

July 18, 2017 Meeting of the Board

1. Convening of the Board – President

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

1.01 Calling of the Roll

Members present: Edward Nurre, Jill Pugh, Jon Rettig, Thomas Taneff and William Wappner

1.02 Pledge of Allegiance

“I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.”

Mr. Jon Rettig welcomed and introduced Mr. Devin Woodyard, Secretary of the Board of Directors of Ohio Funeral Directors Association of Columbus, Ohio and Mr. Colin Evans, Assistant Executive Director, Ohio Funeral Directors Association of Columbus, Ohio.

Mr. Rettig announced that the Board’s regular counsel, Christie Limbert, was not available to attend today’s meeting and introduced Mr. Brian Honen, Assistant Attorney General, serving as board counsel.

2. Meeting Minutes

2.01 Consideration of the May 24th, 2017 Board Meeting Minutes

Mr. Rettig asked the board members if all had an opportunity to review the May 24th 2017 Board Meeting Minutes.

Mr. Thomas Taneff motioned to adopt the meeting minutes as presented. Mr. Edward Nurre second Mr. Taneff’s motion.

Motion by Thomas Taneff, second by Edward Nurre

Final Resolution: Motion Carries

Yes: Thomas Taneff, Jon Rettig, Jill Pugh, Edward Nurre

Abstain: William Wappner

2.02 Consideration of the June 28th, 2017 Board Meeting Minutes

Mr. Jon Rettig motioned to approve the meeting minutes as presented. Mr. William Wappner seconded Mr. Rettig's motion.

Motion by Jon Rettig, second by William Wappner

Final Resolution: Motion Carries

Yes: Jill Pugh, Thomas Taneff, William Wappner, Jon Rettig, Edward Nurre

Mr. Rettig announced that board member Jill Pugh will be absent from the July 19, 2017 regular meeting.

3. Legislation

3.01 Review of Prospective Legislative Changes

Mr. Jon Rettig stated the effective date of new laws included in the recently enacted state budget bill is unknown at this time. He added that this meeting was convened as an open meeting to welcome public comment about the law changes.

Mr. Rettig began by addressing law regarding a crematory operator permit. He stated that the law was drafted with help of T. Scott Gilligan, Attorney at Law, with the intent to license all persons operating in cremation service. Mr. Rettig believes this law may be reviewed due to the ambiguity of who is to acquire the crematory operator permit. There is debate about who shall be licensed: the person actually in charge of the crematory or each person performing cremation.

Mr. Brian Honen, board counsel, informed the board that it would have no defensible position for accountability without a prohibition clause in law. He stated that a change in the law could be initiated by Ohio Funeral Directors Association. Mr. Rettig recalled as of today, the number of crematories licensed in Ohio totaled one hundred forty five.

Mr. Rettig next addressed law regarding the preneed recovery fund. He shared that discussions with board counsel have emphasized the need to establish a timeline for the collections of monies from funeral homes associated to the sales of preneed funeral contracts.

Mr. Rettig informed the board office is prepared to send information by email to funeral homes alerting of the need to begin accounting for ten dollars for each preneed funeral contract sold after October 01, 2017 with submission of those funds to the preneed recovery fund tentatively after January 01, 2018.

Mr. William Wappner questioned if a committee will need to begin drafting rules for the preneed recovery fund on or after October 01, 2017. Mr. Rettig replied that it will need to begin before October 01.

Mr. Devin Woodyard shared concern the rules process would not be finished in time before funeral homes need to account for ten dollars per each preneed funeral contract sold. Mr. Rettig responded to Mr. Woodyard by stating the board wants to notify funeral homes prior to October 01, 2017 of the board's pending efforts to establish rules. He added that the effective date of the law is expected to be October 01, 2017, but it does not necessarily mean funeral homes are non-compliant because the board has no rules for enforcement.

Mr. Wappner informed that the board will need a form and rules for the crematory operator permit as described in Ohio Revised Code 4717.051. He added that persons are already attempting to meet the new statute by enrolling in programs offering certification in crematory operation. Mr. Wappner suggested that current programs may not offer content that qualifies.

There was discussion among the board on hours and content of crematory operation certification programs.

Mr. Rettig shared that he contacted Cremation Association of North America (CANA), International Cemetery, Cremation and Funeral Association (ICCF), National Funeral Directors Association (NFDA), Ohio Funeral Directors Association (OFDA), and Cincinnati College of Mortuary Science (CCMS) to discuss their programs.

Mr. Wappner shared that he earned his certification in crematory operation from NFDA. He opined that T. Scott Gilligan and Poul Lemasters provide quality programs in Ohio.

Mr. Honen stated that the new rules could include Ohio law in programs for certification.

Ms. Jill Pugh stated that national convention does not include state laws. Mr. Wappner added that the board does not want to exclude national convention attendees.

Mr. Rettig commented on the strict rules the State of New York imposes on its crematory operators.

Mr. Woodyard questioned the board if they would consider a certification program taken prior to the new law to be satisfactory. Mr. Wappner responded to Mr. Woodyard by stating that the new law identifies active certification. He added that for a person to comply with the new law, it may be just a renewal process of certification with fewer hours.

