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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF FUNERAL DIRECTORS
VIA VIDEOCONFERENCE**

TIME: 10:32 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

June 23, 2021

1 State Board of Funeral Directors
2 June 23, 2021
3
4

5 BOARD MEMBERS:
6

7 William G. Harris, Chairman, Professional Member
8 Milian E. Rodriguez, Vice Chairperson, Professional
9 Member
10 Carmella M. Imburgia, Secretary, Professional Member
11 Theodore Stauffer, Executive Secretary, Bureau of
12 Professional and Occupational Affairs, on behalf of
13 K. Kalonji Johnson, Commissioner
14 Kenneth C. DuPree, Professional Member
15 Thomas G. Kukuchka, CFSP, Professional Member
16 Scott Custead, Public Member - Absent
17 Francis McCusker, Public Member
18 Jennifer Jane Kirk, Esquire, Senior Deputy Attorney
19 General, Antitrust Section, Office of Attorney
20 General
21
22

23 BUREAU PERSONNEL:
24

25 Jaime D. Black, Esquire, Board Counsel
26 Timothy A. Fritsch, Esquire, Board Prosecution
27 Liaison
28 Cynthia K. Montgomery, Esquire, Deputy Chief
29 Counsel/Regulatory Counsel, Department of State
30 Kristel Hennessy Hemler, Acting Board Administrator
31
32

33 ALSO PRESENT:
34

35 Ernie Heffner, President, Heffner Funeral Chapel
36 & Crematory, Inc.
37 James Erikson, CAE, Assistant Executive Director and
38 Chief Operations Officer, Pennsylvania Funeral
39 Directors Association
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1 ***

2 State Board of Funeral Directors

3 June 23, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:00 a.m. the Board entered into Executive Session
7 with Jaime D. Black, Esquire, Board Counsel, to have
8 attorney-client consultation and for the purpose of
9 conducting quasi-judicial deliberations on the items
10 on today's agenda that are currently pending before
11 the Board and to receive advice of counsel. The Board
12 entered into public session at 10:30 a.m.]

13 ***

14 [Theodore Stauffer, Executive Secretary, Bureau of
15 Professional and Occupational Affairs, noted the
16 meeting was being recorded, and those who remained on
17 the line were giving their consent to be recorded.]

18 ***

19 The regularly scheduled meeting of the State
20 Board of Funeral Directors was held on Wednesday, June
21 23, 2021. William G. Harris, Chairman, Professional
22 Member, called the meeting to order at 10:32 a.m.

23 ***

24 Roll Call

25 [Chairman Harris requested a roll call of Board

1 members.]

2

3 Approval of minutes of the May 12, 2021 meeting

4 CHAIRMAN HARRIS:

5

The first item on the agenda would be
6 approval of the minutes of the last
7 meeting.

8

If there are no corrections or
9 updates, I would make a motion to
10 approve that.

11

Do I hear a second?

12

MR. KUKUCHKA:

13

Second.

14

CHAIRMAN HARRIS:

15

We have a motion and a second. All in
16 favor, signify by saying aye.

17

[The motion carried unanimously.]

18

19

Report of Prosecutorial Division

20

[Timothy A. Fritsch, Esquire, Board Prosecution

21

Liaison, noted prosecution did not have a formal

22

report today but offered to answer questions from the

23

Board.]

24

25

MOTIONS

1 MS. BLACK:

2 Pursuant to Section 708(a)(5) of the
3 Sunshine Act, the Board entered into
4 Executive Session for the purpose of
5 conducting quasi-judicial deliberations
6 on the items of today's agenda that are
7 currently pending before the Board to
8 receive the advice of Counsel.

9 Regarding item 2, would the Board
10 entertain a motion to ratify the funeral
11 intern extension request for item 2,
12 Robert Eugene Sopko?

13 MS. IMBURGIA:

14 I motion.

15 MR. DUPREE:

16 Second.

17 CHAIRMAN HARRIS:

18 We have a motion and a second. All in
19 favor, signify by saying aye. Any
20 abstentions? Any recusals? Any
21 opposition?

22 [The motion carried unanimously.]

23 ***

24 MS. BLACK:

25 I believe the Board would entertain a

1 motion to grant the Motion to Deem Facts
2 Admitted and Entry of Default and direct
3 Board counsel to draft an Adjudication
4 and Order in due course for item 3, BPOA
5 v. John F. Harrison, F.D., F.S., Case
6 No. 20-48-007235.

