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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

TIME: 10:32 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

October 30, 2024

State Board of Funeral Directors
October 30, 2024

BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Kenneth C. DuPree, Chairperson, Professional Member
Gregory K. Furlong, Vice Chairperson, Professional
Member
Eric D. Ruggeri, Secretary, Public Member
Charles F. Snyder III, Professional Member
Christopher Feryo, Professional Member
Chad M. Lutz, Professional Member
Jennifer Jane Kirk, Esquire, Senior Deputy Attorney
General, Antitrust Section, Bureau of Consumer
Protection Representative

BUREAU PERSONNEL:

Shawn J. Jayman, Esquire, Board Counsel
Timothy A. Fritsch, Esquire, Board Prosecution
Liaison
Marc Farrell, Esquire, Regulatory Counsel,
Office of Chief Counsel, Department of State
J. Leslie Warner, Board Administrator
Andrew LaFratte, MPA, Deputy Policy Director,
Department of State
Jennifer Papula, Fiscal Management Chief, Department
of State

ALSO PRESENT:

David Morrison, Society of Friends
Jason Benion, Esquire, Shareholder and Chair of the
Death Care Group, Saxton & Stump, LLC
Kathleen K. Ryan, Esquire, Pennsylvania Funeral
Directors Association
Adam Shaffer, Pennsylvania Funeral Directors
Association
Ernie Heffner, President, Heffner Funeral Chapel
& Crematory, Inc.
Harry Neel, Jefferson Memorial Cemetery, Funeral
Home, Crematory, and Arboretum
Mercedes Newby
Tammy Lauden
Brian Leffler
Michael Merton
Jen Juper
Zachary Petrosky, Sargent's Court Reporting Service,
Inc.

1 ***

2 State Board of Funeral Directors

3 October 30, 2024

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 a.m. the Board entered into Executive Session
7 with Shawn J. Jayman, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations on
9 a number of matters currently pending before the
10 Board and to receive the advice of counsel. The
11 Board entered into public session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Funeral Directors was held on Wednesday,
15 October 30, 2024. Kenneth C. DuPree, Chairperson,
16 Professional Member, called the meeting to order at
17 10:32 a.m.

18 ***

19 Roll Call/Introduction of Attendees

20 [Kenneth C. DuPree, Chairperson, Professional Member,
21 welcomed new Board members, Chad M. Lutz and
22 Christopher Feryo, to the State Board of Funeral
23 Directors.

24 Chair DuPree requested a roll call of Board
25 members and introduction of attendees. A quorum of

1 Board members was present.]

2

3 [Shawn J. Jayman, Esquire, Board Counsel, noted the
4 meeting was being recorded and continued
5 participation constituted consent to be recorded.

6 Mr. Jayman also noted the Board entered into
7 Executive Session for the purpose of conducting
8 quasi-judicial deliberations on a number of matters
9 currently pending before the Board and to receive the
10 advice of counsel.]

11

12 Approval of minutes of the September 18, 2024 meeting

13 ACTING COMMISSIONER CLAGGETT:

14 So moved.

15 MR. RUGGERI:

16 Second.

17 CHAIR DUPREE:

18 Can we have a motion to approve the
19 minutes from September 18?

20 ACTING DUPREE:

21 Roll call.

22

23 Arion Claggett, aye; Kenneth DuPree,
24 aye; Gregory Furlong, aye; Eric
25 Ruggeri, aye; Charles Snyder, aye;

1 Christopher Feryo, aye; Chad Lutz,
2 abstain; Jennifer Kirk, aye.

3 [The motion carried. Chad Lutz abstained from voting
4 on the motion.]

5 ***

6 Report of Prosecutorial Division - No Report

7 ***

8 Report of Board Counsel - Final Adjudication and
9 Order

10 MR. JAYMAN:

11 With regard to number 2 on the agenda,
12 based on Executive Session
13 deliberations, I believe the Chair
14 would entertain a motion to adopt the
15 Final Adjudication and Order as written
16 in the Matter of Henry A. Sobolak III,
17 Case No. 21-48-016039.

18 ACTING COMMISSIONER CLAGGETT:

19 So moved.

20 MR. FERYO:

21 Second.

22 CHAIR DUPREE:

23 Roll call, please.

24

25 Arion Claggett, aye; Kenneth DuPree,

1 aye; Gregory Furlong, aye; Eric
2 Ruggeri, aye; Charles Snyder, aye;
3 Christopher Feryo, aye; Chad Lutz,
4 abstain; Jennifer Kirk, aye.

