

KANSAS STATE BOARD OF MORTUARY ARTS
700 SW JACKSON, SUITE #904
TOPEKA, KANSAS
Wednesday-Thursday, April 9-10, 2014

FORMAT OF MINUTES:

On each motion there appear the names of two board members in a parenthesis. The first named made the motion, and the second named made the second. Ayes and Nays will be recorded at a voter's request.

Wednesday, April 9, 2014:

- I. The Investigative Committee (IC) of the board met to discuss and make recommendations to the Board on open complaints. Those in attendance included Theresa M. Schwartz, Lawrence, Consumer; and Barry W. Bedene, Arma, Licensee; with administrative staff assistance provided by Assistant Attorney General Steve Phillips and Executive Secretary, Mack Smith. *Recommendations and Actions* from this committee meeting are contained within these minutes.
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Thursday, April 10, 2014:

- II. The regularly scheduled meeting of the Kansas State Board of Mortuary Arts (KSBMA) was called to order by President Theresa M. Schwartz.

Roll call by Executive Secretary Mack Smith found the following board members in attendance: President Theresa M. Schwartz, Lawrence, Licensee; Vice President Steven G. "Steve" Melby, Mankato, Licensee; Barry W. Bedene, Arma, Licensee; and William L. "Bill" Cozine, Wichita, Licensee. Assistant Attorney General Jan Arndt was also in attendance. Board Member Randy Duncan, Brookville, was not present.

Mr. Smith introduced Office Manager/Administrative Specialist Sherry Fergel to the Board. Ms. Fergel started with the KSBMA on February 10, 2014. Ms. Fergel was welcomed by the Board.

The board noted this meeting's tentative agenda that is displayed on the agency's website at: <http://www.kansas.gov/ksbma/> under the heading of *Agency Information and Tentative Board Agenda*.

(Bedene-Melby) To approve a **final agenda** for this meeting. Carried.

If time allows, the board decided to eat lunch at Classic Bean.

(Melby-Bedene) To adopt the **January 8-9, 2014 regularly scheduled board meeting minutes** as amended. Carried. These minutes will be signed by President Theresa Schwartz and Executive Secretary Mack Smith, then displayed on the board's website.

The board reviewed results of the written **funeral directors' examination** administered on **January 9, 2014** noting that **92% (eleven of twelve applicants)** were **successful**.

The board reviewed results of the written **assistant funeral directors' examinations** administered in **February, March and April 2014** noting that **100% (four of four applicants)** were successful. Since the law requiring examination for assistant funeral directors was enacted in 2008, **72% (117 of 163 applicants)** have successfully passed the written examination.

The board reviewed the '**List of Licensure Applicants**' scheduled to interview with the board at this meeting, noting the following applicants scheduled to meet with the board include: four (4) embalmer-funeral director applicants, three (3) funeral director applicants, one reciprocal (Texas) funeral director applicant, and four (4) reciprocal (Indiana, Oklahoma, Missouri and Washington) embalmer-funeral director applicants. One (1) applicant has registered to retake the funeral directors' examination—for a total of thirteen (13) applicants scheduled to be administered the written funeral directors' examination in conjunction with this meeting.

Board Member Randy Duncan, Brookville, Consumer, entered the meeting.

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- III.** The board **reviewed individual applications** for licensure along with the executive secretary's summations of the applicant's apprentice and supervising licensee progress reports. Applicants for licensure will be interviewed later in this meeting. All funeral director applicants will be administered the written funeral directors' examination by Funeral Home/ Crematory Inspector Francis Mills at 1:30 p.m. this afternoon in the Senate Room of the Jayhawk Tower.

All quarterly apprentice progress reports of embalmer/funeral director apprentices and supervising licensees due March 15, 2014 were summarized by the executive secretary with copies of the individual reports available for board members to review as desired.

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- IV.** **9:30 a.m. Legal Discussion: Individual Complaints/Investigations are listed numerically. The board did not necessarily take action in the order listed below:**

Complaints and legal concerns:

The board reviewed correspondence involving complaints resulting from actions taken and recommendations made at the meeting of January 9, 2014.

Information on open complaints:

The Board's Investigative Committee, which is composed of Board Members Theresa Schwartz and Barry Bedene met with Litigation Attorney Steve Phillips and KSBMA Executive Secretary Smith on Wednesday, April 9, 2014 at 3:00 p.m. to discuss and make recommendations on open complaints.

