



# MCB

**OREGON MORTUARY & CEMETERY BOARD**

*Regulating Death Care Facilities & Practitioners in Oregon.*

## **December 12, 2024, Special Board Meeting General Session Meeting Minutes FINAL (Approved January 21, 2025)**

**Board Members Present:** Robert Gaskill President; Ruggiero Canizares, Vice President; Craig Collins; Debra Harris; Angela McKenzie-Tucker; Elizabeth Pacheco; Melissa Porter.

**Board Members Absent:** Nancy Felton, Secretary / Treasurer; Holly Houston; Kevin Loveland.

**Staff Members Present:** Chad Dresselhaus, Executive Director; Mallory Kenney, Education and Compliance Manager; Ryan Christopher, Office & Licensing Manager; and Catriona McCracken, AAG.

**Staff Members Absent:** Greg Brown, Sylvie Huhn, Program Administrator Indigent Disposition Fund; Compliance Specialist; Marianne Itkin, Investigator; James Liddle, Compliance Specialist.

**Guests:** Serena Trexler, Renew Natural Organic Reduction, LLC.

### **I Call to Order**

The General Session of the Mortuary and Cemetery Board (Board) was called to order in accordance with ORS 192.63 at 9:06 am, via Microsoft Teams.

### **II Roll Call**

Staff member Christopher took roll call. President Gaskill was not present for Roll Call but was expected to join when he was able. The board staff members not present were excused.

### **III General Session**

#### **A President's Comments**

Vice President Canizares welcomed everyone and acknowledged guest Serena Trexler, with Renew Natural Organic Reduction, LLC, who was the Chair for the Rules Advisory Committee that was recently formed to address the rules around requirements for apprenticeship.

#### **B. Public Comments**

Serena Trexler introduced herself.

There were no other guests or members of the public present and no public comments.

#### **C. General Discussion & Action Items**

##### **1. Administrative Rulemaking Update: Apprenticeship Requirements**

###### **a. Additional RAC Recommendations**

Staff member Kenney gave an overview of the origin of the RAC and the Temporary Rule that was put in place which will expire on December 27, 2024, which was the result of the Board direction given during the April 2024 Board meeting.

The members of the Rules Advisory Committee are Serena Trexler, Edith Aschim, Twila Bruni, Rebecca Dowd, Adrienne Taylor, Marcus Terry, Michael Turner, Sheri Zemke and Board Member Angela McKenzie-Tucker, with Board staff Ryan Christopher and Mallory Kenney in advisory roles.

The Committee was charged with reviewing the Rule regarding apprenticeship requirements. The committee met four times from September through November and are now ready to present their recommendation for the revised rule for approval. She indicated that there was a Temporary Order document included in the Board's electronic packet, which was based on direction from the Board during the April 2024 Board meeting, and the document with the new amendments to the rule being presented by the Committee.

Vice-President Canizares indicated that it doesn't get automatic approval, but it is incumbent on the Board to accept or modify.

AAG McCracken confirmed Canizares understanding, and stated that following the presentation, the board gets to decide if there's anything additional that needs to be adjusted to make this work for the board and board staff, so that implementation is as easy and seamless as possible, and so that the rule is as easy to interpret for both members of the public and the board,

Member McKenzie-Tucker praised the RAC and acknowledged their efficiency and thoroughness and mentioned their level of professionalism was inspiring. She mentioned there were oftentimes during their conversations where there was microfocus on different areas of the state and on how this would impact a consumer and the community. She mentioned their skill in bringing it back and driving all that conversation to what the desired outcome is. And they were very clear in that the desired outcome was making sure that individuals who go through an apprenticeship in the state of Oregon come out the other side, knowing all the skill sets that they need to be successful in being a funeral director or an embalmer.

At 9:17am President Gaskill joined the meeting by phone. He asked that Vice-President Canizares continue to lead the meeting.

Vice-President Canizares gave the floor to staff member Kenney.

Staff member Kenney shared her screen to show the document with the RAC proposed amendments to the Rule. She outlined the major defining differences between the temporary rule and the proposal of the RAC.

