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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

January 10, 2024

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State Board of Funeral Directors
January 10, 2024

BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
Carmella M. Imburgia, Chairperson, Professional Member
Kenneth C. DuPree, Vice Chairperson, Professional Member
Milian E. Rodriguez, Secretary, Professional Member
Gregory K. Furlong, Professional Member
Eric D. Ruggeri, Public Member
Jennifer Jane Kirk, Esquire, Senior Deputy Attorney General, Antitrust Section, Bureau of Consumer Protection Representative

BUREAU PERSONNEL:

Shawn J. Jayman, Esquire, Board Counsel
Ray Michalowski, Esquire, Senior Board Prosecutor
Glenn P. Masser, Esquire, Board Prosecutor
J. Leslie Warner, Board Administrator
Deena Parmelee, Legal Office Administrator 1, Department of State
Marc Farrell, Esquire, Regulatory Counsel, Office of Chief Counsel, Department of State

ALSO PRESENT:

Wesley J. Rish, Esquire, Rish Law Office, LLC
Kathleen K. Ryan, Esquire, Pennsylvania Funeral Directors Association
Jason Benion, Esquire, Shareholder and Chair of the Death Care Group, Saxton & Stump, LLC
Tom Shaffer
Leychawne Johns
Matthew Ford

1 ***

2 State Board of Funeral Directors

3 January 10, 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 January 10, 2024. Carmella M. Imburgia, Chairperson,
16 Professional Member, called the meeting to order at
17 10:32 a.m.

18 ***

19 Roll Call/Introduction of Attendees

20 [Carmella M. Imburgia, Chairperson, Professional
21 Member, requested a roll call of Board members and
22 introduction of attendees.]

23 ***

24 [Shawn J. Jayman, Esquire, Board Counsel, noted the
25 meeting was being recorded and continued

1 participation constituted consent to be recorded.

2 Mr. Jayman also noted the Board entered into
3 Executive Session with Board Counsel to have
4 attorney-client consultations and for the purpose of
5 conducting quasi-judicial deliberations.]

6 ***

7 Amendment to the Agenda

8 MR. JAYMAN:

9 We're going to need a vote for a motion
10 to amend the agenda to send members to
11 The International Conference of Funeral
12 Service Examining Boards in Myrtle
13 Beach, South Carolina February 28-29.

14 Do I have a motion?

15 MR. RUGGERI:

16 So moved.

17 MR. DUPREE:

18 Second.

19 MR. JAYMAN:

20 Roll call.

21

22 Arion Claggett, aye; Carmella Imburgia,
23 aye; Kenneth DuPree, aye; Milian, aye;
24 Gregory Furlong, aye; Eric Ruggeri,
25 aye; Jennifer Kirk, aye.

1 [The motion carried unanimously.]

2 ***

3 MR. JAYMAN:

4 We also need to take a vote on whether
5 to send two members to that conference
6 February 28-29 in Myrtle Beach, South
7 Carolina.

8 Do I have a motion?

9 MS. KIRK:

10 I move.

11 MR. DUPREE:

12 Second.

13 MR. JAYMAN:

14 Roll call.

15
16 Arion Claggett, aye; Carmella Imburgia,
17 aye; Kenneth DuPree, aye; Milian
18 Rodriguez, aye; Gregory Furlong, aye;
19 Eric Ruggeri, aye; Jennifer Kirk, aye.

20 [The motion carried unanimously.]

21 ***

22 Approval of minutes of the December 6, 2023 meeting

23 CHAIR IMBURGIA:

24 We're going to move on to approval of
25 the minutes for the meeting on December

1 6, 2023. Everybody has had a chance to
2 review.

3 Do I have a motion?

4 MS. RODRIGUEZ:

5 I make a motion.

6 CHAIR IMBURGIA:

7 Second?

8 MR. FURLONG:

9 Second.

10 CHAIR IMBURGIA:

11 Roll call.

12
13 Arion Claggett, aye; Carmella Imburgia,
14 aye; Kenneth DuPree, aye; Milian
15 Rodriguez, aye; Gregory Furlong, aye;
16 Eric Ruggeri, aye; Jennifer Kirk, aye.

