exam. State Examination for Funeral Industry Professionals. [AMENDED]
69K-17.002 Application Fees; Licensure by Endorsement for Embalmers and Funeral Directors. [AMEND]
69K-23.001 Direct Disposer, application for license Manner of Application. [amended]

~~69K 17.001 Examination Fees for Embalmers and Funeral Directors; Manner of Application. [REPEAL]~~
~~69K 23.002 Examination Requirements. [direct disposers] REPEAL~~
~~69K 15.001 Course in Mortuary Science [REPEAL]~~
~~69K 15.002 Associate of Arts Degree in Mortuary Science [REPEAL]~~
~~69K 16.002 Examination for Funeral Director Applicants. [Repeal]~~
~~69K 16.004 [Required] Examination for Licensure by Endorsement. [REPEAL]~~
~~69K 17.0015 Security and Monitoring Procedures for Licensure Examination. [REPEAL]~~
~~69K 16.001 Examination for Embalmer Applicants. [REPEAL]~~

FORM -- Application To Renew FD Internship To Continue Course Of Study (new)
FORM -- Application to Renew Internship Due to Illness, Hardship, Etc (new)
FORM -- Application to Take The Law & Rules Exam (new)
FORM -- Certification for General Supervision of Intern (new)
FORM -- Application for funeral director-only intern license (revised)
FORM -- Application for concurrent intern license (revised)
FORM -- Report of Suspension of Intern's Conditions of Internship (new)
FORM -- Proposed New Form -- "Application for Approval of a Course Of Study" [NEW FORM]

Mr. Shropshire recommended to the Board as follows:

- 1) That the Board approve the attached new and amended rules and forms, and authorize the Division to move forward with rulemaking to effectuate the new and amended rules and forms, expressly authorizing the Division to: publish notice of rule development pursuant to s. 120.54(2); publish notice of intent to adopt the rules and forms pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the rules and forms for adoption pursuant to s. 120.54(3)(e)6, Florida Statutes.

- 2) That the Board finds that the new and amended rules and forms in the attached proposed new and amended rules and forms:
 - a. Will not have an adverse impact on small business;
 - b. Are not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.

There was discussion among the Board members concerning proposed amended Rule 69K-18.002, at its subsection (3)(e)2. The Board directed that subsection (3)(e)2 be amended as shown below:

2) If an intern's internship supervisor is notified by the intern they supervise, licensed under s. 497.375(1)(b)2. that the intern has, prior to successful completion of the course of study, ceased or been terminated from current enrollment in the course of study or has ceased attendance in the course of study, the supervisor shall immediately suspend all activities under the internship and within 20 ~~5~~ calendar days shall complete and file with the Division a form DFS-N1-XXX "Report of Suspension of Intern's Conditions of Internship." If the supervisor receives information from a source the supervisor deems reliable, specifically asserting that the intern they supervise, licensed under s. 497.375(1)(b)2. has, prior to successful completion of the course of study, ceased or been terminated from current enrollment in the course of study or has ceased attendance in the course of study, the supervisor shall within 20 calendar days require the intern to provide the supervisor written proof from the school that the intern is currently enrolled in and attending the course of study, and if such proof is not received within ~~20~~ 5 business days of the supervisor's request the supervisor shall immediately suspend all activities under the internship and within 20 ~~5~~ days shall complete and file with the Division a form DFS-N1-XXX "Report of Suspension of Intern's Conditions of Internship."

There was also discussion of proposed amended Rule 69K-18.004, at subsection (4)(h), and the Board directed that the provision be amended to increase the number of embalmings to be performed by an embalming intern, from 20 embalmings, to 25 embalmings.

Mr. Shropshire advised that the Division of Funeral, Cemetery, and Consumer Services recommended to the Board as follows:

1) That the Board approve the attached new and amended rules and forms, and authorize the Division to move forward with rulemaking to effectuate the new and amended rules and forms, expressly authorizing the Division to: publish notice of rule development pursuant to s. 120.54(2); publish notice of intent to adopt the rules and forms pursuant to s. 120.54(3)(a)1; to prepare and publish statements of estimated regulatory costs pursuant to s. 120.54(3)(b) and 120.541; and to file the rules and forms for adoption pursuant to s. 120.54(3)(e)6, Florida Statutes.

2) That the Board finds that the new and amended rules and forms in the attached proposed new and amended rules and forms:

- a. Will not have an adverse impact on small business;
- b. Are not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.

MOTION: Mr. Hall moved to accept the Division's recommendations, subject to the changes above specified to Rules 69K-18.002 and 69K-18.004. The motion was duly seconded by Mr. Jones. The Board thereupon voted unanimously in favor of the motion.

20. Adjournment

The meeting was adjourned at 11:02 a.m.