7 CHAIRMAN HARRIS:

8 Do we have a motion on item 3?

9 MS. RODRIGUEZ:

10 I make a motion.

11 MS. IMBURGIA:

12 I second.

13 CHAIRMAN HARRIS:

14 We have a motion and a second. All in
15 favor, signify by saying aye. Any
16 opposition? Any recusals? Any
17 abstentions?

18 [The motion carried unanimously.]

19 ***

20 MS. BLACK:

21 Item 4. I believe the Board would
22 entertain a motion to approve as final
23 the Adjudication and Order for BPOA v.
24 Brian Garris, Case No. 17-48-13837.

25 CHAIRMAN HARRIS:

1 Do we have a motion on item 4?

2 MS. IMBURGIA:

3 I motion to move.

4 MR. MCCUSKER:

5 Second.

6 CHAIRMAN HARRIS:

7 We have a motion and a second and also a
8 recusal. All in favor, signify by
9 saying aye. Any opposed?

10 [The motion carried. Mr. DuPree recused himself from
11 deliberations and voting on the motion.]

12 ***

13 MS. BLACK:

14 Regarding item 10, the Board has
15 directed the Board administrator to
16 contact Mr. Miller to request additional
17 information in accordance with
18 discussions held in Executive Session.

19 ***

20 MS. BLACK:

21 Regarding item 11, the issue was
22 initially discussed at the March
23 meeting.

24 Based on discussions held both
25 during the March meeting as well as

1 discussions held in today's Executive
2 Session, it appears there is a mechanism
3 that may allow an individual to
4 authorize their own cremation or burial
5 in the PA Probate, Estates, and
6 Fiduciaries Code at 20 Pa.C.S.A. § 305.

7 I believe the Board would entertain
8 a motion to reject the request to amend
9 the Board regulations at this time.

10 CHAIRMAN HARRIS:

11 Do we have a motion?

12 MS. IMBURGIA:

13 I motion.

14 MS. RODRIGUEZ:

15 Second.

16 CHAIRMAN HARRIS:

17 We have a motion and a second. All in
18 favor of item 11, please signify by
19 saying aye. Any opposition?

20 [The motion carried unanimously.]

21 ***

22 Report of Board Counsel - Miscellaneous

23 [Jaime D. Black, Esquire, Board Counsel, addressed
24 House Bill 164 regarding burial benefits for veterans,
25 which would require funeral directors to notify the

1 county director of Veterans Affairs within 96 hours of
2 receipt of the remains of a deceased serviceman having
3 legal residence in the county at the time of death and
4 provides the family of the deceased serviceman with
5 the contact information for the county director of
6 Veterans Affairs.

7 Ms. Black stated the legislation was introduced
8 due to families being unaware of the benefits
9 available to them at the time of planning a loved
10 one's funeral and to try to prevent incorrect or
11 misleading information given to veterans regarding the
12 availability of burial benefits. She mentioned this
13 would be a new requirement for funeral directors and
14 questioned whether it is something the Board supports.

15 Mr. DuPree did not support the legislation and
16 was not aware of an office of that nature in
17 Philadelphia County. He mentioned that families do
18 not have access to the necessary documentation to
19 prove the person is honorably discharged and believed
20 the regulation would put unnecessary burdens on
21 funeral directors, especially within 96 hours.

22 Chairman Harris commented that the Philadelphia
23 area and other large areas might have concerns. He
24 believed the reason for the regulation is because some
25 funeral directors may not be taking an active role in

1 helping families. He mentioned that funeral directors
2 that he knows offer to help families with paperwork as
3 part of the arrangements. He stated Cambria County
4 has a county office to help families if funeral
5 directors do not and also noted federal matters are
6 directed to the Pittsburgh office.

7 Mr. Kukuchka stated Wyoming County has a Veterans
8 Affairs Office that does not provide much assistance,
9 so they do everything at their funeral home. He
10 mentioned that most things today are tied to Social
11 Security Numbers so discharge papers are not
12 necessary. He stated the he does not see an issue
13 with the regulation, and funeral directors who are not
14 doing their job should be made to their job.

