

APPROVED MINUTES

Vermont Board of Funeral Service
National Life Building North Fl 2,
Montpelier, VT 05620-3402

April 12, 2011
8:30 a.m. – Curriculum Committee
9:00AM – Board Meeting

Board Members present: Lyndon Mann, Chairman; Peter Beck, Robert Covey, Emma Pudvah, Ad-Hoc Member; Michael Donahue Ad-Hoc Member
Board Member(s) Absent: Larry Gile, Ercel Harvey

Staff Attending: Dan Vincent, OPR Inspector; Terry Gray, Unit Administrator; Aprille Morrison, Administrative Assistant; Colin Benjamin, Board Counsel; Gregg Meyer, State Prosecutor; and Carla Preston, Case Manager.

Visitors: Lucien Hayes, Greg Camp and Mr. Hurley's Attorney, Jason Morrissey, participated by phone

1. Meeting called to order at 9:06 am by Chairman Mann.
2. Mr. Beck moved to approve the minutes of the March 8, 2011 meeting seconded by Mr. Covey, pending changes. The motion passed unanimously.
3. Case Manager Report:

Carla Preston, Case Manager, reported to the Board there are thirteen (13) pending cases, nine (9) are set for hearings, three (3) are under investigation and one (1) is pending for a closing report.

4. Discipline:

The Board appointed Colin Benjamin as the hearing officer for the following stipulation and consent order hearings.

A. A stipulation and consent order for William Hurley/E.P. Mahar and Son, Inc., docket numbers 2008-237 and 2008-235 was presented to the Board. Mr. Beck and Mr. Covey recused themselves from the presentation of this stipulation and consent order. Mr. Jason Morrissey, counsel for the respondent, attended the hearing by phone. Mr. Hurley's counsel requested a wording change in stipulations B, C and D to state the entity E.P. Mahar and Son, Inc. is solely responsible for the affected contracts as opposed to the individual being responsible. Mr. Benjamin will make the corrections. Mr. Mann made a motion to accept the stipulation and consent order with corrections, the motion was seconded by Mrs. Pudvah. The motion passed unanimously.

Mr. Covey rejoined the Board meeting.

B. A stipulation and consent order for John Workman/A.W. Rich Funeral Home,

Inc., docket numbers 2008-239 and 2008-240 were presented to the Board. Mr. Beck recused himself from the presentation of this stipulation and consent order. Mr. Covey made a motion to accept the stipulation and consent order, the motion was seconded by Mrs. Pudvah. The motion passed unanimously

C. A stipulation and consent order for Raymond Levesque/Brady and Levesque Funeral Home, docket numbers 2008-225, 2008-231 and 2009-505 were presented to the Board. Mr. Beck recused himself from the presentation of this stipulation and consent order. Mr. Mann made a motion to accept the stipulation and consent order, the motion was seconded by Mr. Covey. The motion passed unanimously.

D. A stipulation and consent order for Gary Clifford/Clifford Funeral Home, docket numbers 2008-233 and 2008-234 were presented to the Board. Mr. Beck recused himself from the presentation of this stipulation and consent order. Mr. Mann made a motion to accept the order, the motion was seconded by Mrs. Pudvah. The motion passed unanimously.

Peter Beck and visitors rejoined the Board meeting.

5. Discussion:

A. 8:30 CE Committee Report – The CE Committee reviewed 41 courses, 21 were approved and 20 were denied. Chairman Mann will remain on the CE Committee until May. Once Mr. Gile returns he will take Chairman Mann's place on the Committee. The new CE Committee will consist of Mr. Covey, Mr. Beck and Mr. Gile.

B. Funeral Establishment Inspection Report – Mr. Vincent provided a verbal status of the March 2011 inspections he conducted. There were four inspections total with three establishments, one establishment had two locations. There were a few issues that required follow-up. The first issue was regarding summary records for pre-paid contracts. Mr. Vincent found that an establishment he inspected was keeping summaries of records instead of holding the original records for seven years as required by Rule. Another issue Mr. Vincent found was on the pre-paid contracts there is a spot to note whether the contract is guaranteed or not guaranteed, some of the contracts were not complete as it was not noted if the contract was guaranteed or not. Lastly, a common issue Mr. Vincent is coming across is notification of the responsible person or party not being done within 10 days of the contract signing. Mr. Vincent noted there should be a letter or notation in the file showing that the responsible person or party, who is not always the payee, has been contacted. A question was again posed by Mr. Beck regarding the State Statutes stating that the "Board shall be provided with a copy of the inspection reports" at the Board meeting. Mr. Vincent will provide the Board with a written report summarizing the inspections he has done and any problem areas, withholding the name of the establishment in case disciplinary action comes from the inspection. The Board confirmed at the May 10th meeting, and from then on, they will receive written summaries of the inspections Mr. Vincent has conducted since the previous meeting. Mr. Vincent posed a question regarding Establishment licensure to the Board. The Board confirmed that a Funeral Director must be attached or affiliated with a Funeral Establishment to practice. The issue appears to be the types of services that are

performed in these establishments. Can an Establishment obtain a license and only perform limited funeral services? The Board, counsel and Mr. Vincent had a lengthy conversation and came to the decision that as long as the Establishment had the facility requirements for the services that were being performed there, then an Establishment license could be issued pending Board approval and initial inspection.

C. Mr. Beck made a motion to table the discussion item of Board Goals until the May 10, 2011 Board meeting, the motion was seconded by Mr. Covey. The motion passed unanimously.

D. Mr. Covey asked Mrs. Grey if there will be Board review of the quarterly reports from the licensees and establishments whose stipulation and consent orders were approved at this meeting. Mrs. Grey stated yes the reports will be given to the Board for review.

7. Adjournment at 11:57 am
8. Next Meeting – May 10, 2011

Respectfully Submitted,

Aprille Morrison, Administrative Assistant