



**JULY 24 2012 *FINAL* General Session Meeting Minutes**  
(Revised August 14 2012)

**Board Members Present:**

Kevin Korn, President  
Erin Phelps, Secretary / Treasurer  
James Campbell  
Larry Gyure  
Joncile Martin  
Lyn Stanger  
Pam Wachter

**Staff Members Present:**

Michelle Gaines, Executive Director  
Lynne Nelson, Compliance Manager  
Robert Magill, Investigator  
Brenda Biggs, Compliance Specialist  
Johanna Riemenschneider, AAG  
Carla Knapp, Office / Licensing Manager

**Board Members Absent:**

Laurie Goolsby, excused  
David Noble, excused  
Dwight Terry, Vice President, excused

**Staff Members Absent:**

None

**Guests:**

Deon Strommer, 1st Call Plus  
G C Collins, PCC  
Steve Beaven, The O

McKendree Strommer, 1st Call Plus  
Barbara Rose Kaplar, Death Educator & Doula  
Chad Dresselhaus, AFCTS

**I Call to Order**

The General Session of the Oregon Mortuary and Cemetery Board was called to order at 9:00 am.

**II General Session**

**A Approval of Meeting Minutes**

**General Session Meeting Minutes Draft - May 22 2012**

After roll call, President Korn asked if there were any corrections, questions or comments on the subject draft meeting minutes as prepared. He recognized Member Wachter.

Member Wachter recommended and so moved that the Board approve the draft minutes as presented. Member Terry seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.

## **B President's Comments**

### **1 Board Treasurer Annual Review of Finances and Financial Controls Report**

All agencies are required to have Key Performance Measures (KPMs), which are reported legislatively, and are made available on a public website off of the Oregon Transparency website. As part of the Board's Annual Performance Progress Report, the Board's Best Practices requires on an annual basis that the Board's Secretary / Treasurer review and report on the Board's finances and financial controls. Due to the resignation of Secretary / Treasurer, Vice President Terry performed the review. He reported to the Board that on May 16 2012, he visited the Board's office for the purpose of completing this KPM. He reported that the Board does not have its own checking account and there is no petty cash account; all major purchases are approved by the Executive Director or Compliance Manager before being purchased; invoices are reviewed and approved by either the Executive Director, or the Office Manager, and then sent to the Board's accountant, who reviews it again. If the accountant has any questions, they will contact Board staff for an explanation (per diem questions on travel expense reports, missing receipts, duplicate payments, missing support documentation). Since the only credit card that the Board has is in the Office Manager's name, she does not authorize payment for the credit card statements. For deposits, there are checks and balances. Whoever creates a deposit is not allowed to make the deposit. Member Terry said he was satisfied with the checks and balances, since one person wasn't allowed to do everything. He then asked if there were any questions.

Hearing none, President Korn thanked him for his report, and then thanked him again for taking time out of his busy schedule to help the Board meet its performance measures.

### **2 Executive Director Review of Existing Internal Controls for Processing Incoming Receipts**

Director Gaines said that the Executive Director does at least an annual review of all the internal controls, not just financial. This typically is done in February, but since she wasn't here in February, she is in the process of going through them, and, at this point, everything appears to be in order. She is also in the process of reviewing all the Board's policies, and expects to provide Board members with a copy once they have been reviewed.

### **3 Committee Assignments**

President Korn reviewed the Committee Assignments. Due to the resignation of Member Almond, he removed her from the Environmental Advisory Committee and the Policy Subcommittee. He then added Member Terry to the Best Practices Performance Measure Subcommittee.

### **4 Board Member / Positions Updates**

The Board recently learned that two new Board members were appointed by the Governor's Office, but are now waiting for Senate Confirmation, which means that their first official Board meeting will be the July meeting. Since James Campbell was sitting in the audience, President Korn asked him to stand in order to introduce him to the Board and guests. Mr Campbell will be filling the public member position. After being

introduced, Mr Campbell said he looked forward to fulfilling his role as a Board member.

President Korn thanked him and then announced that the other recently appointed Board Member, Larry Gyure, will be filling the cemetery operator (special district) Board member position. Mr Gyure currently works for the Estacada Cemetery Maintenance District, overseeing seven operating cemeteries.

