



**ARIZONA STATE BOARD OF
FUNERAL DIRECTORS AND EMBALMERS**

Natasha Culbertson Executive Director
www.funeralboard.az.gov

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Douglas A. Ducey
Governor

Samuel Bueler, Chairman/Industry Member * Amie Gazda, Secretary/Industry Member
Harold Adair, Industry Member * Joe Hornat, Public Member
Helene Bergeon, Public Member * Lemuel D. Cannon, Public Member

**MINUTES
REGULAR SESSION**

**Board Meeting Held On:
Tuesday, July 20, 2021 • 9:00 a.m. • 1st Floor Conference Room “C”
1740 West Adams Street • Phoenix, AZ 85007**

1) CALL TO ORDER

Board Chairman Samuel Bueler called the Board Meeting to order at 9:01 a.m.

Members Present:	Samuel Bueler	Chairman/Industry Member
	Amie Gazda	Secretary/Industry Member
	Joe Hornat	Public Member
	Harold Adair	Industry Member
	Lemuel Cannon	Public Member
	Helene Bergeon	Public Member

Members Telephonically Present:	Harold Adair	Industry Member
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Board Staff Present:	Natasha Culbertson	Executive Director
	Brandon Eaden	Investigator
	Yazmin Bustamante	Licensing Administrator
	Marisa Zavala	Administrative Assistant

Attorney General’s Office Present:	Justin Larson	Assistant Attorney General
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2) STATEMENT OF PURPOSE

Board Chairman Samuel Bueler read the Board's Statement of Purpose.

3) DECLARATION OF CONFLICTS OF INTEREST- A.R.S. § 38-503

Board member Harold Adair recused himself for agenda item 8; this recusal was made at the beginning of the discussion for agenda item 8.

4) REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING APPROVAL OF BOARD MEETING MINUTES

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

Board member Amie Gazda moved to approve the minutes of the June 15, 2021 Board meeting. Board member Lemuel Cannon seconded this motion. Motion passed unanimously 6-0.

Board member Amie Gazda moved to approve the minutes of the June 17, 2021 Board meeting. Board member Lemuel Cannon seconded this motion. Motion passed unanimously 6-0.

Board member Amie Gazda moved to approve the Executive Session minutes of the June 17, 2021 Board meeting. Board member Lemuel Cannon seconded this motion. Motion passed unanimously 6-0.

5) REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING APPLICANTS

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

By motion and second, and motion carrying, the following actions occurred relative to applications for licensure subject to the conditions noted:

NAME	TYPE OF LICENSE	ACTION	MOTION BY	SECOND BY
Jacqueline S Wade	Multiple Funeral Director	Denied 6-0	<p>Board member Amie Gazda stated that traditionally Multiple Funeral Director (MFD) applications are approved for smaller locations, in a small town, with a lower case volume where it is more manageable for the Responsible Funeral Director (RFD) to travel to two different locations daily; not when the case volume is as high as seen on Ms. Wade's application.</p> <p>Board member Amie Gazda motioned to deny Ms. Wade's MFD application due to the high caseload volume of the second establishment location.</p>	Lemuel Cannon

Timothy Livingston	Multiple Funeral Director	Approved 6-0	<p>Helene Bergeon motioned to approve the Multiple Funeral Director (MFD) application due to the low caseload volume at the second establishment.</p> <p>The Board also noted the establishments listed in Mr. Livingston's application met the factors the Board has traditionally considered appropriate for MFD licenses, some of which were discussed by Amie Gazda in agenda item 5(A)(1).</p>	Joe Hornat
Amanda Darnell	Embalmer	Approved 6-0	Joe Hornat	Helene Bergeon
Francisco Javier Reyes	Intern	Approved 6-0	Joe Hornat	Helene Bergeon
Zane Michael Lewis	Cremationist	Approved 6-0	Lemuel Cannon	Helene Bergeon
Kambriel Hartley	Cremationist	Approved 6-0	Lemuel Cannon	Helene Bergeon
John H McReynolds	Salesperson	Approved 6-0	Helene Bergeon	Joe Hornat
Shannon Painter	Salesperson	Approved 6-0	Helene Bergeon	Lemuel Cannon

6) REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING INVESTIGATION FILES

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

A. Docket 2020-FDE-0026 Angels in Waiting Cremation and Burial Services

Appearing in-person on behalf of Angels in Waiting Cremation and Burial Services for the discussion and review of this docket were Responsible Funeral Director (RFD) Chastity Mueller. Also appearing telephonically on behalf of Angels in Waiting Cremation and Burial Services was owner Harold Marcus. The Complainant, Andres M. Castano, was also telephonically present.

