



MCB

OREGON MORTUARY & CEMETERY BOARD

Regulating Death Care Facilities & Practitioners in Oregon.

MAY 25 2010 FINAL General Session Meeting Minutes

(Revised July 1 2010)

Board Members Present:

Jon Cummings, President
Kevin Korn, Vice President
Joncile Martin, Secretary / Treasurer
Teri Dresler
Laurie Goolsby
Charles Kurtz
Erin Phelps
Lyn Stanger
Dwight Terry
Pam Wachter

Staff Members Present:

Michelle Gaines, Executive Director
Lynne Nelson, Compliance Manager
Brenda Biggs, Compliance Specialist
Johanna Riemenschneider, AAG
Carla Knapp, Office Manager

Board Members Absent:

Barry Horowitz, excused

Staff Members Absent:

Merill Cray

Guests:

Wally Ordeman, OFDA
Nancy Felton, CGC / CAO
Patricia Sweeney, Public
Sylvia Bouneff, FCAO

Mark Stehn, OFDA
Chad Dresselhaus, AFCTS
Tim Corbett, CAO
Cliff Wamacks, FCAO

I Call to Order

President Cummings called the General Session of the Oregon Mortuary and Cemetery Board (Board) to order at 9:01 am. After roll call, he then welcomed everyone in the audience.

II General Session

A. Approval of Meeting Minutes

1. General Session Meeting Minutes Draft - March 30 2010

President Cummings asked if there were any questions or comments on the subject draft meeting minutes as prepared. Hearing none, he asked if there was a motion to approve the minutes. He then recognized Member Wachter.

Member Wachter so moved. Member Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler,

Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none.

2. Special General Session Telephone Meeting Minutes Draft - April 7 2010

President Cummings asked if there were any questions or comments on the subject draft meeting minutes as prepared. Hearing none, he asked if there was a motion to approve the minutes. He then recognized Member Korn.

Member Korn so moved. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none.

B. President's Comments

1. Staffing Update

President Cummings reported that due to the Board's backlog of investigations, as a result of underfunding that was recently addressed in the 2009 Legislative Session via a death certificate filing fee increase, the Board will be recruiting one permanent full-time investigator position, one limited duration investigation position (through 06/30/2011), as well as one permanent part-time office assistance.

President Cummings also noted that Compliance Manager Lynne Nelson would be participating in the 2010 Oregon Leadership Program. This program was created in 1989 by the Director's Office of the Department of Administrative Services, and its mission is to support and enhance the professional and personal development of the State of Oregon employees through an interactive and practical curriculum that expands an awareness of self, state government and local communities while promoting pride in public service.

2. 2010 State Food Drive

President Cummings then thanked and congratulated Lynne Nelson, Board Food Drive Coordinator, for staff's efforts with the Governor's 2010 Food Drive Challenge, especially during these tough economic times. For the second year in a row, Board staff not only took first place in the "donations obtained per employee" category by leading Team #1 (the State's other "small agencies"), but they took first place over all 70 of the State's other agencies and departments. Staff offered a special thanks to two Portland area contributors for their generous contributions: Columbia Wire & Iron Works and Lampros Steel. The 2009 and 2010 Team # 1 trophies will reside in the Board's office. The Statewide First Place trophy will be returned next year, unless we are able to keep it once again! The Board encourages all stakeholders, and the community, to join us in our efforts to make food available in all Oregon communities through donations to the Oregon Food Bank.

3. Possible change to July meeting date

After discussion, the Board decided it would reschedule the July 27 2010 Board meeting to Tuesday, July 13 2010.

C. Presentation and Approval of Executive Director's Report for May 2010

Executive Director Michelle Gaines discussed the subject Report in detail. She then asked if there were any questions or comments.

Hearing none, President Cummings thanked her and asked if there was a motion to approve the Report as presented. He then recognized Member Dresler.

Member Dresler so moved. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none.

D. Public Comment

President Cummings stated that the Board welcomed public comments, but stipulated that questions would not be considered at this time. The Board then heard public comment from Mr Stehn, Ms Sweeney, Mr Dresselhaus, Ms Felton, and Ms Bouneff.

E. General Discussion & Action Items

1. 2011-13 Budget Biennium Preparation Timetable & Required Board Actions

Director Gaines explained that expenditures needed to be lower than revenue, and that the Board would need authority to spend from the 2011 Legislature. She then discussed the 2011-13 Budget Development Status handout and requested that the Budget Subcommittee schedule a meeting prior to the Board's July meeting.

2. 2011-13 Legislative Concepts Status and Discussion

Director Gaines then distributed the 'Draft Legislative Concepts 2011-13: Status' and the 'Sample language for discussion purposes only' handouts. She asked for Board discussion and direction on the various concepts, the intent being that the Board would have final consideration at the July Board meeting.

