

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**AUGUST 11, 2015**

President Robert Starkey called the meeting to order at 10:00 a.m. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Mark Cochran, Robert P. Helms, David Neal, and Jane Gray Sowell.

Board members(s) absent: W. T. Patterson

Staff present: Robert Gribble, Executive Director; Ellery Richardson, Assistant General Counsel; Adrian Chick, Assistant General Counsel; Lisa Mosby, Administrative Manager; and DePrey Flournoy, Administrative Secretary.

**ADOPTION OF AGENDA:**

A motion was made by Anita Taylor to approve the Agenda as printed.

Seconded by David Neal

Adopted by voice vote

**APPROVAL OF MINUTES:**

A motion was made by Jane Gray Sowell to approve the Minutes of the June 9, 2015 Board Meeting.

Seconded by Anita Taylor

Adopted by voice vote

**INFORMAL CONFERENCE REGARDING SUMMARY SUSPENSION:**

The board conducted an informal conference to consider whether the public health, safety, or welfare imperatively required emergency action against the establishment license of Signature Funeral Services, LLC, Memphis, the funeral director license of Rodney Erric Williams, Memphis, and/or the embalmer license of Rodney Erric Williams, Memphis. Adrian Chick, Assistant General Counsel for the Department, presented the Department's version of the situation, and Mr. Williams presented the establishment's version as well as his individual version.

The Department alleged that Mr. Williams engaged in practices to preserve and/or disinfect dead human bodies by the application of chemicals, including aspirations, at the establishment, that the establishment is not equipped with a preparation room, and, based upon the recent discovery of embalming instruments and chemicals at the establishment, these practices were ongoing in nature. The Department's position was that such practices, due to the hazardous nature of the chemicals, presented an imminent danger to public health and safety requiring emergency action.

Mr. Williams's position was that steps had been taken since receiving notice of the informal conference to prevent any risk of harm to the public health and safety, including the physical removal of plumbing from the room where the practices allegedly occurred. Mr. Williams provided photographs to confirm this.

Based upon the preventative steps taken by Mr. Williams, the Board determined that emergency action would not be required to protect the public health and safety so long as unannounced inspections will be conducted until a final resolution of this matter. Mr. Williams agreed to this stipulation and agreed that he would be responsible for any resulting inspection fees.

A motion was made by Mark Cochran to reject the summary suspension for all licenses, but have unannounced inspections occurring each calendar quarter until the time of the formal hearing. The inspections are to be paid for by the funeral establishment.

Seconded by Anita Taylor

<b>Roll Call Vote</b>			
<b>Board Members</b>	<b>Yes</b>	<b>No</b>	<b>Absent</b>
<b>Mark Cochran</b>	<b>X</b>		
<b>Robert P. Helms</b>	<b>X</b>		
<b>David Neal</b>	<b>X</b>		
<b>W. T. Patterson</b>			<b>X</b>
<b>Jane Gray Sowell</b>		<b>X</b>	
<b>Robert Starkey</b>	<b>X</b>		
<b>Anita Taylor</b>	<b>X</b>		

Adopted by roll call vote

**LEGAL REPORT:**  
**ELLERY RICHARDSON, ASSISTANT GENERAL COUNSEL**

Abbreviations:  
 GPL – General Price List  
 CPL – Casket Price List

OBCPL – Outer Burial Container Price List  
SFGSS – Statement of Funeral Goods and Services Selected

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1. **Case No.: L15-FUN-RBS-2015001201**
2. **Case No.: L15-FUN-RBS-2015001491**
3. **Case No.: L15-FUN-RBS-2015001492**

