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STATE OF OHIO

BOARD OF EMBALMERS AND FUNERAL DIRECTORS

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Minutes of Board Meeting

Monday-Tuesday, December 17-18, 2012

77 South High Street, 31st Floor Board Room

Columbus, Ohio 43215

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Board Members:

- Pamela Williams-Briggs, President
- Linda M. Betzer
- Gregory Boyer
- Robert C. Carter
- Thomas T. Fleming
- Ty D. Marsh
- Robert J. Wasko

Staff Members:

- Vanessa Niekamp, Executive Director
- Linda Clark, Certification & Licensure
- Danny Finfrock, Fiscal Coordinator
- Jarrod Williams, Operations Coordinator
- Eric E. Anderson, Inspector
- Troy Seehase, Inspector

Legal Representative:

- Assistant Attorney General James Patterson

- - -

ARMSTRONG & OKEY, INC.  
222 East Town Street, Second Floor  
Columbus, Ohio 43215-5201  
(614) 224-9481 - (800) 223-9481  
Fax - (614) 224-5724

- - -

1 Monday Afternoon Session,  
2 December 17, 2012.

3 - - -

4 CONVENING OF THE BOARD

5 The Board of Embalmers and Funeral  
6 Directors met in regular session. President  
7 Williams-Briggs convened the meeting at 1:09.

8 Roll call was taken by Ms. Niekamp.

9 Board Members Present: Pamela Williams-Briggs,  
10 President, Linda M. Betzer, Gregory Boyer, Robert C.  
11 Carter, Thomas T. Fleming, Ty D. Marsh, Robert J.  
12 Wasko.

13 - - -

14 READING AND CONSIDERATION OF MINUTES

15 President Williams-Briggs asked for  
16 consideration of the minutes.

17 Ms. Niekamp listed the following  
18 correction to the minutes: On Motions 3, 4, and 5,  
19 Ms. Betzer was listed as absent and Mr. Carter was  
20 listed as voting nay. The correction should read  
21 Ms. Betzer and Mr. Carter voting aye on Motions 3, 4,  
22 and 5.

23 Mr. Fleming made a motion to approve the  
24 minutes, with corrections, of the November 13-14,  
25 2012 meeting; seconded by Ms. Betzer.

1 A vote was taken, Ayes, 7; Nays, 0.

2 Motion passed.

3 - - -

4 EXECUTIVE DIRECTOR'S REPORT

5 Ms. Niekamp introduced new staff member  
6 Jarrod Williams, operations coordinator, a full-time  
7 permanent position.

8 Ms. Niekamp introduced Rosemary Anderson,  
9 court reporter from Armstrong & Okey, who would be  
10 taking the minutes. This was per the recommendation  
11 of James Patterson's section chief from the Attorney  
12 General's office.

13 Mr. Fleming inquired as to who  
14 recommended the court reporter and why.

15 Ms. Niekamp explained that Susan Walker,  
16 chief of the Office of the Attorney General's section  
17 working with the Board of Embalmers and Funeral  
18 Directors, had indicated to staff after the emergency  
19 meeting that she felt the minutes of the Board would  
20 possibly benefit from being recorded or having a  
21 court reporter to take the minutes, with the goal of  
22 increasing the amount of detail. The office did not  
23 want to maintain tape recordings so a court reporter  
24 was hired.

25 Mr. Fleming asked if this would be a

1 temporary measure.

2 Ms. Niekamp indicated that it would be a  
3 temporary measure, and that after Ms. Walker was  
4 satisfied with the minutes, that Jarrod Williams  
5 would take over, using the court reporter's minutes  
6 as a template.

7 - - -

8 CONSIDERATION OF EMERGENCY MEETING MINUTES

9 President Williams-Briggs asked to  
10 interrupt the executive director's report to consider  
11 and take a vote on the minutes from the emergency  
12 meeting of November 30, 2012.

13 Mr. Fleming had a question on the  
14 minutes. He inquired if the executive director had  
15 his email regarding the support and nonsupport of  
16 Jennifer Baugess. Mr. Fleming asked to see the email  
17 in order to clarify whether or not it was stated or  
18 implied that he and Jennifer Baugass had had a  
19 discussion. He further stated that he did not have a  
20 vocal discussion with Jennifer Baugess.

21 Ms. Niekamp gave Mr. Fleming a copy of  
22 the email.

23 After reviewing the email, Mr. Fleming  
24 stated that according to his notes, there was nothing  
25 stating that there was any discussion between him and

1 Jennifer Baugess. He proposed correcting the special  
2 minutes on the third-to-last page, the paragraph  
3 above Jim Patterson's response.

4 Ms. Niekamp stated that during the  
5 discussion she was indicating that Mr. Fleming's  
6 email implied there potentially could be personal  
7 vendettas.

8 Mr. Fleming stated he was saying that was  
9 something that could exist and not saying it did  
10 exist.

11 Ms. Niekamp suggested the correction  
12 read, "Tom Fleming's email implied there could be  
13 personal vendettas or issues involved."

14 Mr. Patterson asked for a correction on  
15 the second page of the emergency minutes where it  
16 states, "The assistant AG suggested that if the  
17 employee in question were placed on administrative  
18 leave, this would protect the data of the Board of  
19 Embalmers and Funeral Directors pending a criminal  
20 investigation."

21 Mr. Patterson stated that he does not  
22 recall wording it that way, that it was not his  
23 position to tell the Board whether that would protect  
24 the records. He recalled saying if the Board made  
25 that determination, that was a proper basis for

1 administrative leave.

