



STATE OF NEVADA
FUNERAL AND CEMETERY SERVICES BOARD

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MINUTES

Wednesday, February 5, 2020, at 10:00 a.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

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

The meeting was called to order at 10:00 am

Board Members Present

Dr. Randy Sharp, Chairman
Loretta Guazzini, Treasurer
Bart Burton
Brian Rebman
Christopher Naylor
Adam Garcia

Board Staff Present

Jennifer Kandt, Executive Director
Marie Paakkari, Administrative Assistant

Board Counsel Present

Henna Rasul, Senior Deputy Attorney General

Jennifer Kandt stated that she was notified that a new appointment had been made to the Board by the Governor's office and the new Board member is Gerald Hitchcock, but she stated she was not sure if he has had time to submit all the paperwork required.

Gerald Hitchcock was not present at the meeting.

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)

There was no public comment.

3. Discussion, recommendation, and possible action regarding review and approval of minutes of meetings (For possible action)

a. November 14, 2019

MOTION: LORRETTA GUAZZINI MOVED TO APPROVE THE NOVEMBER 14, 2019 MINUTES. DR. RANDY SHARP SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

4. Discussion, recommendation, and possible action regarding election of new Board Secretary (For possible action)

Jennifer Kandt stated that Tammy Dermody resigned after selling her funeral homes. Tammy Dermody served as Board Secretary. There is a list of duties that would be required of the Secretary. The Secretary would be responsible to record the meetings of the Board, however staff prepares the minutes. Keeping a listing of all the licensees as well as having the Secretary signature on all the licenses that are issued. This renewal period, many licenses went out without a Secretary signature since the Board did not have one as Tammy Dermody resigned. To avoid holding up the process the licenses were sent out without a Secretary signature on them.

There was discussion regarding the appointment for a new Board Secretary and the Board agreed to nominate Brian Rebman as the new Board Secretary.

MOTION: BART BURTON MOVED TO APPOINT BRIAN REBMAN AS THE NEW BOARD SECRETARY. CHRISTOPHER NAYLOR SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

5. Discussion, recommendation, and possible action regarding disciplinary hearing on Complaint and Notice of Hearing in the Matter of Andrew Joyce for failure to comply with terms of consent decree in case No. FB19-04 (For possible action)

Jennifer Kandt stated that this comes before the Board as a result of an original consent decree regarding case no. FB19-04. The individual was required to complete continuing education and failed to complete the required continuing education. A letter was sent reminding them of their requirement and the Board did not receive any proof of attending continuing education. A subsequent letter was sent noticing them of the hearing and there was not a response. Jennifer Kandt recommended that the Board Chairman enter these documents into evidence. Jennifer Kandt stated that the individual was not present at the meeting, however, the decision could be appealable in District court.

Henna Rasul, Senior Deputy Attorney General stated that having Dr. Randy Sharp, Board Chairman enter the documents that are noted in Agenda Item No. 5 would be a good idea.

Dr. Randy Sharp, Board Chairman submitted the consent decree and the two letters regarding case no. FB19-04 into evidence.

Henna Rasul, Senior Deputy Attorney General stated since Mr. Joyce was not present at the meeting and his testimony could not be heard, the Board would base their determination from the documents in support of the alleged violation. According to the consent decree on page 6, it allows the Board to take further disciplinary action. The Board could do a suspension, which is less than one year, or a revocation which is one to ten years.

Jennifer Kandt stated that she would recommend that the Board revoke the licenses for a two-year period. He would be eligible to reapply after two years. It is Ms. Kandt's understanding that the individual is currently under investigation by multiple agencies and she is not sure if he will want to reapply.

Lorretta Guazzini asked about the prior background check.

Jennifer Kandt stated that a background check was performed, but the charge did not appear on that background check. A subsequent background was done when he applied for another license and the charge appeared. It was viewed as a late report to that reporting agency and it had not been reported to them. He never disclosed it to the Board which was the reason for the original consent decree.

Dr. Randy Sharp asked if there were multiple issues.

Jennifer Kandt stated that the only thing that is in question at this hearing is his failure to comply with the continuing education requirements from the original consent decree. He has failed to respond to other items that were sent to him, but that is not at issue at this hearing. The issue at this hearing is his failure to comply with the continuing education requirements in the original consent decree.

Henna Rasul, Senior Deputy Attorney General stated that the issue is failure to comply with the consent decree regardless of the term. Determination is based on if the supporting documentation was sufficient enough to determine that he in fact did not fulfill the continuing education requirements that are in the consent decree. The first motion would be regarding his failure to comply with the terms of the consent decree and the second motion would be regarding what action will be taken.

Lorretta Guazzini asked Jennifer Kandt what her recommendation would be.

Jennifer Kandt reiterated that she would revoke the license for two-years and let him reapply after two-years if he wanted to. He has not renewed his licenses as of this date. If he were to come back after the two-year period, the order should also state that he has to comply with the terms of the original consent decree.

Henna Rasul, Senior Deputy Attorney General asked if he was currently licensed.

Jennifer Kandt stated that he was currently licensed but pending renewal.

Brian Rebman stated that he believes that there is enough sufficient evidence to support the claim that he did not comply with the terms of the original consent decree.

MOTION: BRIAN REBMAN MOVED THAT THERE IS ENOUGH SUFFICIENT EVIDENCE TO SUPPORT THE CLAIM THAT ANDREW JOYCE DID NOT COMPLY WITH THE TERMS OF THE ORIGINAL CONSENT DECREE REGARDING CASE NO. FB19-04. LORRETTA GUAZZINI SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

Henna Rasul, Senior Deputy Attorney General stated that the next motion would be to consider what discipline the Board would like to pursue. The Board can take the suggestion of Ms. Kandt's recommendations or add anything further pursuant to the Statute outlined in NRS 642.5176.

