

MINUTES

**UTAH
FUNERAL SERVICE LICENSING
BOARD MEETING**

August 20, 2008

**Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 a.m.

ADJOURNED: 10:25 a.m.

Bureau Manager:

Clyde Ormond

Board Secretary:

Jacky Adams

Board Members Present:

Reginal V. Ecker, Chairperson
Ned Nordgren
Joseph W. Thalman
Mark Walker
Mary W. Bearnson

Board Members Absent:

Allyn Walker

DOPL Staff Present:

F. David Stanley - Division Director
Wayne Holman - Investigative Supervisor

Guests:

Joyce Mitchell – Funeral Consumers Alliance of Utah
Darren Parker – Utah Funeral Directors Association

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Minutes

Mr. Thalman seconded by Mr. Nordgren made a motion to approve the May 21, 2008 board meeting minutes, the motion carried unanimously.

Appointment of 2008 Board Chairperson

Ms. Bearnson seconded by Mr. Walker made a motion to retain Mr. Ecker as the 2008 Board Chairperson, the motion carried unanimously.

Open & Public Meetings PowerPoint

Mr. Ormond conducted the Open & Public Meetings PowerPoint presentation. No further discussion ensued.

BUSINESS FROM PREVIOUS MEETING:

Ricks, Ryan – Update

Mr. Ormond reminded the Board that at the May 2008 meeting the Board requested for the Division to review Mr. Ricks Division of Real Estates Stipulation and Order, and

Mr. Ricks was requested to submit a letter from his counselor stating, if he was issued a license, would he be a threat to the public health, safety, and welfare.

The requested documentation was received and reviewed by the Division, Mr. Ricks license as a Pre-Need Sales Agent was later issued.

DISCUSSION ITEMS:

Funeral Services Licensing Act – Proposed Changes

Mr. Ormond explained that he is proposing revising R156-9-502 to include a violation of “the National Funeral Directors Association “Code of Professional Conduct” March 10, 2008 edition” to be considered to be Unprofessional Conduct.

After a brief discussion it was determined that the proposal should be revised to indicate “the current revision of the National Funeral Directors Association “Code of Professional Conduct””.

After the meeting concluded it was determined that “63G-3-201(7) (b) (iii) states the referenced material shall state the date, issue or version of the material to be incorporated”. The revision of R156-9-502 will remain as originally proposed.

Pre-Need Contract Questions

Mr. Ormond reviewed an email received by the Division, which questioned if a Pre-Need Contract needed to contain a signature for the: Pre-Need Sales Agent, Insurance Agent, and Funeral Director.

After a brief discussion it was determined that the Pre-Need Sales Agent and the Insurance Agent is the same person, only the Pre-Need Sales Agent, and Funeral Director need sign the Pre-Need Contract.

Division of Insurance Licensure Questions

Mr. Ormond explained that the Division has become concerned that not all Establishments (Funeral Establishments) hold all of the appropriate licenses required. He questioned the Board to determine if Third-Party, Pre-Need Sales Contracts have ever been accepted within the profession. The Board did not feel that this practice was acceptable.

Mr. Ormond further explained that the Division has had a meeting with a representative of the Utah Division of Insurance. Mr. Ormond explained that 58-9-302 (3) (f) requires that each Establishment, who intends “to engage in the sale of any pre-need funeral arrangements funded in whole or in part by an insurance policy or product to be

sold by the provider or the provider's sales agent hold appropriate licensure with the Division of Insurance. However, the Division of Insurance will not license Establishments who are registered as a DBA (Doing Business As), of another entity. The Division of Insurance's Unfair Marketing Practices Rule R590-154-5 (A) requires that no insurance producer shall use a name which may be misleading or deceptive to the public, may be mistaken for another licensee, or implies association or connection to another organization if a bona fide association or connection does not exist.

After a detailed discussion it was determined that each Establishment must hold a Funeral Establishment and a Division of Insurance license. If the Establishment is a DBA, they may use their Corporate entities Division of Insurance License to meet the requirements of 58-9- 302 (3) (f), only if the name is similar in nature (i.e. ABC Funeral Home West, DBA of ABC Funeral Home).

It was further determined that at or before the 2010 renewal of this profession each Establishment must supply documentation of current licensure with the Division of Insurance, and registration with the Division of Corporations and Commercial Code.

Medicaid Rules vs. State Statute

Mr. Ormond explained that the Division has been questioned concerning if it is ethical for an Establishment to be the Beneficiary of a Pre-Need Sales Contract. Mr. Walker explained that, most Establishments have been in this situation, he further added that he did not feel that this practice was unethical, the remainder of the Board agreed.

Mr. Ormond then questioned the Board regarding who retained any additional funds, after the Contact was completed. Mr. Walker explained that it would depend on the Establishment. Mr. Ecker added that he felt it would be unethical only if the policy was substantially higher than the cost of the funeral. Mr. Nordgren then added that Medicare does not allow the Establishment to refund any of the funds, and regulates this practice very closely.

The Board was then questioned regarding how a Pre-Need Contact is handled, upon the death of the holder, if the Contract is not paid in full. The Board explained that it would depend on the type of Contact, further explaining that Trust Contracts would only pay out the amount paid in, while Insurance Contacts would pay balance in full. Mr. Walker added that in some cases the Funeral cost exceeds the Establishments profit the Establishment then must take a loss.

Mr. Ormond then questioned the Board to determine if a Contract could be changed prior to or after death. Mr. Nordgren explained that changes could be requested, however, he would not guarantee that the request would be granted.

CORRESPONDENCE:

Funeral Home & Cemetery News – June, July & August 2008	Reviewed, with no further action taken.
Cremation Association of North America – Letter	Reviewed, with no further action taken.
Funeral CE – Address Change	Reviewed, with no further action taken.
Selected Independent Funeral Homes – Continuing Education	Reviewed, with no further action taken.
The Conference – February 26 th & 27 th , 2009 Conference	Reviewed, with no further action taken.

NEXT MEETING SCHEDULED FOR: November 12, 2008

ADJOURN: 10:25 a.m.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

November 12, 2008	(ss) Reginal V Ecker
Date Approved	Chairperson, Utah Funeral Service Licensing Board

November 17, 2008	(ss) Clyde Ormond
Date Approved	Bureau Manager, Division of Occupational & Professional Licensing