She then clarified the legislative concept process for the Board. Once the concepts are approved by the Board, they will need to be submitted to the Governor's Office and then the Governor will determine whether or not to make them a part of his overall legislative agenda for the executive branch. Since there will be a change in administration, there is a possibility that the incoming Governor may have a different agenda and the concepts that were initially accepted may be removed.

We are not allowed to write statutory language as that is the responsibility of the Legislative Counsel, based on the problem and solution. As a result, the Board may not see the finished product until later this year, but we could then ask for modifications if necessary.

President Cummings asked if the Board had any questions or comments on the Draft Legislative Concepts 2011-13, Placeholder 1: Change Board member appointment criteria to create representation for all license types.

Board discussion followed on the Sample language handout. Currently, one position requires that one of the members must be a funeral service practitioner who does not offer embalming, in order to represent immediate disposition companies. (Immediate Disposition Companies cannot offer or sell any arrangements which require embalming.)

Since Board consensus was that increasing or decreasing the total number of Board members was not an option, it was determined that by creating categories so that three members having an individual practitioner license could be comprised of any of the practitioner licenses, preferably on a rotational basis, then the stipulation that one of the practitioners could not offer embalming could be removed.

By removing the restriction that one member shall be a representative of a crematorium to one member must be a representative of a final disposition establishment other than a cemetery, catches up with the intent of Senate Bill 796 (2009).

Board discussion followed on the legislative concept for the oversight of the preneed program and consumer protection fund that currently resides with the Division of Finance and Corporate Securities, within Department of Consumer and Business Services. Several Board members voiced their apprehension of the Board having additional responsibility, especially considering the backlog of inspections and investigations. Some wondered why the Board didn't already have this program responsibility, as it was confusing to the public as to which agency to call when there was a question regarding trust funded contracts for death care services. Some were concerned that Board members would be able to see the accounts of their competitors. That was countered by several members that the Board is a professional Board and has addressed confidentiality issues before without any concerns. Members were concerned that the Board staff does not have the expertise necessary for audits, or ensuring compliance with statutory requirements as well as considering the solvency of the master trustees, and that by leaving the program where it is, all prefunded arrangements are regulated under one umbrella (insurance and trusts).

After discussion, Member Terry moved to not proceed with sponsoring a legislative concept for the oversight of preneed program and the consumer protection fund. Member Phelps seconded. Discussion then followed. Member Dresler then amended the motion to allow the Board to receive additional information before making a final

decision as to whether or not to sponsor this legislative concept for the 2011 Legislative Session. Member Phelps seconded the amended motion. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none.

Director Gaines then recommended that the Board consider not proceeding with the concept for technical fixes (name changes, grammar corrections, clarifications, etc) until the July Board meeting, as there still might be technical fixes to consider as a result of discussions on the other concepts.

Hearing no questions or comments, Director Gaines then briefly discussed the concept for citation authority for health professional regulatory boards. This concept is at the request of the Governor's Office, on behalf of the HPRBs. If this does pass, we still have the option to opt out of the process.

After brief Board discussion, President Cummings requested a short break at 10:24 am. President Cummings then reconvened the Board meeting at 10:44 am and directed the Board to the next agenda item.

3. Consumer-Industry Advisory Committee Rule Recommendations

President Cummings asked Board members to review the documents that were included in the Board packet. Discussion followed on the definitions contained in **Part II** of the Recommendations. It was determined that holding rooms as defined would be inadequate for the proper care of human remains.

After further discussion and recognizing the amount of time it would take to review all the recommendations as presented, President Cummings requested that the Board table their review until the Board could schedule a special work session, separate from the Board meeting in July, to address the Committee's recommendations at that time. He then directed the Committee to schedule a meeting to review their recommendations prior to the Board's work session, since the Committee hadn't met since October 2009.

4. 2009-11 Agency & Executive Director Goals Review

Director Gaines then reviewed the Strategic Policy Framework and FY2010 Agency Objectives documents that were in the Board packet. She believes that all goals and objectives should roll up to an organizational strategy and mission. The Board's Strategic Policy Framework is what the Board has set for the overall long term policy direction and then identifies what the Board needs to specifically focus energies on to accomplish those during that fiscal year. The Framework also identifies the status of how we've been doing towards those goals and objectives for Fiscal Year 2010.

She explained that the Board needed to develop the next annual period of the goals for FY 2011 (July 1 2010 through June 30 2011). She then asked if there were any specific questions on a given annual objective or a status report.

Hearing none, she noted that her performance review was scheduled for the July Board meeting. She requested that Board members take with them the Position Summary and Evaluation Form that was distributed as a handout, with the understanding that each member would complete and bring back to the next Board meeting. President Cummings said that members could also email him their comments up to one week before the next Board meeting, but to still bring their own completed form. He then directed staff to send electronic copy to each Board member as well.

