



MCB

OREGON MORTUARY & CEMETERY BOARD

Regulating Death Care Facilities & Practitioners in Oregon.

JULY 13 2010 DRAFT General Session Meeting Minutes (Revised September 13 2010)

Board Members Present:

Jon Cummings, President
Kevin Korn, Vice President
Joncile Martin, Secretary / Treasurer
Laurie Goolsby
Barry Horowitz
Charles Kurtz
Erin Phelps
Lyn Stanger
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:

Teri Dresler, excused
Dwight Terry, excused

Staff Members Absent:

Merill Creagh

Guests:

Steve Schacht, SCI - Oregon
Nancy Berwick, DOR
Sylvia Bouneff, FCAO
Dean N Alterman, Folawn Alterman & Richardson

Eric D Smith, DOR
Mark Stehn, OFDA

I Call to Order

President Cummings called the General Session of the Oregon Mortuary and Cemetery Board (Board) to order at 9:04 am. After roll call, he then welcomed everyone in the audience.

II General Session

A. Approval of Meeting Minutes

General Session Meeting Minutes Draft - May 25 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, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

B. President's Comments

Licensee Recognition

President Cummings reported that the Board received a very nice compliment on how helpful the cemetery's manager was when she discovered that the vase of flowers were missing from her mother's grave at Twin Oaks Memorial Gardens & Mausoleum.

She said she was very impressed at how Michael Terwilliger, the manager, handled the situation and was very pleased with the condition of the grounds in general.

Further, another citizen recently informed the Board that this same cemetery was "impeccably groomed" for Memorial Day, and is still neatly trimmed, and the roses lining the roadway were "so welcoming."

President Cummings said it was refreshing when consumers make an effort to register a compliment; he then directed staff to prepare a letter of recognition to be sent to Michael Terwilliger.

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

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

Hearing none, President Cummings noted that inspections have doubled since the last report, and he thanked the Board's Compliance Specialist, Brenda Biggs. Director Gaines responded that she had already received positive feedback regarding Ms Biggs' inspections. President Cummings then asked if there was a motion to approve the Report as presented. He recognized Member Korn.

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

D. Public Comment

President Cummings stated that the Board always welcomed public comments, but noted that no one had signed up.

E. General Discussion & Action Items

1. Department of Revenue Tax Pilot Update

Eric Smith provided a status update to the Board on this state tax pilot project for the preneed salespeople renewal cycle that ended June 1 2010. Of the 151 preneed salespeople who applied for renewal, 139 were in compliance with state tax laws,

leaving 12 that were not. Of those 12, ten were able to come into state tax compliance almost immediately, but two were not able to, causing those two licenses to be suspended, until they could come into compliance. Mr. Smith clarified that "compliance" was not defined as full payment of owed taxes, or the complete filing of missing returns, but, at minimum, the taxpayer entered into an agreement/plan with the Department of Revenue to come into compliance.

The Board's compliance tax rate for preneed salespersons is now 99%; the average rate of tax compliance in Oregon is 82%. He said that all pilot projects were to end January 2011, and that he would be presenting a final report to the 2011 Legislature afterwards. He requested and received approval for a link to an electronic survey to be posted on the Board's website to collect additional information on this pilot project. He then distributed a copy of the 2009 House Bill 3082 which created this pilot project. He asked if there were any additional questions or concerns.

Hearing none, President Cummings thanked him and directed the Board to proceed to the next scheduled agenda item.

2. Long Term Budget Forecast & Reset Report

Director Gaines distributed a copy of the Reset Report Recommendations handout and discussed in detail. She said that a meeting for the Reset Subcommittee was scheduled for July 27 2010 and she would attend and report out at the next Board meeting.

3. 2011-13 Budget Biennium Preparation & Document Review

Director Gaines then discussed in detail the 2009-11 Agency Request Budget Essential Budget Level & Program Option Packages one page handout that was used to build the Board's 2011-13 Agency Request Budget. The Board is required to submit their Agency Request Budget by August 2 2010, but the official budget documents are not available at this time. The Board will not be adding or decreasing programs, and will continue with efforts in increasing education and public outreach, as well as continuing to streamline operations. The Board has enough revenue to cover expenditures for the 2011-13 biennium, but possibly not enough for the following biennium. She said that the Board's Strategic Planning session scheduled for November 15 2010 would focus on long term budget issues, specifically revenue.