Dr. Randy Sharp stated that since this is a precedent being set to keep in mind that if the Board would be willing to do the same or similar actions on subsequent persons who would fail to complete their continuing education.

Henna Rasul, Senior Deputy Attorney General stated that only if it were a requirement in their consent decree because this was a term in his consent decree that he did not meet.

Jennifer Kandt stated to clarify, this is not about him not providing the annual continuing education, this was required because he was disciplined by the Board and after the discipline failed to follow through with what was required.

Lorretta Guazzini stated that she felt that his license should be suspended for two-years and set the precedent for that.

Henna Rasul, Senior Deputy Attorney General stated that anything over one-year would be a revocation not a suspension.

Brian Rebman stated that it is clear that he has not met the terms of the consent decree.

MOTION: BRIAN REBMAN MOVED TO REVOKE ANDREW JOYCE'S FUNERAL DIRECTOR LICENSE NO. FD938 AND HIS EMBALMER LICENSE NO. EMB870R FOR TWO-YEARS FOR FAILURE TO COMPLY WITH THE TERMS OF THE CONSENT DECREE REGARDING CASE NO. FB19-04 AND IF HE REAPPLIES FOR LICENSURE AFTER TWO-YEARS, HE WILL BE

REQUIRED TO COMPLY WITH THE TERMS OF THE ORIGINAL CONSENT DECREE. LORRETTA GUAZZINI SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

6. Discussion, recommendation, and possible action regarding consent decrees for case number FB19-07 and FB19-10 (For possible action)

a. James Lee, FD69

Lorretta Guazzini asked if Mr. Lee gave any reason for the bodies being held up for over a year.

Jennifer Kandt stated that when a 233B violation letter is sent there is a response that is provided by the funeral home and the managing funeral director. Those are documents that would be provided if the case went to hearing and the consent decree is a settlement and those documents are maintained as confidential. In terms of Social Service cases many funeral homes report that it takes extended periods of time to handle those cases. Social Services would probably state otherwise, but that is the general perspective in the funeral industry.

Lorretta Guazzini stated that in her County, when they have a social service case, she usually goes to the Public Administrator and they try to find the next of kin. In the event that they are unable to locate someone, then the Public Administrator is the one who signs for the cremation authorization. Sometimes that takes a while because they want to make sure that they have gone down all the avenues and that they have not missed someone that is a next of kin.

Jennifer Kandt stated that what is presented is a combination of two separate complaints, they were joined into one consent decree because they are essentially the same subject matter. One had to do with information reported to the Board from Social Services about them being removed from the contract. The second one was the Board inspector going to the location and finding violations.

Brian Rebman asked about the location not being maintained in a sanitary and professional manner. He did not see anything stated in the stipulated adjudication regarding responding to that part of the complaint.

Jennifer Kandt stated that there are two different items, the settlement for James Lee's funeral director license which is being discussed now and the settlement for Hites Funeral Home and Crematories. What is being discussed now a fine for Mr. Lee and his license being suspended for six-months and an additional year of probation. The location has different requirements in their consent decree.

MOTION: ADAM GARCIA MOVED TO ACCEPT THE CONSENT DECREE FOR JAMES LEE REGARDING CASE NOS. FB19-07 AND FB19-10 AS WRITTEN. DR. RANDY SHARP SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

b. Hites Funeral Home and Crematory EST51, CRE104, CRE17

Jennifer Kandt stated that as part of the consent decree terms, a plan of action was required and presented to the Board for review. The motion would need to include the acceptance of the plan of action.

Eric Lee representing Hites Funeral Home stated that his father apologizes for not being able to attend the Board meeting today. Mr. Lee asked since his father's license is being suspended for six months and he is the current managing funeral director for the location, he would like to put his license as the managing funeral director for Hites Funeral Home.

Jennifer Kandt stated that if the consent decree is approved, they will be required to state today who their new managing funeral director is going to be.

Bart Burton asked if Hites was doing the Social Service cases.

Eric Lee stated that they were not doing Social Service cases.

Bart Burton asked who was handling those cases in Southern Nevada.

Eric Lee stated that they were informed by Clark County Social services that the only entities that handle their cases is Davis Funeral Home, Bunker's Mortuary and La Paloma Funeral Services.

Lorretta Guazzini stated as the consent decree is written, the Board would not be suspending their establishment or crematory permits, they would just be on probation for the next three years and are required to follow the stipulated adjudication.

Henna Rasul, Senior Deputy Attorney General stated that was correct.

Jennifer Kandt stated for clarification, there is a suspension and the suspension is stayed in lieu of the three-year probation along with the monthly inspections for six months of the probation and every six months for the remainder of that probation.

Lorretta Guazzini stated that the stipulated adjudication seemed lenient.

Dr. Randy Sharp asked Eric Lee if he could explain the SRS, and how it applies to what is being discussed.

Eric Lee stated that the software will let everyone in their funeral home have access to, see the second page of Exhibit D, under the Phoenix crematory section, bar code technology. That will be another way for them to track their clients that are in their care and everyone in the funeral home will know where the clients are and what part of the process, they are in. That is one of the reasons why they are getting that software, so that they have better accountability as to where their clients are at any moment in time.

Dr. Randy Sharp stated that there was a concern that was brought forward regarding staying the suspension for six months and in place putting the facility on probation for three years.

Bart Burton stated for clarification this consent decree is for the establishment the individual has already been discussed.

Henna Rasul stated correct, also in line with the suspension being stayed, see paragraph six on page eight which will be triggered in the event that any of the terms are violated.

Jennifer Kandt stated that the Board does have some precedence for these cases, several years ago there was several funeral homes in Southern Nevada that had a problem with Social Services which Vital Records reported to the Board indicating that the funeral homes had bodies in their care for extended periods of time. The Board did something similar in terms of the monthly inspection. This case is more severe because of the number of cases and because some of the cleanliness issues which is why there is a three-year probation and a six-month suspension of the funeral director's license.

