

Monday – August 18, 2008

The Board of Embalmers and Funeral Directors met in regular session in the Riffe Center at 77 South High Street in Columbus, Ohio. John J. Hadley, President, called the meeting to order at 1:05 P.M. Other Board members present were: Ross C. DeJohn, Pernel Jones, Sr., Ty D. Marsh, Roger Primm, and Robert J. Wasko. Staff Members present were: Eric E. Anderson, Inspector; Michael T. Lyme, Inspector; Assistant Attorney General, Walter McNamara, Jennifer Baugess, Administrative Assistant; Linda Clark, Certification and Licensure Examiner, Lena Wright, Administrative Assistant, and Ann Cunningham, Executive Director.

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On a motion by Mr. DeJohn, seconded by Mr. Wasko, the Board approved, as amended, the minutes of the meeting held on July 21-22, 2008. Ayes: 6. Nay: 0. Motion approved.

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Executive Director's Report

Board Members received notice to be aware of construction on Front Street because Front between Town and Broad will be converted to two northbound and two southbound lanes with a center turn lane.

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Ms. Cunningham announced that the Governor appointed Linda M. Betzer to replace Virginia Cheney as the public member to the Board. Ms. Betzer will complete Mrs. Cheney's five-year term that ends on June 30, 2010.

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Mr. Jones monitored the examinations on July 30, along with Mrs. Baugess and Inspector Lyme. Mr. Jones received per diem and allowable travel expenses.

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Mr. Marsh received per diem for participating in the Interested Parties meeting concerning Sub. SB196. Mrs. Baugess and Ms. Cunningham participated as well.

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Mr. Marsh and Inspector Lyme attended Ethics training on August 7, as required by Executive Order 2007-01S. Mr. Marsh received per diem.

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Mr. Primm will present the Board's section at the Ohio Funeral Directors Association Apprentice Seminar on September 25, and he will receive per diem and allowable travel expenses.

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Board Members were notified that HB 562 eliminated the payment of employees' monthly Medicare Part B Premiums, effective the end of September.

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Board Members decided to delay holding the October Board meeting in Boardman because of current travel restrictions that prohibit non-essential travel.

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Board President and Secretary-Treasurer along with Ms. Cunningham and Mrs. Baugess will attend the International Conference of Funeral Service Examining Board [Conference] Annual Convention at Kingsmill Resort in Williamsburg, Virginia, February 25-26-27, 2009. The Board staff is preparing estimates of costs and an outline of allowable reimbursements.

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Board Members reviewed a draft of the meeting and events schedule for calendar year 2009. Ms. Cunningham proposed eliminating the January 2009 meeting because of four holidays between the December and February meetings, one of which causes the February meeting to be moved up to the second week, biennial renewal and the auditing of continuing education proof for selected licensees. In addition, a Board Meeting uses two weeks out of every month in preparation and follow up. The Board asked questions about the proposal and asked the Board President to resolve the issue.

The Board accepted the rest of the schedule for 2009.

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Mrs. Baugess will attend the funeral-related portion of the North American Cemetery Regulators Association [NCRA] on September 17-18, 2008 in Cleveland.

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Inspectors Anderson and Lyme will participate in the Crematory Operator Certification Program at Worsham College near Chicago, September 25-26, 2008.

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Ms. Cunningham announced that the Board staff will not participate in the Annual Conference of the Federation of Associations of Regulatory Boards [FARB], January 23-24-25, 2009 in Florida due to financial restraints.

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Board Members received a copy of a press release from the State of Texas concerning the liquidation plan for Lincoln Memorial and National Preneed Services, and a related news article from the St. Louis Dispatch. In addition, Board Members received an article from The Toledo Blade reporting on a funeral director seeking final homes for unclaimed cremated remains, and another article concerning the State of Ohio budget shortfall.

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Licensure

There were no applications for crematory facility license for consideration by the Board.

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There were no applications for crematory facility license pending receipt of an occupancy permit and final inspection by the Board.

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There were no previously approved applications for the issuance of a crematory facility license after approval of the application, receipt of the occupancy permit, and the final inspection.

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There were no applications for embalming facility license.

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There were no applications for embalming facility license pending receipt of the occupancy permit and a final inspection by the Board.

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There were no previously approved applications for the issuance of an embalming facility license to the following after approval of the application, receipt of the occupancy permit, and the final inspection.

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On a motion by Mr. Wasko, seconded by Mr. Primm, the Board approved the following applications for funeral home license. Ayes: 6. Nays: 0. Motion approved.

