

APPROVED MINUTES

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

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

Board Members present: Lyndon Mann, Chairman; Robert Covey, and Larry Gile

Board Member(s) absent: Peter Beck

Staff Attending: Dan Vincent, OPR Inspector; Terry Gray, Unit Administrator; Aprille Morrison, Administrative Assistant; Colin Benjamin, Board Counsel; Carla Preston, Case Manager; and Chris Winters, Director of OPR

Visitors: Lucien Hayes, Lisa Carlson and Mary Alice Bisbee

1. Meeting called to order at 9:05 am by Chairman Mann.
2. Mr. Gile moved to approve the minutes of the May 10, 2011 meeting, with amendments, seconded by Mr. Covey. The motion passed unanimously.
3. Case Manager Report:

Mrs. Preston reported to the Board there are three (3) pending cases, two (2) are pending investigative team meeting and one (1) is currently under investigation. Gregg Meyer, Prosecuting Attorney for the State, will be leaving the Office of Professional Regulation the end of July and the new Prosecuting Attorney will hopefully be up to speed with the cases for the next Board meeting in September.

4. Applications:
 - A. Eugene Bushey – Funeral Director – The Board reviewed Mr. Bushey's application for Funeral Director, however the application is incomplete. Mr. Bushey needs to submit successful completion of the National Exam and verification of employment. Mrs. Morrison will send Mr. Bushey a letter outlining the deficiencies that need to be met for licensure.
 - B. Adam Goss – Funeral Director and Embalmer – The Board reviewed Mr. Goss' applications for Funeral Director and Embalmer licensure. Mr. Gile made a motion seconded by Chairman Mann to approve Mr. Goss for licensure in Vermont as a Funeral Director and Embalmer. The motion passed unanimously.

5. Discussion:

- A. Education Committee Report – Mr. Gile and Mr. Covey met to review the continuing education presented to the Board for review. Mr. Covey reported that the Committee reviewed twenty-two (22) courses, approving twenty (20) and denying two (2). Mrs. Morrison will update the website and notify the providers of the Committee's decision.
- B. Inspection Report – Dan Vincent – Mr. Vincent reported to the Board there were six (6) establishments scheduled for inspection. He inspected four (4) establishments, with two (2) passing inspection and two (2) being sent follow-up letters. Of the two (2) that required follow the Board was presented with copies of the Inspection Reviews showing the deficient areas. Mr. Vincent reviewed each report with the Board, outlining the specific deficiencies.
Of the two (2) that was not ready for inspection was Williams River Services, this establishment still needs to submit all of the required documentation before an inspection can be performed.
Chairman Mann asked Mr. Vincent if he was seeing more establishments using the Vermont specific forms and Mr. Vincent replied that there are some that are starting the switch over to the approved form.
- C. William Havens E-mail – Mrs. Morrison received an e-mail from William Havens who is an Alabama Funeral Director and Embalmer looking to see if he is qualified to receive licensure in Vermont without taking the National examination. The Board reviewed Mr. Haven's e-mail and discussed the reciprocity between Alabama and Vermont. Mrs. Gray will review the requirements for Alabama to make sure they are equivalent to Vermont's requirements and report her findings at the next Board meeting in September. Mrs. Morrison will respond to Mr. Havens requesting that he needs to complete the applications for Funeral Director and Embalmer. Once the applications are complete the Board will review the documents and determine Mr. Havens' eligibility for licensure in Vermont.
- D. Additional Agenda Items – Mr. Covey noted in the May minutes that Mr. Benjamin would research with the Banking and Insurance Division to see if ACA still held an active license in Vermont. Mr. Benjamin found that ACA is still being handled by a rehabilitator in New Hampshire, and therefore New Hampshire is currently the Regulatory body for ACA. Mr. Benjamin will check to see if the Banking and Insurance Division has received an application for the successor of ACA. Mr. Covey requested this research for informational purposes as this affect a number of funeral homes and clients in Vermont.
- E. Additional Agenda Items – The two applications reviewed at the May 10, 2011 Board meeting were tabled by the Board. Green Mt. Direct Cremation Service, LLC completed the additional paperwork requested by the Board and passed the inspection performed by Mr. Vincent, at which time Mrs. Gray approved licensure for this establishment. As the application for this establishment was tabled at the May Board meeting, procedurally the application should have been remitted at the July Board

meeting for approval purposes. Mr. Covey made a motion to ratify the actions of the Administrator regarding licensure of Green Mt. Direct Cremation Service, LLC and grant licensure to this establishment. The motion was seconded by Mr. Gile and unanimously approved.