#13-26 & #13-27—(Cozine-Duncan) To close the file. Carried. The complaints involve concerns with an insurance assignment and with the conduct of the funeral director. One complaint was forwarded to the KSBMA by the Office of the Kansas Attorney General's Consumer Protection and Antitrust Division, with the other filed directly with the KSBMA by the consumer. The Board declined to take action against the licensee.

#13-29—No action necessary at this time.

#13-30—(Cozine-Duncan) To close the file. Carried. The complaint involves the failure to set up the correct ownership status as was filed with the KSBMA when filing for a change of ownership for a funeral establishment. The licensee was advised of the need to do a better job of meeting future deadlines.

#13-34—(Cozine-Duncan) To close the file. Carried. There were no violations of laws enforced by the Board. The licensee that filed the complaint was advised that the concerns expressed are not Board matters. The complaint involves fraudulent/ deceptive/misleading advertising.

#13-36—(Cozine-Duncan) To close the file. Carried. The complaint involves fraudulent/ deceptive/misleading advertising. Based on information submitted, there were no violations of laws enforced by the Board.

#13-38—No action necessary at this time.

#14-01—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to warn the licensee regarding unprofessional conduct and disclosures of the confidences of any party served. Carried. The complaint involves unprofessional conduct with the placing of material on the internet. The material in question has since been removed. The committee is also recommending amendments to the related regulation.

#14-02—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to advise the funeral home to submit a letter to the phone company regarding the listing of a funeral home that is no longer licensed. Carried. The complaint, filed by a competing funeral home, involves fraudulent/deceptive/ misleading advertising.

#14-03—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves unprofessional conduct with the handling of human remains. The facility in question passed inspection shortly after concerns were expressed to the KSBMA.

#14-04—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves failure of a funeral home to file a death certificate in a timely manner. Employees responsible for the actions in question are no longer employed at the funeral home.

#14-05—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to accept the explanation provided by the funeral home along with their assurance that a similar situation would not recur. Carried. The complaint involves failure of an out-of-state funeral home to have a Kansas licensee in charge of a service/interment that occurred in the State of Kansas.

#14-06—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to advise the consumer that while no violations of laws regulated by the KSBMA were discovered, they may want to consider conferring with private counsel regarding the possibility of civil action. Carried. The complaint involves failure of a funeral home to honor a guaranteed prefinanced funeral agreement upon death purchased by a consumer from a previous owner.

#14-07—No action necessary at this time.

#14-08—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to advise the licensee that any future statements regarding ownership should be specific and accurate. Carried. The complaint involves fraudulent/deceptive and misleading advertising involving new ownership of three (3) Kansas funeral homes.

#14-09—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to advise the licensee that the advertising in question should accurately reflect previous ownership—since current ownership has not been in place for as long as the advertising indicates. Carried. The complaint involves fraudulent/ deceptive/misleading advertising on a funeral home's web site.

#14-10—No action necessary at this time.

#14-11—No action necessary at this time.

Assistant Attorney General Jan Arndt discussed **Attorney General Opinion 2014-07**, which involves *investigative committee meetings*. Ms. Arndt advised that because the KSBMA Investigative Committee is subject to the Kansas Administrative Procedure Act (KAPA), the procedures outlined in this Opinion apply to the Board's Investigative Committee meetings. A summary of the opinion is as follows: The Kansas Administrative Procedure Act (KAPA) applies to the activities of the investigations committee of a state licensing board only to the extent that the board's statutes expressly provide that proceedings under those statutes are governed by the KAPA. KAPA proceedings are not required to be open to observation by the public with the exception of an evidentiary hearing. Under the KAPA, an agency's decision is made in an order that is served on the parties; a public vote is not required. The Board's Investigative Committee will be following the procedures outlined in this opinion.