5 [The motion carried. Chad Lutz abstained from voting
6 on the motion.]

7 ***

8 Report of Board Counsel - Proposed Adjudications and
9 Orders

10 MR. JAYMAN:

11 Number 3 on the agenda. It's my
12 understanding that the Board would
13 entertain a motion to table the matter
14 of John Lyle Henson, Case No. 23-48-
15 001023.

16 CHAIR DUPREE:

17 I would entertain a motion.

18 ACTING COMMISSIONER CLAGGETT:

19 So moved.

20 MR. RUGGERI:

21 Second.

22 CHAIR DUPREE:

23 Roll call, please.

24

25 Arion Claggett, aye; Kenneth DuPree,

1 aye; Gregory Furlong, aye; Eric
2 Ruggeri, aye; Charles Snyder, aye;
3 Christopher Feryo, aye; Chad Lutz,
4 abstain; Jennifer Kirk, aye.

5 [The motion carried. Chad Lutz abstained from voting
6 on the motion.]

7 ***

8 MR. JAYMAN:

9 Number 4 on the agenda. Based on
10 Executive Session deliberations, I
11 believe the chair would have a motion
12 to direct Board Counsel to draft an
13 Adjudication and Order consistent with
14 discussions in Executive Session in the
15 matter of Raphael M. Hunt-Irving, Case
16 No. 19-48-007957.

17 CHAIR DUPREE:

18 Call for a motion.

19 ACTING COMMISSIONER CLAGGETT:

20 So moved.

21 MR. RUGGERI:

22 Second.

23 CHAIR DUPREE:

24 Roll call.

25

1 Arion Claggett, aye; Kenneth DuPree,
2 aye; Gregory Furlong, aye; Eric
3 Ruggeri, aye; Charles Snyder, aye;
4 Christopher Feryo, aye; Chad Lutz,
5 abstain; Jennifer Kirk, aye.

6 [The motion carried. Chad Lutz abstained from voting
7 on the motion.]

8 ***

9 MR. JAYMAN:

10 This now takes us to Number 5 on the
11 agenda. Based on Executive Session
12 deliberations, I believe the Chair
13 would entertain a motion to direct
14 Board Counsel to draft an Adjudication
15 and Order consistent with discussions
16 in Executive Session in the matter of
17 John Guy Kelly, Case No. 22-48-007691.

18 CHAIR DUPREE:

19 Call for a motion.

20 ACTING COMMISSIONER CLAGGETT:

21 So moved.

22 MR. RUGGERI:

23 Second.

24 CHAIR DUPREE:

25 Roll call.

1

2

Arion Claggett, aye; Kenneth DuPree,

3

aye; Gregory Furlong, aye; Eric

4

Ruggeri, aye; Charles Snyder, aye;

5

Christopher Feryo, aye; Chad Lutz,

6

abstain; Jennifer Kirk, aye.

7

[The motion carried. Chad Lutz abstained from voting

8

on the motion.]

9

10 Report of Board Counsel - Other

11 [Shawn J. Jayman, Esquire, Board Counsel, reported on

12 15 active cases.]

13

14 Matters for Discussion

15 MR. JAYMAN:

16

Number 8 on the agenda. Based on

17

Executive Session deliberations, I

18

believe the Chair would entertain a

19

motion to approve the request to hold

20

human remains for more than 10 days in

21

the matter with Case No. FR013881.

22 CHAIR DUPREE:

23

Call for a motion.

24

ACTING COMMISSIONER CLAGGETT:

25

So moved.

1 MR. RUGGERI:

2 Second.

3 CHAIR DUPREE:

4 Roll call.

5

6 Arion Claggett, aye; Kenneth DuPree,
7 aye; Gregory Furlong, aye; Eric
8 Ruggeri, aye; Charles Snyder, aye;
9 Christopher Feryo, aye; Chad Lutz,
10 abstain; Jennifer Kirk, aye.

11 [The motion carried. Chad Lutz abstained from voting
12 on the motion.]

