

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN EMBALMING AND FUNERAL DIRECTING
MINUTES OF THE DECEMBER 18, 2024, OPEN PUBLIC MEETING

Board Members Present in person:

Paul Phaneuf, Chair
Richard Gormley, Member

Board Members Remotely Attending:

Patrick Driscoll, Secretary

Board Members Unable to Attend:

Rebecca Ridley, 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
Ann Barry, Prosecutor
Salvatore Ciulla, Prosecutor

Board Members and Staff attended as noted.

1. The Executive Director called the meeting to order at 10:05 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 November 19, 2024 meeting. After a brief discussion, a motion to approve the meeting minutes was made by Richard Gormley, motion seconded by Patrick Driscoll. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Richard Gormley, and Patrick Driscoll
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 Richard

Gormley, motion seconded by Patrick Driscoll. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Richard Gormley, and Patrick Driscoll

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. Board members had a brief discussion, including a question as to why there were two CE course denials. John Hill explained that the denials were courses that related to the operations of crematoriums, and which the Board members were in agreement with the denials. A motion to accept the list of Continuing Education Course Providers was made by Patrick Driscoll, motion seconded by Richard Gormley. The Chair called for a roll call vote.

In Favor: Paul Phaneuf, Richard Gormley, and Patrick Driscoll

Opposed: None

Motion Passes

3. Voting for Board Member Officers: Because there are two Board members not present, Board members discussed that we will hold off voting for Officers until the next meeting.

Board Counsel Report: Attorney Kelley was tasked with reviewing the MA funeral director prohibitions on owning or profiting from business related to the funeral industry and opining on their enforceability as to ownership of a prohibited business in another jurisdiction (CT). Massachusetts Funeral Directors and Funeral Homes are prohibited, pursuant to G. L. c. 112, § 87 and 239 Code Mass. Regs. § 3.13(1), from engaging in the business of or owning any business related to the disposition of human remains (including crematoria). In addition G. L. c. 112, § 84, ¶ 4(h) prohibits a Funeral Director from accepting any remuneration for causing any dead human body to be disposed of in any crematory. This means that if Mr. Fournier continues to practice in Massachusetts, he could be disciplined if he derives any income from the CT crematorium.

Attorney Kelley advised the Board that this consumer-protection prohibition could be enforced as against the CT Crematorium owned by Mr. Fournier. Attorney Kelley further advised that should the Board vote to deny Mr. Fournier's request for his Funeral Home establishment license, based on these regulations, then Mr. Fournier would be entitled to a hearing on this issue. This matter will be discussed later in the meeting when Mr. Fournier's funeral home establishment application is heard.

Discussion Items

1. The Executive Director stated that Board Staff will put an announcement on the website regarding the need for all Embalming and Funeral Director applicants, to include Funeral Assistants, Apprentices, and Funeral Directors, Type 6; will need to come to the monthly Board meetings, either in-person or virtually, to be formally addressed by the Board prior to being granted a license. Type 6 Funeral Directors will also be formally sworn in at the monthly Board meetings. This process will begin in January 2025.

2. CE requirement for Apprentices and Funeral Assistants: Draft of Regulation Change for CE requirements, for Apprentices and Funeral Assistants 239 Code Mass. Regs, sec. 5.00: Attorney Kelley presented a draft of proposed revisions to this current continuing education regulations for the Board members to review and discuss. The purpose of the proposed revisions is to try and make the CE requirement consistent with the education and training of the different levels of licensees, apprentice, assistant, and funeral director, and to also be practical about what would be needed for each level of licensee. Proposed draft decreases the number of required annual CE training for Funeral Assistants and Apprentices, to 2 CE hours annually for these 2 licensee groups only. It was also discussed that the annual 1 hour of OSHA training would remain part of those required 2 CE hours. There was comment from the public, from an OSHA instructor, who assured Board members that they do vary the OSHA training each year. Following discussion, Board members decided to take these revisions under advisement and to continue discussion at next month's meeting. Tabled.

Investigative Update on Licensed Establishments: No new updates

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 Teams Meeting. Mr. Fournier stated that he is the Principal owner of a Crematory in Connecticut (CT). Attorney Kelley and Board members stated for the record that Massachusetts' statute and regulations do not allow for a licensed Funeral Director to own or run a business that is related to the disposing of human remains. Attorney Kelly advised Board members that if they denied the funeral home establishment application, Mr. Fournier would be allowed the opportunity to have an evidentiary hearing on the issue of his ownership of a related business in CT. Alternatively, Mr. Fournier could withdraw his application, consult with his attorney, and then potentially re-apply for an establishment license. Attorney Kelley emphasized that Board members cannot advise Mr. Fournier what he should do, Mr. Fournier can consult with his own attorney if he withdraws his application. Mr. Fournier then stated that other funeral establishments own crematoriums in other states, and he feels he is being singled out. Attorney Kelley stated that if Mr. Fournier has specific knowledge of an establishment owning a Crematorium, then he can file a formal complaint, which would be investigated. Following this discussion, Mr. Fournier sought leave to consult with his counsel which the board accommodated by tabling the matter pending Fournier's decision how to proceed. No vote was taken.

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

At 10:45 am, the Board moved 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.

- Motion made by Richard Gormley. The Board does not anticipate entering back into Public Session.
- Motion seconded by Patrick Driscoll
- Board Chair called for a roll call vote
- In Favor: Paul Phaneuf, Richard Gormley, and Patrick Driscoll
- Opposed: None
- Motion passes

During closed session the Board took the following actions.

- 2024-000675-IT-ENF: Tabled (Rich Gormley and Rebecca Ridley recused)
- 2024-000813-IT-ENF: Dismiss
- 2024-000750-IT-ENF: Dismiss with Advisory

At 11:35 am, the Board moved to exit closed session, to enter open session, and to adjourn the meeting:

- Motion made by Paul Phaneuf
- Motion seconded by Patrick Driscoll
- Chair called for a roll call vote
- In Favor: Paul Phaneuf, Richard Gormley, and Patrick Driscoll
- Opposed: None
- Motion passes

Documents used in public session:

- Agenda for the December 18, 2024, Open Meeting
- Public Session Minutes for the November 19, 2024, Board Meeting
- Report on Administratively Approved License Registrations for December 2024
- Report on Administratively Approved Continuing Education Course Providers for December 2024
- Draft of Regulation Change for CE Requirements: for Apprentices and Funeral Assistants: 239 Code Mass. Regs sec. 5.00
- Funeral home establishment licensure application for Robert Fournier