**Complaint:**

- Complainant is a member of Funeral Consumers Alliance, and as a member, she received a call from a hospice social worker who had heard of her and was looking for help out of concern that an elderly woman was being taken advantage of after her husband's death. The deceased's wife was charged \$1,400 for a bare bones cremation that was listed on Respondent's website as only being \$695. Respondent would not give his name and did not state an address; research revealed that they are based in Florida but only has a funeral license in Colorado. Respondent kept pushing the hospice nurse for the consumer's bank routing number and requested the wife's social security number even though it was her husband who was deceased. Respondent requested a cashier's check, asked for multiple credit card numbers, her bank routing number, and even asked for her driver's license number. The wife cancelled her credit card out of fear of fraudulent activity. Respondent avoided calls and did not answer once the nurse voiced her concerns about the business. However, when the nurse called from a different phone number, Respondent answered immediately. The wife of the deceased eventually used another establishment for the cremation; the body was left at the hospice for over six (6) hours after Respondent stated that they would come and pick up the body. Additionally, the wife signed a cremation authorization form that is not approved by the Board and faxed it back to Respondent.
- Research revealed that Respondent goes by multiple establishment names and has multiple websites that Respondent uses to solicit business in Tennessee even though it has no physical address here and no licensed funeral directors. The websites purport to show that Respondent as a local establishment in town.
- In another instance, another consumer made funeral arrangements with Respondent. The hospital called the consumer because the body had not been picked up in five (5) days. When the hospital employee contacted Respondent, Respondent stated that it arranged a pickup through "Second Establishment". This second establishment responded by saying that they never agreed to the pickup and had nothing to do with the matter. The consumer also believed the company to be local to the area and did not realize they were located out of state.

**Response:**

- Respondent states that the price range listed on his website is \$695 – \$1,395 and the actual price varies on the geographic location of where the passing occurs. Respondent denies that any of his employees would ask for bank routing information or social security numbers. Respondent denies all the other allegations and states that it never received any payment or completed the arrangements in these cases. Respondent states that it is merely a referral organization and does not need to be licensed because it contracts with licensed establishments to provide the funeral services. Respondent has also stated that he will not stop his activities no matter how much in civil penalties is levied against him and his business.

**Recommendation:**

- For First Establishment: Refer to Attorney General for injunctive and any other available relief.
- For Second Establishment: Close.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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**4. Case No.: L15-FUN-RBS-201500435****Complaint:**

- Complaint states that deceased's caretaker made the arrangements with Respondent for cremation. The siblings were not notified and did not have any part in the decisions, and they are now stuck with a bill they did not create.
- Both the sisters stated that Respondent told them that they could not receive the cremains until the bill was paid in full.

**Response:**

- Respondent states that they did not pick up the cremains because the sisters could not decide who would take them.

**Investigation:**

- An investigation revealed that the caretaker had power of attorney over the Deceased and both he and the hospital told Respondent that there was no other family. The caretaker would not pay, stating he did not have any money, and he finally stopped returning Respondent's calls. A policeman called and told Respondent that the deceased had sisters who

were looking for their sister's remains. Both the sisters knew the deceased wished to be cremated and had no problem with the arrangements the caretaker had made; the sisters agreed to pay for the cremation in installments. Respondent forgave the balance in January after \$500 was paid, right before the business was sold, and the oldest sister took the cremains.

**Recommendation:**

- Close with a Letter of Warning to the Funeral Director who was the former manager.

A motion was made by Robert Helms to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

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**5. Case No.: L15-FUN-RBS-2015008501**

**6. Case No.: L15-FUN-RBS-2015008502**

**Complaint:**

- Complainant was a former employee of Respondent for about three (3) months. Complainant states that during this time the Respondent sexually harassed her; he constantly tried to kiss her and touch her, and he said extremely lewd and rude sexual comments. He said that he would pay for her to obtain a funeral director license and that he would set up a place for her to stay in Nashville when she attended Mortuary College. When she inquired about going to school, he told her that she would be staying with him and not boarding. When she refused, he fired her.

**Response:**

- Respondent denied the allegations in full.

**Investigation:**

- A thorough investigation did not reveal any evidence of sexual harassment.