AAG McCracken asked about the Additional Recommendations from the RAC.

Staff member Kenney mentioned that one of the main Additional Recommendations was to define the requisite competencies for apprentices and rule as directed in ORS 690-2190. In this rule we see that competency requirements are to be included in the apprentice's logbook, but to date those have not been defined. She indicated that because there was a temporary rule in place expiring at the end of this month that the committee was under a time crunch to make the changes they did and make a presentation for the board as soon as possible, but if there was additional time the RAC would have dove into those competencies a bit more.

AAG McCracken recommended that it would be helpful to the board if there was also a definition of what "directly involved" means, and "direct participation". Because these will be argued about the most if it ever goes to hearing.

Staff member Kenney pointed out that the biggest thing that the committee determined was changing from the temporary rule and to going back towards more in line with the way that the rule was originally written. The committee believed an apprentice embalmer should perform at least 35 embalmings. She pointed out that the way this was originally written, it was to assist in 35 embalmings. This raised questions about if setting features and things like that counted as having assisted in an embalming. The

committee really wanted to make it clear that an Embalmer apprentice should have completed 35 arterial embalmings by the time they move forward. That was one of the major defining parts of the proposed revisions to this rule. She pointed out that supervision was defined in the temporary rule and then the committee took it further to define what an arrangement means for the funeral service practitioner apprentices.

Member McKenzie-Tucker asked the Board to recall that there was previously public testimony where the question was asked can we define what needs to be recorded in that apprenticeship Log. She mentioned setting of features versus arterial embalming, and what counts as a case for an FSP log. She personally felt like the language that the committee has presented takes something that was nebulous and vague and moved it towards black and white without making it so pedantic that you're confused as to what counts.

Serena Trexler mentioned that having gone through her apprenticeship recently that the new verbiage really solidifies things such as arterial embalming. She indicated that being on the committee and having conversations with the others expressing all the different views was beneficial.

Vice-President Canizares asked of the professional member if everyone was happy with the requirements related to 35 embalmings.

Member McKenzie-Tucker indicated that she was comfortable with the requirement to perform 35 arterial embalmings so as long as we maintain the minimal time frame. She was also in favor of the clarification for the apprentice FSP for that what counts is the Apprentice sitting through the entirety of an arrangement and then executing the service. She stated that what the committee did was smart, because there are some known practitioners who really don't allow their apprentices to do actual funeral director work during their apprenticeship, and then they count going to services towards their apprenticeship requirements, and then we have somebody who's a licensed funeral director who's never done arrangements before. She indicated this closed a little bit of a weird loophole that wasn't necessarily being wildly abused across the board but there were known instances of it.

Member Collins concurred.

President Gaskill agreed.

Member Porter mentioned that 35 seemed realistic.

Staff member Kenny made a note that there was representation from the rural communities on the committee and there was some concern about apprentices meeting the requirement and the committee recommended encouraging apprentices in rural areas to network with other establishments to help. The committee felt that we only want people who are serious about meeting the requirements to be entering the industry. She also outlined the change to remove the language related to the supervisor must be working and located at the same facility or facilities as their apprentice. This opens it up for these apprentices to travel more and work at different facilities under the guidance and the direction of their supervisor, which should help those in more rural areas meet these requirements by traveling out to more metropolitan locations.

Member McKenzie-Tucker mentioned that OFDA may be able to help in some sort of hosting capacity. She suggested adding this as a future agenda item.

Staff member Kenny pointed out that an apprentice has 48 aggregate months to complete the requirements of an apprenticeship, and a recommendation of the committee was to make clear that all apprentices have 48 aggregate months to complete this requirement and that it is not limited to a year. She

indicated that once we've completed the rule change this will be shared out via newsletter and will be posted very clearly as information on our website as far as what the requirements are and how long apprentices have to complete the requirements.

Member Collins asked if the arrangements for an apprentice FSP done online and by email constitute an arrangement or do they have to be in person?

Staff member Kenney stated that the committee determined that arrangement means Funeral services or final dispositions for at need persons fully from the initial contact through the disposition of remains. So it doesn't specify in person or virtual or digital communication.