17 [The motion carried unanimously.]

18 ***

19 Report of Prosecutorial Division

20 [Glenn P. Masser, Esquire, Board Prosecutor, on

21 behalf of Timothy A. Fritsch, Esquire, Board

22 Prosecution Liaison, presented the Consent Agreements

23 for Case No. 19-48-007957 and Case Nos. 23-48-011115

24 & 23-48-016282.

25 Wesley J. Rish, Esquire, Rish Law Office, LLC,

1 counsel for the respondent, was present and
2 participated in the discussion regarding Case No. 19-
3 48-007957.]

4 MR. JAYMAN:

5 Based on prosecution's presentation and
6 the attorney answering the question,
7 does any member of the Board wish to go
8 back into Executive Session?

9 With that, based on Executive
10 Session deliberations, I believe the
11 Chair would entertain a motion to
12 reject the Consent Agreement for Case
13 No. 19-48-007957 as too lenient.

14 CHAIR IMBURGIA:

15 Could I have a motion?

16 MS. RODRIGUEZ:

17 I move the motion.

18 CHAIR IMBURGIA:

19 Second?

20 MR. FURLONG:

21 Second.

22 CHAIR IMBURGIA:

23 Roll call.

24

25 Arion Claggett, aye; Carmella Imburgia,

1 aye; Kenneth DuPree, aye; Milian
2 Rodriguez, aye; Gregory Furlong, aye;
3 Eric Ruggeri, aye; Jennifer Kirk, aye.

4 [The motion carried unanimously.]

5 ***

6 MR. JAYMAN:

7 Number 3 on the agenda. Based on
8 Executive Session deliberations, I
9 believe the Chair would entertain a
10 motion to reject the Consent Agreement
11 for Case Nos. 23-48-011115 & 23-48-
12 016282 as too lenient.

13 CHAIR IMBURGIA:

14 Could I have a motion?

15 MS. RODRIGUEZ:

16 I make a motion to move.

17 CHAIR IMBURGIA:

18 Second?

19 MR. FURLONG:

20 I'll make a second.

21 CHAIR IMBURGIA:

22 Roll call.

23

24 Arion Claggett, aye; Carmella Imburgia,
25 aye; Kenneth DuPree, aye; Milian

1 MS. RODRIGUEZ:

2 So move to carry the motion.

3 CHAIR IMBURGIA:

4 Second?

5 MR. FURLONG:

6 Second.

7 MS. WARNER:

8 Arion Claggett, aye; Carmella Imburgia,
9 aye; Kenneth DuPree, aye; Milian
10 Rodriguez, aye; Gregory Furlong, aye;
11 Eric Ruggeri, aye; Jennifer Kirk, aye.

12 [The motion carried unanimously.]

13 ***

14 Report of Board Counsel - Miscellaneous

15 [Shawn J. Jayman, Esquire, Board Counsel, provided a
16 Status of Cases Report for the Board's review. He
17 noted the Board currently has about 13 to 14 current
18 active cases.]

19 ***

20 Regulatory Issues - Miscellaneous

21 [Shawn J. Jayman, Esquire, Board Counsel, provided a
22 PowerPoint presentation regarding the Sunshine Act
23 and Recusal Guidelines.

24 Mr. Jayman addressed the purpose of the Sunshine
25 Act, which is the right of the public to be present

1 at all meetings and to witness the deliberations and
2 policy formulation. He provided the definition of
3 agency, deliberation, and official action.

4 Mr. Jayman stated a public notice is not required
5 in a case of an emergency meeting or conference.

6 Mr. Jayman noted all votes are publicly cast and
7 minutes are kept for all open meetings. He mentioned
8 that Executive Sessions and conferences are
9 exceptions to the public portion of meetings. He
10 noted the purpose of Executive Session is to consult
11 with an attorney or professional advisor.

12 Mr. Jayman explained that legal challenges to the
13 Sunshine Act have to be filed within 30 days of the
14 date of the meeting or discovery of any action. He
15 discussed penalties for violating the Sunshine Act.

