

Regular Meeting (Thursday, January 21, 2016)

Generated by Jarrod Williams on Friday, January 22, 2016

This meeting of the Board of Embalmers and Funeral Directors was video recorded. You may view this meeting in its entirety at: <https://www.youtube.com/watch?v=hVgnnOtmVcA&feature=youtu.be> to fully understand and appreciate the rationale behind the board's decisions. MINUTES SHALL BE CONSIDERED UNOFFICIAL UNTIL READ AND APPROVED BY FORMAL VOTE AT A SUCCEEDING REGULAR MEETING.

Members present

Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

Others present

Vanessa Niekamp, Katherine Bockbrader

Meeting called to order at 1:07 p.m.

1. Convening of the Board - President

1.01 Calling of the Roll

1.02 Consideration of the December 2015 Minutes

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. There was no discussion among the board. The vote commenced.

Motion to approve the meeting minutes from the December 14, 2015 Meeting of the Board.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks

NOT VOTING (Abstain/Present): Tommy Taneff

2. Licensure

2.01 Appearing Before the Board - Christine Broberg, DUAL Reciprocal Applicant from Michigan

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer invited Ms. Christine Broberg to appear before the board to speak about herself and share why she is at the meeting. Ms. Broberg approached the board and expressed gratitude for meeting with her this day. Ms. Broberg stated that she is currently a licensed funeral director in the Kalamazoo-Portage, Michigan area for Life Story Funeral Home. Ms. Broberg disclosed her acceptance of a position with Lane Funeral Home in Youngstown, Ohio and was before the board to seek approval to be licensed in Ohio. Mr. Boyer asked Ms. Broberg where she attended mortuary college. Ms. Broberg responded that she graduated from Wayne State University in 1995. Mr. Boyer asked Ms. Broberg if she planned to sell pre-need funeral contracts in Ohio. Ms. Broberg responded that she does not currently plan to, but acknowledged her employer may add the responsibility during course of her employment. Ms. Broberg stated she is not licensed to sell pre-need insurance. Mr. Robert Wasko, board vice president, asked Ms. Broberg to clarify she was not licensed to sell pre-need insurance in Michigan. Ms. Broberg concurred that Mr. Wasko was correct. Mr. Wasko asked Ms. Broberg if she had any issues with the state board in Michigan or any actions against her license. Ms. Broberg responded that she had no issues to report and has been complaint free since 1996. Mr. Jack Marchbanks, board member, asked Ms. Broberg if she were aware of the continuing education requirements in Ohio. Ms. Broberg responded that she was aware Ohio has requirements, but confessed need for a more comprehensive review. Ms. Broberg stated that she is currently a district director of the Michigan Funeral Directors Association Board. Ms. Broberg professed she is in favor of requirements and aspires to propose similar continuing education standards for Michigan. Mr. Wasko asked Ms. Broberg to clarify if the state of Michigan had continuing education requirements. Ms. Broberg responded that continuing education is currently voluntary; there is no requirement. There were no further questions from the board. The vote commenced.

Motion to approve Christine Broberg to sit for the board examinations

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

Board meeting notation: After the vote, Mr. Wasko welcomed Ms. Broberg to Ohio and to [his hometown]Youngstown. Ms. Broberg expressed thanks and forecasted her start in Youngstown to be in March. Mr. Boyer advised Ms. Broberg that she was welcome to stay for remainder of the meeting, but not obligated to. Ms. Broberg responded with appreciation and chose the option to leave due to a long distance drive home.

2.02 Request to Serve Apprenticeship Under Two Masters - Kahlen Knapik

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, established his motion, based on review of the request and per previous motions of the board, to approve the request to serve under two masters. Mr. Bryan Chandler, board secretary, seconded the motion. There was no further discussion among the board. The vote commenced.

Motion to approve Kahlen Knapik to serve his apprenticeship under two masters.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

2.03 Recommended Individual Licenses

The board was provided the agenda item details and reviewed the following applicants:

New licensees

Initial License #	Name of Applicant	Location
Emb.009662 FD.009764	Burt, Shannon A.	Muskegon MI
Emb.009663 FD.009765	Drobney, Pierce A.	Deerpark
Emb.009664 FD.009766	Dyer, Alexander J.	Lancaster
FD.009767	Peterson, Kacy L.	Columbus
Emb.009665 FD.009768	Rhoden, Randy W.	Columbus
Emb.009666 FD.009769	Sammons, Kurt A.	Johnstown
Emb.009667 FD.009770	Schindeler, Michell C.	Dayton
Emb.009668 FD.009771	Sever, Rosalynn M.	Eaton
FD.009772	Taylor, William K.	Jackson

Reinstatements

License #	Name of Applicant	Location
FD.007193	Thierbach, James A.	Mason

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked for a motion to approve the licenses. Mr. Jack Marchbanks, board member, motioned to approve. Mr. Boyer asked for a second to Mr. Marchbanks' motion. Mr. Robert Wasko, board vice president, asked Mr. Boyer if the motion included the reinstatement license or not. Mr. Boyer answered that the motion was for the new licensees and the reinstatement. Mr. Wasko asked Mr. Marchbanks if he approved that both were in his motion. After some consideration, Mr. Marchbanks withdrew his motion. Mr. Boyer asked for a new motion to approve the new licenses with the reinstatement license. Mr. Wasko motioned to approve. Mr. Bryan Chandler, board secretary, seconded the motion.

Before the vote, Mr. Wasko asked Ms. Vanessa Niekamp, executive director, questions about the reinstatement of license no. FD.007193. Mr. Wasko asked if this was a license that was inactive [as a lapse of renewal], and became inactive, and meets qualification to be active again. Ms. Niekamp replied, yes. Mr. Wasko asked how long the license was inactive. Ms. Niekamp responded that she did not know, but assured it was inactive for an extended period of time. Mr. Wasko mentioned that under the new rules of reinstatement there was a [fee] cap for reinstatement; and no longer was there an unlimited amount of fifty dollars per license per month fee, as he recalled. Ms. Niekamp concurred that the new law was conducive for the licensee to reinstate because it is less of a [fee] penalty. Mr. Wasko commented that this reinstatement was the first he'd seen since the new law was enacted and indicated satisfaction that such an amendment encouraged this licensee to apply.

Mr. Chandler asked Ms. Niekamp if the others [applicants listed] met the qualifications for licensing. Ms. Niekamp replied, yes. There was no further discussion among the board. The vote commenced.

Motion to approve the applications recommended for individual licensure.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

2.04 Recommended Facility Licenses

The board was provided the agenda item details and reviewed the following applicants:

New Building / New Facility - New Funeral Home License:

<i>License #</i>	<i>Firm Title</i>	<i>Location</i>
FH 003455	Smith Funeral Home	Sugarcreek

Change of Ownership / Existing Facility - New Funeral Home License:

<i>License #</i>	<i>Firm Title</i>	<i>Location</i>
FH 003456	Pope Funeral Home	Greenville
FH 003457	Gaines Funeral Home	Maple Heights

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. There was no discussion among the board. The vote commenced.

Motion to approve the applications recommended for facility licensure.

Motion by Bryan E Chandler, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

2.05 Information - No Motion Items

The board was provided the agenda item details and reviewed the following information:

Individuals issued a Registration number:

<i>Type</i>	<i>Name</i>	<i>City</i>	<i>Issue Date</i>
EMB	Budd, Brian	Ashland	12/28/15
DUAL	Jones, Larissa	Cincinnati	12/01/15
DUAL	Knapik, Kahlen	Cleveland	12/03/15
FD	Rousculp, Charles	Akron	12/03/15

Individuals Certified as an Apprentice

<i>Type</i>	<i>Name</i>	<i>Funeral Home</i>	<i>City</i>	<i>Date</i>
EMB	Knapik, Kahlen	Robert P Smith Mortuary Svc.	Cleveland	12/11/15

Change the manager and/or AIC (name will need to be added to funeral home sign within 24 months):

<i>License #</i>	<i>Firm Title</i>	<i>Licensee Name</i>	<i>Type</i>	<i>Location</i>
FH 003184	Lebold - Smith Funeral Home	Kia L. Wiese	Manager	Bolivar
FH 002699	Marsh Funeral Home	Ernest Marsteller	Manager	Woodville

FH 000541	Ogle & Paul R. Young Funeral Home	Brian T. Bell	Manager	Cincinnati
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FH Paperwork Previously Approved, New Number Assigned

New Funeral Home Number	Firm Title	Location
FH 003453	Kirby Funeral Home	Toledo
FH 003454	Grisier Funeral Home	Stryker

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. There was no discussion among the board.