13

14 Report of Acting Commissioner

15 [Arion R. Claggett, Acting Commissioner, Bureau of
16 Professional and Occupational Affairs, informed Board
17 members that System Automation was selected to
18 replace the Pennsylvania Licensing System (PALS) and
19 will be in place at the end of 2025.]

20

21 Report of Board Chairperson - No Report

22

23 Report of Board Administrator - No Report

24

25 Regulatory Issues - Status Update - Status Update

1 [Marc Farrell, Esquire, Regulatory Counsel, Office of
2 Chief Counsel, Department of State, reported the
3 Board had approximately six previous regulatory
4 packages pending over the last few years for various
5 topics. None of them ever were finalized.

6 Mr. Farrell stated the regulations were pulled
7 together for the Board to review in order to
8 streamline them through the regulatory process. An
9 exposure draft was sent to the funeral board
10 stakeholder list. Two comments were received, one
11 from the Pennsylvania Funeral Directors Association
12 and one from Saxton & Stump. Mr. Farrell will flag
13 the regulations with comments received.

14 Mr. Farrell encouraged the Board and stakeholders
15 to add their comments to the discussion without
16 talking over one another. He stated he may not have
17 the full background on some of the regulations that
18 commenced before he joined the funeral board.

19 Mr. Farrell explained the part of the regulation
20 package filed with Independent Regulatory Review
21 Commission is called the Annex. This reflects the
22 languages changes as directed by the Board.

23 Mr. Farrell directed the Board to the General
24 Provisions Subchapter 13.1, page 7. He discussed the
25 deletion of the definition of supervisor due to

1 adding § 13.166 and § 13.167 dealing specifically
2 with supervisor. The next change appears on page 16,
3 under the subchapter designation Effective Licensure
4 Designations. He noted the sentence being changed,
5 "Each funeral director's license will bear the name
6 and location of the funeral establishments. The
7 funeral director is designated as the funeral
8 director's primary location of practice. The funeral
9 director may designate a school who mortuary science
10 department is accredited by the American Board of
11 Funeral Service Education."

12 Mr. Farrell moved to page 17, § 13.83, effective
13 name designed on license. He noted the replacement
14 of the word "establishment." Next, four lines of
15 text were deleted under "shall be conducted only
16 under the name appearing."

17 Kathy Ryan, PFDA, stated a comment had been made
18 regarding the use of "entity" and "establishment"
19 interchangeably. She suggested being consistent with
20 the term. Mr. Farrell stated the pronouns should be
21 eliminated in the regulations. Jason Benion,
22 Esquire, Saxton & Stump, pointed out both terms are
23 defined in the regulations. Mr. Farrell stated each
24 term will be used appropriately.

25 For 13.84, Mr. Farrell referred to the revisions

1 to the existing sentence. The top of page 18 refers
2 to a new section called Professional Responsibility.
3 Mr. Farrell noted a comment received on this section
4 from Saxton & Stump regarding imposing a liability
5 for the errors of employees and agents and expressing
6 a concern whether the board has statutory authority.
7 The striking of the second sentence from § 13.87(a),
8 § 13.87(b) and a later section, § 13.166(f) was
9 suggested as a resolution. The case cite is *Geisel*
10 *vs. Pennsylvania State Board of Funeral Directors,*
11 *755 A.2d,750,754,* from PA Commonwealth Court in 2000.

12 Mr. Benion stated the concern was that the second
13 sentence held funeral entities, funeral supervisors
14 and management level employees strictly vicariously
15 liable for errors that other employees make. The
16 Board has the authority to hold supervisors liable
17 for their failure to supervise. The Board does not
18 have the authority under the *Geisel* decision to hold
19 a funeral supervisor or a funeral home responsible
20 just because an employee did something wrong.

21 The Board discussed the vicarious liability of
22 the supervisor. Mr. Benion outlined the *Geisel*
23 decision. Mr. Fritsch questioned whether the issue
24 was with holding a director liable for the actions of
25 an unlicensed employee of the entity or whether the

1 entity should not be able to be held liable for the
2 actions of an unlicensed employee.

