

# NEVADA FUNERAL AND CEMETERY SERVICES BOARD

## MINUTES

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***Tuesday, October 14, 2014, at 9:00a.m.***

Video-Conference Locations:

Legislative Building  
401 South Carson Street, Room 3138  
Carson City, Nevada  
And  
Grant Sawyer Building  
555 E. Washington Avenue, Room 4412  
Las Vegas, Nevada

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**1. Call to order, roll call, establish quorum**

**Members Present**

Wayne Fazzino, Chair  
Todd Noecker  
Wendy Simons (arrived late)  
Bart Burton  
Tammy Dermody

**Members Absent**

Lisa Franqui  
Loretta Guazzini

**Board Staff Present**

Jennifer Kandt, Executive Director  
Henna Rasul, Senior Deputy Attorney General

**Public**

James Smolenski  
Casey Perkins  
Lyle Meyer  
John Lawrence

Jennifer indicated that Lisa Franqui would be resigning from the Board, and that Jennifer would coordinate with the Governor's Office regarding a replacement.

**2. Public comment**

**Note:** No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

**3. Discussion, recommendation, and possible action regarding review and approval of August 7, 2014 meeting minutes (For possible action)**

Bart moved to approve the minutes. The motion was seconded by Tammy and carried unanimously.

**4. Discussion, recommendation, and possible action regarding Bobo Consent Decree in case number FB14-01 (For possible action)**

Henna Rasul explained the process of a consent decree and stated that the Board could either approve, approve with changes, or deny and go to a hearing. She stated that the terms in the Consent Decree had been reviewed and accepted by Mr. Bobo.

There were questions regarding the facts of the case and Henna explained that the information before them in the Consent Decree is all the information that would be provided to them.

Casey Perkins, legal counsel for Mr. Bobo stated that the decedent lived Hawaii and was visiting Las Vegas. He stated that the decedent had an estranged son and two daughters but that representation was made by a nephew who flew to Las Vegas that he was the only next of kin. He stated that there was also a civil matter pending.

Tammy moved to accept the consent decree. The motion was seconded and carried unanimously.

**5. Discussion, recommendation, and possible action regarding request for James Smolenski to be approved as the new managing funeral director for Neptune Management Group of Nevada, 969 Moana Lane, Reno, Nevada (For possible action)**

Jennifer stated that temporary approval had been granted. Mr. Smolenski stated that he has been licensed since 1982 and would only be managing this establishment until another individual is able to become licensed.

Bart recused himself stating that Mr. Smolenski works for SCI. Tammy recused herself stating that her establishments handle the cremations for Neptune.

Wayne moved to approve James Smolenski as the managing funeral for Neptune Society, Reno. The motion was seconded by Todd and carried unanimously with Bart and Tammy abstaining.

**6. Discussion, recommendation, and possible action regarding granting Certificate of Registration as an Apprentice Embalmer to Phuong-Giao Le (For possible action)**

Jennifer stated that there was a section within NRS which states that the apprenticeship begins upon filing with the secretary, but that it also states that they may not begin working until they receive a certificate. Jennifer stated that the Board may want to consider allowing staff to approve these in instances where there are no issues so that people can begin their apprenticeships.

Bart moved to allow staff to approve the apprentice certificates, and have them be placed on the agenda following approval. The motion was seconded by Tammy and carried unanimously.

Todd moved to approve Phuong-Giao Le as an apprentice embalmer. The motion was seconded by Tammy and carried unanimously with Bart abstaining.

**7. Discussion, recommendation, and possible action regarding granting Reciprocal Embalmer License to Dale Lewis Lomason II (For possible action)**

Tammy moved to approve Dale Lewis Lomason II. The motion was seconded by Todd and carried unanimously with Bart abstaining.

**8. Discussion, recommendation, and possible action regarding granting a Funeral Director License to Lyle Meyer (For possible action)**

Jennifer stated that the applicant had stated that there were no prior convictions, but that the background investigation revealed a Class B Misdemeanor hunting violation. She stated that upon calling applicant and stating that the background check had revealed a violation, the applicant questioned whether she was referring to a prior DUI conviction which the background check had not revealed. She stated that the Board needed to make a determination on whether this impacted the moral character requirements.

Wayne asked if California had known of the DUI conviction when they granted his license, and she stated the applicant had indicated that California had obtained information on the conviction, but did not know whether Mr. Meyer had disclosed at the time of application in California.

Mr. Meyer was questioned about his answers on his applications and he stated that he was just checking the boxes and wasn't thinking about the convictions that occurred some time ago.

Todd moved to approve the funeral director license for Mr. Meyer. The motion did not have a second and failed.

There was discussion on granting a license and placing it on probation for a period of time.

Bart moved to grant the license and to place on a one year probation, reviewing again in 10 months. Tammy stated that she had serious concerns about non-disclosure on two separate applications. The motion did not receive a second and failed.

There was discussion on any limitations on reapplying, and Jennifer stated that she did not recall any restrictions on reapplying within NRS.