Mr. Rettig shared that he discussed with board staff about certification expirations within a compliance period. Mr. Honen, board counsel, advised that if a crematory operator's certification was found to be expired upon an inspection that crematory facility would be in violation.

Mr. Edward Nurre expressed that this was similar to a masters training program.

Mr. Danny Finfrock suggested that eLicense may track the date of expiration of the certification.

Mr. Rettig questioned if the certification requirement will continue to be a period of five years. Mr. Finfrock responded to Mr. Rettig affirmatively.

Mr. Rettig reminded all that the rules and enforcement will not happen overnight.

Mr. Finfrock questioned the board if they would request the certification in crematory operation programs to include content about Ohio laws. Mr. Rettig responded to Mr. Finfrock by stating that if the content were included in the certification program, the board could count hour(s) towards the new continuing education requirements of two hours in Laws/ Rules beginning January 01, 2019.

Mr. Rettig stated that the board cannot place accreditation on programs, only program providers can. Mr. Wappner added that programs may need revised periodically.

Mr. Finfrock questioned if the board wanted the board staff to track two certifications in eLicense. Mr. Wappner responded to Mr. Finfrock by stating that if it takes tracking two certifications, yes. He added that if a current certificate on record is valid, it should remain in effect, but there will need to be a second certificate that identifies the crematory operator has passed the laws content.

Mr. Rettig requested Mr. Woodyard to discuss this further with OFDA because Ohio has a lot of laws concerning cremation. Mr. Woodyard replied that he would.

Mr. Wappner addressed the law regarding quorum of the board. Mr. Woodyard replied that it was noted.

Mr. Rettig recommended the board propose new rules to identify exactly what is expected for signage at entryways of licensed facilities.

Mr. Rettig recommended the board consider rules regarding requiring refrigeration in facilities. He recommended following examples of other states. Mr. Rettig asked the board inspectors for comments. Mr. Eric Anderson, board inspector, responded to Mr. Rettig by stating that Common Sense Initiative may oppose the proposal due to expense. Edward Nurre questioned aloud if a crematory should have refrigeration. Mr. Rettig responded to Mr. Nurre by stating that it should.

Mr. Rettig recommended the board establish a procedure for the possession of unclaimed remains. Mr. Nurre questioned if the board was required to take

unclaimed remains found anywhere other than a funeral home. Mr. Finfrock questioned if the board office should ask funeral homes during license renewal about unclaimed remains. Mr. Rettig responded to Mr. Nurre and Mr. Finfrock by stating no the board should not.

Mr. Rettig recommended the board amend the rule concerning a change of the funeral director actually in charge and ultimately responsible for facilities free of charge.

Mr. Rettig recommended the board amend the rule about persons reinstating a license after a certain period of time.

Mr. Rettig recommended the board establish rules regarding the accounting of ten dollars by sellers of preneed funeral contracts. Mr. Woodyard expressed that persons will likely find a work-around about reporting it, particularly with the sale of an insurance policy and recording it as an assignment. Mr. Rettig asked the board inspectors if they were aware of any in the past thirty days. Mr. Anderson questioned how the board may address those insurance assignments whereby the funeral director is named the beneficiary. Mr. Rettig questioned the board if a rule were needed.

Mr. Rettig recommended the board amend the rules regarding naming a facility. He reviewed the new law as found in 4717.14 (A)(9)(a) and (b).

Mr. Rettig reviewed the new law as found in 4717.32 (B)(1). He added explanation of Medicaid guidelines.

Mr. Rettig reviewed the new law as found in 4717.36 (B). He added explanation that anyone participating in the OFDA Trust, OFDA will pay the funeral home its percentage. Mr. Woodyard stated that OFDA will do the legwork regarding payments to the funeral homes and recovery fund.

Mr. Rettig reported that the board office will move to credit card, ACH, and wire transfer capabilities only in the future – cash and checks will not be accepted.

There was discussion among the board on what information should be included on the submission form for payments to the preneed recovery fund. Mr. Rettig stated that the funeral director actually in charge of and ultimately responsible for the funeral home is still responsible.

There was discussion among the board on the time period of payments to the preneed recovery fund.

Mr. Wappner questioned aloud the definition of subrogation. Mr. Rettig offered his understanding of the definition.

Mr. Wappner reviewed the new law as found in 4717.41. Mr. Rettig asked the board if there any questions. He reminded all that the board will seek assistance from OFDA to distribute information on the preneed recovery fund, if needed.

Mr. Woodyard asked Mr. Rettig to repeat the reporting schedule. Mr. Rettig replied that payments to the preneed recovery fund is expected to be quarterly.

Mr. Rettig reported that the board office will move to distribute the annual preneed funeral contract report form by email in the future.

Mr. Rettig reminded all that comments on changes are welcome. He asked the board if there were any further board business to discuss. He asked for a motion to adjourn.

Ms. Jill Pugh motioned to adjourn the meeting. Thomas Taneff seconded Ms. Pugh's motion.

Motion by Jill Pugh, seconded by Thomas Taneff

Final Resolution: Motion Carries

Yes: Jill Pugh, Edward Nurre, Jon Rettig, Thomas Taneff, William Wappner

The July 18, 2017 Meeting of the Board adjourned at 3:07 p.m.