

**STATE OF MAINE**  
**BOARD OF FUNERAL SERVICE**

*Minutes of April 10, 2007 Board Meeting*

**Members Present:** Robert Barnes, Chair; John Dunn, Bethel Shields, Jennifer Minkowitz and Ernest Marriner

**Others Present:** Penny Vaillancourt, Administrator; Jack Richards, Assistant Attorney General; Kevin Cookson, OLR Investigator; Jennifer Mooney, Board Clerk; Anne L. Head, Director and Acting Commissioner; Clough Toppan, Director, Environmental Health (DHHS).

**Members Absent:** Normand Lambert, Hervey Clay

**CALL TO ORDER**

Robert Barnes, Chair, called the meeting to order at 9:20 a.m.

**OLD BUSINESS**

**A. APPROVAL OF MINUTES**

In a motion by Bethel Shields, seconded by Ernest Marriner, the minutes from the March 13, 2007 meeting were approved as written.

**Vote: 4 in favor (1 abstention – Jennifer Minkowitz)**

**NEW BUSINESS**

**A. DISCUSSION OF LD 820 – Anne L. Head, Acting Commissioner**

Anne L. Head, Acting Commissioner, met with the board for the purpose of discussing L.D. 820 “An Act to Amend the Funeral Service Licensing Laws.” The purpose of the discussion was to obtain a legal interpretation from the board’s Assistant Attorney General and to hear directly from the constituent, Larry Cobb, about the intent of the legislation. Specifically, the legal question posed was whether a licensed funeral practitioner has the statutory authority to delegate certain aspects of their practice to a non-licensed individual. The board’s attorney, Jack Richards, AAG advised the board that the statute does not permit such delegation.

Clough Toppan, Director of the DHHS Division of Environmental Health, provided clarification regarding DHHS statute and rules as it relates to transportation of human remains and authorized persons. The constituent also discussed with the board the analogy of “common carriers” in the transporting of human remains.

At the conclusion of the discussion, Anne Head indicated to the board that she would share the information with the bill’s sponsor and would notify the board of any subsequent developments.

## **B. INITIAL COMPLAINT PRESENTATIONS**

### 2006-FUN-2900

A complaint was filed by a family member against a licensed funeral practitioner alleging unprofessional conduct in the handling of a spring burial. The burial was scheduled with short notice on May 3, 2006 and upon receiving a phone call from the deceased's daughter, the licensee agreed to reschedule to May 19. Upon learning of the rescheduled date, the wife of the deceased inquired and expressed concern and wanted the original burial date of May 3, 2007 honored. Subsequently, the licensee performed the burial on May 3, 2006.

After a full review and discussion of the complaint materials, a motion was made by John Dunn and seconded by Bethel Shields to dismiss this complaint.

**Vote: 5 in favor**

### 2006-FUN-3050

A complaint was filed on September 30, 2006 by a wife against a licensed practitioner alleging unprofessional conduct in the handling of her husband's funeral arrangements. The allegations include: third party cremation casket; disorganization the night of the wake; family wishes for good-byes at the establishment; the funeral procession; limitation of 2 floral arrangements at the church; seating arrangements at the church; whistling at the church; and post-service meeting with practitioner.

After a full review and discussion of the complaint materials, a motion was made by John Dunn and seconded by Ernest Marriner to dismiss this complaint with a letter of guidance to be sent to the licensee reminding him of the statutes and rules regarding unprofessional conduct. The letter of guidance will remain in the licensee's file for a period of three years.

**Vote: 5 in favor**

### 2006-FUN-3200

A complaint was filed against a funeral establishment alleging unprofessional conduct as a result of placing an obituary in Maine when the deceased had specifically instructed family members not to place an obituary in Maine.

After a full review and discussion of the complaint materials, a motion was made by John Dunn and seconded by Bethel Shields to dismiss this complaint due to lack of violation of the board's rules.