President Korn said that even with these two recent appointments, the Board still has one more vacancy to fill, due to Member Almond's resignation from the public member position, effective May 23 2012. He encouraged everyone to get the word out regarding the recent vacancy, and future vacancies, since three Board members will have reached their term limit by the end of this year. Those three Board member positions are: crematorium operator; public member (senior citizen); and cemetery operator (city / county owned). He asked that interested persons submit their completed Executive Appointments Interest Form directly to the Governor's Office.

Even though Member Almond wasn't present to accept the award plaque recognizing her dedicated public service as a Board member and Secretary / Treasurer, President Korn publically thanked her and said that she would be missed. He then asked staff to forward the plaque on to her.

## **C Presentation and Approval of Executive Director's Report for May 2012**

Director Gaines reviewed the Report that was included in the Board packet. She asked if there were any questions.

Hearing none, President Korn asked if there was a motion to approve the Executive Director's Report, which includes the Aging Report list (approval of an extension of case reporting for up to an additional 60 days under ORS 676.165). He recognized Member Wachter. Member Wachter so moved. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.

## **D Public Comments**

President Korn stated that the Board welcomed public comments, but stipulated that questions would not be considered at this time. The Board heard public comment from Deon Strommer, Nicolas Durham, Ginger Wolf, Paul Calvert, Tim Proctor, and Kenneth McGhehey; and accepted written comment from Cindi Herrell and Stephanie Brown. President Korn then asked the unknown listeners if they wanted to acknowledge their presence or had a public comment. Hearing none, he continued on to the next agenda item.

## **E General Discussion & Action Items**

### **1 Policy Subcommittee Progress**

President Korn reported that this Subcommittee will next address apprenticeship requirements, including supervision, in detail, but this will take time, in addition to the time required by the rulemaking process. Another topic that will be re-addressed will be the five day right to cancel language that the Board recently adopted for all contracts.

Since then, the Board has received comment requesting that this language not be implemented for at need contracts, as most arrangements are completed or almost completed well within the five day period.

The Oregon State Health Administration has asked the Board to do a public education campaign or a professional education campaign with regards to tuberculosis mainly, and also chemical exposure at funeral homes. This Subcommittee will be working with them in that aspect.

As far as consumers being surprised that their prearrangements are not covering both funeral and cemetery goods and services, the Subcommittee will be reviewing this as well. If the Federal Trade Commission imposes the Funeral Rule on cemeteries, this may help clear up confusion, if and when it happens.

The Compliance Specialist has updated the inspection checklists to reflect the latest revisions to the Board rules, effective April 1 2012, The checklists are currently available on the Board's website, or by contacting the Board's office.

## **2 2012 May Legislative Days & 2013 Legislative Session Info**

Director Gaines reported that since the Legislature has shifted to annual sessions, they still convene every once in a while, and they happen to be in session now. Some of the activities that are happening this week are predominately focused on budget; the big build up is towards the 2013 Legislative Session, any legislative concepts and any activity will be keyed up to that end.

The Oregon Funeral Directors Association had submitted a letter requesting some review of various changes of the indigent burial fund. As a consequence, the Department of Administrative Services had asked that we put in a legislative concept place holder around some questions that came up relating to indigent burial and the administration of that fund. Due to the reorganization of state government, this indigent burial fund now resides within two different agencies for the most part, a segment of Department of Human Services, and a segment of the Oregon Health Authority. Since it wasn't clear if this would require a legislative action, which requires a legislative concept, or whether it was something that could be handled in administrative rule, a legislative concept place holder has been submitted.

With the split of DHS and OHA into two different agencies, and now that DHS no longer provides for their own accounting, they do not have the resources to comply with statutorily required administration of the indigent burial fund. DHS is also interested in having this Board consider taking over the administration of that fund itself, or at the very least, moving the fund statutorily over to OHA. They would like to sit down and have a conversation by starting at the beginning of what is the best way to administer that fund, indigent disposition in general, and whether the statutory government of that is appropriate and effective. Director Gaines said she was not advocating that the Board take over the administration of this fund at this point, just having conversation at looking at the administration of the funds, because right now, we are partially funded by the death certificate filing fee.