<u>Firm Title</u>	<u>Location</u>	<u>County</u>	<u>Inspection</u>
Schoedinger Funeral Choices	Columbus	Franklin	leasing

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On a motion by Mr. Primm, seconded by Mr. Wasko, the Board approved the following application for Funeral Home license pending receipt of an occupancy permit and final inspection by the Board. Ayes: 6. Nays: 0. Motion approved.

<u>Firm Title</u>	<u>Location</u>	<u>County</u>
Dowling FH	Toledo	Lucas

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There were no previously approved applications for the issuance of a funeral home license to the following after approval of the application, receipt of the occupancy permit, and the final inspection.

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Mrs. Clark reported on registrations, apprenticeships, and initial licenses to the Board Members.

Person Before the Board

Megan S. Lewis appeared before the Board as an applicant for reciprocal licensure. After answering questions, the Board, on a motion by Mr. Wasko, seconded by Mr. DeJohn, voted to approve Ms. Lewis' application provide she successfully passes the Ohio Laws Examination and submits the required application for licensure. Ayes: 6. Nays: 0. Motion approved.

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The Board reviewed an application for funeral director's registration and related documents submitted John E. Freeman. On a motion by Mr. Wasko, seconded by Mr. Marsh, the Board voted to approve Mr. Freeman's application. Ayes: 6. Nays: 0. Motion approved. Mrs. Clark will forward the proper documents to Mr. Freeman.

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The Board reviewed a letter from Rev. Dr. John E. Freeman concerning part-time employment during his funeral director's apprenticeship. On a motion by Mr. Primm, seconded by Mr. DeJohn, the Board approved Rev. Dr. Freeman's request to work part time for no more than twenty(20) hours per week. Ayes: 6. Nays: 0. Motion approved.

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There were no applications to issue for embalmer and/or funeral director licenses.

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The following individuals were issued embalmer and/or funeral director registration numbers during the months of July 2008.

<u>Registration No.</u>	<u>Name</u>	<u>City</u>	<u>Date</u>
EMB-0274 FD-0407	Orr, Erin	Wellsville	07/07/08
FD-0408	McGuinea, Tyrone	Shaker Hts	07/14/08

EMB-0275 FD-0409	Waite, Stephen	Willoughby	07/23/08
FD-0410	Bayes, Morris L. Jr.	Orient	07/24/08
EMB-0276 FD-0411	Patton, Jessica	Hamilton	07/28/08

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The following individuals certified an apprenticeship during the months of July 2008.

<u>Cert. No.</u>	<u>Name</u>	<u>Funeral Home</u>	<u>City</u>	<u>Date</u>
FD-0410	Bayes, Morris L	Porter-Tidd FH	Mt. Sterling	07/24/08
EMB-0274 FD-0407	Orr, Erin L.	Roberts FH	Wellsville	07/21/08
EMB-0275 FD-0409	Waite, Stephen J.	McMahon-Coyne- Vitantonio FH	Willoughby	07/23/08

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Reports submitted by apprentices during the month of July.

<u>Apprentice Reports</u>	<u>Embalmer</u>	<u>Funeral Director</u>
Apprenticeship Reports	105	174
Quarterly Master Reports	17	29
Board Interviews	11	14

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The Board reviewed the results of the Ohio Laws Examinations written July 30, 2008. On a motion by Mr. Primm, seconded by Mr. Jones, the Board approved applicants with a score of 75# or higher on the examinations to be issued an embalmer and/or funeral director license number, pending receipt of a properly completed application with the initial license fee. Embalmer applicants must provide National Board certification, and the two-year funeral director applicants will also need proof of successfully passing the Funeral Service Arts Examination. Roll call vote: DeJohn, Aye; Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye. Motion approved. A list of applicants, their scores, and license numbers will be entered into the journal.

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Fiscal

Miss Wright presented the fiscal portion of the Board meeting and the Board Members reviewed the revenue journal indicating that the Board collected \$3,474.13 in July 2008 for a total of \$3,474.13 for Fiscal Year 2009. Also, the Board reviewed the voucher journal of 33 vouchers and encumbrances for July, and the Budget Overview chart of allotments and expenses.

The Board reviewed an estimate of costs to send Mrs. Baugess to Cleveland for the North American Cemetery Regulators Association Conference. In addition, the Board

reviewed an estimate of costs to send Inspectors Anderson and Lyme to CANA Crematory Operator Training.