2           Mr. Carter stated that he recalled  
3 hearing it the way it was written.

4           President Williams-Briggs stated that she  
5 did not remember exactly that was said but came away  
6 with the idea that if someone was placed on  
7 administrative leave, one of the things it would do  
8 was protect the records.

9           Mr. Marsh stated that the assistant  
10 attorney general saying the records would be  
11 protected was one of the factors he considered when  
12 he voted to place the person on administrative leave.

13           Mr. Patterson said he did not remember  
14 using those words. He said his intent was to convey  
15 that the Board might reasonably conclude that placing  
16 an individual who has access to records on  
17 administrative leave would protect the records of the  
18 Board.

19           President Williams-Briggs stated she  
20 understood it the way that Mr. Marsh did.

21           After further discussion, no change was  
22 recommended for the statement attributed to  
23 Mr. Patterson.

24           Mr. Fleming stated there were spelling  
25 errors in the minutes.



1 Mr. Carter made the following motion:

2 I move to authorize the Board of  
3 Embalmers and Funeral Directors of the State of  
4 Ohio's Executive Director to act as the appointing  
5 authority as follows: The day-to-day operations of  
6 the agency to include, but not limited to, hiring,  
7 firing, accepting resignations, imposing employee  
8 disciplinary action, approving or denying leave  
9 request, and for signing fiscal or administrative  
10 documents, and this would take effect immediately.

11 Seconded by Mr. Wasko.

12 A roll call vote was taken: Wasko, Aye;  
13 Marsh, Aye; Betzer, Aye; Williams-Briggs, Aye; Carter, Aye;  
14 Fleming, Aye; Boyer, Aye.

15 Motion passed.

16 - - -

17 EXECUTIVE DIRECTOR'S REPORT (Continued)

18 Ms. Niekamp gave an overview of the  
19 current budget, disbursements from November 8 through  
20 December 13, 2012. Ms. Niekamp clarified that the  
21 line item under her name for \$37.89 was reimbursement  
22 for a jump drive that was needed immediately;  
23 therefore, it was not obtained through the normal  
24 purchasing process.

25 Ms. Niekamp reviewed House Bill 481 that

1 passed both the House and Senate; however, the final  
2 form of the bill did not include alkaline hydrolysis.  
3 Testimony in favor of the bill was provided in the  
4 Board's packet. Ms. Niekamp stated there were  
5 religious concerns about it in both the House and  
6 Senate. The bill is on the Governor's desk awaiting  
7 signature.

8 Ms. Niekamp stated that there has been no  
9 further discussion on Senate Bill 308 regarding the  
10 insurance companies providing information about a  
11 deceased to a funeral home.

12 It was noted that the Board office would  
13 be closed on Christmas, December 25, 2012, and for  
14 New Year's, January 1, 2012.

15 The next meeting will be Tuesday,  
16 January 15 and Wednesday January 16, 2013.

17 Ms. Niekamp stated the annual meeting of  
18 The Conference will include the Board President,  
19 Pamela Williams-Briggs, Mr. Wasko, Mr. Carter, Eric  
20 Anderson, and herself attending in February.

21 - - -

22 LICENSURE OF FACILITIES

23 Ms. Clark enumerated the existing  
24 facilities applying for change of location and/or  
25 ownership effective January 1, 2013:

1 Adkins-Brant Funeral Home, LLC, Portsmouth;  
2 Bacher Funeral Home, Akron;  
3 Bacher Funeral Home, Norton;  
4 Best Funeral Home, Middlefield;  
5 Busse & Borgmann-Lakamp FH, Cincinnati;  
6 Eichholtz Funeral Home, Bellefontaine;  
7 Eichholtz Daring & Sanford FH, West Liberty;  
8 Eichholtz Daring & Sanford FH, Belle Center;  
9 Eichholtz Daring & Sanford FH, Jackson Center;  
10 Ewing Funeral Home, Pomeroy;  
11 James Coyle & Son FH, Toledo;  
12 L. Eugene-Smith & Son FH, New Vienna;  
13 Miller-McFall-Rogers FH, Cleveland;  
14 McClure-Shafer-Lankford FH, Marietta;  
15 Mueller-Parker FH, Mason;  
16 Paine Funeral Home, Inc., Orwell;  
17 Peinert-Dunn FH, Waterville;  
18 Peinert-Dunn FH, Whitehouse;  
19 Peinert-Dunn FH, Tontogany;  
20 Reynolds-Smith FH, Wilmington;  
21 Smith-Eichholtz Funeral Home, Lakeview;  
22 Wellman-Kinzer FH, Washington Court House;  
23 Oakwood Crematory, Inc., Bradford.

24 Mr. Wasko made a motion to approve the  
25 above listed facilities' applications for license;

1 seconded by Ms. Betzer.

2 A vote was taken, Ayes, 6; Nays, 0;  
3 Abstentions, 1 (Marsh).

4 Motion passed.

5 - - -

6 Ms. Clark enumerated those leasing from  
7 and existing funeral home: Robert C. Carter FH,  
8 Columbus

9 Ms. Betzer made a motion to approve the  
10 above listed funeral home's license; seconded by  
11 Mr. Wasko.

12 Mr. Carter stated he would abstain.

13 A vote was taken, Ayes, 6; Nays, 0,  
14 Abstention, 1.

15 Motion passed.

16 - - -

17 Ms. Clark enumerated the new facility/new  
18 building applications for consideration and approval  
19 of paperwork. In addition to those listed in the  
20 Board packet, Jardine Cremation was inspected by Eric  
21 Anderson on December 13, 2012.