**Recommendation:**

- Close due to lack of evidence – send letter to Complainant.

A motion was made by Mark Cochran to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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**7. Case No.: L15-FUN-RBS-2015008761****Complaint:**

- Daughter of the deceased was not involved in the arrangements and was not given a copy of the insurance policy, so she is unsure whether she was a beneficiary or not.

**Investigation:**

- An investigation revealed that the daughter was with the deceased when he died and signed the embalming authorization form when the funeral home representative came to pick up the body. Respondent then had no further communication with her until she came to the services and later when she asked for a copy of the death certificate. Respondent did not give her a copy of the death certificate, stating it was their policy to only give death certificates to the ones who make arrangements and pay for the services. The daughter wanted to have a say in the arrangements but was not given any information. The deceased's son made the arrangements and paid for the services; the deceased had two daughters who were not involved in the arrangements.

**Recommendation:**

- Consent order with a \$1,000 civil penalty, investigation costs of \$312.50, and authorization for a hearing.

A motion was made by Robert Helms to send a Letter of Warning to the funeral establishment.

Seconded by Anita Taylor

Adopted by voice vote

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**8. Case No.: L15-FUN-RBS-2015010921****Complaint:**

- Complainant was not involved in the arrangements for her mother although she had a power of attorney. Respondent states that he made arrangements with Deceased's granddaughter, who was in responsible care of the Deceased, and did not include Complainant because of family issues; the nursing home had banned Complainant from the premises because of her outrageous actions. The granddaughter also had a durable power of attorney, and hers was more recent than Complainant's.

**Response:**

- When Complainant arrived at the funeral home to make arrangements, Respondent told her that deceased's son and other family members had

told him that the granddaughter was to handle the arrangements, and that she should speak with her brother.

**Investigation:**

- An investigation revealed that Respondent spoke with multiple members of the family who all agreed that the granddaughter would be in charge of the arrangements.

**Recommendation:**

- Close

A motion was made by David Neal to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

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**9. Case No.: L15-FUN-RBS-2015012561**

**Complaint:**

- Respondent's establishment license expired on November 30, 2014 and was not reinstated until February 3, 2015. During this time Respondent handled one case. Additionally, Respondent's price list disclosures varied slightly from the language required by the Funeral Rule. Respondent also had a gas leak, which required part of the ceiling in the chapel to be taken down; this had not been repaired at the time of inspection.

**Response:**

- Respondent showed proof that the roof has been repaired.

**Recommendation:**

- Consent order with \$250 civil penalty and authorization for a hearing.

A motion was made by Robert Helms to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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**10. Case No.: L15-FUN-RBS-2015012691**

**11. Case No.: L15-FUN-RBS-2015012692**

**12. Case No.: L15-FUN-RBS-2015012693**

**Complaint:**

- Respondent funeral director posted on her Facebook page that she started working at Respondent establishment as the General Manager, a Funeral Director, and an Embalmer on July 4, 2014. Respondent did not apply for her funeral director and embalmer licenses until August 13, 2014; she was not issued the licenses until October 14, 2014, and the establishment has never submitted a request to name Respondent as its manager.

**Response:**

- Respondent states that she accepted the position as Manager/Funeral Director/Embalmer at the establishment pending her reciprocity license being approved. Respondent states that she posted on her personal Facebook page out of excitement and to inform family and friends. Respondent also states that it was not her intention to be deceptive or misleading.
- Respondent establishment states that they offered her the job with the contingencies that she could only work as an unlicensed assistant until her reciprocity was granted, and she would only be the manager after the current manager retired, which has not occurred yet. She did not begin work until two weeks after the Facebook post. Respondent also states that they have never held her out to the public as their manager.

**Recommendation:**

- Funeral Director/Embalmer: Consent Order with Civil Penalty of \$250 and authorization for a hearing.
- Establishment: Close

A motion was made by Mark Cochran to issues a Letter of Warning.