Executive Session:

Board member Amie Gazda moved to go into Executive Session to receive legal advice regarding this matter. The motion was seconded by Joe Hornat and carried unanimously 6-0. The open session meeting recessed at 10:35 a.m. for Board members to go into Executive Session. Harold Adair was telephonically present.

Open Session:

Board members returned to open session at 11:15 a.m.

After a review of all the documentation and discussion, Board member Amie Gazda motioned to issue a non-disciplinary Letter of Concern to RFD Chastity Mueller and have Board staff prepare a Consent Agreement with the Findings of Fact (FOF) and Conclusions of Law (COL) based on the investigative report and Board discussion to the establishment Angels in Waiting Cremation and Burial Services. The motion was seconded by Board member Helene Bergeon and carried unanimously 6-0. The Board will review the prepared FOF and COL of the Consent Agreement at the August or September Board meeting and discuss possible disciplinary action.

The Board also requested to receive an outline of the training(s) that Angels in Waiting Cremation and Burial Services has implemented since this incident occurred; the outline will be provided to the Board's Investigator, Brandon Eaden.

B. Docket 2020-FDE-0060 Bring's Broadway Chapel

Appearing telephonically on behalf of Bring's Broadway Chapel for the discussion and review of this docket were Responsible Funeral Director (RFD) Allan Nibert, Funeral Director (FD) Paul Neville and the establishment's attorney Wendy Wiener. The Complainant, Deborah Fisher, her daughter Beckie Fisher and Deborah's brother Michael Sawicki were also telephonically present. Ms. Fisher and Mr. Sawicki are siblings of the decedent.

Executive Session:

Board Chairman Samuel Bueler moved to go into Executive Session to receive legal advice regarding this matter. The motion was seconded by Amie Gazda and carried unanimously 6-0. The open session meeting recessed at 12:20 p.m. for Board members to go into Executive Session. Harold Adair was telephonically present.

Open Session:

Board members returned to open session at 12:46 p.m.

Krystal Colburn, Bureau Chief with the Arizona Department of Health Services (ADHS) Bureau of Vital Records (BVR) was asked by the Board to come forward and speak regarding the authority a domestic partner has in the state of Arizona. The Board asked Ms. Colburn to speak since the death registration worksheet listed the domestic partner's information, and the death certificate was also filed and registered including the decedent's domestic partner's information. Ms. Colburn read aloud to the Board A.R.S. § 36-301(13)(a)-(b) which states the definition of what a "family member" means: "(a) A person's spouse, natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin; (b) The natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin of the person's spouse." A domestic partner is not recognized as being a family member by the definition used by BVR.

Ms. Colburn also read aloud A.R.S. § 36-321(B) which states, "a person who submits a certificate for registration must make a reasonable effort to ensure that the information on the certificate is correct and accurate." This statute was cited in regards to the responsibility FD Neville had in ensuring that the information he was providing on the death certificate was correct and accurate. The siblings of the decedent, Ms. Fisher and Mr. Sawicki had contacted Bring's Broadway Chapel and Ms. Fisher spoke to FD Neville; he therefore knew that the decedent was not legally married and under A.R.S. § 36-831(A)(6), the siblings would have been the legal authorizing agents, not the decedent's domestic partner.

After a review of all the documentation and discussion, Board member Amie Gazda made a motion directing Board staff to prepare a Consent Agreement with Findings of Fact (FOF) and Conclusions of Law (COL) based on the investigative report and Board discussion to the RFD Allan Nibert and FD Paul Neville. The motion was seconded by Board member Joe Hornat and carried unanimously 6-0. The Board will review the prepared FOF and COL of the Consent Agreement at the August or September Board meeting and discuss possible disciplinary action.

C. Docket 2020-FDE-0061 Abel Funeral Services Inc.

Appearing telephonically on behalf of Abel Funeral Services Inc. for the discussion and review of this docket were Responsible Funeral Director (RFD) Marty Thompson. The Complainant, Bernadette Russo, was not present.

After a review of all the documentation and discussion, Board member Joe Hornat moved to dismiss the complaint, the motion was seconded by Amie Gazda and carried unanimously 6-0.

Recess taken at 1:21 p.m.

Open Session resumed at 1:36 p.m.

D. Docket 2021-FDE-0010 There was no establishment listed for this complaint

No one was present for the discussion and review of this docket.

Board member Amie Gazda moved to dismiss the complaint since no establishment or licensee was named and a valid complaint was not established by the Board's investigator. The motion was seconded by Helene Bergeon and carried unanimously 6-0.