15 Ms. Imburgia stated Delaware County has a local
16 office that is extremely helpful. She mentioned her
17 funeral home also handles everything, filing for the
18 \$75 benefit, death certificates, and the flag.

19 Ms. Black informed the Board that the comments
20 are appreciated and would be used to create a bill
21 analysis, should one be needed, to provide input from
22 the Board. She will reach out to the Board if it
23 moves forward and more input is needed.

24 Ms. Black addressed House Bill 1464 and Senate
25 Bill 765 regarding the reduction of the minimum

1 temperature for crematories. She stated House Bill
2 1464 proposes to reduce the temperature to 1400
3 degrees Fahrenheit, down from the 1800 current
4 requirement. She noted that the prime sponsor of the
5 bill notes the 1800 degrees requirement is harder on
6 equipment, requires higher fuel consumption, and leads
7 to increased emissions. She stated Senate Bill 765
8 proposes to reduce the temperature down to 1600.

9 Ms. Black commented that House Bill 1464 was
10 referred to the Professional Licensure Committee on
11 May 21, 2021, and Senate Bill 765 was referred to the
12 Environmental Resources & Energy Committee on June 15,
13 2021.

14 Chairman Harris agreed with lowering the
15 temperature to 1400 degrees. He mentioned New York
16 State lowered their temperature, and their
17 Environmental Protection Agency (EPA) was as tough as
18 anywhere.

19 Ms. Black informed the public that they could
20 also reach out to the bill sponsors to provide
21 comments directly to them as well.

22 Ms. Black addressed proposed House Bill 1534,
23 which changes how unclaimed property from a deceased
24 individual could be claimed. She noted the bill
25 states if the amount of the funds or the value of the

1 property is \$11,000 or less, a lineal descendant of
2 the decedent other than a child may present a claim
3 upon showing there is no other surviving relative.
4 She noted in "Dispositions" independent of letters,
5 family exemption, probate of wills, and grant of
6 letters, the proposed legislation provides for
7 payments to family and funeral directors and was
8 referred to the Judiciary Committee on June 3, 2021.]

9

10 Items for Discussion

11 [Jaime D. Black, Esquire, Board Counsel, mentioned
12 prior discussion regarding delegation orders. She
13 mentioned the Board decided to delegate matters to a
14 hearing examiner in lieu of doing them virtually at
15 the Board meetings throughout the pandemic. She
16 questioned whether the Board wanted to issue a blanket
17 delegation order for Criminal History Record
18 Information Act violations, continuing education
19 violations, lapsed license, and practice act violation
20 cases.

21 Ms. Black stated the Board could keep the process
22 the same and just review cases that come before it and
23 make decisions whether to hear it or delegate, decide
24 to delegate all matters to a hearing examiner, or
25 choose which cases the Board feels could be delegated

1 as a whole.

2 Ms. Black noted the Board does not have a
3 delegation order except for immediate temporary
4 suspensions, where all of those matters come before
5 the Board as they are filed and the Board makes the
6 decision on a case-by-case basis whether or not to
7 hear the matter at a Board meeting or to delegate it
8 to a hearing examiner.

9 Ms. Black addressed benefits of blanket
10 delegation and questioned whether Board members have
11 any thoughts on whether they want to delegate all
12 cases or certain cases. She addressed experience with
13 other boards, where they chose to delegate certain
14 cases, like continuing education (CE) violations and
15 reciprocal discipline, and then retain the practice
16 violation and can make decisions on a case-by-case
17 basis as to whether or not they want to hear it or
18 delegate it.

19 Chairman Harris commented that he likes the Board
20 being able to delegate cases they choose.

21 Ms. Black noted that no changes will be made, and
22 the cases will be brought before the Board to decide
23 how to proceed on each individual case.]

24 ***

25 Report of Board Counsel - Status of Regulations

1 [Cynthia K. Montgomery, Esquire, Deputy Chief
2 Counsel/Regulatory Counsel, Department of State,
3 referred to the proposed rulemaking as published in
4 the *Pennsylvania Bulletin* for 16A-4824 regarding the
5 child abuse reporting requirements regulation.

6 Ms. Montgomery noted no public comments were
7 received but did note receiving comments from the
8 Independent Regulatory Review Commission (IRRC) and
9 provided proposed responses as well as a draft of the
10 final-rulemaking's annex provided the Board accepts
11 all of the proposed responses to the comments.