Seconded by Robert Helms

Board Member(s) voting contrary to conclusion: Jane Gray Sowell

Adopted by voice vote

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**13. Case No.: L15-FUN-RBS-2015013071**

**Complaint:**

- Complainant establishment states that one of their former employees now works for Respondent and copied their website design. Complainant expressed his concern with Respondent, but Respondent has yet to change their website.

**Response:**



- Respondent states that the employee in question referred the web designer to Respondent. Respondent denies any copyright infringement, and a meeting with Complainant only addressed issues with brochures, which are not copyrighted. However, since Respondent was having trouble with the web designer anyway, to avoid any continuing issues they decided to hire another firm and are revamping their website.
- As of June 17<sup>th</sup>, Respondent's website states that "We'll be back soon!"

**Recommendation:**

- Consent Order with a civil penalty of \$250 and authorization for a hearing.

A motion was made by Robert Helms to issue a Letter of Warning.

Seconded by Anita Taylor

Adopted by voice vote

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- 14. Case No.: L15-FUN-RBS-2015013311**
  - 15. Case No.: L15-FUN-RBS-2015013312**
  - 16. Case No.: L15-FUN-RBS-2015013313**

**Complaint:**

- During a change of an application for establishment change of ownership, it was discovered that Respondent apprentice is listed as a part-time employee. Respondent filed quarterly reports attesting that the apprentice worked 40 hours per week.

**Response:**

- Respondent funeral home states that this listing as a part-time employee was a mistake and arose due to the sale, where the new owners mistakenly listed him as part-time. This has been corrected, and Respondent states that the apprentice has always been working full-time and has provided pay stubs showing this.

**Recommendation:**

- Close

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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- 17. Case No.: L15-FUN-RBS-2015014421**

**Complaint:**

- Complainant is a board member of a cemetery and has been fielding calls about Respondent's businesses. Respondent recently bought several funeral homes, and Complainant alleges that the advertising is misleading in that it makes it appear that the former owners are still partners and involved. The Complainant states that Respondent is using the former names and owners to bolster his business. Complainant also states that Respondent does not live in her county and therefore the "locally owned" advertising is misleading. One of the ads has the photo of the old owner along with the phrase "local family ownership," making it appear that the old owner still owns the funeral home. Another ad states that the funeral home has "New, Local Owners." There was also a news clip that ran stating that one of the family members from the old local owners is now a partner, which is not true. That individual is a staff member, not a part owner.

**Response:**

- Respondent states that in the ad with the photograph of the old owner, the old owner works at the funeral home but the ad does not state that individual is the owner. Respondent has focused on local ownership because he bought the funeral homes back from publicly traded corporations, and he is a local Tennessee owner.

**Recommendation:**

- Close

A motion was made by Mark Cochran to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

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**18. Case No.: L15-FUN-RBS-2015013561****Complaint:**

- An inspection revealed that Respondent overcharged two families for Use of Facilities and Staff. Respondent charged \$1000 and \$1200, respectively, for what should have been either \$625 or \$800 according to the price list. One of the services that were \$200 and listed on the Statement of Funeral Goods and Services but not listed on the price list.

**Response:**

- Respondent states that both the families had a strict budget but could not find any caskets within their budget. Therefore, Respondent moved some

of the costs over to the services to decrease the sales tax load on the families.

**Recommendation:**

- Consent order with civil penalty of \$1,000 and referral to the Department of Revenue.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

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**RE-PRESENT**

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**19. Case No.: L15-FUN-RBS-2015002111**

A motion was made by Anita Taylor to accept Counsel's recommendation to accept the civil penalty in the amount as was paid by the Respondent.

Seconded by Robert Helms

Adopted by voice vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**BUDGET REPORT:**

Preliminary numbers for revenue and expenditures were provided to the Board for FY14-15, the period of July 1, 2014 – June 30, 2015.