V. **9:45 a.m. Board Business:**

- 1) (Bedene-Cozine) To approve the **quarterly lists of continuing education (CE.)** Carried. Three lists containing *on-site programs, correspondence/home study programs* and *programs pertaining to cremation* for *crematory operators* were provided to the Board. These lists are regularly updated and available on the board's web site.
- 2) (Melby-Duncan) To approve the list of **lapsed licenses**. Carried. These lists contain the names of individuals whose license renewals are past due for longer than six months, who have requested that their licenses be dropped, who have died or in the case of assistant funeral directors, who are no longer employed at a funeral home under the supervision of a funeral director. The current list reviewed and approved by the Board includes four (4) assistant funeral director licenses, two (2) crematory operator licenses, thirteen (13) embalmer licenses and seventeen (17) funeral director licenses. This information is provided for a number of reasons, including use by the Office of Vital Statistics (OVS) for purposes of licensure verification used on death certificates. The board reviewed the list of **automatically suspended licenses**. This list contains the names of individuals who have not paid their license renewal fees by the appropriate due date and have not requested that their licenses be dropped. Once a license is six months in arrears, it is then automatically placed on the lapsed license list for purposes of being dropped. This list includes twelve (12) embalmer licenses and twelve (12) funeral directors license renewals due through March 31, 2014. The board reviewed the list of **funeral homes and crematories that have closed** since January 9, 2014. This list includes one (1) branch funeral establishment.
- 3) (Melby-Cozine) To approve the **FY 2014 third quarter** (January 1-March 31, 2014) **Report** of KSBMA Funeral Home-Crematory Inspector Francis F. Mills. Carried. 179 inspections were conducted during the third quarter of FY 2014 with two (2) preparation room violations noted. 7,081 miles were traveled involving visits to 53 counties during this time frame. In addition, the Inspector stayed in the office to work for two-weeks due to a temporary staff shortage.
- 4) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of 22 apprentices are currently registered with the board, including: thirteen (13) embalmer-funeral directors, one (1) embalmer and eight (8) funeral directors.
- 5) Discussion of **news articles** relating to the funeral profession that has been provided to board members and legal counsel for their review including an article that appeared in the March 24, 2014 edition of the Kansas City Star, titled: "Funeral Directors Move Beyond Tradition to Meet Demands of Changing Technology, Culture."
- 6) A reminder of the remaining **2014 Board meeting dates**: July 10 and October 9.
- 7) The board signed travel vouchers.
- 8) The board reviewed information pertaining to **Statements of Substantial Interest (SSI)** that are due to be filed by no later than April 30, 2014.

VI. **10:00 a.m. Executive Secretary's Report:**

- 1) **Budget Information–**
 - a) Although State Funding is not yet finalized, budget recommendations from the Legislature for the **FY 2014** (July 1, 2013 through June 30, 2014) **budget** remain at \$286,892. Legislative recommendations for **FY 2015** (July 1, 2014 through June 30, 2015) **budget** remained at \$288,647. The Legislature is scheduled to reconvene at 10:00 a.m. (Both the Senate and the House) on Wednesday, April 30, 2014. The Division of the Budget's Evaluation of the KSBMA, stated: “. . . The Board of Mortuary Arts continues to have a well thought-out strategic plan. The agency has given thorough consideration of its goals and objectives to carry out its mission. The agency has excellent performance measures that accurately determine its progress.”
 - 2) Updated information regarding the **International Conference of Funeral Service Examining Boards (ICFSEB)**.
 - a) Mr. Smith represented the KSBMA at the *2014 ICFSEB's 110th Annual Meeting: "Move Forward and Open New Doors"* held in February 2014, and he also participated at the Board of Directors Meeting and was Chairman of the Board Member Training portion of the meeting.
 - b) KSBMA Board President Schwartz continues her work on the ICFSEB's *Model Practice Act Committee*.
 - c) The *January 15, 2014 Update* was discussed.
 - 3) No updated information was provided for the **Council on Licensure, Enforcement and Regulation (CLEAR.)**
 - 4) No updated information was provided for the **Federation of Associations of Regulatory Boards (FARB.)**
 - 5) Updated information on the **Kansas Funeral Directors and Embalmers Association (KFDA)**
 - (1-9) a) Information in the *January 2014 KFDA Journal* was discussed.
 - (1-10) b) Information in the *February 2014 KFDA Journal* was discussed.
 - c) Mr. Smith and Mr. Mills will represent the Board at the 2014 KFDA Annual Convention.
 - 6) Information relating to the **board's web site**, <http://www.kansas.gov/ksbma/>, was discussed along with the new web site using the software program *Sitefinity*.
 - 7) Updated information was provided for the **National Funeral Directors Association (NFDA.)**
 - 8) No updated information was provided for the **Federal Trade Commission (FTC)** regarding the **FTC Funeral Rule**.
 - 9) Information was provided for the **American Board of Funeral Service Education (ABFSE)**.
 - 10) Updated information from the **Cremation Society of North America (CANA)** relating to continuing education for crematory operators was discussed.
 - 11) No updated information was provided for the **Funeral Ethics Association (FEA)**.

- 12) Information was provided for the **Funeral Consumer's Alliance (FCA)/Funeral Consumer's Alliance of Greater Kansas City.**
- 13) No new information on the **Funeral Ethics Organization (FEO)** was discussed.
- 14) **American Society of Embalmers (ASE)**
 - a) *The 10th Annual ASE Meeting and Convention* is scheduled for June 20, 2014 in Rosemont, Illinois.
- 15) No updated information was provided for the **Kansas Department of Health and Environment (KDHE), Office of Vital Statistics (OVS).**
- 16) No updated Information was provided for the **Kansas City Kansas Community College (KCKCC) Mortuary Science Program.**
- 17) No updated information was provided for the **Kansas Mass Fatality Planning Task Force.**

VII. 2014 Kansas Legislative Session

- 1) A review of the 2014 Session was provided by Executive Secretary Smith.