3. Continuing Education

3.01 Continuing Education Exemption(s)

The board was provided the agenda item details and reviewed the following applicant:

50 year Exemption:

License #	Name	Date Issued
DUAL.006497	Welling, Dennis L.	11-17-1965

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. There was no discussion among the board. The vote commenced.

Motion to approve the application for exemption of the continuing education requirement.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

3.02 Continuing Education Programs - Recommendation to Approve

The board was provided the list of applicants in the agenda item details for review. The documents provided may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6T6RG7D2B4B/\\$file/2016%20Jan%20CE%20Programs.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6T6RG7D2B4B/$file/2016%20Jan%20CE%20Programs.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, established his motion, based on the review from staff committee to recommend the programs, to approve the continuing education programs. Mr. Bryan Chandler, board secretary, seconded the motion. There was no further discussion among the board. The vote commenced.

Motion to approve the applications recommended for continuing education programs.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4. Compliance

4.01 Ratification of Settlement #1

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following links: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A5VN6U55CB1C/\\$file/Settlement%20agreement%20with%20Board_Redacted.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A5VN6U55CB1C/$file/Settlement%20agreement%20with%20Board_Redacted.pdf)
[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6DQ8S5983EB/\\$file/%231%20Exhibit%20A%20redacted_Redacted.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6DQ8S5983EB/$file/%231%20Exhibit%20A%20redacted_Redacted.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked board members if all had a chance to look at these items. Mr. Boyer asked for a motion to ratify the post settlement agreement. Mr. Robert Wasko, board vice president, established his motion, based on advice of [board] legal counsel, to ratify settlement number one for 4.01. Mr. Boyer asked for a second to the motion. Mr. Jack Marchbanks, board member, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Robert Wasko, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.02 Ratification of Settlement #2

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A66N7N57A297/\\$file/Settlement%20agreement%20with%20Board_Redacted%202.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A66N7N57A297/$file/Settlement%20agreement%20with%20Board_Redacted%202.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked if all had a chance to look at the ratification of settlement. Mr. Boyer asked for a motion. Mr. Bryan Chandler, board secretary, established his motion, based on advice of [board] legal counsel, to ratify the settlement. Mr. Robert Wasko, board vice president, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Bryan E Chandler, second by Robert Wasko.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.03 Ratification of Settlement #3

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following links: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BPHS5A43A5/\\$file/Settlement%20agreement%20with%20Board_Redacted%203.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BPHS5A43A5/$file/Settlement%20agreement%20with%20Board_Redacted%203.pdf)
[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6DQA9599B36/\\$file/%233%20Attachment%20A-Notice_Redacted.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6DQA9599B36/$file/%233%20Attachment%20A-Notice_Redacted.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked if all had a chance to look at the ratification settlement. Mr. Robert Wasko, board vice president, established his motion, based on advice of [board] legal counsel, to approve ratification of settlement number three. Mr. Boyer asked for a second to the motion. Mr. Jack Marchbanks, board member, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Robert Wasko, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.04 Ratification of Settlement #4

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BPH35A3AAB/\\$file/Settlement%20agreement%20with%20Board_Redacted%204.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BPH35A3AAB/$file/Settlement%20agreement%20with%20Board_Redacted%204.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, established his motion, based on advice of [board] legal counsel, to approve the ratification of settlement number four. Mr. Boyer asked for a second to the motion. Mr. Bryan Chandler, board secretary, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board, The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.05 Ratification of Settlement #5

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following links: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BR2S5E1C75/\\$file/Settlement%20agreement%20with%20Board_Redacted%205.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BR2S5E1C75/$file/Settlement%20agreement%20with%20Board_Redacted%205.pdf)
[http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BR2S5E1C75/\\$file/Settlement%20agreement%20with%20Board_Redacted%205.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6BR2S5E1C75/$file/Settlement%20agreement%20with%20Board_Redacted%205.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked for a motion for ratification of settlement. Mr. Bryan Chandler, board secretary, established his motion, based on advice of [board] legal counsel, to approve. Mr. Jack Marchbanks, board member, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Bryan E Chandler, second by Jack R Marchbanks.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.06 Ratification of Settlement #6

The board was provided a settlement in the agenda item details for review. The documents provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6CUVW692E44/\\$file/Settlement%20agreement%20with%20Board_Redacted%206.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A6CUVW692E44/$file/Settlement%20agreement%20with%20Board_Redacted%206.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked for a motion. Mr. Robert Wasko, board vice president, established his motion, based on advice of [board] legal counsel, to ratify settlement number six. Mr. Boyer asked for a second to the motion. Mr. Bryan Chandler, board secretary, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to ratify settlement; based on advice of legal counsel.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.07 Recommendation to Charge Cases 2016-1600039 and 2016-1600058

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked for a motion to charge. Mr. Boyer read aloud the recommendations to charge with violations. Mr. Robert Wasko, board vice president, established his motion, based on reading the charges, to suspend the funeral director's license/AIC and funeral home license via a hearing. To charge the licenses and propose a suspension of licenses via a hearing. Mr. Bryan Chandler, board secretary, seconded the motion. Mr. Boyer asked for discussion.

Mr. Jack Marchbanks, board member, asked Mr. Boyer a question in light of the Bill Seitz legislation and the recent Supreme Court decision. Mr. Marchbanks inquired if this action [to suspend] would fall under the area of concern noted by Mr. Seitz in this [newspaper] article. Mr. Marchbanks asked --per consequences and the return in regards to an ultimate suspension-- if a response action from a suspended funeral director under the recent Supreme Court decision could occur. Mr. Thomas Taneff, board member, added to the question a concern about possible personal liability for the board members. Mr. Marchbanks shared that his question came to mind as he was reading the documents; and commented that he thought it was a fair question. Mr. Boyer appealed to board counsel for a response to the question.

Ms. Katherine Bockbrader, assistant attorney general and board counsel, responded to Mr. Marchbanks by saying, "The licensee wouldn't be suspended until you have a hearing and obviously due process would happen before you decide that." Ms. Bockbrader stated, "You could always be sued; For anything- nobody can really predict that. For that court case, the issues are whether you have clearly articulated statute; which you're charging them with violation of your statutes and rules." Mr. Marchbanks replied, yes. Ms. Bockbrader continued, "In order to be liable on the antitrust, you have to be engaging in anti-competitive activity." Mr. Marchbanks identified a relationship between anti-competitive and a restraint of trade agreement. Ms. Bockbrader concurred and added, "When you're actually talking about, what I guess I would call standard of care, I don't know if you use that term in this profession, but I'm used to healthcare so it's what we say, you're actually talking about actual conduct of the profession. You're not talking about advertising or commercially, or anything; those are more likely to be attacked in that way. When you're talking about a license or issue for one particular person about conduct like that, that's less likely to be an anti-trust issue. But, I can't guarantee what people will do. It just seems unlikely." Mr. Marchbanks expressed thanks to Ms. Bockbrader. Mr. Boyer asked if there were any more discussion. There was no further discussion among the board. The vote commenced.

Motion to charge the Funeral Director AIC and the Funeral Home with two (2) Violations of ORC 4717.14 (A) (4)

And charge the funeral director with a violation of ORC 4717.14(A) (3), associated to ORC 4717.09 (A)

And propose the suspension of the Funeral Director AIC and the Funeral Home's licenses via an adjudicatory hearing.