Reserve Balance as of July 1, 2014 - \$1,066,326

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE  
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF  
JUNE 9, 2015 – AUGUST 10, 2015**

**Establishments**

**Type of License(s)**

Alexander Funeral Home  
Gallatin, TN

Ownership Change

Family Heritage Funeral Home Gallatin, TN	Ownership and Name Changes
Hooker Funeral Home Clarksville, TN	Ownership Change
Peebles Fayette County Funeral Homes & Cremation Center – Main Chapel Somerville, TN	Ownership Change
Peebles Fayette County Funeral Homes & Cremation Center – West Chapel Oakland, TN	Ownership Change
Peebles Cremation Center Oakland, TN	Ownership Change
Sharp Funeral Home Oliver Springs, TN	Ownership Change
Bells Funeral Home Bells, TN	Name Change
Brownsville Funeral Home Brownsville, TN	Name Change
Chattanooga Mortuary Service & Crematory Chattanooga, TN	Name Change
Memphis Funeral Home Memphis, TN	Name Change

**Individuals****Type of License(s)**

Robert Gregory Degnan Nashville, TN	Funeral Director/Embalmer
Ronna E. Manis Seymour, TN	Funeral Director/Embalmer
Daniel Edward Rosenberg Old Hickory, TN	Funeral Director/Embalmer
Jenna Eve Picou Breaux Bridge, LA	Funeral Director/Embalmer Reciprocity – Louisiana

Seth Davis Leyhue  
Martin, TN

Funeral Director/Embalmer  
Reapplication

Brandon Demond Nelson  
Christiana, TN

Funeral Director

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF  
JUNE 1, 2015 – JULY 31, 2015**

Respondent: Austin & Bell Funeral Home, Springfield, TN  
Violation: Allowed a funeral director to serve as the manager of a funeral establishment and practice funeral directing while funeral director license was expired  
Action: \$200 Civil Penalty

Respondent: Robert H. Bell, Springfield, TN  
Violation: Acted in the capacity as manager of a funeral establishment and practiced funeral directing while funeral director license was expired  
Action: \$200 Civil Penalty

Respondent: Cremation Society of Tennessee, LLC, Columbia, TN  
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired  
Action: \$525 Civil Penalty

Respondent: Jarnigan & Son Mortuary, Knoxville, TN  
Violation: Failed to give the consumer a General Price List or show any other price list(s) and failed to provide a Statement of Funeral Goods and Services Selected at the conclusion of the arrangements  
Action: \$1,000 Civil Penalty and \$425 Investigation Costs

Respondent: McDonald Funeral Homes of Perry County, Lobelville, TN  
Violation: Failed to notify the Board of a change in the identity of the licensed funeral director managing, supervising and responsible for a funeral establishment and false or misleading advertisement (the establishment website listed the address of an old location that was closed and did not list the current address of the establishment)  
Action: \$250 Civil Penalty

Respondent: New Generation Funeral Home, Antioch, TN  
Violation: Refused to promptly surrender the custody of a dead human body to another funeral establishment upon the expressed order of the person legally entitled to the body  
Action: \$500 Civil Penalty and \$600 Investigation Costs

Respondent: Polk Memorial Crematory, Columbia, TN  
Violation: Used a cremation authorization form prior to submitting it to the Board Office for review/approval, cremation forms did not contain the signature of a funeral director, failed to maintain a separate record regarding date of release of the cremated remains in their logs, and failed to respond within the time specified after receiving notice of an open complaint  
Action: \$1,250 Civil Penalty

Respondent: Professional Cremation Services, LLC, Johnson City, TN  
Violation: Immoral or unprofessional conduct (cremated two decedents and mailed the urn containing the cremated remains of each to the wrong funeral homes) and failed as operators of a crematory facility to establish and maintain a system for accurately identifying each dead human body in the facility's possession throughout all phases of the holding and cremation process  
Action: \$750 Civil Penalty

