

KANSAS STATE BOARD OF MORTUARY ARTS
700 SW JACKSON, SUITE #904
TOPEKA, KANSAS
Thursday, July 10, 2014

FORMAT OF MINUTES:

On each motion there appear the names of two board members in a parenthesis. The first named made the motion, and the second named made the second. Ayes and Nays will be recorded at a voter's request.

Thursday, July 10, 2014:

- I. The regularly scheduled meeting of the Kansas State Board of Mortuary Arts (KSBMA) was called to order by President Theresa M. Schwartz.

Roll call by Executive Secretary Mack Smith found the following board members in attendance: President Theresa M. Schwartz, Lawrence, Consumer; Vice President Steven G. "Steve" Melby, Mankato, Licensee; Barry W. Bedene, Arma, and Licensee; and William L. "Bill" Cozine, Wichita, Licensee. Assistant Attorney General Jan Arndt was also in attendance. Board Member Randy Duncan, Brookville, Consumer, was not present.

The board noted this meeting's tentative agenda that is displayed on the agency's website at: <http://www.kansas.gov/ksbma/> under the heading of *Agency Information* and *Tentative Board Agenda*.

(Bedene-Cozine) To approve a **final agenda** for this meeting. Carried.

Due to the length of the meeting agenda, the board decided to not schedule a lunch.

(Bedene-Melby) To adopt the **April 10, 2014 regularly scheduled board meeting minutes** as amended. Carried. These minutes will be signed by President Theresa Schwartz and Executive Secretary Mack Smith, then displayed on the board's website.

(Schwartz-Melby) To adopt the **KSBMA Annual Report** presented at the **2014 Kansas Funeral Directors Association (KFDA) Annual Convention**. Carried. Mr. Smith presented the report on behalf of the Board as President Schwartz was unavailable.

The board reviewed results of the written **funeral directors' examination** administered on **April 10, 2014** noting that **77%** (ten of thirteen applicants) were **successful**.

Board Member Duncan entered the meeting.

The board reviewed results of the written **assistant funeral directors' examinations** administered in **May, June and July 2014** noting that **71% (5 of 7 applicants)** were successful. Since the law requiring examination for assistant funeral directors was enacted in 2008, **72% (122 of 170 applicants)** have successfully passed the written examination.

The board reviewed the '**List of Licensure Applicants**' scheduled to interview with the board at this meeting, noting the following eleven (11) applicants scheduled to meet with the board include: two (2) embalmer-funeral director applicants, one (1) embalmer applicant, two (2) funeral director applicants, three (3) reciprocal funeral director applicants, one (1) reciprocal embalmer applicant and two (2) reciprocal embalmer-funeral director applicants. Three (3) applicants are eligible to retake the funeral directors' examination but only two (2) have registered to retake the examination—for a total of eleven (11) applicants scheduled to be administered the written funeral director's examination in conjunction with this meeting.

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- II. The board **reviewed individual applications** for licensure along with the executive secretary's summations of the applicant's apprentice and supervising licensee progress reports. Applicants for licensure will be interviewed later in this meeting. All funeral director applicants will be administered the written funeral directors' examination by Funeral Home/ Crematory Inspector Francis Mills at 1:30 p.m. this afternoon in the Senate Room of the Jayhawk Tower.

All quarterly apprentice progress reports of embalmer/funeral director apprentices and supervising licensees due June 15, 2014 were summarized by the executive secretary with copies of the individual reports available for board members to review as desired.

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- III. **Legal Discussion: Individual Complaints/Investigations are listed numerically. The board did not necessarily take action in the order listed below:**

Complaints and legal concerns:

The board reviewed correspondence involving complaints resulting from actions taken and recommendations made at the meeting of April 10, 2014.

Information on open complaints:

The Board's Investigative Committee, which is composed of Board Members Theresa Schwartz and Barry Bedene, met prior to the meeting with Litigation Attorney Steve Phillips and KSBMA Executive Secretary Smith to discuss and make recommendations on open complaints.

#13-29—No action at this time.

#13-38—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to notify both parties that after substantial review and consideration of no proof of any violations of laws that the board has authority to enforce. Carried. The complaint involves unprofessional conduct including the handling of prefinanced funeral agreements.

#14-01—(Cozine-Duncan) After discussion, to close the file. Carried. The licensee was warned about concerns with unprofessional conduct relating to disclosures of the confidences of parties served. Future considerations will be given to the related regulation.