12 Ms. Montgomery addressed the first comment from
13 IRRC, where limited license holders were not
14 addressed. She noted reciprocity with Delaware, New
15 Jersey, and West Virginia under § 13.77. She checked
16 the Pennsylvania Licensing System (PALS) for initial
17 application for limited license applicants, and it did
18 not appear that they are currently required to
19 complete the 3 hours of mandatory training required by
20 the Child Protective Services Law as a condition of
21 licensure but are required to complete the 2 hours of
22 continuing education (CE) as a condition of renewal.

23 Ms. Montgomery commented that it may have been an
24 error when the paper application was converted to an
25 online application in PALS and provided an amendment

1 to § 13.77 under limited license to require
2 verification of completion of at least 3 hours of
3 approved training in child abuse recognition and
4 reporting in accordance with the mandatory training
5 requirements under the Child Protective Services Law
6 (CPSL) and also to clarify that limited license
7 holders have to complete the 2 hours of approved CE as
8 well.

9 Ms. Montgomery addressed IRRC's commenting
10 regarding the definition of "perpetrator" in § 13.301
11 and suggested the Board revise the definition to
12 improve clarity to "person responsible for the child's
13 welfare." She revised the definition under § 13.301
14 to incorporate the term "person responsible for the
15 child's welfare." She noted changes under perpetrator
16 (i) (D) and (ii) (D).

17 Ms. Montgomery referred to § 13.302, where IRRC
18 noted two sections in the Child Protective Services
19 Law that were not incorporated in the regulations in
20 6311(b) (2) and (3) in the law but were incorporated in
21 6311(b) (1). She noted IRRC believed this omitted
22 language clarified the duty to report and added it to
23 the final-form rulemaking in the draft at § 13.302.

24 Ms. Montgomery stated IRRC also noted omitted
25 language from the statute in 6314 of the CPSL that

1 requires mandated reporters to make any photographs,
2 medical tests, and X-rays of the child subject to
3 report available to law enforcement and would like
4 that added to the regulation. She suggested adding
5 the omitted language to § 13.303 for clarity.

6 Ms. Montgomery referred to § 13.306 regarding
7 confidentiality, where IRRC noted provisions in the
8 Child Protective Services Law in 6311.1 related to
9 privileged communications were not included. She
10 explained that the provision states that privileged
11 communication between a mandated reporter and a client
12 does not apply to a situation involving suspected
13 child abuse and does not relieve the mandated reporter
14 of the duty to make a report and recommended adding
15 the omitted language due to the expanded duty to
16 report.

17 Ms. Montgomery referred to § 13.308(a), where
18 unlike (b), where they do not include how applicants
19 submit the proof of 3 hours of approved training,
20 which is a prerequisite to licensure, she suggested
21 amending (a) to include the requirement that
22 individuals applying to the Board for a license shall
23 have completed at least 3 hours of training in child
24 abuse recognition and reporting which has been
25 approved by the Department of Human services and the

1 bureau as set forth in § 13.309 relating to the child
2 abuse recognition and reporting course approval
3 process.

4 Ms. Montgomery noted the applicant shall certify
5 on the application that the applicant has either
6 completed the required training or has been granted an
7 exemption under subsection (c). She also noted the
8 board will not issue a license or certificate unless
9 the bureau has received an electronic report from an
10 approved course provider documenting the attendance or
11 participation by the applicant or the applicant has
12 obtained an exemption under subsection (c).

13 Ms. Montgomery referred to § 13.308(c) that
14 implements a section in the law where the Board could
15 grant an exemption if the submitted documentation is
16 acceptable to the Board and would not be subject to
17 the training or CE requirement. She mentioned IRRC's
18 comment regarding paragraph (3) being too vague, where
19 it does not specify if the exemption is limited to one
20 biennial renewal period or talk about the process for
21 notifying applicants and licensees of approval or
22 denial.

23 Ms. Montgomery addressed the difficulty in
24 establishing specific standards for what is acceptable
25 documentation because it depends on the reason for the

1 request. She mentioned there are licensees who are
2 approved trainers of the child abuse training, so if
3 they developed their own course and are approved
4 trainers, they might not need to take the course. She
5 also mentioned licensees who have been granted an
6 exemption who are a court-appointed special advocate
7 (CASA) for children who are abused.