She continued by saying that there were a couple of topics that didn't go anywhere in the 2012 regular session and may re-appear in the 2013 session. One of them did relate to

preened program that the Department of Consumer and Business Services is currently overseeing. The other topic dealt with the regulation of the recovery of non-transplant anatomical material, and she expected that the House Committee would put together a workgroup to look at whether to regulate that further. She said she expected to talk about these topics over the next couple of meetings in preparation for the January 2013 Legislative Session. She asked if there were any questions.

After brief Board discussion, President Korn thanked her and recognized Investigator Goldberg.

### **3 2012 Governor's Food Drive Update**

The Board's Food Driver Coordinator, Investigator Goldberg, reported that the Board won first place for Team 1, which means we've now taken first place four years in a row! For this food drive, the Board gathered a total of \$2,314 in cash donations, which equates to 11,575 pounds of food, or 1,929 pounds of food per Board employee. Even though Team 1 includes only the smallest agencies, we ranked number 1 for every state agency, thanks to everyone that contributed, including Board and staff members, and industry.

President Korn thanked him and everyone for their participation.

### **4 Administrative Fee Schedule**

Since this schedule has been removed from rules, and since it was so out of date, Manager Nelson reported that she had a survey done of what other boards are charging for administrative fees for copies of meeting minutes, mailing labels, public records requests, or any other items that take staff time or our resources. She expected to bring a draft fee list to the next Policy Subcommittee meeting for their review before submitting it to the Board for their approval. Once approved, it will be published on the Board's website and reviewed at least once a year.

### **5 OMCB E-News: Communications from Staff to Interested Persons**

President Korn said that this is a great communication tool developed by staff and he thanked Manager Nelson for creating and authoring. He asked everyone to send her recommendations for topics for future newsletters.

Member Stanger asked if the E-News could focus on some specific violations that compliance sees with some clarity so others are not slipping into that same mode, even if it is an isolated incident.

### **6 Election of Officers**

Due to the resignation of the Board's Secretary / Treasurer, President Korn nominated Member Phelps. He asked if there were any other nominations from the Board to be considered. Hearing none, he asked if there was a motion. He recognized Member Stanger.

Member Stanger recommended and so moved that the Board elect Member Phelps as the Board's Secretary / Treasurer. Member Martin seconded. All others were aye and the

motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.

## **7 Board Best Practices Question and Answers / Update**

In 2005, the Legislature directed the Department of Administrative Services and the Legislative Fiscal Office to develop a measure for certain boards and commissions having governance oversight (has an independent state budget or is included in another state agency's budget and the board hires the board's executive director). The Mortuary and Cemetery Board meets these criteria and is required to implement performance measures and conduct an annual self-assessment against "Best Practices Criteria" as laid out by DAS. The Board is required to report the percent of total best practices met by the Board (percent of yes responses) in the Annual Performance Progress Report as specified in the Board's budget instructions. If consensus is not achieved, the Board is required to record the response as "no."

The Board Best Practices form has been included in each Board member's packet, in order to help remind Board members when applicable topics are discussed, or should be discussed. At the March 20 2012 Board meeting, staff was tasked to identify accomplishments and dates for each question in order to help provide Board members with as much information needed in order to complete the self-assessment.

For the Annual Performance Progress Report for Fiscal Year 2012 (July 1 2011 thru June 30 2012), the Board discussed collectively, but each Board member is required, as an individual, to complete and submit the Board Best Practices Self-Assessment Final Scorecard before the July 24 2012 Board meeting to Member Goolsby. New Board members are not required to complete the self-assessment. Once Member Goolsby has tallied the responses, she will report to the Board.

## **8 2013 - 2015 Budget Cycle Status and Process Update**

Director Gaines reported that this budget cycle will be a bit different in that we will be going through the same process that we've done in years past, by preparing the Board's Agency Request Budget (for a two year period) that goes directly to the Governor. From this, the Governor creates the Governor Recommended Budget and submits to the Legislature.

This year is different in that Governor Kitzhaber has implemented the 10 year plan and a grouping of strategic outcomes that are long term. They are trying to establish a view of the world that looks at adjustments in this two year period within the context of how they further a ten year objective across the state. The strategic outcomes have also been lumped into different categories that have been established so that all programs that are offered by all state agencies can be classified within these strategy areas. Any one agency could have multiple programs that they offer and those programs could be tied to those different categories.