#14-02—(Cozine-Duncan) After reviewing correspondence, to close the file. Carried. As was advised by the Board, the funeral home submitted letters to the phone companies regarding the listing of a funeral home that is no longer licensed.

#14-05—(Cozine-Duncan) After reviewing correspondence, to close the file. Carried. The Board accepted the explanation provided by the funeral home along with their assurance that a similar situation would not recur. The complaint involves failure of an out-of-state funeral home to have a Kansas licensee in charge of a service/interment that occurred in the State of Kansas.

#14-06—(Cozine-Duncan) To close the file. Carried. No violations of laws regulated by the KSBMA were discovered, and the consumer was advised that they may want to consider conferring with private counsel regarding the possibility of civil action. The complaint involves failure of a funeral home to honor a guaranteed prefinanced funeral agreement upon death purchased by a consumer from a previous owner.

#14-07—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to answer the three questions of the consumer and notify all parties of no violations of laws the board has the authority to enforce. Carried. The complaint involves unprofessional conduct regarding the handling of memorial funds and at-need funeral charges.

#14-08—(Cozine-Duncan) After reviewing correspondence to close the file. Carried. The licensee was advised that any future statements regarding ownership should be specific and accurate. The complaint involves fraudulent/deceptive and misleading advertising with a press release involving new ownership of three (3) Kansas funeral homes.

#14-09—(Cozine-Duncan) After reviewing correspondence to close the file. Carried. The licensee was advised that the advertising in question should accurately reflect previous ownership—since current ownership has not been in place for as long as the advertising indicates. The complaint involves fraudulent/deceptive/ misleading advertising on a funeral home's web site.

#14-10—(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to notify all parties of no violations of laws the board has the authority to enforce. Carried. The complaint involves unprofessional conduct relating to disconnection of a funeral home's telephone and facsimile (fax) numbers.

#14-11–(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to notify all parties of no violations of laws the board has the authority to enforce. Carried. The complaint involves unprofessional conduct relating to a prefinanced funeral agreement and benefits received upon death.

#14-12–(Schwartz-Bedene) To adopt the recommendations of the Investigative Committee to notify the licensee that while the board declines to take action, it appears that better communication may have avoided the situation from occurring. Also, to explain non-declinable fees to the consumer relating to professional services included with the funeral bill. Carried. The complaint involves at-need funeral costs and services provided.

IV. 10:00 a.m. Board Business:

- 1) (Bedene-Schwartz) To approve the **quarterly lists of continuing education (CE.)** Carried. Three lists containing *on-site programs*, *correspondence/home study programs* and *crematory operator certification programs* were provided to the Board. These lists are regularly updated and available on the board's web site.
- 2) (Melby-Duncan) To approve the list of **lapsed licenses**. Carried. These lists contain the names of individuals whose license renewals are past due for longer than six months, who have requested that their licenses be dropped, who have died or in the case of assistant funeral directors, who are no longer employed at a funeral home under the supervision of a funeral director. The current list reviewed and approved by the Board includes five (5) assistant funeral director licenses, two (2) crematory operator licenses, one (1) embalmer license and one (1) funeral director license. This information is provided for a number of reasons, including use by the Office of Vital Statistics (OVS) for purposes of licensure verification used on death certificates. The board reviewed the list of **automatically suspended licenses**. This list contains the names of individuals who have not paid their license renewal fees by the appropriate due date and have not requested that their licenses be dropped. Once a license is six months in arrears, it is then automatically placed on the lapsed license list for purposes of being dropped. This list includes twelve (12) embalmer licenses and twelve (12) funeral director license renewals due through June 30, 2014. The board reviewed the list of **funeral homes and crematories that have closed** since April 10, 2014. This list includes two (2) branch funeral establishments. The board also reviewed the list of funeral home and crematory ownership changes that included nine (9) different facilities across the state.
- 3) (Melby-Schwartz) To approve the **FY 2014 fourth quarter** (April 1-June 30, 2014) and **FY 2014 Totals** (July 1, 2013-June 30, 2014) **Reports** of KSBMA Funeral Home-Crematory Inspector Francis F. Mills. Carried. 209 inspections were conducted during the fourth quarter of FY 2014 with three (3) preparation room violations noted. 6,384 miles were traveled involving visits to 58 counties during the fourth quarter of FY 2014. Totals for the year, included: 772 inspections with eleven (11) violations noted. 28,785 miles were traveled involving visits to 220 counties during FY 2014.