After Board discussion, President Cummings asked if there was a motion to approve the Board's Agency Request Budget. He recognized Member Horowitz.

Member Horowitz recommended, and so moved, that the Board approve the 2011-2013 Agency Request Budget of \$1,380,121. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

Director Gaines thanked the Board. She then discussed in detail the Extract from Agency Request Budget for Current Biennium (2009-2011) handout. Director Gaines proposed completely rewriting the Board's budget narrative by replacing the six year plan with the Board's Strategic Policy Framework and new two year goals. One of the reasons why she suggested this was because the 2009 Legislature changed the Board's core mission slightly, by making access to quality health care as one of the primary objectives for health related licensing boards. She asked for Board discussion.

Hearing none, President Cummings then asked if there was a motion. President Cummings then recognized Member Wachter.

Member Wachter recommended, and so moved, that the Board direct the Executive Director to develop and set the goals to develop operational and revenue model that provides long-term stability for the provision of Board's statutory mission and also to promote access to a broad selection of quality services through licensing and regulatory requirements, partnership and outreach / education and replace the existing budget's six year plan with the Board's Strategic Policy Framework. Member Stanger seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

4. 2011-13 Legislative Concepts Status & Discussion

Director Gaines then discussed the Draft Legislative Concepts 2011-13: Status handout in detail. She reported that Legislative Concept 1, Change member appointment criteria to create representation for all license types, was ready to be submitted to Legislative Counsel.

For Legislative Concept 2, Oversight of pre-need program and consumer protection fund (at request of DCBS), the Board did vote to withdraw this concept at the last Board meeting. As of last week, she learned that DCBS had pulled their version of this placeholder, which was to have these programs move to the Board. However, it appears that DCBS will now be looking at other changes in ORS chapter 97 for oversight of preneed sales and potentially fees. She didn't have any other details to share, but once she does, she would bring it to the Board.

For Legislative Concept 3, Technical fixes: name changes, grammar corrections, clarifications, etc, this originally was not going to move forward, but staff noted that ORS chapter 692 does not correctly define educational supervisory requirements for all interns. An intern apprentice is normally any student enrolled in an accredited funeral service education program. These interns should be serving their internship under the supervision of a combination-licensed funeral service practitioner / embalmer at a participating funeral establishment. But the statute doesn't allow for this, as ORS 692.190(8) currently reads: "... a licensed FSP or a licensed embalmer

may serve as a preceptor for not more than three students serving a funeral service internship in accordance with guidelines..." The statute currently works for those interns that are only interested in a funeral service practitioner license.

Additional language needs to be added that says specifies that "... a combination licensed FSP / embalmer may serve as a preceptor for not more than three students serving a funeral service internship" (Emphasis added)

President Cummings asked if there were additional questions. Hearing none, he asked if there was a motion. He then recognized Member Korn.

Member Korn recommended, and so moved, that the Board submit this legislative fix for intern supervision to Legislative Counsel. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

The Board also briefly discussed allowing more than one funeral service apprentice per funeral service practitioner licensee, or more than one embalmer apprentice per embalmer licensee, but decided not to pursue it.

For Legislative Concept 4, "citation authority" for health professional regulatory boards (at request of HPRBs), Director Gaines noted that even if this concept becomes a law, the Board could elect not to adopt if we chose not to.

President Cummings asked if there were any questions. Hearing none, he asked if there was a motion. He then recognized Member Horowitz.

Member Horowitz recommended, and so moved, that the Board move forward to submit Legislative Concept 4 to Legislative Counsel. Member Kurtz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

5. Key Performance Measures Review & Assessment

President Cummings then reviewed in detail the Board Best Practices Tracking Form that was distributed as a handout. The Board discussed collectively, but each Board member was required, as an individual, to complete and submit the Board Best Practices Self-Assessment Final Scorecard by the end of the Board meeting.

6. Special Board Meeting: CIAC Recommendations

The Board met July 12 2010 to discuss and review the CIAC Recommendations. Most of the recommendations were approved as presented. For the recommendations that needed further review, as well as staff's recommendations, President Cummings

turned those over to the Board's Legislative Subcommittee. He then appointed Lyn Stanger, Joncile Martin and Kevin Korn to this Legislative Subcommittee. Member Korn would be the Chair. President Cummings requested that they schedule a meeting as soon as convenient.

Director Gaines then requested that the Board direct staff to take the Board approved recommendations from the July 12 2010 Workshop and publish them in an upcoming Oregon Bulletin to start the public rulemaking process. President Cummings then asked if there was a motion on the floor. He then recognized Member Korn.