Tammy moved to request that the applicant reapply with all of the correct information in the application. The motion was seconded by Todd and carried unanimously.

**9. Discussion, recommendation, and possible action regarding granting Reciprocal Embalmer License to Lyle Meyer (For possible action)**

Jennifer stated that the same moral character requirement exists for this license, but that Mr. Meyer also does not meet the requirement within NRS 642.100(3) requiring

applicants to have actively practiced for the two years immediately preceding the application.

Tammy moved to deny the embalmer license. The motion was seconded by Todd and carried unanimously.

**10. Discussion, recommendation, and possible action regarding notices of name changes for funeral establishments owned by Walton's Inc. and Tammy Dermody (For possible action)**

Jennifer stated that in the past, the Board had required establishments desiring a name change to complete a new application. She stated that a name change seemed like something that should be approved by staff moving forward but that she desired confirmation.

Bart stated that he agreed with staff. He moved to allow staff to handle and approve any name changes moving forward. The motion was seconded by Todd and carried unanimously with Tammy abstaining.

**11. Discussion, recommendation, and possible action regarding recommendations for legislative changes to NRS 642 and NRS 451. This item may include updates and comments from members of the Legislative Subcommittee (For possible action)**

Jennifer reviewed the suggested language for changes. Tammy questioned the elimination of the license to conduct direct cremations and immediate burials which had been termed the "Limited Establishment" and whether there were concerns on that meaning this type of business was no longer regulated. Jennifer stated that she did have concerns on that possibility. There was further discussion and general consensus that the legislative subcommittee need to meet again to further discuss.

**12. Discussion, recommendation, and possible action regarding clarification of regulatory fee collection (For possible action)**

Jennifer stated that she reviewed the statute with legal counsel and they looked at the legislative history. She said the legislative history was clear that there would be instances where the \$10 fee could be charged for things other than cremation or burial, such as moving bodies out of state. She stated that disinterment was not specifically mentioned but stated that if the establishment collected for a disinterment, they would need to be certain that the fee had not previously been collected for that individual as the statute is clear that you may not charge more than once for each decedent.

**13. Discussion, recommendation, and possible action regarding funeral establishment inspection checklist (For possible action)**

Bart thanked Jennifer for the work on the checklist and moved to approve with any additions or corrections as needed. The motion was seconded by Tammy and carried unanimously.

**14. Overview of current complaint status**

Jennifer gave a brief overview of each complaint. There was discussion that one of the complaints involved photographing of a body, but that there were no laws regarding this practice. There was further discussion from Todd who stated that it is needed in many

instances for identification purposes, and there may be other considerations if there were going to be limitations.

**15. Discussion, recommendation, and possible action regarding Board attendance at the annual meeting of The Conference (For possible action)**

Jennifer stated that she had put into the budget for all Board members to attend the Conference, but was not sure how many were going to attend and whether the Board would like to have legal counsel and the investigator attend.

Todd moved to approve the investigator and legal counsel attending the meeting. The motion was seconded by Tammy and carried unanimously.

**16. Discussion, recommendation, and possible action regarding 90 day performance review for Executive Director (For possible action)**

Jennifer stated that the review had been compiled from the forms sent to chairman Fazzino. She indicated that Todd had not been able to offer input, so if he wanted to add any comments he could. Todd provided a score of 3 out of 4 for job knowledge and a 4 out of 4 for the remaining items.

Todd moved to approve the 90 day review. The motion was seconded by Bart and carried unanimously.

**17. Report from Board Treasurer**

- **Status of Board funds**
- **Status of regulatory fee collection to date**

Jennifer stated that Loretta was not able to attend the meeting, but provided the current banking balances.

**18. Report from Executive Director, Jennifer Kandt**

Jennifer overviewed her written report.

**19. Report from Senior Deputy Attorney General**

None.

**20. Board member comments**

Wayne stated that he knew the Board was in place to protect the public, but also questioned how the establishments are able to protect themselves from the public when they are lied to. Henna commented the Board can only act in terms of protection of the public. She also stated that all of the facts of the case are not known to the Board unless they have a hearing. The only facts the Board has access to are the ones agreed upon in the Consent Decree.

Bart asked about research into whether someone had to be a funeral director to make arrangements and Jennifer stated that would be an item discussed at the next legislative subcommittee meeting. Bart also stated that he was very impressed with the work that Jennifer has accomplished in a very short period of time, and said the Board is essentially starting over. He thanked her for the work on the inspection report.

Wendy apologized for being late. She also stated that felt Jennifer was doing an amazing job.

**21. Discussion regarding future agenda items and future meeting dates**

Meeting dates were decided for the following dates:

January 13<sup>th</sup> (Las Vegas)

April 14<sup>th</sup>

July 14<sup>th</sup> (North)

October 13<sup>th</sup>

**22. Public comment**

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**23. Adjournment (For possible action)**

Meeting adjourned at 11:05 a.m.