- 4) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of 18 apprentices are currently registered with the board, including: eleven (11) embalmer-funeral directors, one (1) embalmer and six (6) funeral directors.
- 5) Discussion of several **news articles** relating to the funeral profession that has been provided to board members and legal counsel for their review.
- 6) A reminder of the remaining **2014 Board meeting date**: October 9.
- 7) The following Board Meeting dates for **2015** were agreed to: January 8, April 9, July 9, and October 8.
- 8) The board signed travel vouchers.
- 9) The board reviewed information relating to the appointment process.

V. 10:30 a.m. Executive Secretary's Report:

- 1) **Budget Information–**
 - a) Current **FY 2014** (July 1, 2013–June 30, 2014)–Expenditures came in approximately \$28,000 under the KSBMA budget of \$286,892. Revenue for FY 2014 was approximately 99.6% of projections.
 - b) **FY 2015** (July 1, 2014–June 30, 2015)–No changes to the KSBMA budget of \$288,647 except to add one-time \$250 bonuses for each full-time employee as directed by the 2014 Kansas Legislature.
 - c) **FY 2016 & FY 2017**–These budget requests are due to the Division of the Budget by September 15, 2014. Mr. Smith briefed the board on the current financial status of the agency.
 - d) **2014 HB 2231** has a provision regarding replacement vehicles changing the minimum mileage for replacement to 130,000 miles unless repairs are estimated to cost more than the amount equal to 30% of the replacement value of the automobile.
 - e) (Cozine-Melby) To submit a request for a pay increase for the Executive Secretary to the Governor's office. Carried.
- 2) Updated information regarding the **International Conference of Funeral Service Examining Boards (ICFSEB)**.
 - a) KSBMA Board President Schwartz continues her work on the ICFSEB's *Model Practice Act Committee*, and she provided an update of current activities.
 - b) The Board reviewed the Spring 2014 Newsletter and was provided a brief ICFSEB update from ICFSEB Board Member Smith.
 - c) The July 2014 Conference Update was provided to the board.
- 3) No updated information was provided for the **Council on Licensure, Enforcement and Regulation (CLEAR.)**
- 4) No updated information was provided for the **Federation of Associations of Regulatory Boards (FARB.)**
- 5) Updated information for the **Kansas Funeral Directors and Embalmers Association (KFDA.)**
 - a) Information of the 2014 KFDA Annual Convention where the Board was represented by Board Member Cozine and along with Administrative Staff Members Smith and Mills. The KSBMA Annual Report was presented by

- Mr. Smith as President Schwartz was unavailable at the time.
- 6) No new information regarding the **board's web site**, <http://www.kansas.gov/ksbma/>, was available at this time.
 - 7) No new information for the **National Funeral Directors Association (NFDA)** was provided.
 - 8) No updated information was provided for the **Federal Trade Commission (FTC)** regarding the **FTC Funeral Rule**.
 - 9) Mr. Smith had a meeting with Executive Director Robb Smith of the **American Board of Funeral Service Education (ABFSE)** on May 12, 2014 in Kansas City, Kansas.
 - 10) No new information from the **Cremation Society of North America (CANA)** was available.
 - 11) No updated information was provided for the **Funeral Ethics Association (FEA)**.
 - 12) Information contained in the Spring 2014 newsletters for both the **Funeral Consumer's Alliance (FCA)** and the **Funeral Consumer's Alliance of Greater Kansas City** was discussed.
 - 13) No new information on the **Funeral Ethics Organization (FEO)** was discussed.
 - 14) Information in the April 2014 Newsletter of the **American Society of Embalmers (ASE)** was discussed. The ASE held their 10th Annual Meeting and Convention on June 20, 2014 in Rosemont, Illinois.
 - 15) Mr. Smith visited with representatives of the **Kansas Department of Health and Environment (KDHE), Office of Vital Statistics (OVS)** at the 2014 KFSA Annual Convention in Wichita, Kansas on May 5-7, 2014.
 - 16) Mr. Smith met with KCKCC Executive Director Wiley Wright, of the **Kansas City Kansas Community College (KCKCC) Mortuary Science Program** in Kansas City, Kansas, on May 12, 2014.
 - 17) No updated information was provided for the **Kansas Mass Fatality Planning Task Force**.
 - 18) A copy of the **new packaging/shipping requirements for cremated remains** was distributed and discussed.

