

KANSAS STATE BOARD OF MORTUARY ARTS
700 SW JACKSON, SUITE #904
TOPEKA, KANSAS
Wednesday-Thursday, January 8-9, 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, January 8, 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, with administrative staff assistance provided by Assistant Attorney General Steve Phillips and Executive Secretary, Mack Smith. Barry W. Bedene, Arma, Licensee, was unable to attend. Recommendations and Actions from this committee meeting are contained within these minutes.
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Thursday, January 9, 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; William L. "Bill" Cozine, Wichita, Licensee; and Randy Duncan, Brookville, Consumer. Assistant Attorney General Jan Arndt was also in attendance. Ms. Arndt is substituting for Assistant Attorney General Lisa Mendoza, who is currently working on a project for the Office of the Attorney General. Barry W. Bedene, Arma, Licensee, was unable to attend.

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*.

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

President Schwartz formally appointed Board Member Bedene to the Investigative Committee.

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

(Duncan-Cozine) To adopt the **October 9-10, 2013 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 **October 10, 2013** noting that **50% (four of eight applicants)** were **successful**.

The board reviewed results of the written **assistant funeral directors' examinations** administered in **October, November and December 2013** and **January 2014** noting that **64% (seven of eleven applicants)** were successful. Since the law requiring examination for assistant funeral directors was enacted in 2008, **71% (113 of 159 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: six (6) embalmer-funeral director applicants, one (1) funeral director applicant, one reciprocal (Missouri) funeral director applicant, one (1) reciprocal (Missouri) embalmer-funeral director applicant and one (1) assistant funeral director applicant. Four (4) applicants have 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.

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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 December 15, 2013 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. **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 October 10, 2013.

Information pertaining to a *Court of Appeals* case that reversed a *District Court Decision* regarding **Legislative Fee Sweeps** was briefly discussed.

Kansas Attorney General Opinion #2013-21 on *Conceal Carry* relating to State Agencies was provided.

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, January 8, 2014 at 3:00 p.m. to discuss and make recommendations on open complaints. Mr. Bedene was unable to attend the meeting.

#13-14—This complaint was reopened following correspondence by the consumer. (Melby-Cozine) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves concerns with cremation.

#13-19—(Melby-Cozine) Following review of correspondence to close the file. Carried. While both parties were notified of no apparent violations of laws enforced by the KSBMA, the Board suggested that the consumer and funeral home/cemetery meet to go over the concerns of the consumer. One possibility is to drop the memorial bench off the contract for the time being in order to decrease the monthly cost to the consumer. The complaint involves the value of a prefinanced funeral agreement following death and unprofessional conduct.

#13-20—(Melby-Cozine) Following review of correspondence to close the file. Carried. The funeral director was notified to do a better job of filing death certificates in a timely manner to avoid future problems. A copy of the letter to the funeral director was provided to the Office of Vital Statistics (OVS.) The complaint involves failure to file death certificates in a timely manner.

#13-21—(Melby-Cozine) Following review of correspondence to close the file. Carried. The funeral director was notified to do a better job of filing death certificates in a timely manner to avoid future problems. A copy of the letter to the funeral director was provided to the Office of Vital Statistics (OVS.) The complaint involves failure to file death certificates in a timely manner.

#13-22—(Melby-Cozine) Following review of correspondence to close the file. Carried. The funeral director was notified to do a better job of filing death certificates in a timely manner to avoid future problems. A copy of the letter to the funeral director was provided to the Office of Vital Statistics (OVS.) The complaint involves failure to file death certificates in a timely manner.

#13-23—(Melby-Cozine) Following review of correspondence to close the file. Carried. The funeral director was notified to do a better job of filing death certificates in a timely manner to avoid future problems. A copy of the letter to the funeral director was provided to the Office of Vital Statistics (OVS.) The complaint involves failure to file death certificates in a timely manner, including three certificates where death occurred approximately two months ago.

#13-24—(Melby-Cozine) Following review of correspondence to close the file. Carried. The funeral director was notified to be better aware of Kansas laws in future decisions and to keep a Kansas rule book on hand as a reference tool. The complaint involves failure of a funeral home to apply for an application to move the funeral home to a new location in a timely manner.

#13-25—(Melby-Cozine) Following review of correspondence to close the file. Carried. The crematory operator in charge was notified to be better aware of Kansas laws in future decisions and to keep a Kansas rule book on hand as a reference tool. A copy of the letter was also sent to the funeral director. The complaint involves failure of a crematory to apply for the appropriate license after moving the attached funeral home to a new location in a timely manner.

#13-26 & #13-27—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee that based on all available information, to decline to take action against the licensee. 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.

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

#13-30—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee to advise the licensee of the need to do a better job of meeting future deadlines and 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.

#13-32—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee of no violations and to close the file. Carried. The complaint involves reporting of prefinanced funeral agreements.