Complaints similar to this will be handled as a consent agenda item for dismissal moving forward.

E. Docket 2021-FDE-0017 There was no establishment listed for this complaint

No one was present for the discussion and review of this docket.

Board member Amie Gazda moved to dismiss the complaint since no establishment or licensee was named and a valid complaint was not established by the Board's investigator. The motion was seconded by Lemuel Cannon and carried unanimously 6-0.

Complaints similar to this will be handled as a consent agenda item for dismissal moving forward.

7) CONSENT AGENDA REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING INVESTIGATION FILES

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

A. Docket 2021-FDE-0021 Carr Tenney Mortuary & Memorial Gardens (Arizona Department of Real Estate)

No one was present for the discussion and review of this docket from Carr Tenney Mortuary & Memorial Gardens. The Complainant, Cheryl Stephan was also not present.

Board member Amie Gazda moved to dismiss the complaint since it falls under the jurisdiction of the Arizona Department of Real Estate and not this Board. The motion was seconded by Lemuel Cannon and carried unanimously 6-0.

8) FOLLOW-UP REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING ANNUAL TRUST REPORT DEFICIENCIES FOR ADAIR FUNERAL HOME DODGE (EST-00863 /END-06676)

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

Board member Harold Adair rescued himself.

Erica Jenkins from Foundation Partners Group's (FPG) corporate office appeared telephonically on behalf of Adair Funeral Home Dodge to provide the Board with an update regarding the establishment's Annual Trust Report. Ms. Jenkins told the Board that FPG had submitted their Annual Trust Report and fees that morning and provided the service request number for Board staff to look the entry up. Board staff informed Ms. Jenkins that they were unable to open the files she had uploaded into the system and instructed her to directly email the report to Licensing Administrator Yazmin Bustmante and Executive Director Natasha Culbertson.

Board member Helene Bergeon made a motion directing Board staff to notify the Board when the matter has been resolved. The motion was seconded by Board member Amie Gazda and carried 5-0.

9) REVIEW, DISCUSSION, AND POSSIBLE ACTION REGARDING REVISIONS TO CONSENT AGREEMENT FOR JEROME MIRATSKY (2020-FDE-0019)

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

Jerome Miratsky appeared telephonically for the discussion and review of the revisions made to the Consent Agreement being offered for docket number 2020-FDE-0019. Board staff and Mr. Miratsky informed the Board that he had sold his two establishments and would be taking the summer(s) off, working a new fall schedule of November – April. Due to this, tolling language was added to the Consent Agreement's Order portion, referencing how the probationary term would only run while Mr. Miratsky was actively practicing funeral directing in Arizona.

Board member Amie Gazda motioned to approve the drafted Consent Agreement and have Mr. Miratsky sign the consent agreement by the August 17, 2021 Board meeting. The motion was seconded by Board member Lemuel Cannon and carried unanimously 6-0.

10) PRESENTATION FROM ANTONIO HERNANDEZ WITH THE ARIZONA DEPARTMENT OF HEALTH SERVICE HEALTH EMERGENCY OPERATIONS CENTER (HEOC) REGARDING FATALITY SURGE SITUATIONAL BRIEF (REVIEW, DISCUSSION AND POSSIBLE ACTION)

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

Antonio Hernandez with the Arizona Department of Health Services (DHS) Health Emergency Operations Center (HEOC) appeared telephonically to provide a brief update to the Board regarding the summer season and possible surge in COVID numbers the industry may experience.

Mr. Hernandez encouraged establishments statewide to use the Hazard Map resource to put in their addresses and verify if they are located in a wildfire or flood zone area. He also encouraged establishments to have their emergency plans updated, monitor the extreme heat, power outages and capacity and spacing and to know who their local emergency management is.

In regards to the COVID numbers, there has been a slight uptick towards the middle of July with numbers increasing from the normal range of 100-150 registered deaths to 200 registered deaths. There has been a lull in the COVID response but new cases are appearing. Mr. Hernandez said he and his staff are monitoring this increase to verify if it is a blip or upward trend. He said he will keep the communication between Emergency Management and the establishments open.

Mr. Hernandez also reported that there has been an increase in the backlog of establishment cases in the DAVE System. In an effort to eliminate any bottlenecking of the process, he encouraged establishments to streamline their process flow of documentation within the DAVE System.