VIII. The board met with *Applicants for Licensure* to discuss their applications and apprenticeships:

Funeral Director Applicant: Ms. Kimberly D. "Kim" Ruhter

(Melby-Duncan) To grant a funeral director license upon completion of apprenticeship, passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$30.00. Carried. With continuous employment, Ms. Ruhter is scheduled to complete her funeral directing apprenticeship at Smith Mortuary in Derby, Kansas on April 22, 2014. The renewal date for the funeral director license would be June 30, 2015. Ms. Ruhter attended Pratt Community College in Pratt, Kansas, Cowley County Community College in Arkansas City, Kansas and was awarded an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

Funeral Director Applicant: Mr. Adam T. Knebler

(Cozine-Bedene) To grant a funeral director license upon completion of apprenticeship, passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$16.00. Carried. With continuous employment, Mr. Knebler is scheduled to complete his funeral directing apprenticeship at Broadway Mortuary in Wichita, Kansas on April 29, 2014. The renewal date for the funeral director license would be November 30, 2014. Mr. Knebler earned a Bachelor of Science Degree in Criminal Justice at Wichita State University in Wichita, Kansas. He attended Butler County Community College in El Dorado, Kansas, Cowley County Community College in Arkansas City, Kansas and was awarded an Associate in Applied Science Degree in Funeral Service at the Dallas Institute of Funeral Service in Dallas,

Texas. He was granted a Kansas reciprocal (Texas) embalmer license in April 2013 and is also a licensed Kansas crematory operator.

Embalmer-Funeral Director Applicant: Mr. Jarred H. Harrington

(Bedene-Cozine) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$135.00 and to grant a funeral director license upon completion of apprenticeship and passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$10.00. Carried. With continuous employment Mr. Harrington is scheduled to complete his apprenticeships on April 24, 2014 at Alden-Harrington Funeral Home in Bonner Springs, Kansas. Once issued, the renewal date for the licenses would be August 31, 2014. Mr. Harrington attended Donnelly College in Kansas City, Kansas and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Embalmer-Funeral Director Applicant: Mr. Jacob R. Sawyer

(Bedene-Cozine) To grant an embalmer license upon completion of apprenticeship, payment of an initial license fee of \$112.00 and to grant a funeral director license upon completion of apprenticeship, passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$32.00. Carried. With continuous employment Mr. Sawyer is scheduled to complete his apprenticeships on April 12, 2014 at Carlson-Geisendorf Funeral Home and Crematory in Salina, Kansas. Once issued, the renewal date for the licenses would be July 31, 2015. Mr. Sawyer attended the University of Kansas in Lawrence, Kansas, Cowley County Community College in Arkansas City, Kansas and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Embalmer-Funeral Director Applicant: Ms. Samantha J. Erickson

(Melby-Duncan) To grant an embalmer license upon payment of an initial license fee of \$182.00 and to grant a funeral director license upon passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$232.00. Carried. Ms. Erickson completed her apprenticeships on March 15, 2014 at Koons Funeral Home in Goodland, Kansas. Once issued, the renewal date for the licenses would be May 31, 2016. Ms. Erickson attended Colby Community College in Colby, Kansas and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Embalmer-Funeral Director Applicant: Ms. Meshel C. Born

(Duncan-Melby) To grant an embalmer license upon payment of an initial license fee of \$161.00 and to grant a funeral director license upon passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$46.00. Carried. Ms. Born completed her apprenticeships on February 5, 2014 at Myatt Funeral Home in Ashland, Kansas. Once issued, the renewal date for the licenses would be February 28, 2016. Ms. Born earned an Associate in Applied Science Degree in Mortuary Science at

Reciprocal (Oklahoma) Embalmer-Funeral Director Applicant: Mr. Rollie M. “Kenny” Tigner

(Cozine-Bedene) To grant a reciprocal embalmer license upon payment of a \$119.00 initial license fee and to grant a funeral director license upon passing the written funeral directors’ examination, which will be administered later today, and payment of an initial license fee of \$161.50. Carried. The renewal date for the licenses would be August 31, 2015. Mr. Tigner is currently a licensed embalmer and funeral director in the State of Oklahoma. He attended Seminole State College in Seminole, Oklahoma, Northeastern State University in Tahlequah, Oklahoma, Connors State College in Warner, Oklahoma and the University of Central Oklahoma where he earned the equivalent of an Associates Degree in Mortuary Science. Mr. Tigner has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB) and is employed at Lanman Funeral Homes in Helena, Oklahoma and Kiowa, Kansas.

