

NEVADA FUNERAL AND CEMETERY SERVICES BOARD

MINUTES OF MEETING

Tuesday, October 13, 2015, at 9:00a.m.

Video-Conference Locations:

Division of Employment Training and Rehabilitation
3405 S. Maryland Parkway, Main Conference Room
Las Vegas, Nevada

and

Division of Employment Training and Rehabilitation
1325 Corporate Blvd., Main Conference Room
Reno, Nevada

Please Note: The Board may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; and 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.030)

Public comment is welcomed by the Board, but at the discretion of the chair, may be limited to five minutes per person. A public comment time will be available before any action items are heard by the public body and then once again prior to adjournment of the meeting. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the commencement and conclusions of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment.

Action by the Board on an item may be to approve, deny, amend, or table.

1. Call to order, roll call, establish quorum

Members Present

Wayne Fazzino, Chair
Todd Noecker
Tammy Dermody
Loretta Guazzini
Bart Burton

Board Staff Present

Jennifer Kandt, Executive Director
Henna Rasul, Senior Deputy AG

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 minutes of meetings (For possible action)**
 - a) July 14, 2015
Tammy Dermody moved to approve the minutes. The motion was seconded by Loretta Guazzini and carried unanimously.

4. **Discussion, recommendation, and possible action regarding Consent Decrees for case number FB15-05 (For possible action)**
 - a) La Paloma Funeral Services LLC, Establishment Permit No. EST79
Bart Burton questioned whether the establishment had been required to provide a medical waste manifest to prove that they were utilizing a medical waste provider and were no longer cremating the waste. He stated that he wanted to make sure that there was follow up on the violations and that it wasn't a matter of fines being paid and then being able to continue the same practices. He said that he wants to make sure that they are using lids now and that they have a medical waste provider. Jennifer Kandt stated that there would be follow-up inspections to ensure compliance. Warren Hardy stated that they have now contracted with a disposal company and that they intend to follow the law.
Bart Burton moved to approve the Consent Decree. The motion was seconded by Tammy Dermody and carried unanimously.

 - b) Ryan Bowen, Funeral Director License No. FD810
Todd Noecker moved to approve the Consent Decree. The motion was seconded by Bart Burton and carried unanimously.

5. **Discussion, recommendation, and possible action regarding Consent Decrees for case number FB15-03 (For possible action)**
 - a) Lee Funeral Home, Establishment Permit No. EST2
Tammy Dermody moved to approve. The motion was seconded by Todd Noecker and carried unanimously with Loretta Guazzini and Bart Burton recusing as the licensee had spoken with Loretta Guazzini and Bart Barton had been consulted during the investigation.

 - b) Eric Jameson Lee, Funeral Director License No. FD611
Todd Noecker moved to approve. The motion was seconded by Tammy Dermody and carried unanimously with Loretta Guazzini and Bart Burton recusing as the licensee had spoken with Loretta Guazzini and Bart Barton had been consulted during the investigation.

6. **Discussion, recommendation, and possible action regarding granting Funeral Director License to Carlen Sue Blansett (For possible action)**

Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.

7. **Discussion, recommendation, and possible action regarding granting Funeral Director License to Celena Leal DiLullo (For possible action)**

Todd Noecker moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.

- 8. Discussion, recommendation, and possible action regarding granting Funeral Director License to Christopher Robert Folger (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously with Todd Noecker recusing as the applicant is an employee of the same company.
- 9. Discussion, recommendation, and possible action regarding granting Funeral Director License to Kyle Lamont Giddens (For possible action)**
Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously.
- 10. Discussion, recommendation, and possible action regarding granting Funeral Director License to Richard F. Glover (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously.
- 11. Discussion, recommendation, and possible action regarding granting Funeral Director License to David F. Holt (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- 12. Discussion, recommendation, and possible action regarding granting a Funeral Director License to John A. Horton (For possible action)**
Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- 13. Discussion, recommendation, and possible action regarding granting a Funeral Arranger License to Kimberly Ann Ireland-Oliver (For possible action)**
Tammy Dermody moved to approve with an effective date of January 1, 2016. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- 14. Discussion, recommendation, and possible action regarding granting Funeral Director License to Ernest E. Martinez (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously.
- 15. Discussion, recommendation, and possible action regarding granting Reciprocal Embalmer License to Ernest E. Martinez (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously.
- 16. Discussion, recommendation, and possible action regarding granting a Funeral Director License to Angela Mercer (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously.