22 Lopresti-Steinbauer FH, Aurora, Portage  
23 County;

24 Smith Mortuary, Columbus, Franklin  
25 County;

1 Northwest Ohio Cremation, Toledo, Lucas  
2 county;

3 Jardine Cremation.

4 Mr. Fleming made a motion to approve  
5 the above applications for license; seconded by  
6 Ms. Betzer.

7 A vote was taken, Ayes, 7; Nays, 0.

8 Motion passed.

9 - - -

10 Ms. Clark enumerated the facilities  
11 applying for a name change:

12 Byerly-Lindsey Funeral Home - new name,  
13 Lindsey Funeral Home, Ashland County;

14 Sauer-Good-Powell Funeral Home - new  
15 name, Dale E. Good Funeral Home, Cuyahoga County.

16 Mr. Fleming made a motion to approve the  
17 above-listed name changes; seconded by Mr. Carter.

18 A vote was taken, Ayes, 7; Nays, 0.

19 Motion passed.

20 - - -

21 Ms. Clark informed the Board of the  
22 following changes in facility manager and/or AIC/UR:

23 Littleton Funeral Home, Roger M.

24 Littleton, AIC, Clinton County;

25 John Hodapp Sons, Inc., Kevin A. Hodapp,

1 Manager, Butler County;

2                   Everhart-Bove FS, Inc. Teresa N. Bell,

3 Manager, Jefferson County;

4                   Vitt, Stermer & Anderson (Delhi Road),

5 David B. Anderson, Manager, Hamilton County;

6                   Vitt, Stermer & Anderson (Harrison Road),

7 Leslie Ivey, Manager, Hamilton County;

8                   McCardell-White-McFarland FS, Jean A.

9 Corlis, Manager, Trumbull County;

10                   McCardell-White-McFarland FS, James D.

11 McFarland, AIC, Trumbull County;

12                   Wellington Funeral Home, Curtis James

13 Robinson, Manager, Trumbull County.

14                   No motion required.

15   - - -

16                   Ms. Clark informed the Board that  
17 previously the Board approved the issuance of a  
18 funeral home license pending certain items and that  
19 those items have been received. The staff assigned  
20 the following facilities a funeral home license  
21 number:

22                   Newcomer, Mount Healthy, License

23 No. 003252, issue date, 11/14/12;

24                   Bollinger Funeral Goods, Brunswick,

25 License No. 003253, issue date, 11/21/12;

1 Mahoney Memorial, Cleveland, License  
2 No. 003254, issue date, 11/28/12.

3 No motion required.

4 - - -

5 Ms. Clark enumerated the applications for  
6 individual licenses to be granted for 2012:

7 C. Christopher Eden, reciprocal from  
8 Michigan, Howell, Michigan, License No. EMB-9511R,  
9 FD-9571, effective date 12/17/12;

10 Kevin C. Harter, Sharonville, Ohio,  
11 License No. EMB-9512A, FD-9572, effective date  
12 1/01/13;

13 Justin R. Toft, Sandusky, Ohio, License  
14 No. EMB-9513A, FD-9573, effective date 12/17/12.

15 Mr. Wasko made a motion to approve the  
16 licenses for the above-listed individuals, effective  
17 on the date listed; seconded by Mr. Carter.

18 A vote was taken, Ayes, 7; Nays, 0.

19 Motion passed.

20 - - -

21 Ms. Clark enumerated the applications for  
22 individual licenses to be granted for January 1,  
23 2013:

24 Dionne L. Fortress, Toledo, Ohio, License  
25 No. EMB-9514R, FD-9574, effective date 1/01/13;

1 James R. Kiriazis, Austintown, Ohio,  
2 License No. EMB-9515A, FD-9575, effective date  
3 1/01/13;

4 Domenick Marocco, Marion, Ohio, License;  
5 No. EMB-9516A, FD-9576, effective date 1/01/13;

6 Jonathan E. Palmer, Chillicothe, Ohio,  
7 License No. EMB-9517A, FD-9577, effective date  
8 1/01/13;

9 Emma J. Stowe, Mansfield, Ohio, License  
10 No. EMB-9518A, FD-9578, effective date 1/01/13.

11 Mr. Boyer made a motion to approve the  
12 above-listed individuals for license; seconded by  
13 Ms. Betzer.

14 A vote was taken, Ayes, 7; Nays, 0.

15 Motion passed.

16 - - -

17 Ms. Clark informed the Board of the  
18 following apprentices certified and issued  
19 registration numbers:

20 Melinda K. Coffman, Columbus, Ohio,  
21 License No. EMB-0454, FD-0689, effective date  
22 11/20/12;

23 Wonn E. Lusain, Cincinnati, Ohio, License  
24 No. FD-0690, effective date 11/30/12.

25 No motion required.

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Ms. Clark attached a cumulative report of all the information given above.

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INSPECTORS' REPORTS

Eric Anderson's report covered November 5 to December 6, 2012; traveled 3,206 miles; monitored two apprentices; inspected six crematory facilities and 47 funeral homes; and had two new facility inspections; investigative activities included one violation; in the office for a Board meeting one day; and in the office for one day.

Mr. Fleming inquired what it meant when the "Comments" column was blank.

Mr. Anderson stated it meant that no one was available.