Members received a copy of the Board's response to the Ohio Legislative Service Commission [LSC] annual survey in preparation for LSC's FY2008 report on the licensing Boards.

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Committee Report

President Hadley made adjustments to Committee Assignments: Mr. Primm replaced Mr. DeJohn on the Crematory Review Board; Ms. Betzer was assigned to the Apprenticeship Committee, and Mr. Marsh joined the Preened Committee.

The Continuing Education Committee met before lunch to review the applications for continuing education activity, and will make recommendations when the Board considers the applications.

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Relative to SB 196-preneed, Ms. Cunningham announced that Mr. Marsh and Mr. Wasko will represent the Board at an interested party meeting scheduled for August 5.

Mr. Marsh reported on the Interested Parties Meeting on Sub. SB196 Preneed. Due to a lack of funding for the Board, it was agreed that the Board remain a repository of the Annual Preneed Reports even though the reports will be expanded to include list of accounts funded by insurance. The proposed legislation has no provision for funding compliance audits or regulation. The Board will not send preprinted forms to third party casket sellers; it will be the casket seller's responsibility to submit an annual report. If a violation occurs, the Board will be responsible for investigating third party casket sellers, who pay no fees to the Board, and referring the violations to the local county prosecutor. The Board will continue to investigate allegations of wrongdoing, but without increased funding, will not be able to "aggressively" pursue preneed violations as suggested by an industry representative. Any questions concerning qualified trusts will be referred to the Department of Commerce, Division of Financial Institutions. The Department of Insurance continued discussions with industry representatives over the use of annuities. The Board asked permission to review the results of the legislation one year of the effective date.

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The Board discussed a counter offer from T. Scott Gilligan, attorney for the Ohio Funeral Directors Association, in response to discussion over amending the reinstatement fees. The Association offered to remove the "good will" paragraph (D) and a maximum of \$1,000 penalty fee per license. On a motion by Mr. Wasko, seconded by Mr. Jones, the Board voted to approve language that places a maximum of \$1,000 penalty fee per license. Ayes: 6. Nays: 0. Motion approved.

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Board Members reviewed a letter from T. Scott Gilligan, attorney for the Ohio Funeral Directors Association, in which OFDA proposes an amendment to Section 4171.07 of the Revised Code concerning reinstatement fees. Current law stipulates that a lapsed license penalty of fifty dollars per month for each license plus renewal fees up to one hundred eighty days. After July 1, the person with the lapsed license must pass the Ohio Laws Examination in addition to remitting lapsed license and renewal fees. OFDA proposes a

five hundred dollar “cap” or maximum on the fees, and a “good cause” section, which would allow the Board to reduce or eliminate the lapsed license penalty.

On a motion by Mr. DeJohn, seconded by Mr. Jones, the Board voted to leave the lapsed license fee language unchanged. Roll call vote: DeJohn, Aye; Hadley, Nay; Jones, Aye; Marsh, Nay; Primm, Nay; Wasko, Nay. The motion failed.

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The Board reviewed a letter sent to Senator Eric H. Kearney request his reconsideration of the Receivership language in Sub. SB196. The Board seeks language that matches current receivership laws.

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Compliance - Inspectors' Reports

Inspector: Anderson	Board meeting: August 18-19, 2008		
Start date: July 20, 2008	End date: August 16, 2008		
<u>Facility</u>	<u>Crematory Facility</u>	<u>Embalming Facility</u>	<u>Funeral Home</u>
Annual inspections this period			
Inspected 6 funeral homes out of territory	0	0	61
Total facilities as of July 1	49	3	598
New facilities added after July 1	0	0	0
Facilities closed after July 1	0	0	0
Adjusted total	49	3	598
Annual inspections to-date	4	0	153
Remaining to be inspected this FY	45	3	445
Violations this period	0	0	16
Apprentices Monitored this period	0		1
<u>Mileage</u>			
Mileage this report	3,052		
Total FY mileage to-date	5,030		
<u>Misc</u>	<u>Dates</u>		
Investigations this period	1		
Bd office-hearing/meetings	7/21,7/22,8/5,8/6		
Conferences/presentations			
Court			
Leave			
Training	8/7 7/14, 7/15		