- 17. Discussion, recommendation, and possible action regarding granting a Funeral Director License to Denice Portillo (For possible action)**
Todd Noecker moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Tammy Dermody recusing as the applicant is an employee of the same company.
- 18. Discussion, recommendation, and possible action regarding granting a Funeral Director License to Tamar Rae Robinson (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- 19. Discussion, recommendation, and possible action regarding granting a Funeral Director License to Marlene Jennett Shier (For possible action)**
Loretta Guazzini moved to approve. The motion was seconded by Tammy Dermody and carried unanimously.
- 20. Discussion, recommendation, and possible action regarding request for approval of new managing Funeral Director (For possible action)**
- a) Cremation Society of Nevada – Affinity – Richard T. Hearn
Loretta Guazzini moved to approve. The motion was seconded by Todd Noecker and carried unanimously with Tammy Dermody recusing as the applicant is an employee of the same company.
- b) Cremation Society of Nevada – John Sparks – Richard T. Hearn
Loretta Guazzini moved to approve. The motion was seconded by Todd Noecker and carried unanimously with Tammy Dermody recusing as the applicant is an employee of the same company.
- c) Cremation Society of Nevada – Northern Nevada – Richard T. Hearn
Loretta Guazzini moved to approve. The motion was seconded by Bart Burton and carried unanimously with Tammy Dermody recusing as the applicant is an employee of the same company.
- d) National Cremation Service – Jaye MacPherson
Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- e) Neptune Society - Reno – Tamar Robinson
Todd Noecker moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously with Bart Burton recusing as the applicant is an employee of the same company.
- f) Sonoma Funeral Home – Marlene J. Shier
Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously.
- g) Sunrise Cremation – Kristen Anderson
Tammy Dermody moved to approve. The motion was seconded by Loretta Guazzini and carried unanimously.

21. Discussion, recommendation, and possible action regarding review of the following crematory operator certification course (For possible action)

a) Thermtec

Jennifer Kandt stated that Thermtec had revised their manufacturer training and was requesting approval of their course under the Board's temporary approval guidelines.

There was discussion regarding a manufacturer training having different content than the courses offered by national organizations such as CANA and NFDA. Tammy Dermody stated that she would like to see the manufacturer training approved.

Tammy moved to approve the course. There was no second and the motion failed. No action was taken.

22. Discussion, recommendation, and possible action regarding approval of Board refund policy (For possible action)

Tammy Dermody moved to approve the refund policy presented. The motion was seconded by Loretta Guazzini and carried unanimously.

23. Discussion, recommendation, and possible action regarding changes to NAC 642 and NAC 451 (For possible action)

Jennifer stated that the regulation changes that had been approved at the last Board meeting had been sent to LCB and returned as file number R067-15. She stated that there were still issues with the transportation sections as LCB stated that the Board could not revise the sections that had been implemented by the State Board of Health in 1966 and that the Board would have to look at working with the State Board of Health to revise those sections. There was further discussion that the current transportation section within NAC642 needed revision and there were comments that there would be a difference regarding transportation within the state versus transportation out of the state. Todd stated that he could work with Jennifer on reviewing language.

There was discussion on the moral character section and whether the Board would like to keep a policy regarding moral character which would potentially give them more authority, or if they wanted to keep the proposed language in regulation and possibly add language stating that the Board reserves all rights in reviewing moral character. There was general consensus that the Board keep the proposed language in the regulation but add a discretionary clause.

There was discussion on the applications being expired after 3 years if they are not complete. There was general consensus that was too long of a time frame and agreement that 2 years would be more than sufficient time.

There was discussion on defining "physically operating" the crematory equipment and Loretta stated that the language should be reversed for starting the equipment first, then loading. Bart stated that this section should include the initial processing and packaging of the remains.

James Smolenski stated that he thought that section 31 needed to be changed to make clear that the actual collection of the payments need not be done by a licensed individual. There was discussion on changing the language to simply be negotiating the financial arrangements. James Smolenski also stated that he was unclear on the fees and Jennifer explained that all of the fees were being removed from the regulation as legal had advised that the fees are in statute and the language is not permissive.

Tamara Burkey stated that she wanted clarification item section 34, item e. She stated that Neptune does not do the actual viewings as those are done with funeral establishments, but

stated that they do make arrangements for the ID viewing and that she felt the families have a right to an ID viewing.

Bart Burton stated that the intent of this section is to require that viewings be arranged through full service funeral establishments. He stated that viewings with embalming would also have to be arranged through a funeral establishment.

Tamara Burkey stated that they do not have embalming on their GPL, so they send them over to a funeral establishment to make arrangements for that service.

Gerald Hitchcock stated that it was important to note that there was a difference between ID viewing and an actual viewing, and that a definition of a viewing versus an ID viewing would be needed.