Ms. Betzer requested that Mr. Anderson use a larger font for his report. Mr. Anderson stated that he would do so.

- - -

Mr. Seehase's report covered November 5 to December 6, 2012; milage 3,094 miles; monitored one apprentice; inspected six cremation facilities and 41 funeral homes for a total of 47; one new inspection for a funeral home; three investigation

1 phone calls; five violations out of the inspections;  
2 Board, one day, and Board office days was four.

3 Mr. Fleming asked Mr. Seehase to verify  
4 that Braund Funeral Home, which has two funeral  
5 directors and the owner, had no one available.

6 Mr. Seehase stated that it is owned by a  
7 nonlicensed individual and that no one was there.

8 Mr. Fleming inquired what the two  
9 violations were for Snyder-Wesch Funeral Home.

10 Mr. Seehase stated that they had no  
11 manager sign up and did not have the individuals'  
12 licenses present.

13 Mr. Seehase stated that the one violation  
14 for the Heitmeyer Funeral Home was no first aid kit,  
15 which they mailed in and said they had taken care of.

16 Mr. Seehase stated that the violation at  
17 Walter Mortuary Company was no emergency light, which  
18 they corrected.

19 - - -

20 COMPLIANCE

**On motions denoted with an asterisk (\*), the names and identifying information was redacted from discussion and proposed notices during the course of deliberation. Matters were referred to only by case number. Identifying information was added during the writing of the minutes based upon the correlating case number.**

21 Ms. Niekamp stated there were three  
22 investigatory files to consider.

23 \*No. 1309019, it was alleged the funeral  
24 director was rude. The complainant had ordered the  
25 basic package and was complaining about things that

1 were not included in it.

2 No probable cause identified.

3 - - -

4 \*No. 1310033, it was alleged the funeral  
5 director was rude and unprofessional. The funeral  
6 director overreacted and yelled/cursed at the  
7 Registrar.

8 It was determined it was a personal  
9 conflict between the two and did not involve any  
10 consumers or directly any unprofessional behavior by  
11 the funeral director related to the funeral industry.

12 No probable cause found.

13 - - -

14 \*No. 1309016, unprofessional conduct was  
15 alleged by a funeral director where the complainant  
16 is employed.

17 It was determined to be a personnel issue  
18 and that the funeral home did take action regarding  
19 that personnel issue. The staff received back from  
20 the actual complainant that they believe the funeral  
21 home has addressed it appropriately.

22 No probable cause identified.

23 Ms. Betzer inquired if future reports  
24 could include comments from the funeral director.  
25 Ms. Niekamp agreed to add that to the report.

1           Mr. Boyer made a motion to close the  
2 three investigatory files; seconded by Ms. Betzer.

3           A roll call vote was taken: Betzer, Aye;  
4 Boyer, Aye; Carter, Aye; Fleming, Aye; Marsh, Aye;  
5 Wasko, Aye; Williams-Briggs, Aye.

6           Motion passed, 7-0.

7                                 - - -

8           Ms. Niekamp stated there is a  
9 recommendation to charge for a violation of  
10 misleading the public using false or deceptive  
11 advertising, specifically 4717.04(A)(9)(g).

12           The details of this case are that:

13           In September 2011, the Board authorized a  
14 name change for the Jack Monreal-Laumer funeral home\*. The notified the  
15 funeral home in writing that all signage and  
16 advertising must contain the new name.

17           In June 2012, the Board received a  
18 complaint stating the signage for the funeral home  
19 had not been changed and did not reflect the prior  
20 approved name change.

21           In July 2012, the Board notified the  
22 funeral home in writing that they must change their  
23 signage to reflect the new name as previously  
24 instructed by the Board in September 2011.

25           In August 2012, the Board office

1 communicated with the funeral home via email  
2 providing specifics regarding which signs must be  
3 changed and how it must be worded to meet the  
4 advertising requirements.

5 In December of 2012, photographic  
6 evidence had been provided and a Board inspector  
7 witnessed in person that the signage had not been  
8 changed as instructed.

9 Mr. Fleming asked to confirm that the  
10 funeral home totally disregarded the Board and had no  
11 response. Ms. Niekamp confirmed that was true.

12 Mr. Fleming asked which inspector it was,  
13 and Mr. Anderson stated that he was the inspector.

14 Mr. Fleming moved for Option 2, a maximum  
15 amount of \$5,000; seconded by Mr. Wasko.

16 In discussion of the motion, Mr. Marsh  
17 asked if there had been any other disciplinary  
18 action. Ms. Niekamp stated this was the first.

19 Mr. Marsh asked if this was a new law  
20 change. He thought it was \$500.

21 Ms. Niekamp stated 4717-12-01(A(1) speaks  
22 to the 4717.04 area. There is a different area of  
23 the Administrative Code that speaks to other areas.  
24 This one specifically for misleading the public using  
25 false or deceptive is a minimum of \$1,000. What is

1 usually seen is included in the other language of a  
2 minimum of \$500.

3 Mr. Fleming asked if the funeral home  
4 responded when the staff sent letters and emails out.

5 Ms. Niekamp stated that they posted a  
6 name on a door. The signage in question is their  
7 publishing and their main large signs outside of the  
8 building.

9 Ms. Betzer inquired what is the proper  
10 charging section, instead of false and deceptive  
11 advertising, was there a more specific section that  
12 says failing to follow reasonable Board orders is  
13 unprofessional conduct under 4714.

14 Ms. Niekamp stated the staff sent a  
15 letter and stated it would be considered false and  
16 deceptive advertising should they not change the  
17 signage.