8 Ms. Montgomery suggested an addition to paragraph
9 (3) that an exemption can be granted if the applicant
10 or licensee submits documentation acceptable to the
11 board demonstrating why the applicant or licensee
12 should not be subject to the training or continuing
13 education requirement, where each request for an
14 exemption will be considered on a case-by-case basis.

15 Ms. Montgomery noted the clarification part,
16 where the board may grant the exemption if it finds
17 that completion of the training or continuing
18 education requirement is duplicative or unnecessary
19 under the circumstances.

20 Ms. Montgomery also added paragraph (d) to
21 clarify exemptions granted under subsection (c) are
22 applicable only for the biennial renewal period for
23 which the exemption is requested. She noted that if
24 an exemption is granted, the license will be issued or
25 renewed; and if an exemption is denied, the applicant

1 or licensee will receive a discrepancy notice by email
2 notifying them of the need to complete an approved
3 course or to submit additional documentation in
4 support of their request for an exemption.

5 Ms. Montgomery discussed typographical errors
6 IRRC noted under §§ 13.307(b)(4) and 13.308(c) and in
7 the regulatory analysis form (RAF) that have been
8 corrected. She stated IRRC also asked that the number
9 of limited license holders be included in the RAF and
10 will be updated as part of the final-form rulemaking
11 package.

12 Ms. Montgomery will draft the final-form
13 rulemaking package and bring it back to the Board at
14 the next meeting for a vote.]

15 ***

16 Report of Commissioner

17 [Theodore Stauffer, Executive Secretary, Bureau of
18 Professional and Occupational Affairs, on behalf of K.
19 Kalonji Johnson, Commissioner, had no official report
20 but offered to take any questions or concerns to the
21 commissioner. He informed the Board that waivers have
22 been extended until the end of September, noting it is
23 likely the virtual meetings will also continue until
24 then.]

25 ***

1 Report of Board Chairperson - No Report

2 [William G. Harris, Chairman, Professional Member,
3 thanked everybody for being able to work through the
4 virtual meetings and conduct business of the state on
5 behalf of funeral directors and public members on the
6 Board. He also thanked Ms. Black, Ms. Hemler, and Mr.
7 Fritsch.]

8 ***

9 Report of Acting Board Administrator - No Report

10 ***

11 Public Comment

12 [James Erikson, CAE, Assistant Executive Director and
13 Chief Operations Officer, Pennsylvania Funeral
14 Directors Association, requested clarification of the
15 waivers continuing through September 30.

16 Ms. Black commented that the waivers are in
17 effect until September 30, and any updates or
18 extensions will be posted on the Board's website.

19 Ernie Heffner, President, Heffner Funeral Chapel
20 & Crematory, Inc., thanked and complimented Chairman
21 Harris on his remarks regarding crematory operating
22 temperatures. He stated 1400 degrees would be good
23 for many reasons, including less pollution.

24 Mr. Heffner also thanked the Board for
25 recognizing the effectiveness of Section 305 of the

1 statute with regard to authorizing one's own
2 cremation.]

3 ***

4 Adjournment

5 CHAIRMAN HARRIS:

6 Do I hear a motion to adjourn?

7 MR. DUPREE:

8 Motion to adjourn.

9 CHAIRMAN HARRIS:

10 Do we have a second?

11 MS. IMBURGIA:

12 I'll second.

13 CHAIRMAN HARRIS:

14 We have a motion and a second. All in
15 favor, signify by saying aye.

16 [The motion carried unanimously.]

17 ***

18 [There being no further business, the State Board of
19 Funeral Directors Meeting adjourned at 11:21 a.m.]

20 ***

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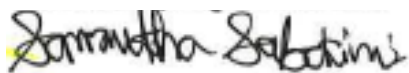
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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Funeral Directors meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Funeral Directors meeting.



Samantha Sabatini,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF FUNERAL DIRECTORS
REFERENCE INDEX

June 23, 2021

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TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:32	Official Call to Order
10:33	Roll Call
10:34	Approval of Minutes
10:34	Report of Prosecutorial Division
10:35	Motions
10:42	Report of Board Counsel
10:51	Items for Discussion
10:59	Report of Board Counsel (Continued)
11:16	Report of Commissioner
11:17	Report of Board Chair
11:17	Report of Acting Board Administrator
11:18	Public Comment
11:21	Adjournment