3 Mr. Benion stated this proposed regulation is
4 understood as being applied across the board and
5 extending that concept not only to supervisors, but
6 to entities and to other management level employees.
7 He was asked to provide a hypothetical infraction of
8 an employee that would be the supervisor's fault.
9 Mr. Benion proposed a funeral home and a funeral
10 supervisor has written policies and procedures in
11 place about how to handle pre funds. The funeral
12 supervisor oversees that process by spot checking the
13 preview ledger for when arrangements are being made
14 on a pre-need basis to make sure those procedures are
15 being followed. An ill-intentioned employee steals
16 funds and should be penalized. Mr. Benion stated the
17 proposed regulation would hold the supervisor
18 responsible for that misconduct.

19 Ms. Ryan questioned, if the second sentence is
20 deleted and there is no written policy, what would
21 the prosecutor have to prove to say that the
22 supervisor is responsible. Mr. Benion stated the
23 prosecution would question the supervisor on the
24 policies and procedures for supervising an employee,
25 noting the *Geisel* case. Ms. Ryan did not disagree,

1 but noted the tremendous burden put on the
2 prosecutor.

3 Mr. Fritsch explained, for example, an employee
4 steals \$500,000, the prosecution wants to be able to
5 go after a licensee for that. He suggested there be
6 language in the regulations clearly stating the duty
7 to supervise. The Board would not have a problem
8 finding a lack of supervision for the noted scenario.
9 Mr. Fritsch noted the regulations to expand on the
10 supervisor language but should be further reviewed.

11 Mr. Benion questioned Mr. Fritsch whether the
12 provisions in first sentence of (a) and (b), again
13 repeated in 166(f), would cover the responsibilities
14 from a prosecutor's perspective. Mr. Fritsch noted
15 the language, "a funeral director who directs other
16 funeral directors or non-licensed individuals shall
17 assure that those individuals act in compliance with
18 the act and this chapter." The second sentence is
19 not needed.

20 Chair Dupree stated the question becomes, funeral
21 director be responsible for the malicious activity of
22 an agent or an employee? Mr. Snyder stated, if an
23 individual is making a poor decision, the boss should
24 not be held liable. Mr. Lutz stated a funeral
25 director is always acting as the agent of the funeral

1 home. Ms. Ryan suggested specific duties should be
2 imposed upon a supervisor. Mr. Fritsch explained the
3 prosecution would go after the licensed individual.
4 Unlicensed individuals cannot be charged by the
5 Board. An employer must have some responsibility for
6 an employee. He admitted having to review the *Geisel*
7 case.

8 Mr. Benion stated *Geisel* stated the funeral
9 director law does require a supervisor. Because of
10 that, the Board has the authority to prosecute under
11 the general professional misconduct regulation that
12 supervisor's failure to supervise. He agreed with
13 the supervisor being professionally responsible for
14 the people that work under them, which reflects the
15 current law.

16 Mr. Farrell confirmed with Mr. Fritsch his
17 agreement to remove the second sentence. He then
18 suggested keep the first sentence, then adding a
19 comma, "and the funeral may be professionally
20 responsible fore non-compliance." The title of the
21 section is "Professional Responsibility."

22 Mr. Farrell stated the changes will be brought
23 back to the Board for another review. Mr. Benion
24 stated by striking the regardless clause would
25 address the concern. Mr. Farrell read, "Funeral

1 director, who in the scope of practice of funeral
2 directing directs other funeral directors or non-
3 licensed individuals shall assure that those
4 individuals act in compliance with the act and this
5 chapter, comma, and the funeral director shall be
6 professionally responsible for non-compliance." The
7 Board discussed the word "non-compliance."

8 Mr. Farrell next referred to page 18, stated PFDA
9 did have an observation for this § 13.91, approval of
10 a funeral establishment. PFDA suggested there be
11 proof of existence, such as a copy of a telephone
12 bill. Mr. Ryan stated the reason the section was
13 brought up is because many people do not have land
14 lines. The Board agreed and also stated the funeral
15 home applying for ownership should be cleared of any
16 violations. Chair Dupree stated an individual that
17 owes the State money should not be able to buy a
18 funeral home.

19 Mr. Snyder suggested the 30 days of settlement of
20 buying a funeral establishment to notify the preneed
21 contracts be moved to 60 or 90 days. He noted the
22 many obstacles in acquiring a business. Mr. Farrell
23 clarified that § 13.91(b) would read shall within 60
24 or possibly 90 days of settlement submit... The Board
25 will review the suggestion further at its next

1 meeting.