VI. 2013-2014 Kansas Legislative Session

A review of the 2013-2014 Session was provided by Executive Secretary Smith, including:

- 1) **Senate Bill 258**—Involves Vital Statistics/Stillbirths, effective 7/1/2014. Involves changes to definitions, including *gestational age*, *stillbirth* and *induced termination of pregnancy*.
- 2) **Senate Bill 263**—The Military Honors Funeral Fund, effective 7/1/2014. Involves federal government shutdowns.
- 3) **House Bill 2172**—Changes to the regulation of cemeteries, effective 7/1/2014.
- 4) **House Bill 2231**—The budget bill was previously discussed.
- 5) **Senate Substitute for House Bill 2616**—Directing the Kansas Secretary

of Labor to study State enforcement of Occupational Safety and Health Act (OSHA) Standards to assist with determining if the State should enter into an agreement with the Federal Government regarding State enforcement of OSHA Standards.

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- VII. The board met with *Applicants for Licensure* to discuss their applications and apprenticeships:

Embalmer Applicant: Ms. Sylvia R. (Kelly) Schoen

(Bedene-Cozine) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$91.00. Carried. With continuous employment Ms. Schoen is scheduled to complete her embalming apprenticeship on July 29, 2014 at Harrison Funeral Home in Beloit, Kansas. Once issued, the renewal date for the license would be July 31, 2015. Ms. Schoen attended Cloud County Community College in Concordia, Kansas and was awarded an Associate in Applied Science Degree in Mortuary Science at Arapahoe Community College (KCKCC) in Littleton, Colorado. She was issued a Kansas funeral director's license on January 16, 2014.

Embalmer-Funeral Director Applicant: Ms. Sarah R. (Riley) Manley

(Melby-Cozine) To grant an embalmer license upon payment of an initial license fee of \$49.00 and to grant a funeral director license upon passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$14.00. Carried. Ms. Manley completed her apprenticeships on June 26, 2014 at Ford-Wulf-Brunns Funeral Home in Coffeyville, Kansas. Once issued, the renewal date for the licenses would be January 31, 2015. Ms. Manley attended Coffeyville Community College in Coffeyville, Kansas and received an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Embalmer-Funeral Director Applicant: Mr. Stephen R. Shelley

(Cozine-Bedene) To grant an embalmer license upon payment of an initial license fee of \$91.00 and to grant a funeral director license upon passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$26.00. Carried. Mr. Shelley completed his apprenticeships on July 2, 2014 at Dunsford Funeral Home and Crematory in Augusta, Kansas. Once issued, the renewal date for the licenses would be July 31, 2015. Mr. Shelley attended Cowley County Community College in Arkansas City, Kansas and received an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College (KCKCC) in Kansas City, Kansas.

Funeral Director Applicant: Mr. G. Parker Amos

(Melby-Bedene) To grant a funeral director license upon completion of apprenticeship, passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$38.00. Carried. With continuous employment, Mr. Amos is scheduled to complete his funeral directing apprenticeship at Amos Family Funeral Home and Crematory in Shawnee, Kansas on July 15, 2014. The renewal date for the funeral director license would be January 31, 2016. Mr. Amos attended Johnson County Community College in Overland Park, Kansas, the University of Arkansas--Little Rock, Neosho County Community College in Chanute, Kansas and was awarded a Bachelor of Fine Arts Degree in Communication at Emporia State University in Emporia, Kansas.

Funeral Director Applicant: Ms. Leigh Ann (Henderson) Warren

(Cozine-Bedene) To grant a funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$34.00. Carried. Ms. Warren completed her funeral directing apprenticeship at Robert J. Bethea, Jr. Funerals & Cremations and Biglow-Bethea Funeral Directors in Wichita, Kansas. The renewal date for the funeral director license would be November 30, 2015. Ms. Warren attended Butler County Community College in El Dorado, Kansas and was awarded a Bachelor of Science degree in Funeral Service at the University of Central Oklahoma in Edmond, Oklahoma.