Henna Rasul stated for clarification, the stay of suspension is for the establishment and not the funeral director license.

Dr. Randy Sharp asked Eric Lee if the cleanliness issues have been addressed or if it was still in process.

Eric Lee stated that the cleanliness issues have been addressed.

MOTION: BART BURTON MOVED TO ACCEPT THE CONSENT DECREE AND PLAN OF ACTION FOR FB19-07 AND FB19-10 ESTABLISHMENT PERMIT NO. EST51 AND CREMATORY LICENSE NO. CRE104 AND CRE17 AS STIPULATED. CHRISTOPHER NAYLOR SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

7. **Discussion, recommendation, and possible action regarding approval of funeral establishment permit applications for the following locations (For possible action):**
 - a. Truckee Meadows Cremation & Burial - Sparks, 1260 Greg Street, Sparks, NV 89431

MOTION: LORRETTA GUAZZINI MOVED TO APPROVE THE FUNERAL ESTABLISHMENT PERMIT APPLICATION FOR TRUCKEE MEADOWS CREMATION & BURIAL-SPARKS. ADAM GARCIA SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

- b. Walton's Funerals & Cremations, 1521 Church Street, Gardnerville, NV 89410 with Denice Portillo Carpenter FD806 as managing funeral director;
- c. Walton's Funerals & Cremations, 1281 North Roop Street, Carson City, NV 89706 with Denice Portillo Carpenter FD806 as managing funeral director;
- d. Cremation Society of Nevada – Capitol City, 1614 North Curry Street, Carson City, NV 89703 with Denice Portillo Carpenter FD806 as managing funeral director;
- e. Walton's Funerals & Cremations – O'Brien-Rogers & Crosby, 600 West Second Street, Reno, NV 89503 with Blake Howe FD622 as managing funeral director;
- f. Walton's Funerals & Cremations – Sierra Chapel, 875 West Second Street, Reno, NV 89503 with Blake Howe FD622 as managing funeral director;
- g. Walton's Funerals & Cremations – Sparks, 1745 Sullivan Lane, Sparks, NV 89431 with Ted Williams as managing funeral director;
- h. Cremation Society of Nevada – Affinity, 644 South Wells Avenue, Reno, NV 89502 with Kenneth Bowman FD806 as managing funeral director;
- i. Walton's Funerals & Cremations – Ross, Burke & Knobel, 2155 Kietzke Lane, Reno, NV 89502 with Mike Ficke FD928 as managing funeral director;
- j. Cremation Society of Nevada – John Sparks, 644 Pyramid Way, Sparks, NV 89431 with Mike Ficke FD928 as managing funeral director;
- k. Cremation Society of Nevada – Northern Nevada, 8056 South Virginia Street #3, Reno, NV 89511 with Mike Ficke FD 928 as managing funeral director;

Jennifer Kandt stated that the above-referenced locations were purchased by a new entity and that they were existing locations that have transferred ownership.

MOTION: LORRETTA GUAZZINI MOVED TO APPROVE THE WALTON'S FUNERALS & CREMATIONS AND CREMATION SOCIETY OF NEVADA FUNERAL ESTABLISHMENT PERMIT APPLICATIONS FOR ITEM 7(b) THROUGH (k). ADAM GARCIA SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

8. **Discussion, recommendation, and possible action regarding approval of crematory license applications for the following locations (For possible action):**
 - a. Sierra Crematory Carson City, 1281 N. Roop Street, Carson City, NV 89706
 - b. Sierra Crematory Reno, 228 Vine Street, Reno, NV 89503

MOTION: LORRETTA GUAZZINI MOVED TO APPROVE THE CREMATORY LICENSE APPLICATIONS FOR SIERRA CREMATORY CARSON CITY AND SIERRA CREMATORY RENO. DR. RANDY SHARP SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

9. **Discussion, recommendation, and possible action regarding approval of cemetery certificate of authority applications for the following locations (For possible action):**
 - a. Walton's Carson Gardens Cemetery, 1281 North Roop Street, Carson City, NV 89706

Jennifer Kandt stated that the change of ownership acquisition has already been approved by the Division of Insurance.

MOTION: LORRETTA GUAZZINI MOVED TO APPROVE THE CEMETERY CERTIFICATE OF AUTHORITY APPLICATION FOR WALTON'S CARSON GARDENS CEMETERY. ADAM GARCIA SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

10. Discussion, recommendation, and possible action regarding model internship program adoption for Nevada (For possible action)

Jennifer Kandt stated that in this agenda item has been discussed in the past. Ms. Kandt stated that she worked with the National Board on model internship program for the nation. She stated that NRS 642.240 already allows the Board to utilize whatever form necessary for the embalmer internship. The form currently used simply has the number of cases performed and then signed off by the preceptor. The proposed form asks for more information and detail on the cases. She

The first request would be to approve the proposed reporting form to be used for the Board embalmer internships.

The second request would be to approve looking further into exploring a supervisor training program to make available as continuing education. There is no requirement in statute for supervisors to take such a program, but she stated that her and Bart discussed that such a program would be valuable if made available.

The third item would be to explore any regulatory or legislative changes that would be needed to implement preceptor requirements and forms. These would be used for the arrangers prior to them becoming licensed as funeral directors. Currently the requirement is one-year licensed as a funeral arranger then they can become a funeral director. The Board should consider what changes that may be put in place to state that there might be forms that are required or things that might be required prior to seeking licensure as a director.

Dr. Randy Sharp stated that from an outsider looking in, it would be worthwhile. As well as the idea of having approved supervisor training guidelines because all supervisors may not train the same way and if there is a minimum set of requirements, as a consumer he would feel better about that. Knowing that the trainee or the intern is being trained in a certain way and they are all receiving the equivalent training whether they are in a rural area or in one of the big towns.