2 Mr. Farrell moved to page 19, noting a new
3 subchapter heading of "Sole Proprietorship License"
4 and two new sections § 13.95 and § 13.96. A comment
5 from Saxton & Stump was received on this section.
6 They questioned whether the Board has provided for
7 licensing of liability companies in the most
8 effective way. Mr. Benion suggested the better way
9 to analogize LLCs to the current licensing would be
10 to treat them as restricted business corporations
11 rather than as sole proprietorships or partnerships
12 based on the number of members. The IRS treats an
13 LLC as a sole proprietorship or partnership based on
14 the number of members. For most states, for state law
15 purposes, LLCs are treated just like corporations.

16 Mr. Snyder commented on § 13.94, number 1 and 2.
17 Several funeral home owners and directors have
18 multiple locations. He suggested there may not need
19 to be a number 1 and 2 in every facility if there is
20 a central location. The Board discussed the
21 requirement for a prep room in the statute. Steps to
22 change the statute were discussed. Mr. Farrell will
23 flag the section to be further reviewed by him.

24 Mr. Farrell moved to page 20, § 13.103, noting
25 the revisions to this section. § 13.109 received

1 comments from Saxton & Stump. He reviewed the
2 revisions to this section. Mr. Benion stated this
3 kept with conforming changes with RBCs for LLCs.
4 § 13.110 and § 13.113 on page 21 onto page 22
5 revisions were noted. § 13.118 at the bottom of page
6 22 will be deleted.

7 Under the subheading pre-1935 business
8 corporation licenses, § 13.122 will read, "pre-1935
9 business corporation shall have a permanent
10 supervisor in accordance with § 13.166." § 13.123
11 will be deleted.

12 PFDA had comment on § 13.133 that this regulation
13 should be worded to comply with the *Heffner v.*
14 *Murphy*, 745 F.3d 56 from 2014. Ms. Ryan noted the
15 section allows for fictitious names, which the case
16 does not permit that. Revisions will be made.

17 Mr. Farrell noted the new section at the bottom
18 of page 24, § 13.135(a) which is entitled Permanent
19 Professional Corporation Supervisor. A professional
20 corporation licensee shall have a supervisor as
21 required by § 13.16, Permanent Supervisor.

22 Page 25, the *Heffner* case was noted with regard
23 to this section. § 13.144 will now be Permanent
24 Restricted Business Corporation Supervisor on page 25
25 and continuing onto page 26.

1 Mr. Lutz requested clarification of the term RBC,
2 meaning restricted business corporation. If the
3 Board classifies LLCs as RBCs, this then states that
4 an RBC has to have a supervisor. Mr. Benion
5 explained it is better to have LLCs as restricted
6 business corporations. Sole proprietorships and
7 partnerships have significant restrictions imposed on
8 them. LLCs and RBCs may be passed onto family
9 members. That cannot happen with sole
10 proprietorships and partnerships, but there are
11 exceptions. Some restrictions make it
12 disadvantageous to license an LLC as a sole
13 proprietorship or a partnership. Under state law, an
14 LLC is treated as a corporation. The question then
15 has been raised as to what to do with the current
16 licensed LLCs, possibly be grandfathered.

17 Mr. Heffner stated, under project 89, his
18 establishments were not grandfathered in. He had to
19 restructure everything, break two locations down with
20 separate tax IDs. Options and requirements for the
21 licensee to choose LLC or RBC were discussed. The
22 Board would keep the sole proprietorship and
23 partnership language in the regulations and add the
24 section on RBCs.

25 It was noted the *Heffner* case should be applied

1 to § 13.142. Page 27, § 13.155, revisions were
2 noted. § 13.156 and § 13.157 will be deleted and
3 reserved. § 13.161 revisions were noted.

4 Mr. Farrell moved to the two new supervisor
5 sections, § 13.166 and § 13.167. He noted Saxton and
6 Stump had a comment as discussed previously with
7 regard to the supervision and knowledge issues. Mr.
8 Benion suggested the legacy sentence from the old
9 regulations that requires the application to be filed
10 by fax, mail or personal delivery be changed. Mr.
11 Ruggeri recommended that the same language be used
12 for all sections regarding the matter.

13 Mr. Benion questioned whether the intent of the
14 Board for § 13.137 (b) on page 31 was to allow
15 someone who is already a supervisor to serve as a
16 temporary supervisor at a second establishment. He
17 suggested the term be changed from funeral director
18 to funeral supervisor. It would say, a temporary
19 supervisor, unless required by the Board for good
20 cause, shall not be required to cease any other
21 practice as funeral supervisor as a condition of
22 acting as temporary supervisor.