Motion by Robert Wasko, second by Bryan E Chandler.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.08 Cases Recommended to Close

The board was provided the agenda item details and reviewed the following compliance cases:

Case Number	Inspector
1600049	Anderson, Eric
Allegations	
Complainant alleges funeral director of forging a signature on document.	
Board Status	
Complainant is the soon to be ex-wife of the respondent. She alleged her ex-husband forged her signature on a document. The investigation determined the funds associated to this preneed contract are appropriately trusted.	
There is no evidence to prove intent to fraud. Recommendation to close.	
Case Number	Inspector
1600057	Seehase, Troy
Allegations	
Complainant alleges funeral director misappropriated pre-paid preneed funeral funds. Complainant is seeking return of a \$500.00 deposit paid.	
Board Status	
The licensee has surrendered all licenses and are now revoked. Referred consumer to county prosecutor for assistance in seeking reimbursement. Recommend closure, no further action the board can take.	
Case Number	Inspector
1600059	Seehase, Troy
Allegations	
Complainant alleges funeral home manager directed funeral home employee to delay embalming of body until receipt of payment. The delay resulted in embalming of the body greater than forty eight hours after death.	
Board Status	
The complainant is a prior employee of the funeral home. This service happened a long time ago and there is no evidence to support allegations (he said/she said). Recommend closure.	
Case Number	Inspector
1600060	Anderson, Eric
Allegations	
Body picked-up at airport and remained in van for 8 hours. Discovered when FD was in accident. Concern about potential abuse of corpse (condoms and gel in van).	
Board Status	
FD interviewed by Police Department - determined body had just been picked-up, not in van for hours. Corpse not abused, items of concern not associated. No charges by PD.	

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer read aloud the compliance numbers and asked for a motion. Mr. Bryan Chandler, board secretary, motioned to approve. Mr. Robert Wasko, board vice president, seconded the motion. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to close the four (4) compliance cases recommended to close.

Motion by Bryan E Chandler, second by Robert Wasko.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

4.09 Pending Investigations

The board was provided the agenda item details and reviewed the following compliance cases:

Case Number	Date Received	Inspector
150005701		2/17/2015 Anderson, Eric
Allegations		
Misappropriation of preneed (FH Suspended)		
Case Number	Date Received	Inspector
150005702		4/1/2015 Anderson, Eric

Allegations

Misappropriation of preneed (FH Suspended)

Case Number	Date Received	Inspector
150005703	3/30/2015	Anderson, Eric

Allegations

Misappropriation of Preneed (FH Suspended)

Case Number	Date Received	Inspector
1600029	6/1/2015	Anderson, Eric

Allegations

Misappropriation of preneed.

Case Number	Date Received	Inspector
1600041	9/17/2015	Anderson, Eric

Allegations

Misappropriation of preneed. (Summary suspension in place).

Case Number	Date Received	Inspector
1600042	9/17/2015	Anderson, Eric

Allegations

Misappropriation of preneed. (Summary suspension in place.)

Case Number	Date Received	Inspector
1600046	9/30/2015	Seehase, Troy

Allegations

Funeral home is advertising facility with unapproved name.

Case Number	Date Received	Inspector
1600051	10/26/2015	Seehase, Troy

Allegations

Complainant alleges funeral home is wrongful beneficiary of pre-paid, pre-need insurance policies for complainant's mother and sister.

Case Number	Date Received	Inspector
1600056	11/23/2015	Seehase, Troy

Allegations

Misappropriation of preneed funds.

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, stated after review of the pending investigations list there were several misappropriation of preneed fund cases related to a suspended funeral home license. Mr. Wasko shared a desire to resolve the cases sooner rather than later. Ms. Vanessa Niekamp, executive director, asked Mr. Boyer if she could provide an update on the cases Mr. Wasko referenced. Ms. Niekamp reported the cases are likely to remain pending for an extended period of time. The board suspended the funeral home and is working with the local prosecution on the case. The prosecutor's office has seized all records of the funeral home. These are additional consumers who submitted complaints to the board. These complaints have been forwarded to the prosecutor's office. To date, the board does not have evidence from the funeral home to prove if these cases are misappropriation or not. It is unlikely that the board will be able to conclude these cases until the prosecutor is farther along with their case. Or until they share those records with the board. Mr. Wasko asked Ms. Niekamp if all these cases are concerning one facility. Ms. Niekamp replied, yes. Ms. Niekamp stated that all the cases indicating a summary suspension in place is concerning one facility. Mr. Boyer asked if there were any more discussion. There was no further discussion among the board.

4.10 Attorney General Case Status Update

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, asked Mr. Boyer if board counsel would inform the board about this agenda item. Ms. Katherine Bockbrader, assistant attorney general and board counsel, responded by asking Mr. Wasko if he would want to make a motion to go to executive session to discuss. Mr. Wasko asked Ms. Bockbrader if she would suggest to go to executive session. Ms. Bockbrader replied, yes. Mr. Wasko began to state the motion with assistance from Ms. Bockbrader reading aloud the exact language to enter the executive session. Mr. Boyer asked for discussion. There was no discussion among the board. The vote commenced.

Motion to go into executive session pursuant to R. C. 121.22(G)(1), to consider the investigation of charges or complaints against a licensee, and pursuant to R. C. 121.22(G)(3), for conferences with the Board's attorney concerning disputes that are the subject of pending or imminent court action.

Motion by Robert Wasko, second by Gregory Boyer.

Final Resolution: Motion Carries

Yes: Gregory Boyer, Robert Wasko, Bryan E Chandler, Jack R Marchbanks, Tommy Taneff

Board meeting notation: After the vote, Thomas Taneff, board member, asked Mr. Boyer if board counsel and the executive director were to attend

the executive session. Mr. Boyer replied, yes, board counsel will be present. Mr. Boyer offered Ms. Vanessa Niekamp, executive director, an option to attend or not. Ms. Niekamp chose to attend.

REGULAR MEETING OF THE BOARD CALLED TO ENTER INTO EXECUTIVE SESSION AT 1:30 P.M.

REGULAR MEETING OF THE BOARD CALLED TO RECONVENE TO OPEN SESSION AT 1:47 P.M.

Board meeting notation: Mr. Boyer announced the meeting to be out of executive session and back to regular session. Mr. Taneff suggested the need for a motion to conclude executive session. Ms. Bockbrader responded that it was not necessary as long as it's declared that you're out of executive session.

5. Board Operations

5.01 Inspections

The board was provided the agenda item details and reviewed the following report:

FUN - Inspection Report Monthly

Report Parameters

Board = FUN

From 12/01/2015 to 12/31/2015

Report generated on 1/14/2016 at 1:18:06 PM

Type	#	_n Name	_n City	County	Inspection Date	Inspector
FH	2685	A RIPEPI & SONS FH INC	MIDDLEBURG HTS	Cuyahoga	12/23/2015	ANDERSON
FH	3025	ANDRYC FUNERAL SERVICE	GENOA	Ottawa	12/29/2015	Seehase
FH	2581	BAKER, OSINSKI, KENSINGER FH INC	BEREA	Cuyahoga	12/23/2015	ANDERSON
FH	1473	BAYLIFF & ELEY FUNERAL HOME INC	WAPAKONETA	Auglaize	12/4/2015	ANDERSON
FH	3259	BEST FUNERAL HOME, LLC	MIDDLEFIELD	Geauga	12/30/2015	ANDERSON
FH	860	BOLIN-DIERKES FUNERAL HOME	ZANESVILLE	Muskingum	12/16/2015	ANDERSON
FH	1833	BRUCKER & KISHLER FH INC	NEWARK	Licking	12/8/2015	Seehase
FH	1465	BURR FUNERAL HOME & CREMATION SERVICE	CHARDON	Geauga	12/30/2015	ANDERSON
FH	2601	BURRELL FS	ZANESVILLE	Muskingum	12/16/2015	ANDERSON
CREM	32	BUSCH CREMATORY	PARMA	Cuyahoga	12/31/2015	ANDERSON
FH	1642	BUSCH FUNERAL HOME	PARMA	Cuyahoga	12/31/2015	ANDERSON
FH	2101	CAWLEY & PEOPLES FUNERAL HOME	BARLOW	Washington	12/22/2015	ANDERSON
FH	2882	CHAMBERS FHS INC	BEREA	Cuyahoga	12/23/2015	ANDERSON
FH	2785	CISCO FUNERAL HOME	ST MARYS	Auglaize	12/3/2015	ANDERSON
FH	2241	CISCO FUNERAL HOME	CELINA	Mercer	12/3/2015	ANDERSON
FH	2887	CRACIUN FH	MIDDLEBURG HTS	Cuyahoga	12/23/2015	ANDERSON
FH	3333	CRISS WAGNER HOSKINSON FS	NEWARK	Licking	12/8/2015	Seehase
FH	2462	DALE E GOOD FH	PARMA HTS	Cuyahoga	12/31/2015	ANDERSON
FH	1604	DAVID F KOCH FUNERAL HOME	SANDUSKY	Erie	12/21/2015	Seehase
FH	3219	DEJOHN FH	CHARDON	Geauga	12/30/2015	ANDERSON
FH	1038	DUNN-QUIGLEY FHS	STOW	Summit	12/24/2015	ANDERSON
FH	130	E C NURRE FUNERAL HOME	AMELIA	Clermont	12/1/2015	Seehase
FH	1293	FINEFROCK-GORDON FH	MAGNOLIA	Stark	12/2/2015	ANDERSON
FH	2925	FORTUNA FH INC	INDEPENDENCE	Cuyahoga	12/24/2015	ANDERSON
FH	1460	FOSTER FUNERAL HOME	HURON	Erie	12/21/2015	Seehase
FH	2203	GATTOZZI & SON FUNERAL HOME	CHESTERLAND	Geauga	12/30/2015	ANDERSON
FH	2713	GOLUBSKI FUNERAL HOME INC	PARMA	Cuyahoga	12/31/2015	ANDERSON
FH	3450	GRISIER - WEIGEL FUNERAL HOME	Delta	Fulton	12/4/2015	Seehase
FH	3007	GROFF FH	HURON	Erie	12/21/2015	Seehase
FH	3326	GRUNN FUNERAL HOME	DAYTON	Montgomery	12/11/2015	Seehase
FH	2423	HADLEY FUNERAL HOME	MARIETTA	Washington	12/17/2015	ANDERSON

