

Massachusetts Board of Registration in Embalming and Funeral Directing
Public Session Minutes
DATE: February 15, 2022
TIME: 10:00 a.m.

A regularly scheduled open public meeting of the Massachusetts Board of Registration of Embalmers and Funeral Directors (“the Board”) was held via Videoconference and Conference Call.

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Board Members Present:

Paul Phaneuf
Patrick Driscoll
David Brezniak
Janet Leombruno
Richard Gormley

Staff Members Present:

Thomas F. Burke, Executive Director
Peter M. Kelley, Board Counsel

Call to Order:

Mr. Driscoll moved to call the meeting to order and Mr. Brezniak seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Not Present”. Evacuation procedures were tabled. Mr. Burke advised members of the public to mute volume and utilize hand function to address the Board.

Review of Minutes:

The Board reviewed staff prepared public session minutes of the meeting held on December 21, 2021.

Mr. Driscoll moved to approve the December 21, 2021 Board minutes. Mr. Brezniak seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Not Present”.

The Board reviewed staff prepared public session minutes of the meeting held on January 18, 2022.

Mr. Brezniak moved to approve the January 18, 2022 Board minutes. Mr. Gormley seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Not Present”.

Report from Executive Director, Thomas Burke:

Mr. Burke reported that staff has received a majority of the 2021 preneed reports due on January 31, 2022. He will provide further updates to the Board at the subsequent meeting.

In response to question from the Board, he stated that staff will accept reports via email. Mr. Burke is working with the Board investigator to finalize the number of missing 2020 preneed reports and will provide a final report to the Board. The chair instructed Mr. Burke to allow applicants who graduated from North Shore Community College to take the written practical and jurisprudence exams when final accreditation is formalized. Mr. Burke reported that the following applicants and continuing education course offerings have been administratively approved:

EM Board Licensed Registrants

Methuen Funeral Home dba Pollard Funeral Home (1063-FE-FE) on January 15, 2022
Michael Pollard (51339-EM-6) downgrade at Pollard Funeral Home in Methuen on January 18, 2022

Robert Chase (51341-EM-3) at Pollard Funeral Home in Methuen on January 18, 2022

Caroline Sullivan-Mulherin (51340-EM-3) at Devanny Condrón Funeral Home in Pittsfield on January 18, 2022.

Jonathon Ferreira (51342-EM-3) at Oliveira Funeral Home in Fall River pending completion of establishment certificate applications on January 18, 2022.

Michael Kelly (51343-EM-3) at Kelly Funeral Home in Lee on January 18, 2022

Continuing Education Courses

ELITE PROFESSIONAL EDUCATION, LLC

It's Not Your Father's Funeral Home – Ongoing/Online	3.00 Hours
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Zebra Credits, Inc.

Time Management – ongoing/online	1.00 Hours
Cyber Security and the Bereavement Industry– ongoing/online	1.00 Hours
Dealing with Dementia – ongoing/online	1.00 Hours
Social Media Guidelines – ongoing/online	1.00 Hours

International Conference of Funeral Service Examining Boards

Annual Meeting, Houston Texas – February 23-24, 2022	15.00 Hours
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Massachusetts Funeral Directors Association (MFDA)

Massachusetts Attorney General's Victim Compensation Program - Funeral Director Training

- Live training via webinar on March 23, 2022. This program will be recorded and offered as a home study course as well.	1.00 Hours
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Cremation Association of North America (CANA)

Aftercare: An Introduction	2.00 Hours
Communication Skills Fundamentals	1.00 Hours
Complying with the FTC Funeral Rule	1.00 Hours
Ethics in Funeral Services	2.00 Hours

Presentation Without Preservation	1.00 Hours
The Cremation Choice	2.00 Hours
The Power of Presence: Introduction	2.00 Hours
The Power of Presence: Part 2	2.00 Hours
Three Tools for Improving Your Business	1.00 Hours

After discussion, Mr. Brezniak moved to accept the Executive Director’s Report. Mr. Driscoll seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes.”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Not Present”.

Ms. Leombruno joined the meeting at 10:17 a.m.

Report from Board Counsel, Peter Kelley:

In response to a query from Affiliated Family Services regarding the leasing of cemetery property for the purpose of operating a funeral establishment, Attorney Kelley stated that such a lease does not represent a violation of the Board’s regulations, specifically 239 CMR 3.13 (1). However, Mr. Kelley noted that the legislative intent of the Board’s statutes is not to emmesh the business of a private funeral establishment with the operation of a non-profit cemetery. The Board would be disinclined, therefore, to license a business that may violate the Board’s laws and statutes related to the funeral industry, including those regulating cemeteries in the Commonwealth. Mr. Kelley advised the Board that operating a funeral establishment on cemetery premises could be a violation of the Board’s rules and regulations.