16 Mr. Jayman stated all Board business has to be
17 conducted in open meetings, and Board members should
18 not discuss agency business, especially Executive
19 Session matters, outside of an official Board
20 meeting. He noted committee meetings discussing
21 regulations and policies should take place in open
22 meetings. He mentioned that administrative functions
23 are not subject to open meeting requirements.

24 Mr. Jayman addressed mandatory recusals, where a
25 Board member may have a prosecutorial role, including

1 having a direct personal or financial interest in the
2 outcome of the matter. He addressed strongly
3 suggested, where there is a personal affection or
4 outside knowledge and cannot make an unbiased
5 determination.

6 Mr. Jayman noted that discretionary recusals are
7 when a Board member cannot hear and dispose of the
8 case or participate in a decision on a subject fairly
9 and without prejudice. He encouraged Board members
10 to ask counsel if they have questions about whether
11 to recuse.

12 Mr. Jayman explained difference between recusal
13 and abstention, noting abstention does not affect
14 quorum requirements but recusal can affect the
15 quorum.

16 Mr. Jayman addressed conflict of interest, where
17 no member of any professional examining and licensed
18 board shall at the same time be an officer or agent
19 of any statewide association or organization
20 representing the profession subject to board action.
21 He noted members of a licensing board or commission
22 designated as a representative of the public shall be
23 a private citizen and shall not be a member of any
24 profession or occupational which is regulated or
25 licensed by the board, commission, BPOA, or be

1 related to or part of a family member of the
2 professional occupation to be licensed or regulated
3 by a particular board or commission.]

4 ***

5 Regulatory Issues

6 [Marc Farrell, Esquire, Regulatory Counsel, Office of
7 Chief Counsel, informed Board members that the
8 counsel division now has three attorneys dedicated to
9 reviewing and writing regulations. He stated each
10 board has also been assigned a dedicated regulatory
11 counsel person, and he was assigned to the State
12 Board of Funeral Directors.

13 Mr. Farrell noted the Board has seven open
14 rulemaking packages, including Act 41 licensure by
15 endorsement regulations and codifying their statement
16 of policy regarding food and beverage, which are
17 actively being working on at this time. He stated he
18 would be working alongside Board Counsel in the
19 drafting and promulgating of the regulations.

20 Mr. Farrell noted the regulations related to
21 continuing education, fictitious and trade names, Act
22 48 schedule of civil penalties, business records, and
23 the general revisions package are not as active at
24 this time. He mentioned that he would like to do
25 some research on those regulations and present a

1 summary for Board discussion at the next meeting.

2 Mr. Jayman noted the 10-day rule is a big topic
3 for Board members and suggested someone explain that
4 issue to Mr. Farrell.

5 Ms. Rodriguez addressed the 10-day rule and
6 believed they should look into the average hold time
7 and that it should be increased to allow more time.

8 Mr. Farrell suggested scheduling a regulatory
9 discussion at the end of the next regular meeting to
10 discuss increasing the 10-day rule. He addressed the
11 regulatory process, noting a lot of time is spent
12 before it goes out to the world or is delivered to
13 the Independent Regulatory Review Commission. He
14 explained that it could take anywhere from a year or
15 two to get it formally approved.

16 Mr. DuPree requested information regarding the
17 process of a regulation being altered once it is
18 submitted. He expressed concern with opening the
19 regulations to amend the 10-day rule and then
20 something totally different gets attached to it.

21 Mr. Farrell explained that it would not happen
22 because they would control that, noting it is
23 different than making law or legislation. He stated
24 the Regulatory Review Act is designed to prevent a
25 board or an agency from expanding or altering it

1 midway so that it is completely different from when
2 it began. He further explained that they could stay
3 with what they have or narrow it but expanding it
4 would require them to start the process all over
5 again. He offered to provide information at the next
6 meeting for the Board's review.]

7 ***

8 Report of Acting Commissioner - No Report

9 ***

10 Report of Board Chairperson - No Report

11 ***

12 Report of Board Administrator - No Report

13 ***

14 Applications Committee

15 MR. JAYMAN:

16 Number 8 on the agenda. Based on
17 Executive Session deliberations, I
18 believe the Chairperson would entertain
19 a motion to approve the Application
20 requesting the Board accept the
21 Extension Request of a Funeral Trainee
22 License for Aminia B. Calland,
23 Application No. FI022024.