FH	1128	HADLEY FUNERAL HOMES INC	MARIETTA	Washington	12/17/2015	ANDERSON
FH	3314	HALL FUNERAL HOME	PROCTORVILLE	Lawrence	12/9/2015	ANDERSON
FH	3002	HENDERSON-VAN ATTA STICKLE FH	NEWARK	Licking	12/8/2015	Seehase
FH	3442	HERMAN - VEH FUNERAL HOME & CREMATION SERVICES	Gibsonburg	Sandusky	12/29/2015	Seehase
FH	3443	HERMAN-KARLOVETZ FUNERAL HOME & CREMATION SERVICES	Fremont	Sandusky	12/22/2015	Seehase
FH	3350	HORVATH HANES FH	GREEN SPRINGS	Sandusky	12/22/2015	Seehase
FH	3208	HOSKINSON FUNERAL SERVICE	THORNVILLE	Perry	12/1/2015	ANDERSON
FH	2206	HOUSE OF WHEAT	DAYTON	Montgomery	12/18/2015	Seehase
FH	2407	HUMENIK FUNERAL CHAPEL	BROOK PARK	Cuyahoga	12/23/2015	ANDERSON
FH	2248	J E HUMPHREY FUNERAL HOME	SHAWNEE	Perry	12/1/2015	ANDERSON
FH	3113	KELLER-KOCH-CHUDZINSKI FH	FREMONT	Sandusky	12/22/2015	Seehase
FH	2477	LAFFERTY FH INC	WEST UNION	Adams	12/1/2015	Seehase
FH	2936	LAMBERT-TATMAN FH	BELPRE	Washington	12/22/2015	ANDERSON
FH	3210	LAMIELL FH	CANTON	Stark	12/2/2015	ANDERSON
FH	2260	LEAVITT FUNERAL HOME INC	BELPRE	Washington	12/22/2015	ANDERSON
FH	3396	LEHMAN-DZENDZEL FUNERAL HOME	Celina	Mercer	12/3/2015	ANDERSON
FH	594	LEWIS-GILLUM FH	OAK HILL	Jackson	12/9/2015	ANDERSON
FH	1233	LEWIS-GILLUM FH	JACKSON	Jackson	12/10/2015	ANDERSON
FH	3432	LUCAS - BATTON FUNERAL HOME	Nevada	Wyandot	12/24/2015	Seehase
CREM	202	LUSAIN MEMORIAL CREMATORY	Dayton	Hamilton	12/11/2015	Seehase
FH	3061	MALLCHOK FH	PARMA	Cuyahoga	12/31/2015	ANDERSON
FH	2735	MARKER & HELLER FUNERAL HOMES INC	HUBER HTS	Montgomery	12/11/2015	Seehase
FH	2734	MARKER & HELLER FUNERAL HOMES INC	DAYTON	Montgomery	12/11/2015	Seehase
FH	2697	MARSH FH	PEMBERVILLE	Wood	12/29/2015	Seehase
FH	2698	MARSH FH	LUCKEY	Wood	12/30/2015	Seehase
FH	2699	MARSH FH	WOODVILLE	Sandusky	12/30/2015	Seehase
FH	3172	MAYHEW-BROWN FH	JACKSON	Jackson	12/10/2015	ANDERSON
FH	64	MILLER FUNERAL HOME INC	ST MARYS	Auglaize	12/4/2015	ANDERSON
FH	2493	MILLER-LONG & FOLK FUNERAL HOME	SAINT MARYS	Auglaize	12/3/2015	ANDERSON
FH	3150	NEWCOMER FH	TOLEDO	Lucas	12/28/2015	Seehase
CREM	13	NORTH COAST CREMATORY	HURON	Erie	12/21/2015	Seehase
CREM	120	NORTHCOAST CR LTD	GENOA	Ottawa	12/29/2015	Seehase
CREM	171	NORTHERN OHIO CREMATION SERVICES	VERMILION	Erie	12/21/2015	Seehase
CREM	103	OHIO RIVER VALLEY CR	PROCTORVILLE	Lawrence	12/9/2015	ANDERSON
FH	2182	PFEIL FUNERAL HOME	SANDUSKY	Erie	12/21/2015	Seehase
FH	3397	PRICE-MCELROY FUNERAL HOME	Kenton	Hardin	12/24/2015	Seehase
FH	3398	PRICE-MCELROY FUNERAL HOME	Mt Victory	Hardin	12/24/2015	Seehase
CREM	97	QUALITY FUNERAL CHOICES	TOLEDO	Lucas	12/30/2015	Seehase
FH	360	RANSOM FUNERAL HOME	CASTALIA	Erie	12/21/2015	Seehase
FH	1412	REDMON FUNERAL HOME INC	STOW	Summit	12/24/2015	ANDERSON
FH	1656	REED-EGAN FUNERAL HOME	NEWARK	Licking	12/8/2015	Seehase
FH	1962	RIDDLE FUNERAL HOME	VERMILION	Erie	12/21/2015	Seehase
CREM	175	RIVERVIEW CREMATORY	FREMONT	Sandusky	12/22/2015	Seehase
FH	2905	ROBINSON-WALKER FH	GENOA	Ottawa	12/29/2015	Seehase
FH	2907	RODENBERGER FH INC	DESHLER	Henry	12/10/2015	Seehase
FH	1221	RODENBERGER FUNERAL HOME	MCCLURE	Henry	12/10/2015	Seehase
FH	2417	RODENBERGER FUNERAL HOME INC	NAPOLEON	Henry	12/17/2015	Seehase
FH	3388	RUSSELL-SLY FAMILY FH	MIDDLEFIELD	Geauga	12/30/2015	ANDERSON
CREM	199	S & S CREMATORY	Holgate	Henry	12/17/2015	Seehase
FH	2593	SANDERS FH	EAST CANTON	Stark	12/2/2015	ANDERSON
FH	3322	SCHINDEWOLF STOUT CRATES FH	KENTON	Hardin	12/24/2015	Seehase