#13-33—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves the failure to file death certificates in a timely manner.

#13-34—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee of no violations of laws enforced by the Board. Carried. The licensee will also be advised that the concerns expressed are not Board matters. The complaint involves fraudulent/deceptive/misleading advertising.

#13-35—An assistant funeral director application that will be considered by the Board later in this meeting.

#13-36—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee that based on information submitted, no violations of laws enforced by the Board. Carried. Civil action may be considered. The complaint involves fraudulent/ deceptive/misleading advertising.

#13-37—A reciprocal application that will be considered by the Board later in this meeting.

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

#13-39—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves a funeral director in charge issue.

#13-40—(Duncan-Cozine) To adopt the recommendations of the Investigative Committee to close the file. Carried. The complaint involves reporting of prefinanced funeral agreements.

V. Board Business:

- 1) (Melby-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) (Duncan-Cozine) 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 ten (10) assistant funeral director licenses, two (2) crematory operator licenses, nine (9) embalmer licenses and ten (10) 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 thirteen (13) funeral directors license renewals due through December 31, 2013. The board reviewed the list of **funeral homes and crematories that have closed** since October 10, 2013. This list includes one (1) funeral home.
- 3) (Cozine-Duncan) To approve the **FY 2014 second quarter** (October 1-December 31, 2013) **Report** of KSBMA Funeral Home-Crematory Inspector Francis F. Mills. Carried. 210 inspections were conducted during the second quarter of FY 2014 with two (2) preparation room violations noted. 6,607 miles were traveled involving visits to 59 counties during this time frame.

- 4) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of 23 apprentices are currently registered with the board, including: sixteen (16) embalmer-funeral directors, one (1) embalmer and six (6) 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.
- 6) A reminder of the remaining **2014 Board meeting dates**: April 10, July 10 and October 9.
- 7) The board signed travel vouchers.
- 8) The board reviewed information pertaining to board members and administrative staff.

VI. Executive Secretary's Report:

- 1) **Budget Information–**
 - a) Budget recommendations from the Division of the Budget (DOB) for the **FY 2014** (July 1, 2013 through June 30, 2014) **budget** remain at \$286,892. The DOB budget recommendation for **FY 2015** (July 1, 2014 through June 30, 2015) **budget** remained at \$288,647 with no enhancements. DOB's evaluation of the KSBMA Budget Requests, included the following: "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 attended an ICFSEB *Board Meeting and Examination Bidders Conference* in October 2013.
 - b) KSBMA Board President Schwartz continues her work on the ICFSEB's *Model Practice Act Committee*.
 - c) Mr. Smith will represent the KSBMA at the *2014 ICFSEB's 110th Annual Meeting: "Move Forward and Open New Doors"* to be held in February 2014 and will also participate at the Board of Directors Meeting and will chair the Board Member Training portion of the meeting.
 - d) The *Fall 2013 Conference Report* 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)**
 - a) Information in the *September-October 2013 KFDA Journal* was discussed.
 - b) Information in the *November-December 2013 KFDA Journal* was discussed.

- 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)**
 - a) The 2013 NFDA International Convention & Expo was held October 20-23, 2013 in Austin, Texas at the Palmer Events/Convention Center.
- 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)**.
 - a) *Robb Smith* was hired as the new executive director of the **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**.
 - a) Executive Director Josh Slocum was the featured speaker on November 1, 2013 in Kansas City, Missouri discussing the book that he and Lisa Carlson wrote: "*Final Rights, Reclaiming the American Way of Death*."
 - b) The Fall 2013 newsletter was reviewed.
- 13) No new information on the **Funeral Ethics Organization (FEO)** was discussed.
- 14) **American Society of Embalmers (ASE)**
 - a) *The Embalmers Quarterly Journal for October of 2013* was reviewed.
- 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 2013 Session was provided by Executive Secretary Smith.
 - 2) No new funeral related legislation for 2014 is known at this time.
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- VIII. The board met with *Applicants for Licensure* to discuss their applications and apprentices:

Embalmer-Funeral Director Applicant: Mr. James S. Millburn

(Melby-Schwartz) To grant an embalmer license upon completion of apprenticeship, payment of an initial license fee of \$84.00 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 \$24.00. Carried. With continuous employment, Mr. Millburn is scheduled to complete his apprenticeships on February 4, 2014 at Mercer Funeral Home in Holton, Kansas. The first three quarters of apprenticeship were served at Webb and Rodrick Chapel in Independence, Kansas. Once issued, the renewal date for the licenses would be January 31, 2015. Mr. Millburn attended Allen County Community College in Iola, 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. Stephen T. Derfelt

