

**OREGON MORTUARY AND CEMETERY BOARD MEETING
VIA TELEPHONE CONFERENCE CALL**

800 NE Oregon Street, Room 445
Portland OR 97232

**APRIL 7 2010 DRAFT SPECIAL GENERAL SESSION MEETING via
TELEPHONE CONFERENCE CALL**

(Revised April 20 2010)

Board Members Present:

Jon Cummings, President
Kevin Korn, Vice President
Joncile Martin, Secretary / Treasurer
Laurie Goolsby
Charles Kurtz
Erin Phelps (in person)
Lyn Stanger
Pamela Wachter

Staff Members Present:

Michelle Gaines, Executive Director
Carla Knapp, Office Manager / Licensing

Board Members Absent:

Teri Dresler (excused)
Barry Horowitz (excused)
Dwight Terry (excused)

Staff Members Absent:

Brenda Biggs, Inspector
Lynne Nelson, Compliance Manager
Johanna Riemenschneider, AAG

Guests Present:

Mark Stehn, OFDA
Sarah Hackett, DFCS

Mike McCord, DFCS

I Call To Order

President Cummings called the special general session of the Mortuary and Cemetery Board (Board) to order at 8:02 am via a telephone conference call.

II Special General Session

The Board President formed a Legislative Subcommittee last October, initially to review specific enacted bill language from the 2009 Legislative Session that may have an impact on the Board's programs, as well as drafting legislative concepts for the Board's consideration for the 2011 Legislative Session. Legislative concepts for the 2011 session need to be submitted no later than April 9 2010 to the Department of Administrative Services (DAS).

A legislative concept may be submitted as a placeholder, but all additional substantive information related to placeholder concepts is due to DAS no later than July 14 2010. The Board decided that four placeholders would be submitted at this time so that the Board could solicit additional input from stakeholders to help craft the concepts. Placeholder concepts will be discussed further and finalized by the end of June.

The Committee identified that a legislative concept needed to be introduced to modify ORS 692.300 so that all licensee groups have representation on the Board. Two existing groups are currently unrepresented (preneed salespeople and nonprofit cemeteries) and Senate Bill 796

(2009) added at least two additional groups (death care consultants and final disposition companies). President Cummings asked if there was a motion to approve the Committee's recommendation. He then recognized Charles Kurtz.

Mr Kurtz recommended and he so moved, that the Board move forward with a legislative concept to represent all licensees. Ms Goolsby seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

Discussion followed regarding oversight of the preneed program and consumer protection fund. Two separate regulatory entities are currently responsible for portions of "death care" regulation (preneed and funeral industries). The Department of Consumer and Business Services (DCBS) and the Division of Finance and Corporation Securities (DFCS) regulate the financial aspects of preneed sales for the funeral industry, including the registration of preneed certified providers (the entities that employ preneed salespeople). DCBS is also responsible for regulation of prearrangement and preconstruction sales of funeral and cemetery services, master trustees who are responsible for the investments of trust funds, endowment care and irreducible fund cemeteries. DCBS is also responsible for the Funeral and Cemetery Consumer Protection Trust Fund that is available to provide restitution to consumers who suffer a financial loss when a certified provider does not fulfill prearrangement or preconstruction sales contracts.

Since the Board licenses individual death care professionals and the facilities where they work, most of the entities subject to DCBS/DFCS regulation are also subject to Board regulation. The authorities for these separate regulators are not statutorily connected or coordinated, and consumers and the industry are often confused about whether DFCS or the Board has the appropriate regulatory responsibilities to address inquiries or complaints.

DCBS/DFCS will be submitting a legislative concept to transfer the oversight of the preneed program and consumer protection fund to the Board. Combining the financial, and health and safety components of this industry, and all of the registrations and licenses, testing, and regulation under the Board would provide more efficient and effective regulation. One state regulator, with coordinated oversight and adequate authority, would be responsible for implementing regulations, registrations, and examinations for the entire industry. This solution is believed to provide better consumer protection as well as be more cost effective and efficient for licensees.

President Cummings asked if there was a motion for the Board to submit a legislative concept to consolidate all the responsibilities with the Board as the overseer of the industry in total, by moving the oversight of the preneed program and consumer protection fund to the Board. He then recognized Charles Kurtz.

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

Next, the Board discussed a legislative concept for the purpose of potential housekeeping (non-policy) corrections. One purpose would be the possible name change of the Board to better reflect the current breadth of the death care industry, and to better identify and support consumer understanding, and educational outreach and programming. President Cummings asked if there was a motion for the Board to submit this legislative concept. He then recognized Kevin Korn.

Mr Korn moved to submit this housekeeping (non-policy) corrections as a legislative concept. Mr Phelps seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

Director Gaines then reported that 18 health professional regulatory boards have been meeting monthly, at the direction of the Governor's Office. One topic discussed was the current statutory language for all health professional regulatory boards that requires all incidents or infractions to be investigated and processed as disciplinary actions with full contested case hearing rights, irrespective of scope or impact of infraction. Infractions that are "administrative" or minor, black and white issues such as late or incomplete application or renewal filings, missing signage or similar infractions must currently be treated in the same manner as more serious infractions. With limited time and resources, this places an unnecessary burden on boards and licensees without benefit to consumers. Board resources are better spent investigating and preventing more serious infractions, and should have a means of sanctioning or fining licensees without triggering a full investigation and case.

A solution would be to add to ORS 676.176 that would allow for all health professional regulatory boards to adopt by rule, specific non-disciplinary penalties for administrative or minor infractions. These would be considered sanctions, rather than disciplinary actions. Our Board was asked to sponsor this legislative concept on behalf of all the boards.

President Cummings asked if there was a motion to sponsor this legislative concept. He then recognized Ms Goolsby.

Ms Goolsby moved to submit this citation authority amendment to ORS 676.176 as a legislative concept. Mr Korn seconded. All others were aye and the motion carried unanimously. Those voting in favor: Members Cummings, Goolsby, Korn, Kurtz, Martin, Phelps, Stanger, Wachter. Those voting no: none.

President Cummings thanked everyone for their full participation and adjourned the meeting.

ADJOURNMENT - The meeting via a telephone conference call was adjourned at 8:55 am.