18 Ms. Betzer asked if they could be charged  
19 under both 4717 and also under 4714, which is  
20 unprofessional conduct. She asked Mr. Patterson if  
21 in the Board rules it says failure to follow a  
22 reasonable direction of the Board, not to cooperate,  
23 is an offense.

24 Mr. Patterson stated that 4717-8-01(G),  
25 among the definitions of unprofessional conduct is,

1 "Failure to comply with any Board request during an  
2 inspection or investigation, or finding, or order."

3 There was a discussion with the Board  
4 agreeing to charge under both sections.

5 A roll call vote on the original motion  
6 by Mr. Fleming was taken: Betzer, Aye; Boyer, Aye;  
7 Carter, Aye; Fleming, Aye; Marsh, Aye; Wasko, Aye;  
8 Williams-Briggs, Aye.

9 Motion passed 7-0.

10 For Compliance Motion No. 2, Ms. Betzer  
11 moved to also charge under 4717-8-01(G) in the amount  
12 of \$500; seconded by Mr. Wasko.

13 A roll call vote was taken: Betzer, Aye;  
14 Boyer, Aye; Carter, Aye; Fleming, Aye; Marsh, Aye;  
15 Wasko, Aye; Williams-Briggs, Aye.

16 Motion passed 7-0.

17 - - -

18 Ms. Niekamp stated the third compliance motion,  
19 No. 1309022, is a recommendation to charge the Rhoden Memorial funeral home\*  
20 for unprofessional conduct specific to 4717.14(A)(4).

21 In August 2012, the Board received a  
22 complaint stating the funeral in question, Tron Rhoden\*  
23 failed to pick up the body of complainant's son from  
24 the coroner's office for five days and substituted a  
25 different casket without notification.

1           As of December 2012, the coroner's office  
2 records indicate the mother had contacted them four  
3 days inquiring if her son had been picked up yet by  
4 the funeral home in question. The records from the  
5 coroner's office support the duration of four days  
6 had lapsed before the funeral home retrieved the  
7 body.

8           The funeral home stated the reason for  
9 the delay was they were busy with several funerals.  
10 The funeral director indicated the chosen casket was  
11 not available at the time and it was upgraded to a  
12 more expensive one.

13           Information does substantiate that the  
14 mother was not informed of the casket change prior to  
15 seeing it at the church. Mr. Anderson informed the  
16 Board that the mother got to see the son 15 minutes  
17 before the services at the church.

18           Ms. Betzer asked if the mother had  
19 planned to have visitation hours.

20           Mr. Anderson stated the funeral director  
21 originally charged her for family visitation Friday  
22 night, even though the body wasn't ready for Friday  
23 night visitation. He did take the charge off.

24           Mr. Fleming asked if they actually  
25 upgraded the casket.



1 are 13 charged cases.

2           Mr. Patterson stated that his schedule  
3 this past month has been devoted almost entirely to  
4 the federal lawsuit that is a constitutional  
5 challenge to the dangerous wild animal case enacted  
6 in Ohio. He stated that it was not meant to be a  
7 reflection on the Board's business, and he made a  
8 number of phone calls to opposing counsel and to the  
9 parties involved trying to solve the cases.

10           Mr. Wasko inquired as to what the outlook  
11 is on McDermott.

12           Mr. Patterson stated that on the two old  
13 ones, he never received any further response from the  
14 attorney so he believes the licensee is not going to  
15 make an effort to resolve it. His license is  
16 currently under indefinite suspension. With regard  
17 to the two new matters, he believes that they will  
18 have to go to a hearing.

19           President Williams-Briggs asked if a  
20 settlement had been presented. Mr. Patterson said  
21 that it had, but there has been no response from the  
22 attorney. Mr. Patterson said that the attorney is  
23 not getting any cooperation from his client.

24           President Williams-Briggs asked if they  
25 are not responding to a settlement, what would be the

1 next option if they do not respond to a hearing.

2           Mr. Patterson stated if there's no  
3 response to the charge letter, then the option is to  
4 take it to a hearing and ask Mr. Myers to give the  
5 Board a recommendation with regard to the appropriate  
6 penalty.

7           Mr. Wasko stated that Mr. Myers had  
8 previously given the Board his recommendation to  
9 close the funeral home for 90 days, and the Board had  
10 revised his recommendation as a way of protecting the  
11 consumer by keeping the funeral home going. He  
12 stated that the Board recommended indefinitely  
13 suspending his license to provide a sense of urgency  
14 to come to a settlement.

15           Mr. Patterson stated that Mr. McDermott  
16 still has the other license. The Board can ask for  
17 permanent revocation, but that would require going  
18 through the 119 hearing process.

19           Mr. Patterson stated the Board has an  
20 option to apply for a temporary restraining order,  
21 which must first be approved through his office.  
22 Mr. Patterson's recollection of the last Board  
23 meeting was that absent cooperation on  
24 Mr. McDermott's part, the Board was looking at  
25 requesting an injunction in the case.

1           Mr. Wasko suggested that Mr. Patterson  
2 call the attorney again. He stated that the  
3 McDermott facility is in his area and that he heard  
4 second-hand that the acting manager of the facility  
5 was looking to get the matter resolved.

6           Mr. Wasko stated that this case is  
7 important because this may be a basis for how the  
8 Board handles matters in the future when there is a  
9 misfunding of preneeds, how best to protect the  
10 consumer and punish the licensee and the quickest way  
11 to do it. He stated he thinks it was a mistake to  
12 suspend just one license, and that next time, the  
13 Board should suspend both licenses, consider a 30-day  
14 stay on the funeral license.