**Vote: 5 in favor**

2007-FUN-3296

A complaint was filed against a funeral practitioner alleging unprofessional conduct as a result of fluid leaking from a casket during funeral services at a church. The fluid appeared to be watery blood on the floor. The licensee explained that perhaps it was fluid from the flowers, but after reading the embalming report – he explained that it was a result of peripheral edema in the lower extremities.

After a full review and discussion of the complaint materials, a motion was made by Bethel Shields and seconded by John Dunn to table this complaint pending further investigation.

**Vote: 5 in favor**

2007-FUN-3310

A complaint was filed against a licensed practitioner alleging unprofessional conduct in the handling of funeral arrangements by permitting a funeral attendant to make the arrangements.

After a full review and discussion of the complaint materials, a motion was made by Bethel Shields and seconded by Jennifer Minkowitz to table this complaint pending further investigation.

**Vote: 4 in favor, 1 opposed (Ernest Marriner)**

2007-FUN-3313

A complaint was filed against a licensee for failure to disclose criminal conviction information on their original application.

After a full review and discussion of the complaint materials, a motion was made by Jennifer Minkowitz and seconded by Bethel Shields to offer the licensee a consent agreement for failing to disclose conviction information on the application with a warning and the licensee to pay a fine of \$250.00.

**Vote: 3 in favor, 2 opposed (John Dunn and Ernest Marriner). Motion carries.**

2005-FUN-272

A complaint was filed by a family friend on January 3, 2005, against the licensee alleging unprofessional conduct as a result of the licensee harvesting the entire brain of the deceased family member instead of a tissue sample of the brain. At an earlier board meeting, October 2005, the board voted to table the matter pending the outcome of a criminal case which was filed against the licensee.

The criminal case was dismissed as reported by Jack Richards, AAG; however, there is a pending civil case.

After a full review and discussion, a motion was made by Ernest Marriner and seconded by Bethel Shields to table this complaint for further investigation pending the civil case.

**Vote: 5 in favor**

### **C. RENEWAL APPLICATION REVIEW**

Paul Fredette– Renewal Practitioner

After a review and discussion of the renewal application, a motion was made by John Dunn and seconded by Ernest Marriner to approve his renewal application.

**Vote: 5 in favor**

Matthew Cyr – Renewal Practitioner

After a review and discussion of the renewal application, a motion was made by Bethel Shields and seconded by John Dunn to table this renewal application pending results of FUN-272.

**Vote: 5 in favor**

### **D. LICENSE APPLICATION REVIEW**

Patrick F. Miner, Sr.

After review and discussion of the application, a motion was made by Bethel Shields and seconded by John Dunn to deny Mr. Miner's application for licensure as a funeral attendant based upon criminal convictions.

**Vote: 5 in favor**

### **E. APPROVAL OF CONTINUING EDUCATION PROGRAMS**

A motion was made by Ernest Marriner and seconded by John Dunn, to approve the following continuing education program(s) as reviewed by the Continuing Education Committee:

1. National Funeral Directors & Morticians Association – approved for 5.5 hours
2. International Conference of Funeral Service Examining Boards – approved for 10.25 hours
3. Kenmore Square Institute, LLC – approved for 8 hours

Vote: Unanimous

A motion was made by Ernest Marriner and seconded by John Dunn to deny the following continuing education programs as reviewed by the Continuing Education Committee:

1. Michael S. Chapman – denied for 6 hours

Vote: Unanimous

Approval and denial letters will be mailed out by the board clerk.

### **OTHER BUSINESS**

**CHAIR'S REPORT – ROBERT BARNES**

Robert Barnes gave an update regarding the meeting he attended with the ICFSEB. Robert Barnes will be headed to Nashville for the conference meeting in April.

**ADMINISTRATOR'S REPORT – PENNY VAILLANCOURT**

Penny Vaillancourt provided the board with a financial update and number of current licensees to date.

**ADJOURN**

There being no further business, in a motion by John Dunn and seconded by Jennifer Minkowitz, the Board voted unanimously to adjourn at 12:48 p.m.

Respectfully submitted,

Jennifer Mooney  
Board Clerk