23 Mr. Feryo questioned the language, a supervisor
24 shall not operate a sole proprietorship or act as a
25 partnership partner in a partnership, but a sole

1 proprietorship does not have to have a supervisor.
2 So a supervisor could not be at a corporation and own
3 a sole proprietorship through the law separately.
4 Mr. Fritsch explained a sole proprietor that does not
5 have a branch would not need a supervisor. That sole
6 proprietor is the supervisor. If a sole proprietor
7 has a branch and wants to be the supervisor of that
8 branch, they can appoint a different person to
9 supervise the main establishment.

10 Mr. Snyder requested feedback regarding temporary
11 license supervisor under (c) on page 31. A funeral
12 entity may operate for up to 30 days following the
13 death. He questioned whether more time should be
14 allotted to recruit a supervisor if needed. The
15 Board agreed that language should be able added that
16 the time may be extended with Board approval.

17 Mr. Farrell referred to page 32, § 13.174.
18 Saxton and Stump had a comment. Mr. Benion applauded
19 the Board for modernizing that 10-day rule. Bodies
20 should not be held for extended periods of time
21 without access to refrigeration. The Board should
22 require at least access to refrigeration facilities.

23 Chair Dupree stated funeral homes in Philadelphia
24 are facilities that were transformed from either row
25 homes or another use. Very few funeral homes in

1 Philadelphia were built from ground up to be funeral
2 homes. Adding of refrigeration to some of the
3 funeral homes is simply not possible. To require the
4 use of refrigeration means that a funeral home would
5 have to find another funeral home contract that has
6 refrigeration. Then there is the legal issue of the
7 transfer of custody of human remains to another
8 funeral home. He would oppose a regulation that
9 would require a funeral home to have refrigeration.

10 Mr. Snyder found the requirement for
11 refrigeration to be no different than the requirement
12 of an embalming machine or a room. He stated it just
13 made sense to require refrigeration with there being
14 60 percent cremation.

15 Ms. Ryan noted the many cases across Pennsylvania
16 where there were horrible situations of bodies in
17 garages. Mr. Snyder stated multiple funeral homes
18 may together purchase refrigeration as a shared
19 space. Chair Dupree reiterated it would be cost
20 prohibitive in Philadelphia to require refrigeration.

21 Families would also be hesitant to pay for
22 refrigeration. It was noted 20-30 percent of funeral
23 homes had refrigeration according to a study
24 conducted by PDFA three years ago.

25 Mr. Benion stated the problem was already being

1 taken care of by the existing regulation requiring
2 the body to be embalmed, refrigerated or hermetically
3 sealed within 24 hours and one minute after death.
4 It was noted there are regulations from the Board,
5 the public health statutes, and coroner act that
6 prohibit cremation within the first 24 hours. Mr.
7 Benion stated the individual he was advocating on
8 behalf of have taken the steps to have their own on-
9 site refrigeration. He deals with many smaller
10 clients in rural areas. The overwhelming majority of
11 the time that crematorium already has refrigeration.

12 Chair Dupree stated if the person is in the
13 hospital, the person can be left in the hospital to
14 solve the problem. The problem will occur when
15 someone dies at home or a nursing home.

16 Mr. Snyder stated it is a responsibility as a
17 professional to have refrigeration on our premise.

18 Mr. Benion reiterated the request to require
19 either on-site refrigeration or access to
20 refrigeration at an affiliated funeral establishment.

21 Mr. Feryo stated the law says a person must be
22 embalmed, hermetically sealed or refrigerated. The
23 requirement then would be that every funeral home
24 would have to have refrigeration, which would impact
25 80 percent of the funeral homes in the state of

1 Pennsylvania.

2 Chair Dupree stated by requiring access to
3 refrigeration, the supervisor at one funeral home
4 becomes responsible for the activities of another
5 funeral home. Mr. Snyder stated this is reason to
6 require refrigeration. Chair Dupree stated he did
7 not have the room at his funeral home.

8 Ms. Kirk noted the discussion about refrigeration
9 that is not in the statute. If the law already
10 requires refrigeration after 24 hours plus one
11 minute, why would the requirement for refrigeration
12 need to be in this section?