(Cozine-Duncan) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$189.00 and to grant a funeral director license upon passing of the written funeral directors' examination, which will be administered later today, completion of apprenticeship and payment of an initial license fee of \$234.00. Carried. With continuous employment Mr. Derfelt is scheduled to complete his apprenticeships on February 4, 2014 at Derfelt Funeral Home in Galena, Kansas. Once issued, the renewal date for the licenses would be April 30, 2016. Mr. Derfelt attended Labette Community College in Parsons, Kansas, Pittsburg State University in Pittsburg, 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. Traci B. Stubbs

(Melby-Cozine) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$126.00 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 \$36.00. Carried. With continuous employment Ms. Stubbs is scheduled to complete her apprenticeships on February 4, 2014 at Elliott Mortuary in Hutchinson, Kansas. Once issued, the renewal date for the licenses would be July 31, 2015. Ms. Stubbs attended Hutchinson Community College in Hutchinson, 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. Chaz C. Beckwith

(Cozine-Duncan) To grant an embalmer license upon completion of apprenticeship, payment of an initial license fee of \$175.00 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 \$230.00. Carried. With continuous employment Mr. Beckwith is scheduled to complete his apprenticeships on February 1, 2014 at Beckwith Funeral Home in Larned, Kansas. Once issued, the renewal date for the licenses would be February 28, 2016. Mr. Beckwith attended Dodge City Community College in Dodge City, Kansas, Kansas State University in Manhattan, Kansas, Barton County Community College in Great Bend, 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. Christen J. Campbell

(Cozine-Melby) To grant an embalmer license upon completion of apprenticeship, payment of an initial license fee of \$182.00 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 \$232.00. Carried. With continuous employment Ms. Campbell is scheduled to complete her apprenticeships on February 22, 2014 at Amos Family Funeral Home and Crematory in Shawnee, Kansas. Once issued, the renewal date for the licenses would be March 31, 2016. Ms. Campbell attended Johnson County Community College in Overland Park, 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. Laura E. Warman

(Duncan-Cozine) To grant an embalmer license upon completion of apprenticeship, payment of an initial license fee of \$154.00 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 \$44.00. Carried. With continuous employment Ms. Warman is scheduled to complete her apprenticeships on January 30, 2014 at Highland Park Funeral Home and Crematory in Kansas City, Kansas. Once issued, the renewal date for the licenses would be November 30, 2015. Ms. Warman attended Park University in Parkville, Missouri, Metropolitan Community College in Kansas City, Missouri and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Funeral Director Applicant: Ms. Jamie K. Reed

Ms. Reed has eighteen (18) of the twenty-five (25) cases required during her funeral directing apprenticeship. She completed four (4) of the eighteen (18) cases during the past three months of apprenticeship.

(Schwartz-Cozine) To adjourn into executive session to discuss matters of attorney-client privilege for a time frame of five minutes with Board Members, legal counsel and executive secretary. Carried.

The Board returned to open session.

(Cozine-Melby) Based on KSA 65-1714b and KSA 65-1714c to deem Ms. Reed's application incomplete and give her until the January 2015 regularly scheduled Board meeting to complete all the necessary requirements to complete the application. Carried. Failure to complete requirements by that deadline will require another application to be filed.

Reciprocal (Missouri) Funeral Director Applicant: Ms. April D. Williamson

(Cozine-Melby) 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 \$44.00. Carried. The renewal date for the license would be November 30, 2015. Ms. Williamson is currently a licensed Kansas assistant funeral director. She was granted a Missouri funeral director license on September 17, 2009 and is currently a licensed Kansas assistant funeral director. Ms. Williamson was awarded an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas and is employed at McGilley and Hoge Johnson County Memorial Chapel in Overland Park, Kansas.

Reciprocal (Missouri) Embalmer-Funeral Director Applicant: Mr. Matthew J. "Matt" Seago

(Cozine-Melby) 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 \$38.00. Carried. The renewal date for the licenses would be July 31, 2015. Mr. Seago is currently a licensed Kansas assistant funeral director. He was granted a probationary Missouri embalmer license on August 15, 2012 and a probationary Missouri funeral director license on January 9, 2013. Mr. Seago 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.) He is employed at D. W. Newcomer's Sons Johnson County Funeral Chapel in Overland Park, Kansas.

Assistant Funeral Director Applicant: Helen M. McClanahan

(Cozine-Duncan) By a vote of 2-1 to approve her assistant funeral director license application. Carried. Members Cozine and Duncan voted yes, Member Melby voted *no* for approval.

Ms. McClanahan is in the process of having her college transcripts sent to the Board to determine if she meets the educational requirements for a funeral directors' license. If that is the case, then she will pay an initial license fee and register as an apprentice funeral director. If educational requirements are not met, then Ms. McClanahan will pay an assistant funeral director examination fee and must pass the written examination before a license is issued.

VIII. 12:20 p.m. New/Old/Remaining Business/Adjournment

(Melby-Cozine) 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, April 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, April 10, 2014
(Date)

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