FH	3042	SCHLOSSER FH	WAPAKONETA	Auglaize	12/4/2015	ANDERSON
FH	2506	SCHNEIDER-GRIFFIN FUNERAL HOME	CHESAPEAKE	Lawrence	12/9/2015	ANDERSON
FH	1269	SCHUSTER-STRAKER-O CONNOR FUNERAL HO	PARMA	Cuyahoga	12/31/2015	ANDERSON
FH	3166	SLACK AND WALLACE FH	SOUTH POINT	Lawrence	12/9/2015	ANDERSON
FH	3437	SNYDER-HOENING FUNERAL HOME	Holgate	Henry	12/17/2015	Seehase
FH	3438	SNYDER-WESCHE-HOENING FUNERAL HOME	Napoleon	Henry	12/17/2015	Seehase
CREM	179	SOUTHERN OHIO CREMATION SERVICES	JACKSON	Jackson	12/10/2015	ANDERSON
FH	3342	ST JOHN FUNERAL HOME	BAINBRIDGE TOWNSHIP	Geauga	12/30/2015	ANDERSON
FH	2972	THOMPSON-MEEKER FH	WEST UNION	Adams	12/1/2015	Seehase
CREM	60	TOLEDO CREMATION SERVICE	TOLEDO	Lucas	12/30/2015	Seehase
FH	1395	TOMON & SONS FUNERAL HOME	MIDDLEBURG HTS	Cuyahoga	12/13/2015	ANDERSON
CREM	95	TWIN-STATES CREMATION SERVICE	MARIETTA	Washington	12/17/2015	ANDERSON
FH	3036	URBANSKI FH LTD	TOLEDO	Lucas	12/28/2015	Seehase
FH	1984	URBANSKI FUNERAL HOME LTD	TOLEDO	Lucas	12/28/2015	Seehase
FH	1821	VORNHOLT-MILLER FUNERAL HOME	NEW KNOXVILLE	Auglaize	12/3/2015	ANDERSON
FH	2730	W H DICK & SONS - HELLWARTH FH	CELINA	Mercer	12/3/2015	ANDERSON
FH	2731	W H DICK & SONS-HELLWARTH FH	MENDON	Mercer	12/3/2015	ANDERSON
FH	3439	WALKER - HOENING MORTUARY	Napoleon	Henry	12/17/2015	Seehase
FH	1315	WALTER MORTUARY COMPANY	TOLEDO	Lucas	12/28/2015	Seehase
FH	7	WILSON HOME FOR FUNERALS INC	MANCHESTER	Adams	12/1/2015	Seehase
FH	721	WM K SUJKOWSKI & SON FUNERAL HOME	TOLEDO	Lucas	12/28/2015	Seehase
FH	3354	WONDERLY HORVATH HANES FH	FREMONT	Sandusky	12/22/2015	Seehase
CREM	182	WOODLAND CEMETERY & ARBORETUM CREM	DAYTON	Montgomery	12/18/2015	Seehase
CREM	168	Y-CITY CREMATORY	ZANESVILLE	Muskingum	12/16/2015	ANDERSON
FH	3387	YOUNG LUSAIN FUNERAL HOME AND CREMATORY	Dayton	Montgomery	12/18/2015	Seehase
FH	2860	ZACHRICH FH	HOLGATE	Henry	12/17/2015	Seehase

The board was provided the inspection summary report in the agenda item details for review. The document provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A66R3Y619E79/\\$file/Inspection%20Summary%20SFY16.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A66R3Y619E79/$file/Inspection%20Summary%20SFY16.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer identified the categories included in the report. Mr. Boyer asked for questions or discussion. There was no discussion among the board.

5.02 Budget Overview

The board was provided the agenda item details and reviewed the following report:

SFY16 as of January 14, 2016:

SFY16	Budget	Expense	Encumbrance	Available Budget	Percent Available
510	\$19,000.00	\$4,204.25	\$2,527.25	\$12,268.50	64.57%
520	\$194,635.65	\$65,961.13	\$60,436.94	\$68,237.58	35.06%
530	\$5,000.00	\$1,250.02	\$0.00	\$3,749.98	75.00%
595	\$1,000.00	\$0.00	\$0.00	\$1,000.00	100.00%
500 - QTR1	\$139,455.79	\$139,455.79	\$0.00	\$0.00	0.00%
500 - QTR2	\$110,908.56	\$110,908.56	\$0.00	\$0.00	0.00%
500 - QTR3	\$150,852.00	\$19,168.81	\$0.00	\$131,683.19	87.29%

500 - QTR4	\$129,160.00	\$0.00	\$0.00	\$129,160.00	100.00%
Budget	\$750,012.00	\$340,948.56	\$62,964.19	\$346,099.25	46.15%

Invoices for December 2015:

Voucher ID	Vendor Name	Accounting Date	Payment Amount
2506	DEPARTMENT OF ADMINISTRATIVE SERVICES	12/2/2015	\$609.77
2507	VERIZON WIRELESS	12/2/2015	\$333.25
2508	GREENE INC	12/14/2015	\$30.00
2509	CINCINNATI BELL ANY DISTANCE INC	12/22/2015	\$74.24
2510	DEPARTMENT OF ADMINISTRATIVE SERVICES	12/17/2015	\$1,125.04
2511	VERIZON WIRELESS	12/23/2015	\$333.25
2512	US BANK NATIONAL ASSOCIATION	12/23/2015	\$956.83
2513	DEPARTMENT OF ADMINISTRATIVE SERVICES	12/30/2015	\$513.58
2514	US BANK NATIONAL ASSOCIATION	12/28/2015	\$162.37
2515	US BANK NATIONAL ASSOCIATION	12/30/2015	\$950.00

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked for questions or discussion. There was no discussion among the board.

5.03 2015 Financial Disclosure Statements

The board was provided information about the financial disclosure statement form in the agenda item details for review. The information provided to the board may be located in the agenda online at the following link: <https://disclosure.ethics.ohio.gov/file/Account/Login.aspx>

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. There was no discussion among the board.

5.04 Efforts to Eliminate Preneed Fraud

The board was provided the agenda item details and reviewed the following information:

Actions of the Board (last two years):

February 10, 2014 – The board took action against Smith Mortuary and the House of Wills regarding the misappropriation of preneed.

The board discussed hiring additional inspectors with the growth in findings of misappropriation of funds, stating the need for more examiners protecting the public from misconduct is paramount goal.

New legislation began to be drafted by the board to further address preneed.

March 17, 2014 – The board discussed the annual preneed report and actions to take against those who may fail to file.

April 15, 2104 – The board to actions against licensees who failed to file annual preneed reports.

Additional actions against Smith Mortuary and first actions against Coreno Funeral Home regarding the misappropriation of preneed.

May 19, 2014 – The board took action against McNabb Funeral Home regarding the failure to provide the proper preneed reports at the time of close the funeral home.

June 2014 – The board begins working with the Criminal Division of the Common Pleas court in Both Montgomery

County (Gavin case) and Trumbull County (McDermott case).

September 16, 2014 – All the research compiled by Katherine Shiplett on Preneed was provided to the board. A draft of new legislation prepared by the board was reviewed and discussed.

October 14, 2014 – The board discussed a [letter of commendation](#) received from the Trumbull County Prosecuting Attorney's Criminal Division regarding successful prosecution of Robert McDermott.

November 5, 2014 – The board Secretary and Executive Director attended the Legislative Committee meeting of the Ohio Funeral Directors Association (OFDA) to discuss new legislation drafted by the board to address preneed.

November 17, 2014 – Information from the OFDA Legislative Committee meeting and NFDA regarding the Preneed Report Card and Ohio's standing was discussed by the board.

January 15, 2015 – The board took additional actions against Coreno Funeral Home regarding the misappropriation of preneed.

Misappropriation of Preneed was discussed by the board. The prior research and plans to address the concerns were shared. The documents reviewed were:

- [Preneed Presentation](#)
- [Preneed Report Card](#)
- [FUN Workforce Planning 2015](#)
- [Cases charged with Misappropriation of Preneed over the past three years](#)

January 22, 2015 – The board President and Executive Director attended a forum of the Federal Association of Regulatory Boards (FARB) seeking insight on ways to address preneed.

February 11, 2015 – The board took action against The House of Wills regarding the misappropriation of preneed.

February 25, 2015 – The board President and Executive Director spoke individually and in round table forms with representative from 28 other state funeral boards about misappropriation of preneed. Inquiries were made regarding procedures, techniques, tools and laws used to combat the issue. Unfortunately, none had any new approaches to offer that Ohio was not already doing, and most indicated they were not doing as much Ohio and have looked to Ohio for direction on how to appropriately address the issue when they have encountered similar cases.

March 17, 2015 – The board discussed information provided by the President and Executive Director from their meeting with State Funeral Boards.

April 8, 2015 – The board took action against licensees who failed to file annual preneed reports.

May 18, 2015 – The board took action against licensees who failed to file annual preneed reports, and requested an informal opinion from the Attorney General regarding the sale of preneed.

July 21, 2014 – The board took additional action against McNabb Funeral Home regarding the failure to provide the proper preneed reports at the time of close the funeral home.

August 17, 2015 – The board took action against Lucas Memorial Chapel regarding misappropriation of preneed.

August 18, 2015 – The board took additional action against Coreno Funeral Home for misappropriation of preneed.

October 19, 2015 – The board discussed the draft of the new legislation completed by the Legislative Service Commission.

December 14, 2015 – The board discussed OFDA's requested revisions to new legislation to address preneed.
Requests for Additional Staff:

Each fiscal year the Administration requires every state agency to develop a workforce plan. The plan contains information regarding the organizations structure and an analysis of current resources.

