

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN EMBALMING AND FUNERAL DIRECTING
MINUTES OF THE NOVEMBER 19, 2024, OPEN PUBLIC MEETING

Board Members Present in person:

Paul Phaneuf, Chair
Rebecca Ridley, Member

Board Members Remotely Attending:

Patrick Driscoll, Secretary (joined meeting at 10:07 am)
Richard Gormley, Member
Janet Leombruno, Member

DOL Staff Present in person at various times during the meeting:

Peter Kelley, Board Counsel
Marjorie Campbell, Executive Director
John Hill, Board Administrator
Bob Williams, Investigator
Ann Barry, Prosecutor
Seth Henerson, Prosecutor
Salvatore Ciulla, Prosecutor

Board Members and Staff attended as noted.

1. The Executive Director called the meeting to order at 10:01 am and advised as to the recording of the public meeting. Board members and staff introduced themselves.
2. The Board Chair advised as to room procedures, exits, and fire alarm procedures.

Approval of Meeting Minutes: The Board members reviewed the public session minutes from the October 15, 2024 meeting. After a brief discussion, a motion to approve the meeting minutes was made by Janet Leombruno, motion seconded by Richard Gormley. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Rebecca Ridley, Janet Leombruno, and Richard Gormley
Opposed: None
Motion Passes

Executive Director Report:

1. Report on Administratively Approved License Registrations: The Board members were given the list of Administratively Approved License Registrations for review. After a brief discussion, a motion to accept the list of License Registrations was made by Rebecca Ridley,

motion seconded by Janet Leombruno. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Rebecca Ridley, Janet Leombruno, and Richard Gormley
Opposed: None
Motion Passes

2. Report on Administratively Approved Continuing Education Course Providers: The Board members were given the list of Course Providers for review. After a brief discussion, a motion to accept the list of Continuing Education Course Providers was made by Patrick Driscoll, motion seconded by Janet Leombruno. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Rebecca Ridley, Janet Leombruno, Richard Gormley, and Patrick Driscoll
Opposed: None
Motion Passes

3. Congratulations to Paul Phaneuf, who has been re-appointed as a Board member of the Embalming and Funeral Directing Board.
4. Update on Transition to New Testing Vendor: PSI is now issuing the license numbers and printing the license cards at all its vendor testing sites in Massachusetts for the Type 6 and Type 3 Funeral Directors. The Executive Director (ED) summarized the process of how new Funeral Directors are licensed with PSI, to include the process steps that are done by the Board staff. There have been some problems with the actual information that PSI is printing on the physical license cards. We have had at least 2 licensees report that PSI printed their home addresses on the license cards instead of the business address. New licensees are advised to contact the Board if there are issues with the address or any other information on the license cards that needs to be revised.
5. Update on the new Registry of Vital Records System (RVRS) and the verification of licenses. This new system has not yet been put in place, there have been some delays. However, when the system is up and running, all new licensees that need to access the system will have to first verify that they are licensed in our system as a Funeral Director Type 3 or Type 6. The concern from the Conference is whether the Board's website will be updated in real time, so that newly licensed Funeral Directors are able to timely verify their licenses and access the RVRS as needed. The ED stated that Board staff is currently working with PSI to assure that there is a process in place so that the files of newly licensed Funeral Directors are sent to the Board within 24 to 48 hours so that the Board can update its website, but Ms. Campbell assured members and the public that in the event of any updating time lag, the board staff would be available for any recently-issued licensed verifications, of which there should be very few.
6. Board and staff discussed changing the February 2025 Board meeting date from February 11, 2025, to February 18, 2025.
 - Motion to change the February 2025 Board meeting date to February 18, 2025, made by Rebecca Ridley

- Motion seconded by Janet Leombruno
 - Board Chair called for a roll call vote
 - In Favor: Paul Phaneuf, Rebecca Ridley, Janet Leombruno, Richard Gormley, and Patrick Driscoll
 - Opposed: None
 - Motion Passes
7. Update on the DPL Office Move: The DPL will be moving in 2025 to One Federal Street in Boston, MA. The current plan is for the move to take place in March of 2025, and the Board will be updated accordingly as more details become available.

Board Counsel Report: No new items

Discussion Items

1. Discussion of Funeral Director License Classifications: Board members discussed whether our regulations should be revised to bring back the classification of a Funeral Director Type 5. Currently, the regulations provide for a Type 3 Funeral Director, who must have an ownership interest in a Funeral Establishment, and a Type 6 Funeral Director, which currently encompasses both the independent embalmer professional as well as the Type 6 that is contracted with a specific Funeral Establishment and has broader responsibilities. The goal of bringing back a Type 5 Funeral Director license category would be to distinguish between the professional licensee who is an independent embalmer, and not tied to a specific Funeral Establishment (the Type 5); versus the professional licensee who is contracted with a specific Funeral Establishment and can take over some of the funeral directing services for the Type 3 Director if needed (this would remain as the Type 6 licensee.)
Board Counsel advised that because this would require a regulation revision, itself a reversal of the 2016 regulations changes, it is important that the Board members articulate why this revision would be necessary and justified. Mr. Kelley expressed some concern as to the sufficiency of evidence to support a finding of widespread unlicensed practice among the current group of Type 6 Funeral Directors as previously discussed. Since one of the main reasons the Board originally streamlined this classification for the Type 6 Funeral Directors was to bring the Massachusetts funeral director licensure more in line with other states, this would be a competing justification for maintaining the status quo. Board members discussed whether there was a need to bring back this classification distinction, and whether this is more of an education issue for the Type 6 Funeral Directors, to ensure that they know the differences between being contracted with a specific Funeral Establishment versus being an independent embalmer. Mr. Kelley suggested, as an initial step, that the board adopt a writing, either by policy or by a Q&A, articulating the board's current concerns with Type 6 licensee practice.