24 CHAIR IMBURGIA:

25 Can I have a motion?

1 MS. RODRIGUEZ:

2 I move to carry the motion.

3 CHAIR IMBURGIA:

4 Second?

5 MR. DUPREE:

6 Second.

7 CHAIR IMBURGIA:

8 Roll call.

9

10 Arion Claggett, aye; Carmella Imburgia,
11 aye; Kenneth DuPree, aye; Milian
12 Rodriguez, aye; Gregory Furlong, aye;
13 Eric Ruggeri, aye; Jennifer Kirk, aye.

14 [The motion carried unanimously.]

15

16 Old/New Business - Annual Board Member Elections

17 MR. JAYMAN:

18 Number 10 on the agenda. We need a
19 vote for 2024 nominations of Board
20 Chairperson, Vice Chairperson, and
21 Secretary.

22 Do I have a motion?

23 MR. FURLONG:

24 I make a motion to nominate Kenneth
25 DuPree.

1 MR. JAYMAN:

2 Do I have a second?

3 MR. RUGGERI:

4 Second.

5 MR. JAYMAN:

6 Are there any other nominations other
7 than Mr. DuPree?

8 CHAIR IMBURGIA:

9 I'd like to nominate Milian Rodriguez.

10 MR. JAYMAN:

11 Do I have a second? There are no other
12 nominations. We can close the
13 nominations.

14 Could I have a roll call vote for
15 Mr. DuPree as Chairperson?

16

17 Arion Claggett, aye; Carmella Imburgia,
18 nay; Kenneth DuPree, aye; Milian
19 Rodriguez, nay; Gregory Furlong, aye;
20 Eric Ruggeri, aye; Jennifer Kirk, aye.

21 [The motion carried. Carmella Imburgia and Milian
22 Rodriguez opposed the motion.]

23

24 [Jennifer Jane Kirk, Esquire, Senior Deputy Attorney
25 General, Antitrust Section, Bureau of Consumer

1 Protection Representative, commented that elections
2 were held before and that Milian Rodriguez has been
3 up for election before. She wanted to reaffirm that
4 Ms. Rodriguez is highly competent and represents the
5 Board well. She also believed Mr. DuPree carries
6 those same qualities but needs the experience. She
7 believed Mr. DuPree is the best choice at this time
8 but hoped Ms. Rodriguez remains on the Board.]

9 MR. JAYMAN:

10 We need to vote for Vice Chairperson.

11 Do I have a motion?

12 ACTING COMMISSIONER CLAGGETT:

13 We need a nomination. I would like to
14 nominate Milian Rodriguez for the Vice
15 Chairperson.

16 MR. RUGGERI:

17 Second.

18 ACTING COMMISSIONER CLAGGETT:

19 Are there any other nominations for
20 Vice Chair? Nominations are now
21 closed. We're going to have a vote.
22 We're going to call for a vote for
23 Milian Rodriguez.

24

25 Arion Claggett, aye; Carmella Imburgia,

1 aye; Kenneth DuPree, aye; Milian
2 Rodriguez, aye; Gregory Furlong, aye;
3 Eric Ruggeri, aye; Jennifer Kirk, aye.

4 [The motion carried unanimously.]

5 ***

6 MR. JAYMAN:

7 We need to vote for the nomination of
8 Secretary.

9 MR. RUGGERI:

10 I'll make a motion for Gregory Furlong
11 for the position of Secretary.

12 MR. JAYMAN:

13 Do I have a second?

14 MR. DUPREE:

15 Second.

16 MR. JAYMAN:

17 Are there any other nominations for
18 Secretary? Seeing none. Roll call.

19

20 Arion Claggett, aye; Carmella Imburgia,
21 aye; Kenneth DuPree, aye; Milian
22 Rodriguez, aye; Gregory Furlong, aye;
23 Eric Ruggeri, aye; Jennifer Kirk, aye.

24 [The motion carried unanimously.]