During this planning process, key data from Ohio's eLicensing System and the OAKS Financial/Human Capital Management Modules were reviewed to determine current and future challenges which could possibly impact the operations of the board.

Critical factors identified during this planning process for the past three state fiscal years, 2014, 2015 and 2016, each included the need for additional staff. This increase was requested each of the three years to provide adequate staffing to inspect each facility, which includes an audit of the preneed contracts, and to investigate complaints to ensure consumers are protected. However, no additional staff have been authorized as a result of the submitted workforce plans.

Legislation:

- In 2013, this industry and the individuals within this profession partnered with the board to address misappropriation of preneed. The licensees in this industry lobbied the legislature to raise their own fees, so they could provide the board with more funding to address these issues. The 130th General Assembly enacted filed No. 25, HB 59, eff. September 29, 2013, as a result of this joint effort.
- Preneed laws have been tracked on a national level in the US for the past 15 years.
- In that time a dozen states have adopted new preneed laws and regulations while ten states, including Ohio, have made significant revisions to their laws to provide protection to consumers and limit the risk in pre-paying for a funeral.
- Seven important consumer protection areas have been identified.
- Ohio ranks in the top of all states in six of those consumer protection areas and is currently seeking legislation to address the seventh area.

1. Portability rights
 - a. Consumers in Ohio have the unfettered right to transfer prepaid funds to another funeral home. (Ohio is one of 39 states that have this.)
2. Transfer fees
 - a. Ohio restrict the transfer fee to 10% of the prepaid funds
 - b. However, states like Florida, Missouri, Utah, and Wyoming allow funeral homes to retain all trust fund earnings or to impose transfer fees of up to 25% of the funds in trust when a consumer transfers preneed funding.
3. Comprehensive contract disclosures
 - a. Ohio is one of 27 states to receive an excellent rating on consumer contract disclosures.
4. Trusting levels
 - a. Ohio is one of 29 states to require 100% of the funds be trusted. Some states, like Florida and Hawaii have a primary trusting level as low as 70%.
5. Prohibitions against sellers withdrawing earnings from preneed trusts
 - a. Ohio's law further protects consumer funds by not allowing sellers to withdraw trust funds.
 - b. There are twelve states that will allow the seller to withdraw all or a portion of the interest earned on the trust.
6. Confirmation of preneed deposits
 - a. Ohio is one of only 16 states requiring banks or funeral homes to confirm preneed deposits with consumers.
7. Preneed guaranty fund
 - a. 14 states currently have a preneed guaranty fund
 - b. Ohio is currently seeking legislation to create a preneed guaranty fund.

Additional Information for Consideration:

- This board currently licenses over 1300 facilities and has encountered issues regarding misappropriation of preneed with less than 1% of that population.
- The Board has held those individuals accountable for their crimes by removing their ability to practice, and then went on to work with law enforcement to help make sure those involved were prosecuted.

The board was provided information about efforts to eliminate preneed fraud in the agenda item details for review. The document provided to the board may be located in the agenda online at the following link: [http://www.boarddocs.com/oh/boefd/Board.nsf/files/A672FL01F3B6/\\$file/Efforts%20to%20eliminate%20preneed%20fraud.pdf](http://www.boarddocs.com/oh/boefd/Board.nsf/files/A672FL01F3B6/$file/Efforts%20to%20eliminate%20preneed%20fraud.pdf)

Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Robert Wasko, board vice president, reminded all that he requested a report at the December 2015 Meeting of the Board detailing the board's efforts to eliminate pre-need fraud. Mr. Wasko stated that the report before the board today shows efforts by the board, over the last two years, to eliminate pre-need fraud. Mr. Wasko expressed hope that all board members have seen the report. Mr. Wasko asked Mr. Thomas Taneff, board member, if he had seen the report. Mr. Taneff replied that he had.

Mr. Wasko called attention to a portion of the report concerning the board's effort to increase staffing. Mr. Wasko recounted that the industry, the association (OFDA), and the state's licensees supported an increase in their licensing fees for the purpose of hiring more staff to regulate them. The board has been collecting that increase of fee, supported by OFDA and the licensees, over the past two years, and the board still hasn't been able to provide the service because the board can't get the proper staffing required to do it. Mr. Wasko added that the board continues to put forth effort for additional staffing because two inspectors for the whole state is not enough to do the job. Mr. Wasko assured that the licensees support and welcome the additional staff because it helps everyone. Mr. Boyer asked for any more discussion.

Mr. Jack Marchbanks, board member, asked a question in regards to the good faith efforts by the funeral board, staff, and inspectors within the report. Mr. Marchbanks asked Mr. Wasko for his opinion on what would be sufficient staffing of the board's inspector team to remain vigilant in protecting the public interest; in terms of how vigorous the inspections. Mr. Wasko responded by mentioning one of a couple different reports, that suggested hiring a forensic auditor on staff. This auditor would not be an additional inspector, but a pre-need auditor that would conduct true audits of pre-need files.

Mr. Wasko recounted that many ideas were exchanged between OFDA and the board about staffing before OFDA lobbied the legislature for the license fee increase for the purpose of additional staffing. Mr. Wasko reminded all that the board has collected and continues to collect the increased fees and still cannot provide the additional staff due to the current administration not permitting new hires. Mr. Boyer commented that he has been reminded by the President of OFDA about the board's collection of more fees and the delay of fulfilling the objective of hiring additional staff.

Mr. Marchbanks asked Mr. Wasko to confirm that the amount of fees collected would actually fund the hiring of a forensic auditor. Mr. Wasko responded that the fees were set as a result of a formula created to provide an estimate of operation costs during [staffing] discussions. Mr. Wasko expressed that OFDA is upset because they feel as if the wool has been pulled over their eyes. Mr. Wasko added that this is truly not the case at all; the Governor's Office will not grant permission to hire.

Mr. Boyer recounted the first time he heard that the board would not be receiving additional staff. It was when Mr. Taneff visited with the Governor's Office and returned with message that the board would not be getting any new staff; the board had to do with what it had. Mr. Wasko reminded all, again, that the licensees supported an increase in their licensing fees for additional staffing.

Mr. Taneff stated that Mr. Boyer has mischaracterized what he reported to the board. Mr. Taneff clarified what he reported to the board was when the board considered passing an additional fee, that the funeral home's charge, that fee is passed on to the general public. Mr. Boyer responded that the board did not pass the fee and declared that Mr. Taneff's statement was incorrect. Mr. Taneff suggested to Mr. Boyer to not interrupt. Mr. Taneff continued to state that when the board passed, implemented, or promulgated the fee- if the board passes on, requires or authorizes passing an additional fee, that fee will be passed on to the consumer- it is a tax. The Governor's Office requested the board look outside the box every way it can to minimize pre-paid funeral fraud.

Mr. Wasko responded to Mr. Taneff's statement by pointing out that in a little over one year's tenure as a board member, Mr. Taneff has not offered one suggestion concerning pre-paid funeral fraud. Mr. Taneff remarked that the licensed board members were experts. Mr. Wasko reminded Mr. Taneff that he was appointed to the board to take part, too. Mr. Taneff responded that every motion he's made was overruled (by board members in the industry) three to two. Mr. Taneff commented that licensed members protect their turf. Mr. Wasko responded to Mr. Taneff's comment saying it was insulting and false. Mr. Taneff advised that he felt insulted by comments made by Mr. Wasko during the December Board Meeting. Mr. Taneff suggested Mr. Wasko exploited his absence knowing there would not be a counter to his comments. Mr. Wasko replied that his comments were not insults; they were corrections to the quotations in the news article reported to be from Mr. Taneff. Mr. Wasko reiterated that the industry and licensees asked for and supported an increase to their licensing fee in return for more regulation to get rid of the one-percent of bad apples from the industry.