11) ASSISTANT ATTORNEY GENERAL LEGAL TRAINING FOR BOARD MEMBERS AND STAFF (REVIEW AND DISCUSSION)

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

A. Annual Training on Conflicts of Interest and Related Issues

Assistant Attorney General Justin Larson provided the Board and Board staff with a training regarding conflicts of interest. Mr. Larson covered in this training the applicable conflicts of interest statutes; the purpose behind those statutes as stated in relevant case law; the potential ramifications of undisclosed conflicts of interest; and best practices for the Board to use with regard to conflicts of interest. The training also covered areas related to conflicts of interest which similarly affect the Board's ability to decide each case on its own merits, including bias, prejudice, and predetermination; *ex parte* communication; and the appearance of impropriety. These issues were also covered in a detailed attorney-client memorandum Mr. Larson submitted to the Board members prior to the meeting. The Board members asked several follow-up questions related to the training which Mr. Larson answered.

The Board also discussed with Mr. Larson and Executive Director Natasha Culbertson the additional trainings they would like to receive in future Board meetings. The Board asked if Mr. Larson could put together a training regarding the disciplinary actions the Board can take and what their options/abilities for discipline are at the various stages of investigation, informal interview and hearing. Mr. Larson confirmed he could arrange for such a training.

12) CALL TO THE PUBLIC

Public input is encouraged. Those wishing to address the Board do not need to request permission in advance; however, the Board may limit those persons speaking during this time to a reasonable number on any public comment matter. In addition, each person wishing to address the Board will be given five (5) minutes to do so. Pursuant to A.R.S. § 38-431.02(H), the Board can only take action on matters listed on the agenda. Action on public comment matters that are not listed on the agenda will be limited to directing staff to study the matter or to schedule the matter for further review at a later date.

No one came forward to speak.

13) EXECUTIVE REPORT (REVIEW, DISCUSSION)

The Board may vote to go into executive session pursuant to A.R.S. § 32-431.03(A)(2) to discuss confidential information or A.R.S. § 38-431.03(A)(3) to receive legal advice.

A. Introduction of new Administrative Assistant

Executive Director Natasha Culbertson introduced the Board's new Administrative Assistant Marisa Zavala who started with the Board on July 6, 2021.

B. Status update for 2021 Renewals

Board staff is currently caught up and has reviewed and processed all renewal applications that have been submitted to the Board. There are 1,818 active licenses, 1,540 of those licenses have been renewed and processed by Board staff. There are currently 278 licenses that have not renewed and are set to expire August 1, 2021. The Breakdown of the licenses is:

- 35 Salespersons
- 2 Multiple Funeral Directors
- 29 Interns
- 23 Establishments
- 10 Crematories
- 55 Funeral Directors
- 4 Embalmer's Assistants
- 58 Embalmers
- 62 Cremationists

C. Five-Year-Review Report for Arizona Administrative Code (A.A.C.) Title 4, Chapter 12

The Board's Five Year Review Report for A.A.C. Title 4, Chapter 12 is currently due on August 31, 2021; however, Executive Director Natasha Culbertson will be submitting an extension letter by Wednesday, July 21st to the Governor's Regulatory Review Counsel asking for a one year review. The Executive Director hopes that this extension will be granted so that she can have sufficient time to review the Board's rules and make some necessary revisions.

D. Sunset Audit Response to House Commerce and Senate Commerce Committee of Reference

The Joint Legislative Audit Committee (JLAC) has assigned the Board's sunset review to the committees of reference comprised of members of the House of Representatives Commerce Committee and the Senate Commerce Committee. The Board's response to the House Commerce and Senate Commerce Committee of Reference is due on September 1, 2021. Executive Director Natasha Culbertson and Board staff are working together to draft the Board's response and are hopeful that they'll be able to provide the Board with a draft copy of the response at the August 17, 2021 Board meeting.

14) FUTURE AGENDA ITEMS

Board member Joe Hornat asked if a discussion regarding sending out a reminder email to all establishments and licensees with information pertaining to the order of authorizing agents outlined in A.R.S. § 36-831 could be added to the August 17, 2021 Board agenda; he has noticed an increase in the amount of complaints the Board is receiving in regards to this statute potentially not being followed appropriately.

Board staff will place this matter on the agenda for the August 17, 2021 Board meeting.

15) REVIEW OF SCHEDULED BOARD MEETINGS

AUGUST 17, 2021 SEPTEMBER 21, 2021 OCTOBER 19, 2021
NOVEMBER 16, 2021 DECEMBER 21, 2021

Subject to appropriate notice, the Board reserves the right to change meeting dates.

16) ADJOURNMENT

Board member Amie Gazda moved to adjourn the meeting. This motion was seconded by Board member Helene Bergeon and carried unanimously 6-0. The Board adjourned at 2:48 p.m.