13 Mr. Benion stated the practical effect of the
14 regulations currently in place require embalming in
15 almost every circumstance where a family does not
16 want to direct cremation without services. Every
17 funeral home must have an embalming preparation room.

18 There
19 is no requirement to have the ability to refrigerate.
20 He noted most funeral homes charge less for
21 refrigeration than for embalming.

22 Mr. Snyder discussed the issue with obtaining
23 death certificates delaying the time to even cremate
24 a body.

25 Ms. Kirk discussed a situation where an

1 individual that died was still in the home within 24
2 hours and not embalmed or refrigerated. Mr. Benion
3 discussed the need to distinguish between the next of
4 kin performing their own funeral services versus a
5 licensed funeral director. There are probably
6 different standards that apply in those two different
7 contexts.

8 Ms. Kirk questioned what regulations apply to the
9 next of kin that does not involve a funeral home.
10 Mr. Benion stated the Board's regulations address
11 that, because the Board is tasked with regulating the
12 industry. There are public health laws. The
13 Department of Health would have something to say
14 about that. Vital statistics would have something to
15 say about what that family does on their own.

16 Mr. Snyder stated the Board is divided on the
17 refrigeration issue and cannot make a determination
18 on the refrigeration requirements to be added to the
19 regulation.

20 Mr. Feryo questioned if the requirement for
21 refrigeration were directed by the new regulation on
22 January 1st, 80 percent of the funeral homes in the
23 state of Pennsylvania would have to have
24 refrigeration by that date. It was noted the funeral
25 homes would have an effective date to comply as

1 directed by the Board.

2 Chair Dupree suggested the Board move forward as
3 the current law requirements suffice. Mr. Snyder
4 stated there are major issues by leaning on hospitals
5 or a third-party crematory. The Board agreed there
6 should be more discussion on the matter.

7 The Board discussed providing clarity as to the
8 definition of a sealed container.

9 The Board agreed at § 13.174(1)(i) the word
10 rubber gloves should be deleted.

11 Mr. Farrell referred to page 33, § 13.184, the
12 10-day rule. Chair Dupree suggested the rule be
13 increased to 20 days, for example, in order to
14 provide the opportunity for families to schedule a
15 service at a military cemetery. Ms. Ryan stated
16 PFDA's position is the time not be extended without
17 the requirement for refrigeration. The Board
18 discussed the request for permission to exceed 10
19 days.

20 Mr. Fritsch stated the idea of the regulations is
21 to take the burden off the profession and the Board.

22 Mr. Shaffer stated there are not many cases the
23 exceed 10 days. Mr. Snyder disagreed and stated it
24 is becoming more routine due to waiting on signatures
25 of doctors or evital issues.

1 Ms. Warner added that she deals with a minimum of
2 15 requests per day requesting an additional day or
3 two. The requests are due to the family not having
4 money or needing to contact the next of kin.

5 Mr. Heffner stated this matter was exacerbated by
6 COVID. People could not travel or could not have
7 services. The Board became inundated with requests
8 for an extension of time. Post-COVID, people are
9 used to the delays. He stated the time should be
10 extended, but suggested there should be a requirement
11 for refrigeration or access to refrigeration.

12 Ms. Kirk questioned the downside of extending to
13 20 days. The Board discussed the ramifications to
14 not having refrigeration or access to refrigeration.
15 The Board noted the current number of requests for
16 extensions. Mr. Fritsch suggested looking at a
17 number of days that would reduce the number of
18 requests made to the Board for extensions.

19 Ms. Ryan stated by talking about the burden on
20 the board dealing with these requests, you are
21 sacrificing the condition of the bodies and the
22 families of the loved one. She opined, if the time
23 is extended, there will be more violations.

24 Ms. Kirk reiterated the requirement that a person
25 must be embalmed, hermetically sealed or refrigerated

1 or there is a violation. Mr. Benion explained that
2 one of the first opportunities for that violation to
3 be flagged is the 10-day rule. The statute was
4 referenced on the matter. It was noted more crimes
5 and violations occur by letting a body decompose.

6 Mr. Snyder stated Pennsylvania consumers think of
7 funeral homes as a care center and embalming room or
8 cooler. Ms. Ryan offered to conduct the
9 refrigeration survey soon. The Board suggested the
10 survey ask do you have refrigeration, as well as do
11 you have access or contract with a facility for
12 refrigeration?