Mr. Taneff requested Mr. Wasko to identify ideas he has offered, short of increasing administrative costs and increasing costs to the taxpayer, to regulate the industry. Mr. Boyer requested to respond to Mr. Taneff's question. Mr. Boyer stated that it was OFDA, with the help of their lobbyist John McGough, who went to lawmakers to petition the increase of the licensing fee. It was not the board. Mr. Boyer asserted the board follows the laws that are enacted. Mr. Taneff asked Mr. Boyer to identify who pays the cost when the board hires more staff. Mr. Boyer suggested to Mr. Taneff to not interrupt. Mr. Boyer continued to state that OFDA lobbied for the increase with expectation the board would hire a person to research and investigate pre-need fraud. Mr. Taneff asked Mr. Boyer to identify ideas the board has come up with. Mr. Boyer replied that the board is currently working with the legislature to prevent fraud. Mr. Taneff declared that the board has come up with nothing. Mr. Boyer and Mr. Taneff talked over one another. Mr. Boyer struck the gavel to restore order to the meeting. Mr. Boyer recounted a meeting with Representative Ryan Smith to discuss ways to stop pre-need fraud. During that meeting, Mr. Boyer suggested to prohibit funeral homes from depositing consumers funds (pre-paid pre-need money) into funeral home accounts. Mr. Boyer recalled past fraud has occurred when a funeral home placed pre-paid monies to its own accounts and failed to vest that money to insurance or trust. Mr. Boyer stated that the board is currently working with Representative Tim Schaffer to include this suggestion within the language of the law. Mr. Taneff responded to Mr. Boyer's statements of effort by declaring that all he hears is talk and nothing has been done. Mr. Boyer responded to Mr. Taneff's claim by stating that Mr. Taneff has not done anything to assist the board; no meetings with OFDA, no meetings with investment companies, and no follow through with helping licensees to meet with [Department of] insurance. Mr. Taneff replied that he was never asked to talk to the [Department of] insurance and declared no responsibility to. Mr. Boyer and Mr. Taneff talked over one another. Mr. Wasko referred Mr. Taneff to review agenda item 5.04 for examples of efforts and actions taken by the board; as he declared it was a comprehensive report.

Action, Discussion: 5.05 State Sen. Bill Seitz plans to write legislation to redesign the board.

The board was provided the agenda item details and reviewed the following copy of newspaper article:

Court ruling might cause overhaul of Ohio's licensing boards



State Sen. Bill Seitz

By [Randy Ludlow](#)

The

Columbus Dispatch • Monday January 11, 2016 10:38 AM

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The two-dozen-plus state boards that license and regulate an array of professionals, from physicians to barbers, appear destined for a major shake-up.

A U.S. Supreme Court ruling last year is prompting legislation that could alter who makes the final calls on licensing, discipline and other matters involving the oversight of state-licensed occupations.

In a North Carolina case, the justices ruled that boards controlled by members of the profession it regulates are not entitled to individual immunity from lawsuits alleging violations of antitrust laws that forbid restraint of trade and competition.

In that case, the court found that the state dental board had no legal protection from antitrust claims when issuing cease-and-desist orders to nondentists offering teeth-whitening services.

Ohio's occupational boards are dominated by members of the regulated profession; a few nonpracticing members represent the public. Most members are appointees of the governor.

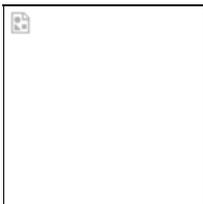
"This has to be dealt with immediately," said Republican state Sen. Bill Seitz, an antitrust lawyer from Cincinnati. "People will not serve on boards and commissions if they can get sued under antitrust laws.

"The floodgates are opening. ... They are taking a heck of a risk, and I would not advise them to stay with the status quo," Seitz said.

Seitz plans to write legislation to redesign the state's occupational licensure and regulation framework once he receives a recommendation from the office of Gov. John Kasich.

The senator sees three potential fixes:

- Reconfigure all boards so they are not controlled by members of the professions they regulate. Seitz and the boards don't like this option, saying the expertise of practitioners should be preserved.
- Create "mega-boards" to consolidate regulation of related fields. For example, all health-related occupations could be overseen by one board consisting of equal numbers of members from those fields.
- Empower a single "state actor," such as the attorney general or lieutenant governor, to review and issue decisions on



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THE DAILY BRIEFING

Senate Dems call for action following education reports

John Kasich one of only six presidential candidate to take "No Labels" pledge

Staff changes in Tiberi's office

Drug issue backers sue SOS Jon Husted, alleging he's not doing his job

Buckeye Forum Podcast



The Dispatch public affairs team talks

politics and tackles state and federal government issues in the Buckeye Forum podcast.

YOUR RIGHT TO KNOW

Court clerk reconsiders fee to email records

recommendations by a board.

Writing of “hidden influence and secretly negotiated deals,” the Consumers Union and others are urging the state to change its board structure to eliminate what they call the conflict of members making decisions that benefit their professions financially. They think only Seitz’s first option would provide antitrust protection.

Meanwhile, Pat McKnight, a dietitian instructor and Dietetics Board member from Columbus, is attempting to rally board members and directors to “save our boards,” as she wrote in an email, and attend a Jan. 22 meeting.

“We’re concerned about preserving the integrity of the current board structure. It’s working. The independent board structure is essential to protecting the public,” McKnight said.

“We have to have members of the professions making these decisions.”

She favors empowering the attorney general to make final decisions.

Officials with the state medical board, perhaps the most-visible professional board because it oversees more than 70,000 doctors and others, said they could not comment because of a lack of details about potential changes, and they declined to be interviewed.

Seitz, meanwhile, awaits a recommendation from Kasich, saying the Supreme Court decision has handed a club to those who want to practice “alternative medicine” free of state regulation. What Seitz calls “witch-doctor bills” have been introduced in the General Assembly but not passed.

The governor’s office is “communicating with the state’s licensing boards on the implications of this decision so that we can examine options to address the concerns raised by the Supreme Court,” spokesman Joe Andrews said.

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Board meeting notation: Mr. Gregory Boyer, board president, introduced the agenda item. Mr. Boyer asked if all had a chance to read the news article. Mr. Robert Wasko, board vice president, commented that the subject of the article is unconstitutional. Mr. Wasko declared that a person has a right to be judged by their peers, not by a czar in control of boards. Mr. Wasko continued to state that boards are comprised of licensed members and public members; who during the process learn about those industries, along with the rules and regulations, and should be considered peers. Mr. Wasko shared opinion that the Senator’s proposed changes are unproductive and unconstitutional.

Mr. Thomas Taneff, board member, stated that before adjournment of the meeting, he’d like remind all about a previous records retention issue. Mr. Boyer stated that the discussion was still on the subject of the proposals from Senator Bill Seitz.

Mr. Boyer stated concern about unlicensed board members entering a funeral home to inspect pre-need files or to inspect the facility. Mr. Boyer opined that it would be a liability because of unfamiliarity and inexperience of the business. An unlicensed member may not be aware that facilities must also meet additional regulations set by other governing bodies such as OSHA (Occupational Safety and Health Administration), and Federal Trade Commission (FTC). Mr. Bryan Chandler, board secretary, concurred with Mr. Boyer’s concern and added that it was a level of federal governing that sought participation from industry and funeral directors to help draft laws that effect them. Mr. Boyer commented it was unlikely that a law proposed by a state could supersede a law already established by federal agency.

Mr. Taneff commenced discussion on a record retention policy. Mr. Boyer replied that the agenda did not include discussion of a record retention policy. Mr. Taneff stated that he could bring forth any topic for discussion. Mr. Taneff declared that the board does not have a record retention policy. Mr. Boyer declared the board does have a record retention policy under DAS (Department of Administrative Services). Mr. Taneff suggested to Mr. Boyer to not interrupt. Mr. Boyer and Mr. Taneff talked over one another. Mr. Taneff stated that he is going to make a motion that this board

adopt a record retention schedule requiring the staff and the executive director to retain any and all correspondence, or e-mails, that come in and out of this office; so that the board does not repeat an outstanding issue regarding an alleged falsification of e-mail between the Columbus Dispatch and the executive director. Mr. Taneff repeated his motion as this board adopt a policy requiring the executive director and staff of this organization to retain any and all e-mail correspondence for a period not to exceed seventy-five (75) years; on the advise of counsel, similar to what other board's retention policies are. Mr. Jack Marchbanks, board member, seconded the motion. Mr. Boyer asked for discussion.

Mr. Chandler inquired if the board already requested board counsel to look in to this issue. Ms. Katherine Bockbrader, assistant attorney general and board counsel, responded to Mr. Chandler by clarifying that the board asked if it could have a different policy other than what DAS has. Ms. Bockbrader affirmed that agencies are allowed to have policies longer than DAS policy, but not shorter. Mr. Chandler inquired if the board previously discussed expenses related to archiving the material. Ms. Bockbrader replied that there is likely some cost associated to storage.