Reciprocal (Texas) Funeral Director Applicant: Mr. Jarrod L. Weeks

(Melby-Duncan) To grant a reciprocal funeral director license upon passing the written funeral directors’ examination, which will be administered later today, and payment of an initial license fee of \$190.00. Carried. The renewal date for the license would be November 30, 2015. Mr. Weeks is currently a licensed funeral director in the State of Texas. He attended the Dallas Institute of Funeral Service in Dallas, Texas in their Funeral Director’s Program and also attended Seward County Community College in Liberal, Kansas. He passed the Arts section of the National Board Examination and is currently a Kansas licensed crematory operator at Kansas Coach and Livery Cremation Service in Sublette, Kansas.

Funeral Director Applicant: Ms. Jamie K. Reed

(Cozine-Duncan) To grant a funeral director license upon passing the written funeral directors’ examination, which will be administered later today, and payment of an initial license fee of \$30.00. Carried. Ms. Reed completed her funeral directing apprenticeship at McGillley-Hoge Johnson County Memorial Chapel in Overland Park, Kansas on March 26, 2014. She served the majority of her funeral directing apprenticeship at Church Funeral Associates in Mission and Shawnee, Kansas. The renewal date for the funeral director license would be June 30, 2015. Ms. Reed attended Southwest Missouri State University in Springfield, Missouri, Missouri Southern State College in Joplin, Missouri and was awarded an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

Reciprocal (Indiana) Embalmer-Funeral Director Applicant: Mr. Amos T. Cooley

(Cozine-Melby) To grant a reciprocal embalmer license upon payment of a \$168.00 initial license fee and to grant a funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$228.00. Carried. The renewal date for the licenses would be March 31, 2016. Mr. Cooley is currently a licensed Indiana and Missouri embalmer and funeral director. He was awarded a Bachelor of Mortuary Science Degree at the Cincinnati College of Mortuary Science in Cincinnati, Ohio and has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB.) He is employed at Lawrence A. Jones and Sons Funeral Home in Kansas City, Missouri.

Reciprocal (Missouri) Embalmer-Funeral Director Applicant: Ms. Ann R. Troester

(Melby-Cozine) To grant a reciprocal embalmer license upon payment of a \$119.00 initial license fee and to grant a funeral director license upon passing the written funeral directors' examination, which will be administered later today, completion of one year of licensure with the State of Missouri on April 18, 2014 and payment of an initial license fee of \$161.50. Carried. The renewal date for the licenses would be August 31, 2015. Ms. Troester is currently a licensed embalmer-funeral director in the States of Missouri and Illinois. She was awarded a Bachelor of Arts Degree in Psychology at Southern Illinois University in Carbondale, Illinois and an Associate Degree in Applied Sciences at Kansas City Kansas Community College in Kansas City, Kansas. She has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB) and is employed at Floral Hills Funeral Home in Kansas City, Missouri.

Reciprocal (Washington) Embalmer-Funeral Director Applicant: Mr. Michael A. Vann, Jr.

(Bedene-Duncan) To grant a reciprocal embalmer license upon payment of a \$133.00 initial license fee and to grant a funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$180.50. Carried. The renewal date for the licenses would be October 31, 2015. Mr. Vann is currently a licensed embalmer-funeral director in the State of Washington. He was awarded an Associate Degree in Applied Sciences at Kansas City Kansas Community College in Kansas City, Kansas and has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB.) Mr. Vann will be employed at Thatcher's Funeral Home in Kansas City, Kansas.

VIII. 12:50 p.m. New/Old/Remaining Business/Adjournment

(Schwartz-Melby) To adjourn—subject to recall by the president, vice president or executive secretary. Carried. The date of the next regularly scheduled board meeting is Thursday, July 10, 2014.

At approximately 1:30 p.m. Executive Secretary Smith read instructions to the funeral directors' examinee applicants prior to the administration of the funeral

directors' examination which was proctored by Inspector Francis Mills in the Florentine Room of the Jayhawk Tower. The results of that examination are a part of these minutes.

Respectfully submitted:



Theresa Marcel Schwartz, President
Thursday, July 10, 2014
(Date)



Mack Smith, Executive Secretary
Thursday, July 10, 2014
(Date)