The Board has only one program that we offer, and that program has been mapped to the safety outcome area. From the standpoint of public health, preservation and protection regulation, all of the health professional regulatory boards have been mapped to the safety outcome area. Those outcome areas have also been assigned a group of outside state government members to do what they call a Funding Team Review. This Team

will review materials from all the agencies that are submitting program budgets within that category. They will assess them against some standard criteria, such as how well are they performing against internal key performance measures, how their plan for spending that money programmatically compares to another agency that wants to spend money. That process will be going on in addition to the regular process, so we will have a second set of forms that we are completing and a second set of task forces and submittals that need to be completed. Most of that focus is on management of the general fund, and even though we are not a general fund agency, we do purchase services from the general fund. We are not going through the same level of detail for general funded agencies, but we are on the same timeline.

Since we are a health professional regulatory board, they have asked for some new standards on reporting Key Performance Measures, reporting on a go forward basis. As our budget is put together, the Board will see a new list that will look at long term contribution to public safety and welfare and how we've quantified us in ways that we haven't been reporting on before.

The hope is that we can change the legislative budgeting process to this longer term ten year, so that we are not doing two parallel independent processes but just one after the 2013 - 2015 budget process.

Starting with the July meeting, the Board will begin to see the package materials for the 2013 - 2015 budget. Due to the budget restrictions, we have been asked to keep below current service level, which is something else we've been used to with the past several budget cycles. They will then give us a starting point which is below what it is costing us to run the Board's program now and then they will ask us to tell us what it is going to look like and we'll put together those materials. So get ready for a lot of strategic information tied to the financials, starting in July and some pieces that we need the Board to review and approve as we go through the process. She asked if there were any questions. Hearing none, she continued with the next agenda item.

## **9 Partnership with Oregon Health Licensing Agency (OHLA)**

OHLA is another state agency that has 22 professions and 11 boards. On an interim basis recently we provided services to the Board of Licensed Dietitians, due to the resignation of their part-time Director, until that Board was legislatively moved into OHLA.

Since OHLA is located in Salem, and has facilities for test taking, for acceptance of applications and fees, picking up forms, etc, it could be of a benefit to our licensees if they were allowed to visit OHLA's office in order to deliver an application, or pick up an application, or potentially take a proctored test, thus avoiding a trip to Portland. The idea is to increase the outreach and availability to licensees and stakeholders between two regional areas. And if that works, Director Gaines has had preliminary discussions with folks that run the Fish and Wildlife offices. She said that they are at the point at saying how can we do this without co-mingling funds, and how to develop a service level agreement.

The other possibility is that a lot of the state's other boards have fractional position authority. For example the Medical Imaging Board has budgetary approval for a .25 full time employee (FTE) investigator which is very hard to fill. And another Board has a .6

FTE. Sometimes, our Board has a backlog where we need a limited duration investigator position. Those are the things that she has been looking at programmatically across the boards, is there an agreement where we could share an investigator for when we have under capacity or over capacity. After brief Board discussion, she asked if there were any questions or concerns. Hearing none, President Korn thanked her and then recognized Member Stanger.

## **10 Death Investigations in Southern Oregon**

Member Stanger brought to the Board's attention that Lane County recently lost their Medical Examiner and staff due to budget cuts. This will impact death investigations in that County as well as Douglas County, as Douglas County was using the ME services of Lane County, a less expensive option than having their own ME staff.

In Josephine County, the law enforcement budget didn't pass and there isn't any investigative staff to investigate deaths that occur in private homes now. Since funeral home personnel can not make a removal until the Medical Examiner has released the body, there has been discussion to leave the body in the home until law enforcement is available. There are lots of unknowns about how to move forward with removals from homes. Oregon State Police can respond if it is obvious that there was a crime. Death investigation in Oregon is becoming less funded and it appears to be less important and it will have an impact on funeral services and how families are served.

President Korn thanked her for bringing this topic before the Board. He agreed that this is an issue that will affect the majority of families in Oregon outside of the Portland area.