Brian Rebman stated that he has a question regarding the training program. If something like that was explored would that be self-sustaining, does it become an additional expense to the Funeral Board or is that expense taken care of from individuals attending the class, how will this training be funded.

Jennifer Kandt stated that there will probably be a huge up-front cost to develop that training and research would be required to look at what different companies offer in terms of an up-front fee to develop the course or could there be a charge for attendance. She said it might vary between the different companies. She stated that reserves could be utilized to develop this training and made available on the Board website. The Board could potentially charge \$75 which is what the Board is allowed to charge for administrative service fee. If the Board likes the idea, then more options would be presented to the Board for review. In reference to the training program guidelines, there are probably a lot of people that would just like the information, even if they were not supervisors and would appreciate a course that covered all of these items.

Brian Rebman asked if other states offered similar training.

Jennifer Kandt stated that there are other states that offer or even require supervisor training programs.

Brian Rebman stated if it would be appropriate to put into statute, that if you want to become a managing funeral director this training program would be required.

Jennifer Kandt stated that it could be appropriate, but there should be caution until the Board has a training program available. It would be better to create the training program and have it available, then later if the Board felt that the program was great, and the Board thought that anyone who is a managing funeral director should be required to take this course, that can be added into regulation later.

Brain Rebman asked for further information regarding Ms. Kandt's experience working with the national group on the model internship committee.

Jennifer Kandt stated that there was a group of approximately seven, funeral directors, embalmers, executives of Boards, persons with educational background from mortuary schools. They discussed an ideal training program for funeral directors and embalmers. Most states have some form of internship requirement for embalmers and funeral directors. Supervisors of interns typically need a great deal of information. They need to know local and state rules and regulations regarding their license limitations and restrictions. They need to know vital statistics laws and records. They need to know all the federal laws, rules and regulations in terms of the Federal Trade Commission Funeral Rule. They need to know things about OSHA, Social Security Administration benefits to help people as well as Veterans Administration benefits and Americans with Disabilities Act as well as EPA guidelines. She stated that there are additional considerations for supervisors regarding confidentiality, dual relationships, unemployment laws, etc. Because of the variety of the required knowledge, a training course might be warranted.

Jennifer Kandt thanked Bart Burton for his assistance regarding the training issue.

MOTION: BART BURTON MOVED TO APPROVE THE EMBALMER REPORTING FORM IN ACCORDANCE WITH NRS 642.240 AND THE BOARD EXECUTIVE DIRECTOR TO EXPLORE MORE INFORMATION ABOUT THE SUPERVISOR TRAINING PROGRAM FROM THE DIFFERENT TRAINING COMPANIES TO GET A BETTER IDEA OF COST AND WHAT THEY CAN AND CANNOT DO AND TO EXPLORE THE NEED FOR REGULATORY LEGISLATIVE CHANGES TO IMPLEMENT PRECEPTOR REQUIREMENTS AND FORMS FOR THE ARRANGERS PRIOR TO LICENSURE AS A DIRECTOR. BRIAN REBMAN SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

11. Discussion, recommendation, and possible action regarding salary studies for neighboring states (For possible action)

Jennifer Kandt stated that Adam Garcia requested research on comparable salaries for the Board staff members within neighboring states and the information was provided. She also provided the salary ranges provided by the Governor's audit. She stated that she was not requesting an increase but was simply providing the information as requested.

Dr. Randy Sharp stated that there was discussion previously regarding adjusting the high end of the salary for the position.

Lorretta Guazzini stated that she had previously thought Jennifer's salary would have been on the high end, but in looking at other boards, she appears to be on the lower end and she would want to make sure she is fairly compensated as other boards might want her.

Jennifer Kandt expressed that she was not requesting a raise. Ms. Kandt stated that several attorneys and executive directors of Nevada boards had to adjust their salaries as they were making more than the Governor and there is a statute that states that no one in state government can make more than 95% of the Governor's salary without special legislation. So, some of those boards had to decrease their salaries down to \$135,000 level. She stated that her salary was nowhere near that amount, so that was not a consideration.

Adam Garcia stated as he recalls, he asked for this evaluation to look at possible salary adjustments. Mr. Garcia stated that he believes that this may be something that can be held until the next evaluation period which is in a few months.

12. Discussion, recommendation, and possible action regarding fingerprint process (For possible action)

Jennifer Kandt stated that she wanted to thank Adam Garcia for his help regarding this matter. Mr. Garcia reached out to DPS and got more clarity on what the Board can and cannot do in regards to fingerprint authority. One of the things that was discussed is that the Board has the ability to do a State only fingerprint check on a form that would be completed which is attached review. Jennifer stated that the Board cannot do the FBI checks without legislation and that there may be legislation for all Boards next session due to an issue with a recent bill. Ms. Kandt stated that she did speak with a contact within the Governor's office that Mr. Garcia referred her to, and they are aware of the issue and they will contact her if there is anything they want the Board to do further. Ms. Kandt recommended that the Board continue to do the online background checks currently being done and then add the Nevada portion. She stated that if the Nevada only check is added, application fees would need to decrease by \$27 to account for the fee the applicant would pay for the check. Ms. Kandt stated that the Board should also be prepared to issue the licenses without the results of this background check, otherwise we will keep people waiting for quite some time.

Dr. Randy Sharp asked if Ms. Kandt was suggesting that licenses being issued prior to the results because of the 45-day processing time.

Jennifer Kandt stated correct.

Dr. Randy Sharp asked if she did not foresee people being able to anticipate that they need 45 days to apply before.

Jennifer Kandt stated that there are situations where funeral homes express a great deal of urgency as their entire business can be held up. She said that the Board could also tell the applicant to submit their fingerprints prior to testing so the timeframe is shorter.