The other application presented at the May 10th meeting was for Williams River Services. This application need additional information at that time and a letter was sent to the establishment by Mrs. Morrison. Mr. Covey made a motion to table Williams River Services application for Board Review upon completion of additional documentation. The motion was seconded by Chairman Mann and approved unanimously.

Mrs. Gray requested clarification of the application processing once the Board has reviewed the application and an inspection is needed. The Board will review a complete application, pending inspection, and as long as the application meets the requirements, will approve the application pending successful inspection. This way the establishments are not required to wait until the next Board meeting to receive licensure. Only complete applications will be reviewed by the Board.

- F. Ercel Harvey Resignation – Mrs. Harvey presented Chairman Mann with a letter of resignation after the May 10th Board meeting. Chairman Mann notified the Administrator Mrs. Gray and Mr. Winters of Mrs. Harvey's resignation. A replacement has been requested from the Governor's office.

- G. Heald Funeral Home Letter – Mr. Benjamin and members of the Board received a letter from Heald Funeral Home regarding an individual who has been affected by the Stipulation and Consent orders recently approved by the Board. Chairman Mann asked Mr. Hayes to join the discussion of this letter. There were four stipulation and consent orders approved by the Board at the April 12th meeting, it has come to light that two of the orders had different wording regarding the pay out of the contracts.

Two of the orders stated, *“(D) If an affected client demands the present cash value of his/her original investment to be paid to another funeral home or provider because said funeral home will not accept the assignment of the ACA policy, Respondents shall pay said funeral home or provider the death benefits of the policy, plus any interest that would have accumulated on both the goods and services and cash advance side of the funeral contract, at the rate provided by the original investment product, at the time of the client's death.”*

And the remaining two other stipulation and consent orders state the following:

“(D) If any affected client demands the present cash value of his/her original investment be paid to another funeral home or provider, Respondents shall pay client the full amount that was initially invested, plus any interest that would have accumulated on both the goods and services and cash advance side of the funeral contract, at the rate provided by the original investment product.”

Mr. Hayes questioned the Board on these differences and asked how the Board was going to guarantee the responsible parties would submit payment should the establishments themselves or the company, ACA, file for bankruptcy or simply not have the funds when requested? Mr. Winters explained the procedures of stipulation and consent orders and how and why the changes could have possibly been made. Initially two orders were put forth to the Board, which were rejected, requesting board notification.

The State Prosecuting Attorney, Mr. Meyer added the following to the stipulation and consent orders: *Respondents shall notify the Board of compliance with this Order by providing to the Board, on a quarterly basis, an Affidavit of Performance and Worksheet for each funeral showing full value of the original contract was given to all affected clients. As stated above, this includes documentation that interest at the rate of the original investment product was applied to the goods and services as well as the cash advance under the original contract.*” Also added to two of the contracts was *“If an affected client demands the present cash value of his/her original investment to be paid to another funeral home or provider because said funeral home will not accept the assignment of the ACA policy, Respondents shall pay said funeral home or provider the death benefits of the policy, plus any interest that would have accumulated on both the goods and services and cash advance side of the funeral contract, at the rate provided by the original investment product, at the time of the client’s death.”*

Mr. Winters explained these orders are approved by the Board and the respondents and can not be appealed. If any of the 4 Respondent’s default on the requirements of the stipulation and consent orders they are risking loss of licensure and penalties. There was a lengthy discussion regarding hypothetical situations and instances where contracts could go awry. Mr. Covey asked if there was anything further the Board could do to monitor the situation with the ACA establishments. Mr. Covey stated his expectation when he voted on the stipulation and consent orders was that every contract with the affected establishments and funeral directors would be satisfied. The Board also stated they did not have ample time to review the stipulation and consent orders and requested that in the future they be given to the Board a minimum of a week before the meeting. Mr. Winters will review the current procedures and speak to Mr. Meyer regarding stipulation and consent orders to make sure this is more amenable for the Boards. Ms. Carlson asked the Board how many establishments currently deal with the ACA. Chairman Mann responded there were four that he was aware of.

6. Public Comments:

Mary Alice Bisbee presented the Board with the 2011 General Price Survey of all Vermont Funeral Homes completed by the Funeral Consumers Alliance of Vermont.

7. Adjournment at 10:54 am

8. Next Meeting – September 13, 2011

Respectfully Submitted,

Aprille Morrison, Administrative Assistant