Respondent: Roselawn Funeral Home & Memorial Gardens, Murfreesboro, TN  
Violation: Overcharged the family of a decedent for merchandise and services contained in a package price  
Action: \$500 Civil Penalty and Refund \$1,170 to the Decedent's Family

Respondent: SAG Funeral Home, Nashville, TN  
Violation: Failed to obtain and maintain a copy of the results of the latest inspection of the crematory that the establishment uses, cremation authorization forms were not signed and dated by a funeral director, contracts had inconsistent prices listed when compared to price lists, and contracts failed to list a reason for embalming  
Action: \$750 Civil Penalty

Respondent: Smith Brothers Funeral Home, Nashville, TN  
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired  
Action: \$400 Civil Penalty

Respondent: William Howard Smith, Pulaski, TN  
Violation: Immoral or unprofessional conduct (forgery of a Medical Examiner's signature on a certificate of death)  
Action: \$1,000 Civil Penalty

Respondent: Snow Funeral Home, Memphis, TN  
Violation: Establishment failed to meet the minimum compliance standards for a funeral establishment during a follow-up inspection ordered by the Board of Funeral Directors and Embalmers  
Action: Suspension of funeral establishment license

Respondent: Strawther & White Funeral Home, Inc., Gallatin, TN  
Violation: Failed to comply with multiple aspects of the Funeral Rule  
Action: \$250 Civil Penalty

Respondent: Tate Funeral Home, LLC, Jasper, TN  
Violation: Overcharged the family of a decedent for a casket, Casket Price List failed to include all caskets that do not require special ordering, and a Statement of Funeral Goods and Services Selected failed to provide an itemization of the charges  
Action: \$500 Civil Penalty

Respondent: The Rose of Sharon Funeral Service, Pulaski, TN  
Violation: Immoral or unprofessional conduct (forgery of the Medical Examiner's signature on a certificate of death by a funeral director employed by the funeral establishment)  
Action: \$500 Civil Penalty

Respondent: Tri-Cities Funeral Home, Church Hill, TN  
Violation: Failed to make the current licenses of a funeral director and an embalmer available for inspection and failed to obtain and maintain a copy of the crematory's current license that the establishment uses  
Action: \$250 Civil Penalty

Respondent: Wann Funeral Home & Cremation Center, Inc., Chattanooga, TN  
Violation: Failed to comply with multiple aspects of the Funeral Rule and failed to respond within the time specified after receiving notice of an open complaint  
Action: \$500 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of August 10, 2015, there were 36 open complaints.

**NEW LICENSING SYSTEM:**

Lisa Mosby, Administrative Manager, presented information concerning the new licensing system, CORE (Comprehensive Online Regulatory Enforcement). The Department is upgrading from RBS (Regulatory Board System) to CORE (Comprehensive Online Regulatory Enforcement). Within CORE, the Regulatory Boards will have visibility to each license or registration that a person holds. The Board is in the process of testing and working through the migration of RBS data into CORE. The go live date is tentatively set for September 9, 2015. Due to this upgrade, there will be a delay in processing renewals from September 1 through September 15, 2015. Versa Online (VO) is the online component of CORE that the licensee will use for renewal of their license(s).

A motion was made by David Neal to accept the Executive Director's Report.

Seconded by Anita Taylor

Adopted by voice vote

**ADOPTION OF BOARD MEETING DATES FOR 2016:**

Upon motion by Anita Taylor and seconded by Robert Helms, the Board adopted the second Tuesday of each month as meeting dates for 2016.

Adopted by voice vote

**INDIVIDUAL APPLICATION:**

**Brian L. Blumenberg  
Oconomowoc, WI**

**Funeral Director/Embalmer  
Reciprocity – Wisconsin**

Upon motion by Jane Gray Sowell and seconded by David Neal, based upon application record, this individual was approved for licensure.

Adopted by voice vote

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**ADJOURN:**

A motion was made by Anita Taylor to adjourn.

Seconded by David Neal



Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 12:43 p.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director