AAG McCracken asked for clarification related to the 48 aggregate months and supervision.

Staff member Christopher confirmed that notwithstanding the rule related to 48 aggregate months, the board may consider a request for extension of the apprenticeship period for reasonable and extenuating circumstances beyond the control of the trainee. So, this would give those in a rural area who perhaps were unable to get the 35 embalmings within a 48 month period an option to express that due to circumstances beyond their control, they need longer than 48 months to complete the requirements. He indicated that the rule related to 48 aggregate months was designed in a way to give those who are wanting to pursue school and also start their apprenticeship to have a little bit more flexibility.

AAG asked for clarification related to the wording "only after receiving direction", and if the supervisor did not need to be present during the arterial embalmings.

Member McKenzie-Tucker stated that she thought the language was trying to define that apprentices may be sent to a neighbor Funeral Home, that they're going under the direction of their preceptor, but the language was not intended to indicate the preceptor then physically has to be present.

Staff member Kenny stated that the rule used to read that the supervisor must be working and located at the same facility, and the committee decided to remove that language to open it up for them to say, the supervisor to say I'm sending you under my direction to go work at this other facility.

AAG McCracken asked if that meant they would be supervised that day by the Licensee at that facility?

Staff member Kenney indicated yes.

Director Dresselhaus added that if it meant to say it would be under the direction of the supervising FSP would say that, but it says after receiving direction from a licensed funeral service practitioner, and so it makes a distinction that it doesn't have to be their supervisor, it can be someone else. And that's the purpose to potentially farm out or if someone needs to make up some embalmings who are in more rural areas they could come to a more populated area that has more embalming opportunities and as long as they're under the overall supervision of their supervisor giving that direction. And as long as they're under the direct supervision of a licensed FSP or an embalmer, depending on the situation, then they're complying with the requirements and it and it was the purpose to expand the reach so these tasks can be completed.

Vice-President Canizares asked if there were any other questions or comments.

Serena Trexler added that in her experience each embalmer that she has embalmed she learned something from. She expressed the benefits in learning from multiple sources, including those in rural areas coming to more populated areas.

President Gaskill expressed that these changes were much better than it was previously. He also agreed with Serena about the benefit of learning from other embalmers.

Vice-President Canizares confirmed that areas that had been identified that need clarity are the parts related to wording around 1) "Directly involved", 2) "Direct Participation", 3) "Only after received direction", 4) Defining competencies, and 5)

He asked if we want to give it back to the RAC, and if we would want the RAC to review all these areas?

AAG McCracken recommended moving forward with the rule changes and also having the RAC continue to work on the pieces that have been identified that need to be clarified or considered.

Staff member Kenney confirmed that the temporary rule will expire on December 27th, and it will revert back to the original way that the rule was written, which is actually more closely aligned to what the committee decided versus what was in the temporary rule. If you all recall the Temporary Rule changed the required number of embalmings from 35 to 15. So, we're more in line with how the rule was originally written. If the board decides to approve this rule before the end of December, the timeline would be it has to be noticed in the Bulletin, for January 1<sup>st</sup>. It must be in there for a month and then it would go into effect February 1<sup>st</sup>. As of right now, if the board votes to approve this rule as is the temporary rule will end December 27th, and we'll revert to the original rule for about a month and three days and then this new rule will go into effect February 1<sup>st</sup>.

Vice-President Canizares asked for Board input related to the areas that needed clarification, and if there was a strong desire to do the wordsmithing as a Board or to defer the Rules Advisory Committee.

President Gaskill said to move forward with the rule change and defer to the RAC to address the areas needing clarification.

Staff member Kenney confirmed that if it were added for the Secretary of States January bulletin for a month and then go into effect February 1<sup>st</sup>. The deadline is last day of the month for the next month. We would have to have a hearing for public comments during the month its posted. She confirmed that we would not be pushing for the temporary rule to become permanent.

AAG McCracken confirmed that with this being a brand-new rulemaking it would have to be posted for at least a month, then it would come back to the Board to vote to approve with any possible edits.