After further discussion, Ms. Leombruno moved to accept Board Counsel’s report. Mr. Brezniak seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes.”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Not Present”.

Mr. Gormley left the meeting at 10:43 a.m.

Correspondence:

- D. Ryan Advisory Ruling

In response to a request from Ms. Deborah Ryan to the Board for an advisory ruling on compliance requirements for existing funeral establishments subject to a transfer of ownership, the Board determined, after discussion, that in respect of the certification requirements contained in 239 Code Mass. Regs. § 3.06(2), while the fact of certification may be within the Board’s discretion, since the regulation states the board ‘may require proof of such compliance’; nevertheless, the only persons qualified to provide such certifications are the three professions listed in the regulation. As to the board’s authority to require current compliance with AAB standards for previously-grandfathered licensed funeral home establishments which undergo a change in ownership, the board declined to provide such an opinion on the matter as it is too speculative, preferring instead to address the matter when and if actual facts and circumstances present themselves.

Mr. Driscoll moved to accept this disposition on the request for an advisory opinion. Mr. Brezniak seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Not Present.”, Ms. Leombruno: “Yes”.

Mr. Gormley joined the meeting at 11:00 a.m. Mr. Driscoll left the meeting at 11:00 a.m.

Discussion:

- Consumer Fact Sheet – Update

After discussion, the Board agreed to send further changes to the draft fact sheet to the Executive Director for review at a subsequent meeting.

- Electronic Death Records System

The Board discussed Connecticut’s current system for electronically implementing and maintaining death records, where some MA licensees may not be authorized to use and access. In response to an inquiry as to the advisability of writing to the Connecticut funeral board as to the wisdom of this decision, Mr. Kelley such political decision-making is the exclusive purview of another state and its instrumentalities. NO further action taken.

- Requirements for Funeral Directors by endorsement

The Board discussed 239 CMR 3.02 (7) – Registration by Endorsement, which requires that out-of-state applicants be “permitted to take the Massachusetts examination” in order to be registered as an embalmer and funeral director in the Commonwealth. After discussion, Mr. Kelley advised that it was well within the board’s discretion to interpret “examination” to indicate only the jurisprudence exam, but as it represented a change in interpretation, it should be done in a clear and direct manner, with all due consideration as to how such an interpretative change should be implemented, communicated, and enforced. The topic was tabled and no vote was taken.

- Ahearn Funeral Home – T. Kelleher

Mr. Gormley moved to extend Mr. Kelleher’s temporary coverage as Type 3 funeral director at Ahearn Funeral Home through April 2022. Ms. Leombruno seconded. Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Yes.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Yes”.

Open session for topics not reasonably anticipated 48 hours in advance of meeting:

Closed Session: Investigatory Conferences, pursuant to G.L. c. 112, §65C.

At 12:02 p.m., Ms. Leombruno moved to exit open session and into closed session to conduct investigatory conferences, pursuant to G.L. c. 112, §65C. Mr. Brezniak seconded the motion. **Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Not Present.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Yes”.**

During the closed session, the Board took the following actions:

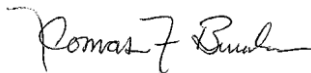
- Advertising by corporately owned funeral establishments – The Board voted to amend the 2022 preneed report to require disclosure of all persons or entities with a ten percent ownership interest or greater.
- 2021-0000643-IT-ENF – Tabled.
- 2021-0001081-IT-ENF – Tabled.
- 2021-0000951-IT-ENF (settlement offer) – Provided guidance to the prosecutor.

At 1:05 p.m., MR. Brezniak moved to exit closed session and thereafter to adjourn the meeting. Mr. Gormley seconded the motion. **Motion passed by a roll call vote: Mr. Phaneuf: “Yes”, Mr. Driscoll: “Not Present.”, Mr. Brezniak: “Yes.”, Mr. Gormley: “Yes.”, Ms. Leombruno: “Yes”.**

List of Documents used at the meeting:

1. Agenda
2. Board Public Session Minutes
3. ED Report of administratively approved registrants and CE provider courses
4. Ahearn Funeral Home Extension request
5. Advisory Ruling correspondence
6. Draft of Consumer Fact Sheet

Respectfully submitted,



Thomas F. Burke
Executive Director