Who Is Responsible for the AAMI Mess?

THE LATE LITIGATION between the International Conference of Funeral Service Examining Boards and the American Academy McAllister Institute over the alleged compromise of the National Board Exam, which was settled without any acknowledgement of wrongdoing by the defendants AAMI and its president Margaret “Meg” Dunn, wasn’t merely a private affair between two private organizations, as some people and organizations would have you think.

Any substantive allegation that the NBE content and process, which is nearly universally relied on as a measure of competency for industry licensure—is or was corrupted—is by its nature a public matter. The funeral service community is entitled to an explanation of what happened, why it happened, and what the consequences are (or should be) for those involved.

At the same time, the matter gives us pause to consider the contemporary state of funeral service education as a whole, and what The Conference/AAMI matter tells us about that condition.

But first things first; we need to learn more about The Conference/AAMI matter.

A good place to start would be with the disgorgement of the terms of the settlement between the Conference and AAMI, which never should have been consigned in the first place to secrecy for the comfort and convenience of the litigants. The Conference has erred in agreeing to that confidentiality because it should have known how key transparency is in maintaining confidence in the credentialing process, given that there has been a significant breach. While The Conference plays an important role in the nexus of organizations that constitute the funeral service education establishment, it is not the only player; nor is the NBE the only component of the credentialing and educational process that leads to licensure. To make the system work, The Conference has to collaborate and engage with its other partners in education, including the American Board of Funeral Service Education, the mortuary schools and the leading national trade associations (which have, to date, demonstrated remarkably little curiosity about the disagreement).

The Conference has strongly asserted its duty to protect the integrity of the exam and its obligations to the state licensing authorities that rely on it and, in turn, the consumers whose interests it believes are dependent on its effectiveness as a baseline measure of

competency. We can appreciate that. It is for these reasons, The Conference explains, that it is seeking—now that the settlement with AAMI is complete—to invalidate NBE scores for reportedly hundreds of former AAMI students. The Conference alleges they were either the recipient of compromising email communications, or the originators of such communications that contained *post facto* exam content.

In this effort, The Conference is reaching as far back as seven to 10 years ago, and imposing on these former students conditions for reinstatement that include, at a minimum, the retaking of the NBE and, in the case of the most egregious violators, suspending the ability to even retake the exam sooner than five years out (thus effectively destroying their funeral service careers). One would have expected at least a modicum of due process in the manner in which it pursues these NBE invalidations. Not so. The Conference is acting as prosecutor, judge and jury, neither confronting the accused with its evidence nor providing them any opportunity for a hearing with counsel. The former AAMI students are merely being asked to state what they think their defense is in the face of unseen evidence and throw themselves at the mercy of The Conference.

It is understood that some of the students are probably not blameless. But given that it seems unlikely that they would have behaved the way they did had they not allegedly been coached by the president of AAMI, Dunn, or any other AAMI personnel who may have been involved, one has to ask why there appears to have been no consequences for the management of AAMI beyond having to install an “academic integrity officer.” Or why the board of directors of AAMI wasn’t engaged by a joint investigative committee of The Conference and the American Board, the body that sets the accrediting standards for schools of mortuary science, as to how and why activities at AAMI came to such a state of affairs and to otherwise ask the board of directors some penetrating questions about what it knew, when it knew it, and what it intended or intends to do about it as a condition of its continued accreditation. After all, part of what we have going on here is a garden variety cheating scandal that has undermined the credibility of the funeral service accreditation and examination system for everyone, and so has made this everybody’s business.

That being the case, it seems improbable to me—and here I’m speaking with regard to AAMI’s accreditation—that absent material changes of executive leadership, and a genuine board commitment to organizational behavior changes (and that includes a larger board, new directors, including outside directors, and the elimination of management from holding seats on its board of directors)—that any credible credentialing body could allow AAMI’s accreditation to stand.

As a matter of governance, by the way, AAMI's current board of directors appears to be composed of six persons, two of whom are AAMI management (including Dunn, its president; and Mary-Ellen Chiffriller, its vice president). In holding those titles, Dunn and Chiffriller hold the top two of the organization's three officer spots, with the third position of secretary/treasurer being held by funeral director Theodore Lee. Based on the most recent available printed information, the other members of the AAMI board of directors are Lizabeth S. Konopka, CFSP, Daniel B. McManus and Sharon P. Taylor. Although having management personnel as voting members of a nonprofit board is not proscribed by law, it is certainly not considered a best practice among nonprofit management experts. For management to have an essentially controlling influence on the board defeats a key oversight mechanism. There is supposed to be productive tension between governance and management. (Based on AAMI's 2013–2014 catalogue; a recent request for updated information has not been responded to. AAMI does not publish the names of its directors in its IRS Form 990 filings. Of note, the "concerned student" who complained to The Conference about AAMI's practices indicated that it was her intention to inform the AAMI board of these matters as well, but she noted, "I was unable to locate contact information for AAMI's Board of Directors.")

But The Conference did not apparently have the foresight to take that approach, or to ask the American Board to join with it in any kind of engagement with AAMI prior to the inking of the settlement agreement. So, here now is where matters lie with AAMI. Beyond the reasonable speculation that AAMI and Dunn, or their respective insurers, paid $1.2 million as part of the settlement, we don't know what The Conference did or did not get from AAMI as part of the package because it is, well… secret.

What we can surmise, based on The Conference's current prosecution of the former AAMI students, is that neither The Conference nor AAMI apparently concerned themselves with the fate of the students in their settlement discussions.

Did anyone in management or on the board of AAMI give any consideration to the affected students during the settlement discussions? Did anyone in management or on the board of The Conference signal to Judge Thomas P. Griesa of its intentions with regard to the students, and that the settlement as structured was going to plunge hundreds of them into professional limbo?

It probably was not ever in the cards for AAMI to make a deal with The Conference to provide a pre-emptive, structured remedial action plan for the students about to be pursued by The Conference for allegations of cheating (to include completion timelines for retaking the NBE, refresher courses, exam fees, etc.) for any number of reasons, not the least being what would

amount to an admission on AAMI's part of its role as a facilitator. Nor does The Conference seem to have pressed the point of AAMI's remedial duties to the students either. A plan like that would have made far better use of the $1.2 million that appears to have been paid to The Conference as part of the AAMI settlement and, while it would not have diminished the inconvenience to the affected students of having to retake their NBEs, neither would it have dumped them as so many afterthoughts into the current uncertainty they are now faced with. Perhaps had the American Board or some other third party been at the table during the settlement discussions the interests of the students might have been considered as part of the process.

Save for the recent offer of offensive representation against The Conference by the Sokoloff Stern law firm, the cost of which is being funded by AAMI, the students are largely defenseless. While it is good that the students have at least some offensive means to defend themselves from the high-powered law firm of Baker MacKenzie that is riding shotgun for The Conference, AAMI's willingness to fund this recourse is hard to see as anything but self-serving in its own defense (it being noted that the Sokoloff Stern firm fully discloses that it cannot represent its student clients against AAMI, nor does AAMI's funding of any legal action undertaken by Sokoloff impair a student's ability to take separate legal action against AAMI). Sooner or later, one of these dragons is bound to turn on AAMI itself and ask it what it proposes to do about "fixing" the current plight of its many former students.

In any event, there remains a central nagging question at the heart of The Conference's rationale for its current conduct with respect to its pursuit of the former AAMI students.

And that is this: Is the exam worth protecting in this manner?

Is it, in its current form, as vital as all that?

You may send comments on this article to wbeebe@njsfda.org.