Member Korn recommended, and so moved, that staff issue a Notice of Proposed Rulemaking. Member Kurtz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

President Cummings noted that the Consumer-Industry Advisory Committee was formed by past Board President James Ward on January 11 2007, and the first meeting was held January 23 2007. The original members were Joncile Martin, Don Ballantyne, Rick Bennett, Tim Corbett, Nancy Felton, Scott Logan, Wally Ordeman, John Springer, Christina Todd, and Jon Cummings as Chair. Sylvia Bouneff joined near the end, and Chad Dresselhaus attended as a public member at most meetings. President Cummings thanked each member for all their hard work, their time and their dedication. He especially thanked Member Martin for her detailed note taking, as well as drafting of the minutes. Since the Committee has submitted their final recommendations, he asked if there was a motion on the floor to end it. He recognized Member Martin.

Member Martin recommended, and so moved, that the Board dissolve this Consumer-Industry Advisory Committee. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

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 July 13 2010 Licensing Actions document that was included in the Board packet. He then directed the Board to Action Items - Special Requests.

The Board discussed the requests for Board approval of an FSP apprenticeship while enrolled as part-time student in a funeral service education program. The approval is only valid while the student is enrolled part-time and the approval ends once they enroll full-time. President Cummings asked if there were additional questions. Hearing none, he asked if there was a motion on the floor. He then recognized Member Korn.

Member Korn recommended, and so moved, that the Board approve Licensing Actions **F1a** and **F1b**; **F3a** through **F3t**; **F4**; **F5**; **F6a** through **F6d**; **F7a** through **F7i**; **F8a1** through **F8a5**; **F8b1** through **F8b4**; **8c1** through **F8c4**; **F11**; and Action Items **F12a** and **F12b**. Member Kurtz seconded. Member Stanger asked for discussion. After discussion, Member Korn amended his motion to withdraw Licensing Action Agenda Item **F1b**. Member Kurtz seconded the amended motion. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

President Cummings then requested that the Board adjourn general session at 11:40 am, for the purpose of entering into executive session, which included 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 1:30 pm.

IV General Session

President Cummings called the General Session of the Board back to order at 1:30 pm. All Board members that were in attendance for the earlier general session were still present, but no members of the public had returned.

President Cummings announced that the Board conducted a performance appraisal of the Executive Director during executive session. All comments were stellar and the Board is fortunate to have her serving as their Executive Director; her leadership skills are noted and appreciated. He then asked the Board if they had any ideas for the two year, six year and ten year plan for her to focus on.

The Board came up with the following suggestions: Focus on the Board's finances, inspections and investigations numbers, further the education of licensees as well as the public, maintain the Board's identify if the Board is pushed into consolidation with other boards, set up a process for a more consistent review of the rules, and create a matrix of past Board disciplinary actions.

G Investigations

1. Old Cases

- a. 2008-1013B** - Member Korn reported that the full Board reviewed this case during executive session and recommended, and he so moved, that the Board direct staff to amend the Notice. Member Kurtz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

- b. **2008-1075 Addendum #2** - Member Korn reported that the full Board reviewed this case during executive session and recommended, and he so moved, that the Board direct staff to amend the Notice. Member Wachter seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

2. New Cases

- a. **2010-1001A, 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 Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- b. **2010-1039A, B** - 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. Member Horowitz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- c. **2010-1040A, B** - 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. Member Kurtz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- d. **2010-1042A, B** - 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. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- e. **2010-1041A, B** - 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. Member Kurtz seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.
- f. **2009-1036** - Member Korn reported that the full Board reviewed this case during executive session and recommended, and he so moved, that the Board take no action. Member Horowitz seconded. All others were aye and the motion carried

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

- g. 2010-1036** - 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 Kurtz seconded. Member Stanger opposed. All others were aye and the motion carried. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Wachter. Those voting no: Member Stanger.
- h. 2010-1043A, B** - 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. Member Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

H. Licensing Actions Continued

Member Korn recommended, and he so moved, that the Board approve Licensing Action **F1b**. Member Wachter seconded. Member Stanger opposed. All others were aye and the motion carried. Those voting in favor: Members Cummings, Goolsby, Horowitz, Korn, Kurtz, Martin, Phelps, Wachter. Those voting no: Member Stanger.

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.

V Adjournment The meeting adjourned at 1:51 pm.