13 It was noted a three-body refrigeration unit is
14 seven and a half feet by a little over three feet by
15 five feet. There is also a machine called a Coolbot
16 that is a \$360 device.

17 Mr. Claggett suggested a determination could be
18 made to not increase the number of days from 10.

19 Chair Dupree stated the current law addresses how
20 the body is prepared. The manner being used to hold
21 a body beyond 10 days or 15 days would be included in
22 the application request. He suggested to increase it
23 to 15 days.

24 Mr. Snyder agreed to the 15 days and discussed
25 variables for the need for extensions. He stated

1 refrigeration still must be addressed.]

2 ***

3 MR. FARRELL:

4 I believe the Board would entertain a
5 motion to direct Regulatory Counsel in
6 preparation of the proposed regulatory
7 package to change the 10-day
8 requirement in § 13.184, Prompt
9 Disposal of a Deceased Body, to 15 days
10 rather than 10.

11 CHAIR DUPREE:

12 Call for a motion.

13 ACTING COMMISSIONER CLAGGETT:

14 So moved.

15 MR. SNYDER:

16 Second.

17 CHAIR DUPREE:

18 Roll call.

19
20 Arion Claggett, aye; Kenneth DuPree,
21 aye; Gregory Furlong, aye; Eric
22 Ruggeri, aye; Charles Snyder, aye;
23 Christopher Feryo, aye; Chad Lutz,
24 abstain; Jennifer Kirk, nay.

25 [The motion carried. Chad Lutz abstained from voting

1 on the motion. Jennifer Kirk opposed the motion.]

2

3 [Mr. Farrell next referred to § 13.183. It was
4 suggested to incorporate the statement of policy that
5 has been pending into these regulations. Both PFDA
6 and Saxton had comments on this.

7 Ms. Ryan stated it was good to include the policy
8 statement. Mr. Benion stated generally that
9 statement of policy allowed food to be served
10 anywhere in the funeral establishment that the
11 professional practice of funeral directing was not
12 occurring, such as lounge areas. He questioned
13 whether the prohibition is only when the deceased is
14 present in the room.

15 The Board discussed different scenarios that
16 would require clarification. A clarifying statement
17 would be that food and a corpse were not in the same
18 place at the same time. It was noted the statement
19 of policy came about in part because of a
20 disciplinary action that preceded that before the
21 Board.

22 Ms. Ryan read the statute, "No food or
23 intoxicating beverage shall be served in any funeral
24 establishment in which the profession of funeral
25 dressing is carried on. Beverages, if served, must

1 be restricted to a separate room not used for the
2 preparation and conduct of the funeral service. Any
3 facility beyond the confines of the funeral
4 establishment, but directly or indirectly operated by
5 the funeral director for the service of refreshment
6 or food shall be maintained in accordance with the
7 state and local health laws and regulations
8 pertaining to public eating places for the protection
9 of the public."

10 Chair Dupree noted, with an increase in cremation
11 and memorial services, there would not be an issue.
12 Mr. Ruggeri commented that the statement of policy as
13 drafted back in 2019 would prohibit food where there
14 is an urn. Mr. Snyder questioned the health hazard
15 by having the remains and food in the same room.
16 Nobody knows.

17 Ms. Ryan noted there would have to be a
18 legislative change to change the first sentence of
19 the policy statement.

20 Mr. Benion explained, based on the noted
21 disciplinary action, the formal written decision was
22 interpreted to allow food in certain parts of a
23 funeral home. The statement of policy was approved
24 by the Board in 2019 to lay out what was permitted,
25 but was never formally legally promulgated.

1 Funeral Directors Meeting adjourned at 12:53 a.m.]

2 ***

3

4 CERTIFICATE

5

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

12

13

14



15

Zachary Petrosky,

16

Minute Clerk

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Sargent's Court Reporting

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Service, Inc.

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STATE BOARD OF FUNERAL DIRECTORS
REFERENCE INDEX

October 30, 2024

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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/Introduction of Attendees
10:35	Approval of Minutes
10:36	Report of Prosecutorial Division
10:36	Report of Board Counsel
10:41	Report of Board Chair
10:41	Report of Board Administrator
10:42	Regulatory Issues
12:53	Adjournment