15           Mr. Patterson explained that he cannot  
16 talk to the acting manager or Mr. McDermott; he can  
17 only have contact with Mr. McDermott's attorney, and  
18 the best way to solve it would be for Mr. McDermott  
19 to contact his attorney.

20           He further stated if there is any  
21 question that anyone raised about communication, he  
22 will send letters so there is a paper trail. He  
23 stated that he would request authority through his  
24 office for an injunction on the case if that is the  
25 Board's wish.

1           Mr. Wasko expressed concern that an  
2 injunction would not protect the consumer. When a  
3 consumer would pass on, they would have no preneed  
4 because that business will be closed. Mr. Wasko  
5 further stated he thought you could get an injunction  
6 only when the public is at threat.

7           Mr. Patterson stated you have to  
8 demonstrate the possibility of irreparable injury for  
9 the Court to grant the injunction. He stated that  
10 what he understood from the Board last month, the  
11 people have unfunded claims and they're exposed to  
12 loss because McDermott has not made the agreed-upon  
13 arrangements. That exposure, the possible loss to  
14 the public without any remedy, the Court might find  
15 that is irreparable harm to the public.

16           Mr. Wasko asked what the settlement  
17 agreement offered was.

18           Mr. Patterson stated that they were  
19 asking him to fix everything, including all the  
20 unfunded liabilities. The inducement to  
21 Mr. McDermott to enter into the settlement would be a  
22 chance to end the indefinite suspension or to avoid a  
23 more draconian administrative action on the two new  
24 charge cases.

25           President Williams-Briggs stated that the

1 instructions to Mr. Patterson would be to inform  
2 Mr. McDermott, through the attorney, that the  
3 deadline is January 15, 2013, the date of the next  
4 meeting, or the Board will issue an injunction.

5 Mr. Patterson wanted to confirm that the  
6 Board's instructions were setting a deadline to reach  
7 a final settlement, subject to the Board's  
8 ratification at the January meeting, resolving all  
9 pending matters, including the two original matters,  
10 plus the two new matters. Failing that, the Board is  
11 authorizing him to seek an injunction.

12 President Williams-Briggs agreed.

13 Mr. Fleming inquired about the Engartner  
14 case, stating it was a year old.

15 Mr. Patterson stated he had spoken with  
16 his counsel, Mr. Gilligan. Mr. Gilligan had  
17 submitted a proposal about six weeks ago on one of  
18 those cases. The attorney presented terms that can  
19 be presented to the Board, and that Mr. Patterson  
20 believes that the recommendation would be for the  
21 Board to resolve that matter.

22 Mr. Patterson stated that in the second  
23 case of Engartner, the key witness is the son of the  
24 deceased. His sister is still alive and he has asked  
25 the son of the deceased to put him in touch with her

1 so she could provide corroborating testimony. The  
2 son has not done so. Mr. Patterson stated absent the  
3 corroborating testimony of his sister, his  
4 recommendation would be not to pursue that charge.

5 Mr. Fleming asked if the payment on Brown  
6 had been received. Ms. Niekamp confirmed it had.

7 Mr. Patterson stated that on the Lewis  
8 case, he sent him a detailed statement that could be  
9 the basis for a settlement, subject to the Board's  
10 ratification. He stated Mr. Lewis was to get back to  
11 him this week whether he would accept the terms. He  
12 suggested absent a response, a hearing date should be  
13 set.

14 President Williams-Briggs asked if there  
15 was any other business to come before the Board.

16 There was no other business.

17 Mr. Marsh made a motion to adjourn;  
18 seconded by Mr. Fleming.

19 A vote was taken, Ayes, 7; Nays, 0.

20 Motion passed.

21 (The meeting adjourned at 3:25 p.m.)

22 - - -

23

24

25

1 Tuesday Morning Session,  
2 December 18, 2012.

3 - - -

4 President Williams-Briggs reconvened the  
5 meeting of the Board of Embalmers and Funeral  
6 Directors at 9:09 a.m.

7 Board Members Present: Pamela  
8 Williams-Briggs, President, Linda M. Betzer, Robert  
9 C. Carter, Thomas T. Fleming, Ty D. Marsh, Robert J.  
10 Wasko.

11 (Mr. Boyer, arrived at 9:11;  
12 Mr. Patterson, absent.)

13 - - -

14 EDUCATION COMMITTEE REPORT

15 Mr. Carter gave the Education Committee  
16 report. For the Prior Approval Group, he stated that  
17 No. 30, the National Funeral Directors Association,  
18 was asking for 1.5 hours. The education credits are  
19 given in increments of 1, 2, and 3. It was  
20 recommended that they only be given 1.

21 Mr. Carter stated the rest of the Prior  
22 Approvals were in order.

23 Ms. Betzer made a motion to approve the  
24 Prior Approval Group; seconded by Mr. Fleming.

25 A vote was taken, Ayes, 6; Nays, 0.

1 Motion passed.

2 - - -

3 President Williams-Briggs asked that the  
4 record show Mr. Boyer joined the meeting

5 President Williams-Briggs stated she was  
6 asked to give a Board update on Item 12, and she  
7 consented to do that, weather permitting, in January.

8 - - -

9 Mr. Carter stated that for the Blanket  
10 Approval for the next compliance period, 2013-2014,  
11 that all the courses would expire on December 31,  
12 2014. He stated everything was in order for the  
13 Blanket Approval Group.