Board requested Board Counsel to work on language for Board members for further review and discussion.

2. CE requirement for Apprentices and Funeral Assistants: Because our current regulations refer to all levels of licenses under the Embalming and Funeral Directing Board as “Registrants”, the CE requirements apply to all the licensing types. The Board members would like to reduce the CE requirements for the Apprentices and Funeral Assistants, but this would require a revision in the regulations. Board Counsel explained that this can be a lengthy process, and there are several ways to go about this. Some Boards form a subcommittee to specifically review the regulations, or Board Counsel could draft a targeted regulation revision, or submit this revision with a larger regulation revision draft. Board members stated that they do want to begin revising the regulations for the CE requirements, to only require the one CE OSHA course for Funeral Assistants and Apprentices. Board directed Board Counsel to work on this revision and provide a draft at an upcoming meeting.
3. Swearing in Process: At last month’s Board meeting, the Board voted to change the current swearing-in process for new members, to require certain categories of the new licensees to now come before the Board in order to receive their licenses, and this would include the swearing-in ceremonies for the Type 6 licensees. Board staff had some questions about the process for the Board meetings. Discussion included that the following licensee types would be required to appear before the Board each month (whether it be in-person or by virtual Teams meeting) in order to be officially licensed: Apprentice applicants, with their sponsors; Funeral Assistant applicants, with their sponsors; and Type 6 applicants, with their sponsors, only if they are contracted with a specific Funeral Establishment. Type 3 applicants and upgrade and downgrade applicants would not have to appear before the Board; these applications will continue to be processed by Board staff. Board members will welcome each category of applicants as a group, with some welcome introductions and scope of practice reminders. For the Type 6 applicants, the Board members will conduct the swearing-in ceremony as a group. Board members will also need a list of names for each applicant that will appear before the Board for any given Board meeting. This will be started in January of 2025, and no vote was needed as the vote was previously taken.

Investigative Update on Licensed Establishments:

Investigator Bob Williams gave a verbal update to state that he is currently up-to-date with his inspections.

Licensing Application Review:

1. Conditional Funeral Establishment (FE) license request, from Type 3 Licensee Robert Fournier: Mr. Fournier was recently licensed as a Type 3 Funeral Director in Massachusetts, and he is

purchasing the Shaw-Majercik Funeral Home in Webster, MA. The reason Mr. Fournier is applying for a conditional license for this FE is because the FE needs a handicap bathroom. Mr. Fournier was present for this meeting via the virtual Team Meeting, and he stated that he is aware that under the conditional license, he must complete the handicap bathroom, including inspections, within six (6) months' time. Bob Williams has conducted the inspection and stated there are other bathrooms that can be used for now. Mr. Fournier was asked if he owned a Crematory in CT, and Mr. Fournier stated that he does. Board members discussed with Board Counsel whether a type 3 funeral director is allowed to own a business affiliated with the funeral industry, such as a crematorium if it is a business located in another state? Board Counsel indicated that he needed time to research this issue, and therefore, suggested this matter be tabled for a later Board meeting date.

- Motion made by Patrick Driscoll to table this matter to a future Board meeting
- Motion seconded by Rebecca Ridley
- Board Chair called for a roll call vote
- In Favor: Paul Phaneuf, Richard Gormley, Rebecca Ridley, Janet Leombruno, and Patrick Driscoll
- Opposed: None
- Motion passes

Topics Not Reasonably Anticipated 48 Hours in Advance of Meeting: No Items

Public Comment:

There was a comment from the public expressing concerns on behalf of consumer groups if the Embalming and Funeral Directing Board undergo regulations review and revisions without public participation. Board Counsel explained that the process involves a number of steps and that there is a hearing for oral and written public comments as part of every regulation revision process.

At 11:35 am, the Board exited its Public Session of the meeting and voted to enter Closed Session.

- Motion to exit Public Session and to enter closed session for the purpose of conducting settlement and investigatory conferences per G. L. c. 113, sec. 65C. The Board does not anticipate entering back into Public Session. .
Motion made by Janet Leombruno
- Motion seconded by Rebecca Ridley
- Board Chair called for a roll call vote
- In Favor: Paul Phaneuf, Richard Gormley, Rebecca Ridley, Janet Leombruno, and Patrick Driscoll
- Opposed: None
- Motion passes

The Board took the following actions during the Investigative Conferences. Mr. Gormley and Ms. Leombruno were not present:

Cases:

- 2024-000976-CP-ENF: Refer to Prosecutions
- 2024-000708-IT-ENF: Refer to Prosecutions
- 2024-000767-IT-ENF: Refer back to OI
- 2024-000675-IT-ENF: Tabled (Ms. Ridley recused)
- 2024-000772-IT-ENF: Dismissed
- 2024-000322-IT-ENF: Dismissed

At 12:44 pm, the Board voted to exit closed session and to enter open session, thereupon to adjourn the meeting

- Motion made by Rebecca Ridley
- Motion seconded by Patrick Driscoll
- Chair called for a roll call vote
- In Favor: Paul Phaneuf, Rebecca Ridley, and Patrick Driscoll (Richard Gormley and Janet Leombruno had left the meeting)
- Opposed: None
- Motion passes

Documents used in public session:

- Agenda for the November 19, 2024, Open Meeting
- Public Session Minutes for the October 15, 2024, Board Meeting
- Report on Administratively Approved License Registrations for November 2024
- Report on Administratively Approved Continuing Education Course Providers for November 2024
- Email from Margie Nolan regarding the Registry of Vital Records
- Document detailing the update for the DPL office move in 2025
- Funeral home establishment licensure application for Robert Fournier