Reciprocal (Missouri) Funeral Director Applicant: Mr. Michael J. Adkins

(Cozine-Duncan) To grant a reciprocal funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$180.50. Carried. The renewal date for the license would be January 31, 2016. Mr. Adkins is currently a licensed funeral director in the State of Missouri. He attended Penn Valley Community College in Kansas City, Missouri and was awarded a Bachelor of Science Degree in Funeral Service at Central State University in Edmond, Oklahoma. He is employed at Lawrence A. Jones & Sons Funeral Home in Kansas City, Missouri.

Reciprocal (Missouri) Funeral Director Applicant: Ms. Julie D. Walter-Davis

(Melby-Cozine) To grant a reciprocal funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$161.50. Carried. The renewal date for the license would be November 30, 2015. Ms. Walter-Davis is currently a licensed funeral director in the State of Missouri. She attended the University of Missouri Columbia and Kansas City and was awarded a Bachelor of Arts Degree in Business Administration at Ottawa University in Ottawa, Kansas. She is employed at the Neptune Society in Kansas City, Missouri.

Reciprocal (Oklahoma) Embalmer Applicant: Ms. Jennie Michelle Fredrickson

(Cozine-Melby) To grant a reciprocal embalmer license upon payment of an initial license fee of \$168.00. Carried. The renewal date for the license would be November 30, 2016. Ms. Fredrickson is currently a licensed embalmer in the State of Oklahoma. She attended the Independence Community College in Independence, Kansas, Butler County Community College in El Dorado, Kansas, Amarillo College in Amarillo, Texas and the University of Central Oklahoma in Edmond, Oklahoma. She is employed at Petersen Funeral Home in Newton, Kansas.

Reciprocal (Arkansas) Funeral Director/Embalmer Applicant: Mr. Joshua R. Wines

(Duncan-Melby) To grant a reciprocal embalmer license upon payment of a \$119.00 initial license fee and to grant a funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$161.50. Carried. The renewal date for the licenses would be November 30, 2015. Mr. Wines is currently a licensed embalmer and funeral director in the State of Arkansas. He attended Southern Arkansas University Tech in Camden, Arkansas and the University of Arkansas Community College at Hope in Hope, Arkansas where he earned an Associate Degree in Applied Science in Funeral Services. Mr. Wines has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB) and will be employed at Carlson-Geisendorf Funeral Home in Salina, Kansas.

Reciprocal (Texas) Funeral Director Applicant: Mr. Mathew P. "Matt" Forastiere

(Bedene-Duncan) To grant a reciprocal funeral director license upon passing the written funeral directors' examination, which will be administered later today, and payment of an initial license fee of \$228.00. Carried. The renewal date for the license would be June 30, 2016. Mr. Forastiere is currently a licensed funeral director in the State of Missouri. He earned an Associate Degree in Applied Science in Mortuary Science at Lincoln College of New England in Southington, Connecticut and passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards (ICFSEB). He is employed at Johnson County Funeral Chapel in Overland Park, Kansas.

Reciprocal (Missouri) Funeral Director/Embalmer Applicant: Ms. Leann A. Curty

Ms. Curty did not appear for her scheduled appointment with the Board.

VIII. Election of Officers and Committee Appointments

(Schwartz-Duncan) To nominate Steve Melby as President. Carried.
(Bedene-Duncan) To nominate Bill Cozine as Vice President. Carried.

President Melby did not make any changes to committees at this time. He will review committee assignments and announce any changes at the October meeting.

Current committees are as follows:

Investigative Committee: Board Members Schwartz and Bedene.

Continuing Education Committee: Board Members Melby and Cozine.

Hearing Committee: Board Members Melby, Cozine and Duncan.

IX. New/Old/Remaining Business/Adjournment

(Cozine-Bedene) To adjourn—subject to recall by the president, vice president or executive secretary. Carried. The date of the next regularly scheduled board meeting is Thursday, October 9, 2014.

At approximately 1:30 p.m. Executive Secretary Smith read instructions to the funeral directors' examinee applicants prior to the administration of the funeral directors' examination which was proctored by Inspector Francis Mills in the Florentine Room of the Jayhawk Tower. The results of that examination are a part of these minutes.

Respectfully submitted:



Theresa Marcel Schwartz, President
Thursday, October 9, 2014
(Date)



Mack Smith, Executive Secretary
Thursday, October 9, 2014
(Date)

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