Tamara Burkey asked if this language was stating that they could no longer charge for an ID viewing.

Loretta stated that based on the language they would not be able to sell an ID viewing, and that families would need to understand that they are buying a direct cremation through that location and any other items they would want to purchase would be done with the funeral establishment. She also stated that the individuals have already been identified by the coroner or hospital or medical examiner, and they need to understand that they are choosing a direct cremation.

Tamara stated that the language be amended to make it clear that the identification is done at another location which is fully licensed, but the direct cremation facility can arrange for the ID viewing. She stated that they rely on third parties for many other things including placement of remains in containers. She also said that she felt it was a right of families to have an ID viewing.

Bart Burton stated that the families can have an ID viewing, but the arrangements must be made with the full service funeral establishment.

There was discussion that at least one workshop and hearing would be held prior to adoption of the regulations, so there is still more time to make changes and adjustments as needed.

Warren Hardy stated that one of the considerations that they would like to see if for there to be a grace period upon hiring of 60 to 90 days for new funeral arranger hires to become licensed as long as they are working under the direct supervision of a licensed funeral director.

Loretta Guazzini stated that the Board should maybe even consider a six month time period to get licensed.

Jennifer stated that she would look into that, but that there may be an issue since you would be allowing unlicensed practice for a period of time.

James Smolenski state that he felt a definition of setting features was needed for section 33 as there are some things that are done immediately upon removal and that licensed embalmers are not doing removals.

There was discussion on whether the setting of features should be removed from the section or defined. Loretta said she would like to see it taken out as she does the setting of features at her location. There was further discussion that perhaps the language could change to state

“mechanical” setting of features which would require devices or suturing would require a licensed embalmer.

There was discussion of the requirement that pacemakers be removed by licensed embalmers under section 33 F and Loretta Guazzini stated that she does her own removal of pacemakers. Bart Burton stated that an incision in made in that body and he felt that only a licensed embalmer should be making incisions in the body and that only licensed embalmers should be suturing a body. Todd Noecker stated that none of his locations remove pacemakers at the crematory and that is all done in the prep room. Gerald Hitchcock stated that removal of pacemakers was not something learned in mortuary school and that he would have concerns that the stand alone crematories would then no double check that the pacemaker had been removed. Loretta stated that she would like to see that requirement removed.

There was discussion on the disclosure requirements for direct cremation facilities in terms of at-need versus pre-need. Tammy Dermody clarified that pre-need sales are not under the authority of this Board and it is regulated by the Division of Insurance.

There was further discussion on defining an ID viewing. Loretta Guazzini stated that she felt it was important that it state one or two people as opposed to a room full of people. Bart stated that he did not feel the Board should be telling businesses the specifics of an ID viewing and that the facility should decide that for themselves. He stated that it would be more appropriate for the Board to define an ID viewing more generally as a brief viewing of the body for the purpose of identifying the human remains.

Jenifer stated that it appeared there was still some items needing further discussion and that she would make sure the regulation workshop is coordinated with the next meeting. She stated that the regulation workshop has longer notice requirements and is an opportunity for public to further comment.

24. Financial Reports

- a) Regulatory Fee Collection
- b) FY2016 Budget vs. Actuals

The regulatory fee collection report and budget report were presented.

25. Overview of current complaint status

Jennifer provided an overview of the current complaint status as detailed in the written report.

26. Report from Executive Director, Jennifer Kandt

Jennifer reviewed her written report.

27. Report from Senior Deputy Attorney General

No report was given.

28. Board member comments

29. Discussion regarding future agenda items and future meeting dates

Next meeting was scheduled for December 15th to accommodate individuals trying to become licensed prior to January 1, 2016.

30. Public comment

Warren Hardy stated that he felt it was inappropriate for the Board to allow for public comment on one item and not others. Henna stated that public comment during agenda items is at the

discretion of the chair and that since regulations were being discussed, he decided to allow the public comment during that agenda item.

Warren Hardy stated that he would have made his public comment at the beginning of the meeting if he had known that the chair was not going to allow during the agenda item. He also stated that he had previously asked for an agenda item specific to allowing manufacturer trainings and that it was not on the agenda. Jennifer Kandt stated that her understanding after conversations with Mr. Hardy was that since the specific Thermtec item was on the agenda, he did not want a separate agenda item on that matter. Warren Hardy asked what the status of the item was since no action was taken on the matter. Todd Noecker stated that perhaps more information was needed for the Board to make a decision on the course and that if they could provide more details the Board could consider the issue at a later date.

<p>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)</p>
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31. Adjournment (For possible action)

Meeting was adjourned at 11:45 a.m.