25 ***

1 Appointment - Annual Prosecution Report

2 [Carlton Smith, Esquire, Deputy Chief Counsel,
3 Prosecution Division, informed Board members that he
4 assumed his role in March 2023 when Carolyn
5 DeLaurentis was promoted to the executive deputy
6 chief counsel position and provided a brief summary
7 of his professional background.

8 Mr. Smith reported a decrease in the number of
9 Bureau of Professional and Occupational Affairs
10 (BPOA) complaints for all boards and commissions from
11 roughly 22,000 in 2022 to 19,000 in 2023.

12 Mr. Smith presented the 2023 Prosecution
13 Division's Annual Report for the State Board of
14 Funeral Directors. He reported around 7,500 active
15 licensees with 140 opened cases in 2023. He noted 86
16 open cases and 136 closed cases. He also noted they
17 like to see a case closed within a year and that the
18 Board is within that average range. He also reported
19 the most common forms of discipline are fines.

20 Mr. Smith addressed disposition of cases, where
21 there is no discipline and referred to prosecution
22 not warranted at 67 cases, warning letters at 37, and
23 provided an overview of circumstances.

24 Ms. Kirk requested information concerning
25 withdrawn complaints.

1 Mr. Michalowski commented that the Board does not
2 get a lot of complaints withdrawn. He stated a lot
3 of complaints filed against funeral directors by the
4 public tend to be family disputes. He noted
5 prosecution would proceed as far as they can for a
6 withdrawn complaint that focuses on overriding
7 concerns of public safety. He stated most withdrawn
8 anonymous complaints often end up being prosecution
9 not warranted because they do not have any evidence.

10 Mr. Michalowski mentioned the Board has the
11 advantage of facility inspection powers, noting they
12 inspect routinely and currently have a full
13 inspection crew in all four regions. He noted they
14 can send out an inspection crew to possibly back up
15 the complaint or see whether the facility passes an
16 inspection. He stated that those would not go into
17 complaint withdrawn but probably end up as
18 prosecution not warranted unless found something and
19 prosecuted. He mentioned being pleased with four
20 inspectors.

21 Ms. Kirk asked whether there is a tracking of
22 complaints across the state showing more complaints
23 and prosecutions in a certain area but ultimately
24 resolution.

25 Mr. Smith did not believe there has been an

1 effort to track regions in terms of where complaints
2 are originating.

3 Mr. Michalowski mentioned that a similar question
4 was raised last year by Mr. DuPree with the concern
5 that more cases may be in the Philadelphia area. He
6 stated they do not keep any statistics on that,
7 noting Philadelphia is the largest areas within the
8 state population-wise. He mentioned that the Board
9 does not have large disciplinary numbers, noting
10 there would be so much variance from year to year
11 that they would not be able to see anything. He
12 believed they saw more from Philadelphia but could
13 easily change in the next year.]

14 ***

15 Adjournment

16 CHAIR IMBURGIA:

17 Motion to close the meeting. We'll be
18 back on February 21.

19 Motion to close?

20 ACTING COMMISSIONER CLAGGETT:

21 So moved.

22 MR. RUGGERI:

23 Second.

24 CHAIR IMBURGIA:

25 Thank you everyone. Have a great day.

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[There being no further business, the State Board of
Funeral Directors Meeting adjourned at 11:31 a.m.]

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.



Matthew Ford,

Minute Clerk

Sargent's Court Reporting

Service, Inc.

STATE BOARD OF FUNERAL DIRECTORS
REFERENCE INDEX

January 10, 2024

	TIME	AGENDA
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8		
9	9:00	Executive Session
10	10:30	Return to Open Session
11		
12	10:32	Official Call to Order
13		
14	10:32	Roll Call/Introduction of Attendees
15		
16	10:34	Amendment to the Agenda
17		
18	10:35	Approval of Minutes
19		
20	10:36	Report of Prosecutorial Division
21		
22	10:42	Report of Board Counsel
23		
24	10:57	Regulatory Issues
25		
26	11:07	Applications Committee
27		
28	11:09	Old/New Business
29		
30	11:14	Appointment - Carlton Smith, Deputy
31		Chief Counsel, Annual Prosecution
32		Division Report
33		
34	11:31	Adjournment
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