Dr. Randy Sharp asked how long the testing takes.

Jennifer Kandt stated that it was usually less than ten days.

Dr. Randy Sharp asked if they get the results immediately.

Jennifer Kandt stated that yes, the scores come electronically from The Conference.

Adam Garcia stated either way there are issues, because the DPS background is limited to Nevada. Using a private company would provide information that is in the public domain which would not include information the FBI would have or DPS. Either way there is an issue until we are able to work with the legislature to change the law. Mr. Garcia stated that his recommendation because he has trust in DPS is that the Board move to the fingerprint process through DPS for now and hope that in the next legislative session the issue will be ironed out. Mr. Garcia stated that he was told that the Governor's office is working on changes as there is something that is affecting all Boards.

Dr. Randy Sharp stated that if we move forward with DPS it sounds like the other thing that needs to be discussed is whether we want to issue licenses prior to the 45 days when we get the results of the fingerprinting. As well as the application fee being reduced.

Jennifer Kandt stated that if the Board is going to move forward, there are processes that will be required to be changed and all of the application forms.

Dr. Randy Sharp asked what the global impact would be as far as changing application forms and application fees.

Jennifer Kandt stated that the forms outlining the process for seeking licensure would need to change and all of the application forms. It is not anything complicated, just time consuming. Then advising applicants whether they have to wait for the fingerprinting to come back or whether the Board will process and approve pending results.

Dr. Randy Sharp stated that the Board could issue licenses pending fingerprint results and take appropriate action if things came back that were not good.

Jennifer Kandt stated that the Board could still do the online check currently done, issue the license and wait for the results of the Nevada check and if something came up then possibly revoke or discipline the license. Alternative is to wait the 45 days for licensure.

Dr. Randy Sharp stated that as a non-affiliate he would feel more secure if he knew that the people in place had gone through the fingerprint process and background checks.

Adam Garcia moved that the Board utilize DPS for fingerprinting in Nevada and continue to use the private site with the understanding that when we get the results they would be approved.

Dr. Randy Sharp stated that sounds reasonable to him based on what has been discussed that sometimes there is an immediate need.

Bart Burton stated that he agrees with Mr. Garcia, but he believes that the Board also needs to address the \$375 fee will then go down to \$348 and the \$27 for the fingerprint processing would make it \$375.

Jennifer Kandt stated that the background check would be part of the application. Ms. Kandt stated that she was not clear on what Mr. Garcia stated, if the Board was going to wait for the fingerprint report to come back or wanting us to issue the license and then see what happens.

There was extensive discussion on the benefits of allowing licensure prior to the results coming back and a request for legal counsel to discuss any problems with the process.

Henna Rasul stated that most boards do issue a license prior to results being received and if something comes up in the record it would be depending on the severity or misrepresentation. The executive director would probably look into that to see whether or not it was an oversight or intentional. If it seems more likely than not that they had knowledge of their background and the criminal information that they failed to provide, the recourse would be disciplinary action for obtaining licensure by fraud which is typically what happens.

Christopher Naylor stated that he knows that agencies within the State of Nevada do fingerprinting and hire prior to getting results and does not see why this would be an issue either.

MOTION: ADAM GARCIA MOVED TO USE DPS FINGERPRINT SERVICES AS WELL AS THE PRIVATE FIRM THAT IS CURRENTLY USED FOR BACKGROUND CHECKS, THE APPLICANT RECEIVE CONDITIONAL APPROVAL PRIOR TO THE FINGERPRINT CHECK BEING COMPLETED AND THAT THE APPLICATION FEE BE REDUCED TO INCLUDE THE FINGERPRINT CHECK FEE. BART BURTON SECONDED THE MOTION AND THE MOTION WAS CARRIED UNANIMOUSLY.

13. Discussion, recommendation, and possible action regarding creation of subcommittee to review issues with coroner rotations and possible legislative changes (For possible action)

Jennifer Kandt stated that this issue came as a result of some of the funeral homes complaining that the funeral homes on rotation are doing pickups for other funeral homes that are not answering their phones in the middle of the night or they don't do pickups in the middle of the night. The funeral home does the removal, then the next day the funeral home that would have had that case comes to pick up that decedent. The funeral home which did the removal is then not compensated for doing the

removal. Ms. Kandt stated that she has had some discussions with the Clark County Coroner and Mr. Rebman regarding this issue and Mr. Rebman requested the Board discuss to see if there was a way to address the issue. It has been brought up that perhaps this is an unethical practice. Ms. Kandt stated that she is not sure if the Board can tell a funeral home that they have to answer their phone twenty-four hours a day. Then there was also discussion on perhaps there could be legislation to require that the funeral home that did the initial removal could get compensated for that somehow. Ms. Kandt stated if that is where this is going to go, then it is probably an industry issue in terms of the payment portion just because the Board is charged with protecting the public and not ensuring funeral homes get paid.

Mr. Burton asked if it was the coroners rotation that Mr. Rebman is having an issue with or a funeral home taking a first call and telling them to use someone else or the on-call mortuary and then going to pick it up the next day because they did not want to pick it up that night.