Vice-President Canizares brought up consideration to reschedule the January Board meeting.

Staff member Christopher pointed out that changing the January board meeting may have an impact on our investigator, Marianne, and that her cases are on a strict deadline for when they need to be presented to meet certain marks.

He also made a recommendation as it related to arrangements for apprentice funeral service practitioners, for the RAC to consider what we would want the outcome of an apprentice funeral service practitioner to be as far as their capacity to meet with people to make arrangements. He pointed out that Member Collins brought up the question, does a virtual arrangement count as an arrangement. He asked if the industry wants people who only can meet with people virtually to be given a license as a funeral service

practitioner, or if would they need to have some sort of indication that they have met with people, and they actually made arrangements in the physical form as well.

Vice-President Canizares acknowledged Staff member Christopher's comments.

Staff member Kenney suggested moving forward with the Board meeting in January and scheduling the hearing for potentially the week before the Board meeting. She confirmed that Secretary of State advised that we do not need to start the process over again when making changes to the rule language based on testimony or public comment received. We can incorporate changing the language based on feedback from the hearing and update the rule and then the board could approve it at the January board meeting. Then if anything came in in the last 10 days of January, she would reach out to the Board. And she would then make the updates based on the hearing and if the board approves them and then it could go into effect February 1st and we could stay on our target deadline.

She indicated that she didn't think it would be too much of an issue to have the hearing on the week before the board meeting. But if we want competencies defined, that could be a lengthy discussion.

She mentioned that for the other definitions as far as directly involved and clarifying that the supervisor doesn't need to be present should be an easy fix that we can address at the hearing. And we could just invite the RAC to the hearing to have that conversation and do it all at once instead of having a committee meeting and then the hearing, and then all of that and asking for a greater time commitment from the volunteers.

She suggested that for the competencies aspect that could be a longer-term discussion and something that the board looks into down the line for the sake of getting this rule into effect with as many definitions as we can, and that would be more appropriate than trying to define competencies in the short turnaround time.

Vice-President Canizares reiterated and confirmed understanding.

AAG McCracken confirmed that that RAC had not been dissolved, so we don't need to re-vote for form the RAC.

Vice-President Canizares confirmed we're taking it in two steps. This is a lot cleaner. There's more organization and less unanticipated outcomes. He stated we are going to move forward with this for public hearing, January 1st, with Secretary of State and then we will have the public comment and hearing before the January Board meeting we can then at that point under delegate the staff unless something significantly changed in the last days to delegate the staff to basically put it under rule effective February 1<sup>st</sup>. and to also have the RAC continue with the new charges and definitions that were outlined in this public meeting.

He gave the floor to anyone that wanted to speak. No one spoke. He asked if there was anybody opposed to this? No one spoke.

He asked if Sereena Trexler would continue serve as chair of the Rules Advisory Committee for the record?

Serena Trexler agreed to continue to be the Chair of the Rules Advisory Committee.

There was direction staff to publish the draft and start formal rule making process.

Vice-President Canizares encouraged a vote.

He recognized member Harris.

Member Harris so moved. Member Porter seconded. There was no further discussion.

All in favor.

Canizares, Collins, Gaskill, Harris, McKenzie-Tucker, Naigus, Pacheco, Porter.

There were none opposed.

Vice-President Canizares asked if there were any other comments from staff.

Staff member Kenney indicated that she would reach out to the RAC to let them know that the board accepted their rule as is. It will be posted in the January Bulletin and go into effect February 1<sup>st</sup>. And that the RAC is to reconvene to define certain sections of the rule that were discussed during this meeting.

It was confirmed that those 5 sections were the parts referring to the wording 1) “directly involved”, 2) “direct participation”, 3) “only after receiving direction”, 4) “competencies”, and 5) consideration for how virtual arrangements are specifically accounted for in the current definition of “arrangements”.

She asked for clarification about when RAC should be presenting its findings.

There was consensus to for the committee to present in April.

Vice President Canizares asked if there were any further comments. There were none.

He acknowledged and welcomed back Director Dresselhaus.

He concluded the General Session.

The General Session adjourned at 10:11 am.