14 Ms. Betzer made a motion to approve the  
15 Blanket Approval Group; seconded by Mr. Wasko.

16 A vote was taken, Ayes, 7; Nays, 0.

17 Motion passed.

18 - - -

19 Mr. Carter explained the Blanket with  
20 Date Group. Blanket with Date means that the  
21 continuing education has already been approved;  
22 however, when they do the presentation, they are to  
23 notify the Board ahead of time when they will be  
24 doing the actual presentation.

25 Baxter Burial Vault, Items, 6, 7, 8, and

1 9, should have notified the Board at the November  
2 meeting they were going to do this presentation. The  
3 Board met a week early last month; however, the  
4 letter from Baxter Burial Vault did not come in until  
5 December 3. They went ahead and met prior to this  
6 meeting on December 10, December 11, December 13, and  
7 December 14, 2012.

8 Mr. Carter stated it was up to the Board  
9 to determine whether or not to approve their  
10 presentation. He further stated he believed it would  
11 be unfair to those attending if it was not approved.

12 Mr. Carter suggested it be dealt with on  
13 a separate motion, and if the Board does approve it,  
14 it would be approved for this time only; however,  
15 next time the Board not approve such action.

16 Mr. Wasko agreed it would be unfair to  
17 licensees, especially at the end of the compliance  
18 period. He would be in favor of approval.

19 Mr. Fleming stated that Baxter does do a  
20 lot of CEUs and they're usually not late, that this  
21 was unusual circumstances.

22 Ms. Betzer made a motion to approve  
23 Blanket with Date No. 5 and Nos. 10 through 20;  
24 seconded by Mr. Wasko.

25 A vote was taken, Ayes, 7; Nays, 0.

1 Motion passed.

2 - - -

3 Ms. Betzer made a motion to approve  
4 Blanket with Date Nos. 6, 7, 8, and 9; seconded by  
5 Mr. Wasko.

6 A vote was taken, Ayes, 7; Nays, 0.

7 Motion passed.

8 - - -

9 In the Individual Approval Group,  
10 Mr. Carter asked for motion to approve Items 7  
11 through 9, Mr. Lanning, Mr. Mueller, and Mr. Tredo.

12 Mr. Wasko made a motion to approve  
13 Individual Approval Group, Nos. 7, 8 and 9; seconded  
14 by Ms. Betzer.

15 A vote was taken, Ayes, 7; Nays, 0.

16 Motion passed.

17 - - -

18 Mr. Carter stated that on Item No. 6,  
19 Mr. Hogenkamp submitted an application that the  
20 committee felt does not meet the criteria. It was  
21 simply a statement saying he will do some type of  
22 training program. The application was not complete.

23 Mr. Boyer made a motion to deny approval  
24 for Individual Approval Group No. 6; seconded by  
25 Ms. Betzker.

1 A vote was taken, Ayes, 7; Nays, 0.

2 Motion passed.

3 - - -

4 Mr. Carter asked for approval of a  
5 50-year exemption for Richard LaMar Tobias.

6 Ms. Betzer made a motion to approve  
7 Richard Lamar Tobias for a 50-year exemption;  
8 seconded by Mr. Boyer.

9 A vote was taken, Ayes, 7; Nays, 0.

10 Motion passed.

11 - - -

12 Mr. Carter asked that for the application  
13 of Michael J. Fetty, a waiver be denied for failure  
14 to complete the form in its entirety. He asked for a  
15 medical exemption. It was not completed by a doctor.

16 Mr. Boyer made a motion to deny a waiver  
17 for Michael J. Fetty; seconded by Ms. Betzer.

18 A vote was taken, Ayes, 7; Nays, 0.

19 Motion passed.

20 - - -

21 Mr. Carter stated that waiver of  
22 continuing education requirements due to medical  
23 reasons be approved for Franklin P. Leasure for the  
24 compliance period of 2013-2014; Carol Ann Parobek;  
25 and Ruth Detchon Lynn. They were all completed and

1 signed by a doctor.

2 Mr. Fleming made a motion to approve the  
3 above-listed individuals for a medical exemption;  
4 seconded by Mr. Boyer.

5 A vote was taken, Ayes, 7; Nays, 0.

6 Motion passed.

7 - - -

8 Mr. Carter recommended approval of  
9 exemptions for Michael Ray Fraley; Rebecca Lindley  
10 Smith; Melissa A. Moore; Roderick T. Cheney; Dennis  
11 Scott Reed; Kristine K. Reed; Donald L. Winans; and  
12 Marquerite Anne Fender.

13 He stated that Marquerite Anne Fender  
14 filled out the wrong application. She filled out the  
15 50-year exemption, but everything was in order, and  
16 he recommended approval.

17 Mr. Fleming made a motion to approve the  
18 above-listed individuals for exemptions; seconded by  
19 Mr. Boyer.

20 A vote was taken, Ayes, 7; Nays, 0.

21 Motion passed.

22 - - -

23 Ms. Clark had one item of licensure to  
24 ask the Board a question on. Jason Jardine bought  
25 the Jardine Funeral Home from his father. The

1 father's license was good through the end of the  
2 compliance period, which would be December 31, 2012.  
3 The son would need a new application because there's  
4 a change of ownership and would pay \$250, with the  
5 license becoming active January 1, 2013.