Brian Rebman stated that years ago when one mortuary did the removal and then lost the case to another mortuary, originally there was a gentleman's agreement between mortuaries that they would compensate each other. Well that gentleman's agreement went away at some point and now they do not provide compensation for picking up another call. For a time, industry people would trade body bags and try to help recover costs. Mr. Rebman stated that he believes that what has happened now is that it has evolved into where some mortuaries as part of their business plan or business model, to gain an economic advantage, is that they do not staff the mortuary during the night, they allow someone else to pick up and then they retrieve the case later. He said he thinks it is an unethical practice as part of their business plan to operate that way and there is really nothing that can be done by the industry. As Ms. Kandt stated there is nothing legislatively that can force people to pay and speaking with others about this situation, he knows that there are other states that say if one mortuary does the removal and if another mortuary comes to pick up then there has to be some type of compensation going to that mortuary that did the original removal. He said it seems reasonable that if a mortuary does something in the middle of the night and puts their business at risk going out and assuming the costs. Then they use the resources of the originating mortuary again by having to do paperwork and remove the body from the facility. There is a big cost for the originating mortuary and the mortuaries that are unethical are taking advantage of the situation. He believes that legislatively, something should be done, and he does not know if the coroner's office wants to get involved but they agree that it is a problem and they know that it is an ongoing issue. He thinks that everyone in the State acknowledges that it is done, but in his mind, it is completely unethical to set up your company knowing you can work the system and gain an economic advantage by doing that. He said that Jennifer has questioned what the harm is to the public. Mr. Rebman stated that he believes that the public is being harmed because there are unethical operators conducting business as mortuaries.

Bart Burton said that Mr. Rebman is making it sound like he knows specifically who is operating this way as their business model and stated that he did not believe that we need legislation to address one or two bad apples in the bushel.

Jennifer Kandt stated that if the Board is looking at this as unethical, there is already an unprofessional conduct statute. If the Board feels that this is an unethical practice contrary to the public interest, then the Board could take action against the funeral home or homes. She said the question becomes, is it an unethical practice contrary to the public interest. Ms. Kandt stated that this had not been tested or evaluated as she has not received any complaints from the public dealing with this issue.

Dr. Randy Sharp asked if it would be appropriate for the funeral home doing the removal at night to just carry that case forward to completion. He asked why the second funeral home that did not respond initially is getting involved.

Brian Rebman stated that what happens is every mortuary has fees and advertises what their costs are for services. ABC mortuary can advertise lower costs which is attractive to many customers and the reasons why they can advertise a lower cost is because they are not available to do their work and are pushing it off onto other mortuaries. He said usually the family has requested another mortuary, but that mortuary won't do the removal because they are not available to answer the phones but the

family still wants to use the mortuary, so the family still uses that mortuary but the original mortuary that did the removal is not being compensated for doing the work that has been done.

Lorretta Guazzini stated that there have been times that she has done the work and has not been compensated. In Reno from what she understands you cannot give a business card or have your logo on your van when you go to a removal. The coroner's office will give the family a list of mortuaries that are available and she believes that is why a lot of the funeral homes have gotten off the rotation because of that reason. She has considered going off of rotation as well. She said she does not lose many cases because she is in a small rural town. She stated that sometimes funeral homes do work for each other and it goes back to the relationship you have with the other mortuaries, they help each other.

Brian Rebman stated that he believes this is an endemic problem. He said that Bart Burton is questioning it as he thinks that everyone is used to that being the way the rules are set up but just because that is the way it has been operating in the past, he doesn't believe that it is right that there is not compensation between mortuaries.

Bart Burton stated that he felt that in terms of the business plan, if you do not like the way the rotation works, then do not do it. He said that no matter where you go and make a removal at the place of death, a release gets signed and usually there is a next of kin signature or the nurse writes in that they have phone consent to use that mortuary. He said if the mortuary loses the case, it is ultimately what the family wants.

Eric Lee with Hites Funeral Home stated that he agreed with Mr. Rebman that this is an unethical practice. He stated that they are a coroner rotation mortuary in Las Vegas, and they have situations where they get a removal from a hospital and the family did not want Hites originally, but for some reason there is a cross out on the body release form and the funeral home's name is crossed out and Hites is written in, but there are not initials by the family stating that Hites was supposed to pick up that body up. He says they have now instructed their removal staff to not accept bodies where the cross out has not been initialed by the family. He stated that there have been instances where they have taken bodies into their care and called the family and the family thought the body was supposed to be with another funeral home. Eric Lee stated that this is directly tied to the coroner's rotation because hospitals in southern Nevada rely on the rotation mortuary funeral homes to take care of individuals with no known next of kin.

Bart Burton stated that it has nothing to do with the coroner's office when there is known next of kin.

Eric Lee with Hites Funeral Home stated that the coroner's removal contract does not require them to do these removals but they do them because they believe it is the ethical thing to do because they don't want the decedent uncared for.

Brian Rebman asked Mr. Lee how often this happens and if they have, they ever made a complaint to the Funeral Board.

Eric Lee with Hites Funeral Home stated that it happens more often now than it ever has before. Mr. Lee stated that they have not submitted a complaint to the State Funeral Board because of the reasons that Executive Director Kandt stated before, they do not know if the Board has the authority to do anything about it. It has just been a part of life, but since the Board is discussing this topic, he would be glad to discuss the issue.

Brian Rebman asked what the hospital does when they arrive and refuse to do the removal if the funeral home is crossed out and not initialed by the family.

Eric Lee with Hites Funeral Home stated that it is a tough situation, but they have instructed their removal staff not to do that removal unless the family can be contacted and agree to have Hites to do the removal as they don't believe they have legal authority to take custody of the body.

Dr. Randy Sharp asked Mr. Lee from the public aspect could he explain how this impacts the public other than putting the funeral home in a bad situation and the public not knowing initially where their loved one is.

Eric Lee with Hites Funeral Home stated that just on its face, to the best of the family's knowledge, they have agreed to have this mortuary take custody of their loved ones remains and now they have another funeral home saying that they have custody of their loved ones remains and they are worried if they really have their loved ones remains because perhaps there has been a mistake. It is a stressful situation already for this family and now all the sudden, by no fault of their own, have made this family's troubles worse.

Lorretta Guazzini stated that she has shown up at places to do a removal, and the family will ask why she is there because they had made plans with Neptune and she will have to explain to them that she is just doing the removal for them until they can get there because they are tied up. These people have just lost someone. It makes it very hard.