5. Board Member Manuals

Director Gaines explained the purpose of this Manual. Staff normally prepares a board packet that contains materials directly relating to an upcoming meeting, as well as reference materials (laws, regulations, standard practices), which is shipped off to Board members one week prior to a meeting. At the end of the meeting, staff takes the packet back, leaving the Board member without reference materials in between meetings.

Those reference materials have been removed from the Board packet and will now be part of the Board Member Manual. The packet that is shipped to Board Members prior to a Board Meeting will contain the materials relative to that meeting. The Board Member Manual will also contain board training documents, how an idea becomes a law, how to testify before a legislative committee, etc, and will be permanently retained by the Board member. Updates and or revisions to this Manual will be explained and distributed at a Board meeting, or mailed directly to each Board member with a cover letter. The Manual does contain two confidential documents, which were printed on a different colored paper; she asked the Board members to ensure that they are kept in a secure place. The rest of the Manual could be shared.

She asked Board Members to review the table of contents and the materials in the Manual. If there were any questions or concerns or suggestions for improvement, she asked them to contact her. She noted that an electronic version will be created as part of the Board Member work area on GovSpace.

6. iLearnOregon / iLincOregon Board Member Sign up

iLearnOregon is in essence a learning management system or a means of presenting online learning and is a tool available to all state employees and state representatives (including Board members). The Education Subcommittee has been looking at this system as potentially being a big help in providing continuing education if we go forward with that.

iLinc could be used as a tool for meetings and collaborations, a way that people could access our Board meetings remotely, and where we propose to keep electronic versions of all the materials available for Board members. She asked the Board members to follow up on the emails that explained how to start the sign up process (need to register for GovSpace first).

F. Licensing Actions - Requests for Transfer of Apprenticeship, Leave of Absence, License, Certificate or Registration Application and Change of Location, Name Changes.

President Cummings asked the Board to review the agenda items identified on the May 25 2010 Licensing Actions document that was included in the Board packet. He then asked if there were any questions or comments. He recognized Member Terry.

Member Terry said that he would need to recuse himself from one of the Approval of Apprentice Applications agenda items. President Cummings thanked him, and then asked if there were any other questions or concerns. Hearing none, he recognized Member Korn.

Member Korn recommended and so moved that the Board approve Licensing Actions **1a** and **1b**; **3a** through **3i**; **3k** and **3l**; **4a** through **4d**; **7a** through **7s**; **8a1** through **8c**; **11a** through **11d**. Member Dresler seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none.

Member Korn then recommended and so moved that the Board approve Licensing Actions agenda item **3j**. Member Dresler seconded. Member Terry recused himself. All others were aye and the motion carried. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none. Members Recused: Member Terry.

President Cummings then requested that the Board adjourn general session at 12:10 pm, for the purpose of entering into executive session, which will include a working lunch.

III Executive Session

President Cummings then directed the Board to enter into executive session as authorized under ORS 192.660(2)(a), (b), (f), (h), (i) and / or (k). Executive session adjourned at 1:51 pm.

IV General Session

President Cummings called the General Session of the Board back to order at 1:52 pm. He stated for the record that Board member Dwight Terry had to leave prior to the start of this General Session. All other Board members that were in attendance for the earlier general session were still present, but no members of the public had returned.

V Investigations

1. New Cases

- a. **2009-1065A, B, C** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board ratify administrative closure with no action. Member Dresler seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- b. **2010-1028** - Member Korn reported that the full Board reviewed this case during Executive Session and recommended, and he so moved, that the Board deny the application. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- c. **2010-1029** - Member Korn reported that the full Board reviewed this case during Executive Session and recommended, and he so moved, that the Board approve the application. Member Stanger abstained. Member Dresler seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Wachter. Those voting no: none. Those abstaining: Stanger.
- d. **2008-1040A, B, C** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board initiate disciplinary action on case 2008-1040C, for Allegation # 1. Member Dresler seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

Member Korn then recommended, and he so moved, that the Board take no action on cases 2008-1040A and 2008-1040B. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

- e. **2010-1031A, B** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board deny the application. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- f. **2008-1031A, B** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board take no action. Member Wachter seconded. All others were aye and the motion carried

unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

- g. 2008-1067A(1) - Z(1)** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board take no action, but directed staff to refer case to the District Attorney and the Department of Justice. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- h. 2008-1067A(2) - Z(2)** - Member Korn reported that the full Board reviewed these cases during Executive Session and recommended, and he so moved, that the Board take no action, but directed staff to refer on to both the District Attorney and the Department of Justice. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

2. Old Cases

2008-1075 addendum - Member Korn reported that the full Board reviewed this case during Executive Session and recommended, and he so moved, that the Notices be amended to include additional allegations. Member Dresler seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Dresler, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

President Cummings asked if there was any further business to be brought before the Board before the meeting was adjourned. Hearing none, President Cummings thanked everyone for their full participation and adjourned the meeting.

VI Adjournment The meeting adjourned at 2:13 pm.