6 Mr. Jardine, the father, mistakenly  
7 renewed his license for 2013. When the son sent his  
8 new application in for the license to be active  
9 January 1, 2013, he did not send in the \$250 because  
10 he was told by a former employee that the office  
11 would accept the father's \$250 renewal towards his  
12 new funeral home application.

13 Ms. Niekamp stated she asked Ms. Clark to  
14 bring it to the Board because if it were not a family  
15 relationship, there would not be any money that would  
16 be returned.

17 President Williams-Briggs asked if  
18 Ms. Clark had talked to Mr. Jardine, Sr. Ms. Clark  
19 said she had not. President Williams-Briggs stated  
20 that Ms. Clark needed to confirm the arrangement with  
21 Mr. Jardine, Sr.

22 After a brief discussion, it was agreed  
23 that if Mr. Jardine, Sr. agreed, the \$250 renewal fee  
24 could be used for the new license.

25

- - -

1           Ms. Clark stated The Conference is  
2 changing their handbook for when a person takes an  
3 exam. If you go to The Conference's website, there's  
4 information that walks through the steps. There have  
5 been some changes made. It has not been changed in  
6 the handbook or website yet. The Conference wanted  
7 the Board to look at it and see if there were any  
8 changes the Board would like to make before they  
9 publish it.

10           President Williams-Briggs asked the Board  
11 to take 10-12 minutes to review the material.

12           Mr. Wasko asked the record to indicate he  
13 had a question for Mr. Patterson and he was not  
14 present.

15           Mr. Carter noted that they have had  
16 problems with students who walk out and go to their  
17 cars. They may look at books or get on their cell  
18 phones. You cannot leave the room other than  
19 restroom breaks. They have had people take extended  
20 restroom breaks and people challenge that.

21           Ms. Niekamp stated that was also the  
22 reason for the watches not permitted in the testing  
23 room. Many watches today are like iPhones and you  
24 can receive data on the watch.

25           There was a general discussion about

1 other devices, such as headphones and cell phones  
2 being allowed in the room.

3 Ms. Niekamp stated it was addressed on  
4 page 10 where it stated they provide a locker, and  
5 that cell phones or other electronic devices are not  
6 permitted during the administration of the test.

7 Mr. Marsh pointed out in the paragraph  
8 "Examination, Security" it states, "You shall not be  
9 allowed to access your phone or other electronic  
10 devices." He suggested they add that you cannot  
11 bring them into the room or have them in the room.

12 Ms. Niekamp stated she will contact The  
13 Conference and make them aware of the Board's  
14 suggestions. One is to revise it to make it clear  
15 there is to be no electronic devices allowed in the  
16 testing area.

17 It was suggested that if Mr. Carter has  
18 any other recommendations, to convey them to the  
19 staff to be passed on to The Conference.

20 - - -

21 OPERATIONS COMMITTEE REPORT

22 Ms. Niekamp reported that the Operations  
23 Committee met last evening. They discussed personnel  
24 issues, and as of last evening, employee Jennifer  
25 Baugess resigned her position from the office

1 effective yesterday.

2 - - -

3 OTHER BUSINESS

4 President Williams-Briggs stated she  
5 attended a seminar in Dayton on the 17th of November  
6 and she gave a Board update, and it went well.

7 President Williams-Briggs thanked the  
8 staff for a very nice dinner and the opportunity to  
9 meet the staff's families and children. She also  
10 thanked the staff for this year and all the changes  
11 that they have gone through and to again welcome the  
12 new director.

13 President Williams-Briggs thanked all the  
14 Board members for their work.

15 President Williams-Briggs announced that  
16 those participating with the health insurance, it  
17 will not end on the 31st of December; it will  
18 continue through December of '13. The new rules go  
19 into effect January '14.

20 Ms. Niekamp stated that there still was  
21 some clarification needed as to whether it was going  
22 to apply to just whether you will be eligible to  
23 purchase health care coverage at 100 percent, or if  
24 that is going to just apply to after retirement. No  
25 one is clear on that yet.

1           Ms. Niekamp stated there are no changes  
2 to the eligibility for health care coverage, at least  
3 as far as written, until January 2014.

4           Ms. Niekamp stated it does change the  
5 eligibility for service credits, so it will no longer  
6 accrue an entire month's service credit. It will be  
7 prorated. It will be .67 for the Board because they  
8 meet for two days of service credit instead of an  
9 entire month. That will go into effect January 2014.

10           Ms. Niekamp stated if she obtains any new  
11 information, she will let everyone know. If anyone  
12 has specific questions, it is recommended to call  
13 PERS because everyone could have a specific scenario  
14 based off of service credits.

15           President Williams-Briggs recommended you  
16 go down to PERS because it is extremely difficult to  
17 get through on the telephone. There is a three-week  
18 wait for an appointment.

19           Mr. Wasko stated he went there at 9:00  
20 a.m. and had only a 15-minute wait before seeing  
21 someone. It is better to be a walk-in than wait for  
22 an appointment.

23           Mr. Marsh stated there is also the option  
24 to leave your phone number and they will call you  
25 back in two hours.

1           There was no other new business.

2

3           Mr. Wasko made a motion to adjourn;  
4 seconded by Mr. Carter.

5           A vote was taken, Ayes, 7; Nays, 0.

6           Motion passed.

7           (The meeting adjourned at 9:46 a.m.)

8                                 - - -

9

10 Minutes respectfully submitted on this 4th day of  
11 January, 2013.

12

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15 Rosemary F. Anderson  
16 Registered Professional Reporter

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