Warren Hardy representing La Paloma Funeral Services and Simple Cremation stated that since this issue is up for discussion at this point, he is here to speak on this matter in public testimony but since this discussion is open now he will provide his testimony now. He wanted to associate himself with the comments Executive Director Kandt and Mr. Burton made earlier with regard to the jurisdiction regarding this matter. This seems like it is a business dispute and not something based on a discussion that has occurred that should be the venue of the Funeral Board. He is not disputing the jurisdiction to deal with it, he is saying that this is a business marketplace type concern that ought to be dealt with there. The resolution to this issue is that part of the reason they got off the rotation in Clark County was this exact issue. He stated that there are a lot of issues with the rotation, but that is a relationship between them and the County, not them and the Funeral Board. With regard to what is occurring in the private sector, he believes that Mr. Lee identified the remedy, you do not pick up the body if there is not authorization to do so from the public. These are things that are market sector issues. He is certainly not saying that the Board does not have jurisdiction, he is not an attorney and he would have to consult one to review the regs. He just does not know that it is something that the Board should wade into in terms of how things operate in the market. Not disputing that it is a problem, not disputing that it should be addressed in the proper venue, he is just wondering if this is it. In conclusion, the way he read this agenda item initially, which is why he is at the meeting, he separated discussion with the coroners rotations and possible legislative changes and now reading it to be possible legislative changes regarding the coroners rotation.

Jennifer Kandt stated that she was not sure the route the Board would take with this issue as there could be creation of a possible subcommittee to continue to discuss the matter, or talk about possible legislative changes, or do nothing at all. She stated that the Funeral Board does already have an unethical practices statute, but the Funeral Board has not received any complaints regarding the issue. She said that other than one mortuary calling her to express frustration about what was happening, she had not received any written complaints from either the public or anyone from the industry. From a public protection standpoint, making sure that a funeral home gets paid is not the role of the Board. She said that the things that Mr. Lee was talking about, in terms of loved ones not knowing where their family members were going may be a public protection issue in her opinion and something that the Board should address.

Warren Hardy stated clearly when it rises to the level that it affects the public; it certainly is a jurisdiction of this Board. The reason why he came was to say if possible, legislation changes were discussed more globally, they would like to be involved in those conversations. They have had well documented disagreements with the Board, but he believes the Board has always done well in including the industry in the conversations about legislative changes. If there is a sub-committee meeting or hearings on this or any other legislative changes, we just want to create a record that they look forward to being involved in that. The other thing, with regard to the fingerprint process, the motion was correct and spoke to conditional licensure. He understands it to be provisional licensure which would be easier to take away than full licenses. Pending the outcome of the fingerprinting they would be issued a

provisional license which can be withdrawn without all of the due process associated with a full license. He just wanted to make sure that was clear, so no one comes back.

Jennifer Kandt stated that she would ask legal counsels' opinion on that because we do not have anything in our statute that talks about a provisional license.

Henna Rasul, Senior Deputy Attorney General stated there was no authority for provisional license, it would be a full license. That is why if something were to come back there would be a cause of action for discipline when obtaining licensure by fraud.

Warren Hady stated perhaps they should look at some statutory changes to do a provisional license for those cases, so you do not have to go through that entire process when someone lies on their application.

Brian Rebman stated that there have been times in their rural area where they have gone out, and he arrives on scene to find out that it is really for another mortuary so he leaves the premises, and now the phone call is being made that he is the only one in his area to a Las Vegas mortuary and typical response time is three or four hours for them to my area from what he is told by hospice nurses. He does believe that it does impact a family. He would make a motion that the Board form a subcommittee to review this issue and see if there is something the Funeral Board can do. He does believe that it impacts the public and he thinks that the public is harmed. He thinks that there are mortuaries that see that they can gain a competitive advantage by doing this and it is something that is harmful to the public. He believes that it is well known throughout the industry that mortuaries do take advantage of the system that way. He thinks that it is something that should be reviewed.

MOTION: BRIAN REBMAN MOVED TO FORM A SUBCOMMITTEE TO SEE IF THERE IS SOMETHING THE FUNERAL BOARD COULD DO TO ADDRESS REMOVAL REIMBURSEMENT TO CERTAIN FUNERAL HOMES. LORRETTA GUAZZINI SECONDED THE MOTION WITH BART BURTON OPPOSING.

Bart Burton stated that he feels that this issue is not a Board or government issue, as Jennifer stated there has never been a complaint by a consumer. This is something that is within the industry in the South, if they need to get everyone together and come up with a plan, he believes that would be the plan of action. Mr. Burton stated to Mr. Rebman that he agrees and if he did any work for him, day, or night in his area, he would be compensated, it is only fair. He does not think that is a question. Mr. Burton stated that he believes that they need to get everyone on board and just have a discussion regarding this matter to come up with something reasonable because it happens to all of them. It is not just happening to Mr. Rebman, everyone loses cases. Mr. Burton stated that he felt that is was something that happens more frequently in the south.

Dr. Randy Sharp stated that as Board Chair, he is in favor of the subcommittee to see how the public would be impacted. Because that is our jurisdiction on this issue. How he would, as a consumer, would he be impacted and if there is anything that the Board can do to mitigate any impact. As far as the business end, he understands, but he believes that the Board has an obligation to see if the public is impacted and if the Board can affect that at all.

Lorretta Guazzini stated that she believes that the reason why that there have probably never been any complaints is because as a funeral homeowner and director she has just bit the bullet and does not involve the family. It is between you and another funeral home and not necessarily anything that will impact the family.