Inspector: Lyme	Board meeting: August 18-19, 2008		
Start date: July 20, 2008	End date: August 16, 2008		
<u>Facility</u>	<u>Crematory Facility</u>	<u>Embalming Facility</u>	<u>Funeral Home</u>
Annual inspections this period			
Inspected 6 funeral homes out of territory	2	0	42
Total facilities as of July 1	49	0	574
New facilities added after July 1	0	0	0
Facilities closed after July 1	0	0	0
Adjusted total	49	3	574
Annual inspections to-date	6	0	98
Remaining to be inspected this FY	43	3	476
Violations this period	0	0	3
Apprentices Monitored this period	0		3
<u>Mileage</u>			
Mileage this report	2,246		
Total FY mileage to-date	4.057		
<u>Misc</u>	<u>Dates</u>		
Investigations this period	1 [5 five days		
Bd office-hearing/meetings	7/21,7/22,7/30,8/5,8/6		
Conferences/presentations			
Court			
Leave			
Training	8/7 [Ethics]		



Compliance

Mrs. Baugess reported that there are twenty (20) pending complaints, twenty (20) charged complaints pending hearing, settlements or Board Order Compliance.



There were no forfeitures received by the Board. The Board has six(6) hearings scheduled for August and September.



Mrs. Baugess reported that the Assistant Attorney General is developing language for the fingerprinting requirement, and the Board Staff is determining the internal procedure for the same.

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Mrs. Baugess reported that the Board Members must review the item bank before forwarding the questions to the Conference, and to add questions regarding right of disposition and vital statistics questions. The goal is to forward the bank in October in an attempt to use the computer-based examination in January 2009. It was determined that the Members of the Continuing Education Committee will review the examination items.

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Board Members discussed the possibility of using press releases when the Board takes disciplinary action. On a motion by Mr. Wasko, seconded by Mr. Jones, the Board Office will issue a press release to local newspapers and to the three state associations. Ayes: 6. Nays: 0. Motion approved.

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Board Members were reminded that the Board staff will perfect the continuing education audit that will run in conjunction with the biennial renewal. Renewal notice should be mailed in October.

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In July 2008, the Board received the amendments to change the manager and/or the funeral director actually in charge of and ultimately responsible for the funeral home listed below.

<u>License No.</u>	<u>Facility Name</u>	<u>Licensee</u>	<u>Type</u>	<u>County</u>
FH001722	O R Woodyard Co	Paula Ferguson	MGR	Franklin
FH000480	Gilligan FH	Harry Gilligan	AIC	Hamilton
FH000481	Gilligan FH	Harry Gilligan	AIC	Hamilton
FH000481	Gilligan FH	Harry Gilligan	MGR	Hamilton
FH002191	Gilligan-Siefke-Grueter	Matthew Rost	MGR	Hamilton
FH003003	Jennings FH	Allan Ganley	AIC	Montgomery
FH003003	Jennings FH	Allan Ganley	MGR	Montgomery
FH001705	Rogers FH Inc	Kevin Rogers	MGR	Montgomery
FH002021	Karl-Feucht FH	John Feucht	MGR	Stark
FH002357	Bokas FH	Stephen Libby	AIC	Summit
FH002357	Bokas FH	Stephen Libby	MGR	Summit

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There were no investigative files offered to the Board for closure.

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Compliance Motion No. 1

The following motions were made pursuant to the Report and Recommendation of Hearing Officer, Marc. E. Myers, on the hearing held June 18, 2008 against Marlan J. Gary, relative to violation of Section 4717.14(A)(3) of the Revised Code, which states in part: The licensee has purposely violated any rule or order of the Department of Health governing the disposition of dead human bodies; and Section 4717.14(A)(4) for unprofessional conduct. Specifically for violating Section 4705.17 of the Revised Code,

which states in part: when the funeral director files a provisional death certificate to secure a burial or burial-transit permit, the funeral director shall file a satisfactory and complete death certificate within five days after the date of death. No objections to the Report and Recommendation were submitted for consideration prior to Board's vote.

On a motion by Mr. Jones, seconded by Mr. Primm, the Board voted to approve the hearing Officer's Finding of Facts. Roll call vote: DeJohn, Aye, Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye.

On a motion by Mr. Jones, seconded by Mr. Primm, the Board voted to approve the hearing Officer's Conclusions of Law. Roll call vote: DeJohn, Aye, Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye.

On a motion by Mr. Jones, seconded by Mr. Primm, the Board voted to approve the hearing Officer's Recommendation. Roll call vote: DeJohn, Aye, Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye.

The Board ordered the Marlan J. Gary, holder of embalmer license no. 008371 and funeral director license no. 0008027, be reprimanded.