Mr. Boyer stated to Mr. Taneff a recollection of previously asking him if he knew what the retention policy was for the Cosmetology Board and remembering that Mr. Taneff could not answer. Mr. Taneff responded to Mr. Boyer's comment stating that the current discussion is about this board. Mr. Taneff reminded Mr. Boyer that a motion was before the board. Mr. Boyer and Mr. Taneff talked over one another. Mr. Taneff suggested asking board counsel for a recommendation.

Mr. Taneff questioned Ms. Bockbrader if she had a recommendation. Ms. Bockbrader asked if his inquiry concerned the length of time. Mr. Taneff replied that it did. Mr. Taneff asked if she had a recommendation for how long the board should retain records. Ms. Bockbrader opined that this was about policy, not a legal question. Mr. Taneff asked what her experience has been with other boards. Ms. Bockbrader replied that she could not recall anything specifically, but assured none were for seventy-five (75) years. She said she thought that other agencies probably have e-mail retention periods anywhere from six months to five years.

Mr. Taneff cited example of an e-mail correspondence between the board's executive director and local newspaper. Mr. Taneff recounted an alleged loss of an e-mail exchange between Ms. Vanessa Niekamp, executive director, and The Columbus Dispatch's editors and reporters. Mr. Taneff suggested that it should be a minimum of five years.

Mr. Chandler asked board counsel what DAS recommends. Ms. Bockbrader replied that she did not know, but could research it.

Mr. Marchbanks shared that in his experience while employed at ODOT engineering records were kept a minimum twenty-five (25) years. Mr. Boyer commented that those records were kept for safety issues. Mr. Marchbanks replied to Mr. Boyer's comment that it's not his recommendation that it (board policy) must be twenty-five (25) years, but pointed out that there are record retention policies that go longer than five years.

Mr. Taneff stated that if records were falsified, that is a crime. Mr. Boyer responded to Mr. Taneff declaring that no records were falsified. Mr. Boyer added that Mr. Taneff continues to make these allegations. Mr. Taneff clarified that the allegations have been made between The Columbus Dispatch and Ms. Niekamp. Mr. Taneff recommended the policy be a minimum of five years.

Ms. Niekamp addressed Mr. Taneff's claim that a record hasn't been maintained, by declaring his statement as being completely false. Ms. Niekamp asserted the record is maintained on DAS' server and it has been provided to the board president and to Mr. Taneff. Ms. Niekamp assured the original e-mail is maintained, has been maintained, is still maintained, and has never been changed, altered, destroyed, or eliminated and has been provided to everybody who has asked for it.

Mr. Taneff repeated his suggestion of a five year retention policy. Mr. Taneff expressed that it would protect the public.

Mr. Chandler asked Ms. Niekamp what DAS' policy stated. Ms. Niekamp replied that DAS' policy was six months.

Mr. Marchbanks asked Mr. Taneff if he were amending his motion. Mr. Taneff replied affirmatively that he was amending his motion that the board have a record retention policy for a minimum of five years. Mr. Marchbanks seconded the amended motion.

Mr. Boyer inquired if it (record retention policy) would cost more money to the taxpayers to retain. Mr. Boyer commented to Mr. Taneff a recollection that it was Mr. Taneff's message to not pass on cost to the taxpayer, or to the government. Mr. Taneff replied that the cost was worth it. Mr. Boyer recalled that Mr. Taneff was told not to pass costs on. Mr. Taneff replied that it was worth it. Mr. Boyer lamented that it was now okay-in this case. Mr. Taneff declared to Mr. Boyer that he had an obligation to protect the general public. Mr. Boyer stated that the e-mail has been provided and was still in storage. Mr. Taneff declared that this board does not have a record retention policy. Mr. Boyer commented that neither does the Cosmetology Board. Mr. Taneff responded to Mr. Boyer that he was discussing this board. Mr. Boyer and Mr. Taneff talked over one another.

Mr. Taneff stated to let the record reflect that his motion was seconded and Mr. Boyer refuses to promulgate or set to a vote; a five year record retention policy. Mr. Boyer stated that the board was still in discussion. Mr. Boyer stated that Mr. Taneff was violating Robert's Rules of Order, the Ohio Revised Code, and how the board operates. Mr. Boyer and Mr. Taneff talked over one another.

Mr. Wasko declared that he would not vote on this motion. Mr. Wasko expressed desire to defer it to next month's meeting after research of DAS' policy. Mr. Taneff responded to Mr. Wasko by indicating he did not need to vote; there were four members that will vote. Mr. Wasko clarified to Mr. Taneff that he was stating his concern about this motion. Mr. Taneff recited Mr. Wasko's statement that he would not vote. Mr. Wasko countered that he would vote no. Mr. Wasko repeated his decision to vote against this motion based of his desire to defer it to next month's meeting so that research of DAS' policy can be done. Mr. Boyer and Mr. Taneff talked over one another.

Ms. Niekamp communicated to Mr. Wasko that she has the ability to access record retention polices for Department of Administrative Services via computer during the meeting and asked if he would like that information. Mr. Taneff reminded all that he had a seconded motion on the table.

Mr. Boyer asked for anymore discussion.

Mr. Marchbanks commented on Mr. Boyer's concern about additional costs for record retention. Mr. Marchbanks stated that with today's digital technology, such as the cloud, he expects there to be flexibility to retain records for five years. Mr. Marchbanks shared that during his time as deputy director at ODOT he was not comfortable with the six month rule from DAS and always retained records for five years- some records for ten. He added that record retention could be accomplished using existing technology without passing on cost.

Mr. Boyer commented that his funeral director and embalmer licensing paperwork has been on file with the state board since 1984. His records, as well as his father's- from the early sixties (1960's), are still retained in hardcopy form, not digital, at the board office.

Mr. Wasko questioned if the motion was about e-mails or all records. Mr. Marchbanks answered that it was all records. Mr. Wasko reiterated his decision to vote no and explained that it needed further review. He added that all the paper records the board retains would need transposed to digital format and that would cost something- a cost that inevitably gets passed on to someone. Mr. Wasko stated that he was still voting no on this motion, but is in favor of a retention policy for the board.

Mr. Chandler asked if this all had been discussed before. Mr. Marchbanks commented that it was never resolved.

Mr. Boyer stated his firm has one hundred fifteen (115) years of records, as does the board. Mr. Taneff stated that this is still not resolved because the board wants to continue to do nothing. Mr. Boyer asked if discussion ended. Mr. Taneff replied that it has ended. Mr. Boyer asked for roll call vote.

Ms. Niekamp stated the computer screen will not yet refresh with an updated number of five years to the motion. Mr. Wasko asked for clarification of the motion. Ms. Niekamp read the motion aloud as this board adopt a records retention policy to require the staff and the executive director to retain any and all documents and e-mails, not to exceed five years.

Ms. Bockbrader asked Mr. Taneff if he intended to say "not to exceed five years", or if he meant "at least five years." Mr. Taneff confirmed that he meant "at least five years", and wanted his motion to reflect that language.

The vote commenced. Mr. Boyer made a statement before casting his vote. Mr. Boyer stated, "That before more research is done, or what other board's are doing, I, at this time, I am voting no."

Motion that this board adopt a records retention policy to require the staff and the executive director to retain any and all documents and emails for at least 5 years.

Motion by Tommy Taneff, second by Jack R Marchbanks.

Final Resolution: Motion Fails

Yes: Jack R Marchbanks, Tommy Taneff

No: Gregory Boyer, Robert Wasko, Bryan E Chandler

Board meeting notation: Mr. Gregory Boyer, board president, questioned if there were anymore discussions or anymore items not on the agenda to be discussed.

Mr. Chandler commented about the previous discussion on pre-need fraud. Mr. Chandler stated that it does not benefit himself or his firm to assist others, or justify, or allow others to steal pre-need money. It does no good to himself, board inspectors, licensed funeral directors, or anyone in the profession. He added that he sees no positive in allowing others in the profession to take advantage of consumers. Mr. Chandler professed that it took a lot of effort and time to achieve his licensure. Mr. Chandler shared that he felt offended by Mr. Taneff's perception of licensed board members protecting their turf. There was no further discussion among the board.

6. Adjournment

6.01 Adjourn the Meeting

Board meeting notation: Mr. Gregory Boyer, board president, announced the January 21, 2016 Meeting of the Board adjourned at 2:16 p.m.