Brian Rebman stated that he agrees with that statement. He believes that there are so many things in the industry that, the culture has been established and it is something that they are all used to and it is something they all go along with whether it is wrong or right. He believes that they go back to what is happening with these Social Service cases, he believes he remembers the discussions from many years ago when the other mortuary was having problems with Social Services cases and bodies were not being cremated for up to a year. Just because it is in the culture and we are all used to it

happening it that way, it does not mean that it is right. Lorretta said ethically she feels the obligation to do the removal and to be on the coroner's rotation. If there is a person that needs help that needs to be removed from premises it is the right thing to do and he is going to do it. But he doesn't think that other business owners have that same mindset and just because that is how it has been done all of these years, it is still isn't right and he thinks that it should be studied and see if there is something the Board can do to protect the public. At some point you are going to see something come up where there is a complaint and maybe it's not as big of a deal as what we are see with these Social Services cases, but at some point it is going to be a problem. If someone does do a removal that was not authorized, there was an accident or something happens, who know what it is, but it is something worthy of the Board to explore. He does believe that it is a public health and public protection issue that can be addressed.

Dr. Randy Sharp stated that the subcommittee can look at other states to see if there is anything, they have found helpful. Part of this too is, does the Board necessarily need a complaint to act on it. Can the Board be proactive in certain areas and if something does come up like this we are already prepared.

Jennifer Kandt stated that she would need to know who would serve on the subcommittee.

Paul Noell with Mountain View Mortuary stated that a lot of the problem in the north is that the care facilities are not doing their job to find out which mortuary the family wants to use, they are simply using the on-call mortuary. The same goes for the hospitals if they cannot get a hold of the family they are pushing the deceased out to the on-call mortuary to hold until they can get a hold of the family or let them know. None of the hospitals are big enough to hold any number of deceased so they are utilizing the private industry or the funeral homes themselves to do their portion that they should be doing.

Brian Rebman stated that if you have some type of legislative change and there has to be a payment for service put in place. At that point there is a reset among all the mortuaries, and it is not just status quo taking advantage of the system anymore. It would totally reset the whole environment and establish as a new culture to where hospitals, hospices and all these groups are calling the mortuary that the family really wants. The family is being served by the mortuary that they want to provide the services and actually doing the work. He believes that it is public protection. The culture was not being changed with Social Service cases until we had a complaint or problem. The culture is not going to be changed in the industry until we have some type of legislative change saying it has to change, it has to be ethical, it has to be fair.

Dr. Randy Sharp addressed selection of the subcommittee besides Brian Rebman.

Lorretta Guazzini stated she would like to also be on the subcommittee.

Paul Noell, Ryan Bowen, Philip Smith, Eric Lee, and Harrison Billian volunteered to participate on the subcommittee.

There was discussion about including Washoe County Medical Examiner and Clark County Coroner in the meetings.

Harrison Billian with Truckee Meadows Cremation and Burial stated that there are problems up north as well and they are related to using the on-call mortuary as opposed to figuring out which funeral home the family wants to use ahead of time. Because a vehicle could be in an accident on the way with that decedent on board and you have opted as just an on-call option now they take the responsibility instead of the originating contracting funeral home. Maybe it is a county by county issue and that is how it needs to be addressed, but as a part of the subcommittee he would like to sit down and discuss the options. He personally would not want his loved one released to another funeral home because they did not answer the phone.

Dr. Randy Sharp stated that he would encourage the subcommittee to concentrate on the public impact. How this Board can protect the public because that is our primary responsibility.

Rick Noel with Walton's Funerals and Cremations stated that he would like to put his name in for the subcommittee to join that discussion.

Henna Rasul cautioned Jennifer on the number of members due to quorum issues.

14. Discussion regarding unprofessional conduct statutes.

Jennifer Kandt stated she wanted to simply remind Board members of the contents of the unprofessional conduct statutes as sometimes Board members comment about unprofessional conduct broadly, and she wanted to remind them of the specifics in statute.

15. Financial Reports

- a. Regulatory Fee Collection
- b. Financial Reports

The financial reports were provided and reviewed. There were no questions or comments.

16. Overview of current complaint status

Jennifer Kandt stated that all cases from 2018 were handled and there were only a couple remaining from 2019. She stated that Wayne is doing a great job in handling the cases.

17. Report from Executive Director, Jennifer Kandt

Jennifer Kandt overviewed her written report.

18. Board member comments

There were no Board member comments.

19. Discussion regarding future agenda items and future meeting dates

Wednesday, May 13, 2020
Wednesday, August 12, 2020
Wednesday, November 4, 2020

20. 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)

There were no public comments.

Lorretta Guazzini stated she has a question for legal counsel. She said she has written preneed for several years and she has been examined by Division of Insurance four times in less than fifteen years. She said that there are funeral homes that have not been examined. The legislature passed that if you are examined by the Division of Insurance then you will absorb that cost. The last letter she got was in November 2019 and the cost is between \$3,500 and \$5,000. She has tried to explain to them that she does not have the money, that it is with a company who does pre-need, but she still gets audited. The other funeral home in her town has never been examined. She said she spoke with Gerald Hitchcock and he said he had never been examined. The gentleman who is doing the examination said the only thing he could tell her was that maybe she just needs to figure this into her

budget that she is going to get examined every four or five years. She is wondering if there is something that can be done, not as a Board, but as just the industry to go to legislature to have that changed. She is not asking as the Board, she is asking as a funeral homeowner, is there anything that they can do or can she look into that.

Henna Rasul stated that if she wants to change the laws, she will have to contact the Insurance Division, or you can contact a Senator and have them carry a bill. She cannot really advise on that matter as she only advises the Board.

Kim Kandaras with Walton's Funerals and Cremations stated that they are examined every four years and it cost them \$14,000.

21. Adjournment

The meeting was adjourned at 12:48 pm

Anyone desiring additional information including meeting materials may contact Jennifer Kandt at 775-825-5535. Meeting materials are also available for download from the Board website at <http://funeral.nv.gov> or can be picked up at the following location: 3740 Lakeside Drive, Suite 201, Reno, NV 89509.