Compliance Motion No. 2

On a motion by Mr. Primm, seconded by Mr. Jones, the Board voted to issue a Cease and Desist order to Joseph Nero and the Blessing Cremation Center instructing Mr. Nero to cease using the phrase "Lake County's Only Cremation Center." Roll call vote: DeJohn, Abstain, Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye.



Compliance Motion No. 3

On a motion by Mr. Wasko, seconded by Mr. DeJohn, the Board voted to dismiss and/or close a complaint against Dean Auxter, Melinda Auxter and the Mitchell-Auxter Funeral Home for sharing information about a past due funeral bill account with the decedents family members in a public setting. Roll call vote: DeJohn, Aye, Hadley, Aye; Jones, Aye; Marsh, Aye; Primm, Aye; Wasko, Aye.



Compliance Mail No. 1

The Board reviewed a letter from James S. Maham, John S. Mahm and William C. Maham concerning the operation of the Maham Funeral Home in Williamsburg. On a motion by Mr. DeJohn, seconded by Mr. Primm, the Board voted to allow the Maham Funeral Home to continue operation of the funeral home for twelve months after the death of Sam E. Maham until July 5, 2009. Ayes: 6. Nays: 0. Motion approved.



Compliance Mail No. 2

The Board reviewed a letter from John H. Phillips, attorney for Herbert Walker and the Walker Funeral Home concerning ownership and use of a location, closed funeral home, other than the physical location of the active funeral home. On a motion by Mr. DeJohn, seconded by Mr. Jones, the Board voted to deny Mr. Phillips' request because if a funeral home owns a freestanding building at a separate location and uses the separate location for funeral services, the separate building must be a licensed funeral home. Ayes: 6. Nays: 0. Motion approved.

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Compliance Mail No. 3

The Board reviewed a letter from T. Scott Gilligan, attorney for Girton-Schmidt-Boucher Funeral Home concerning a change of firm title. The Board accepted the firm title change from “Girton-Schmidt-Boucher Funeral Home” to “Girton Schmidt & Boucher Gard Funeral Home.” Secretary to inform licensees that all signage and advertisement must reflect the change of firm title.

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The Board reviewed a letter from Joseph R. Garr concerning a change of firm title. The Board accepted the firm title change from “Donald & Stewart Funeral Home” to Garr & Stewart Funeral Home.” Secretary to inform Mr. Garr that all signage and advertisement must reflect the change of firm title.

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The Board meeting recessed at 4:05 P.M.

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Tuesday – August 19, 2008

The Board reconvened at 8:07 A.M. in the Riffe Center in Columbus, Ohio. President John J. Hadley presided. Present were: Ross C. DeJohn, Pernel Jones, Sr., Ty D. Marsh, Roger Primm, Robert J. Wasko, Eric E. Anderson, Michael T. Lyme Jennifer Baugess, and Ann Cunningham. Barbara Hadley observed the Board meeting.

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Board Members revisited Ms. Cunningham’s request to eliminate the January 2009 Board meeting due to holidays, biennial renewal and the new requirement to audit the continuing education proof of selected licensees. The Board President said that there would be a Board Meeting in January 2009.

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Continuing education

The following motions concern the continuing education programs considered by the Board during the August 2008 meeting and appear in the Continuing Education Section of the Board’s Website.

On a motion by Mr. Primm, seconded by Mr. Marsh, the Board approved, and where indicated denied, the Prior Approval continuing education programs. Ayes: 6. Nays: 0. Motion approved.

On a motion by Mr. Jones, seconded by Mr. Primm, the Board approved, and where indicated denied, the Prior Approval with Blanket approval continuing education programs, and individual continuing education programs. Ayes: 6. Nays: 0. Motion approved.

On a motion by Mr. Marsh, seconded by Mr. Jones, the Board approved, and where indicated denied, the Blanket Approval continuing education programs. Ayes: 6. Nays: 0. Motion approved.

On a motion by Mr. Primm, seconded by Mr. Marsh, the Board approved, and where indicated denied, the applications from individual licensees for approval of a continuing education program. Ayes: 6. Nays: 0. Motion approved.

On a motion by Mr. Primm, seconded by Mr. Jones, the Board approved the following exemption and/or waivers. Ayes: 6. Nays: 0. Motion approved.

Waiver	Exemption	Licensee	Grant/denied
X		Walter A Wills	Granted
	X	Larry R Madasz	granted

There were no applications for 50-year exemption from the continuing education requirement for consideration by the Board



On a motion by Mr. Wasko, seconded by Mr. Jones, the Board meeting adjourned at 8:20 A.M. Ayes: 6. Nays: 0. Motion approved.