### **F Licensing Actions - Requests for transfer of Apprenticeship, License, Certificate or Registration Application and Change of location, Name Changes, etc.**

President Korn asked the Board to review the agenda items identified on the May 22 2012 Licensing Actions document, that was issued May 15 2012. He asked if there were any questions or comments. After brief discussion of the process for the issuance of both the embalmer and FSP apprenticeship certificates and then a subsequent transfer of only one certificate, which caused the other certificate to become inactive, President Korn asked if there were any other questions. Hearing none, he asked if there was a motion on the floor. He recognized Member Martin.

Member Martin recommended, and so moved, that the Board approve the Licensing Actions agenda items **F1, F2, F4, F6 and F8**. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.

President Korn then requested that the Board adjourn general session at 10:31 am, for the purpose of entering into executive session, which included a working lunch.

## **III Executive Session**

After a brief break, at 10:49 am, President Korn 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 12:44 pm.

## IV General Session

President Korn called the general session of the Board back to order at 12:48 pm. All Board members that were in attendance for the earlier general session were present. Director Gaines was excused. No members of the public had returned from the earlier public session.

### G Investigations

President Korn asked the Board to review the Executive Session Schedule that was included in the Board packet. He then asked Board members to report if they had a potential conflict with any of the cases before voting. Member Noble said he would be recusing himself from one case. Hearing no others, President Korn then announced that he would recuse himself from one case, and then proceeded with the Board's recommendations.

- a **2011-1022** - Member Korn reported that the full Board considered this case during executive session and recommended, and he so moved, that the Board accept the settlement proposal via a Consent Order with twelve months probation. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- b **2011-1024A, B, C** - Member Korn reported that the full Board considered these cases during executive session and recommended, and he so moved, that the Board take no action. Member Martin seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- c **2011-1055A, B** - Member Korn reported that the full Board considered 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 Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- d **2011-1056** - Member Noble reported that the full Board considered this case during executive session and recommended, and he so moved, that the Board take no action. Member Phelps seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- e **2011-1064A, B, C, D** - Member Stanger reported that the full Board considered these cases during executive session and recommended, and she so moved, that the Board take no action. Member Noble seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- f **2011-1065A, B, C** - Member Wachter reported that the full Board considered these cases during executive session and recommended, and she so moved, that the Board take no action. Member Martin seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.

- g 2011-1071A, B, C** - Member Goolsby reported that the full Board considered these cases during executive session and recommended, and she so moved, that the Board take no action. Member Phelps seconded. Member Korn recused himself due to a potential conflict of interest, based on a relationship with a competitor. All others were aye and the motion carried. Those voting in favor: Members Goolsby, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none. Those recused: Member Korn.
- h 2012-1013** - Member Terry reported that the full Board considered this case during executive session and recommended, and he so moved, that the Board ratify Disciplinary Action initiated by staff. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- i 2012-1014** - Member Terry reported that the full Board considered this case during executive session and recommended, and he so moved, that the Board ratify Disciplinary Action initiated by staff. Member Martin seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- j 2011-1035A, B, C** - Member Terry reported that the full Board considered these cases during executive session and recommended, and he so moved, that the Board take no action. Member Martin seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Goolsby, Korn, Martin, Noble, Phelps, Stanger, Terry, Wachter. Those voting no: none.
- k 2012-1018** - Member Wachter reported that the full Board considered this case during executive session and recommended, and she so moved, that the Board ratify Disciplinary Action initiated by staff. Member Phelps seconded. Member Noble recused himself due to a potential conflict of interest based on a business relationship. All others were aye and the motion carried. Those voting in favor: Members Goolsby, Martin, Phelps, Stanger, Terry, Wachter. Those voting no: none. Those recused: Member Noble.

President Korn thanked all the Board members. President Korn asked again if there were any additional comments or suggestions. He recognized Manager Knapp.

As part of the Board's Best Practices, Manager Knapp noted that Director Gaines' performance review was scheduled for the July Board meeting during the Executive Session, with no staff members present. She said she would be sending the performance evaluation via email, and asked that each Board member complete and submit directly to President Korn before the July 24 2012 Board meeting.

President Korn asked if there were any other additional comments. Hearing none, he thanked everyone for their full participation and adjourned the meeting.

**V Adjournment** The meeting adjourned at 1:00 pm.