

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MARCH 8, 2016

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

Board members present: David Neal, President; Robert Helms, Vice President; Dennis Bridges, Mark Cochran, Robert Davis, Jeff Duffer and Charles Rahm.

Staff present: Robert Gribble, Executive Director; Anthony Glandorf, Chief Counsel; DePrey Flournoy, Administrative Secretary; and Lisa Mosby, Administrative Manager.

ADOPTION OF AGENDA:

A motion was made by Robert Helms to approve the Agenda as printed.

Seconded by Charles Rahm

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Charles Rahm to approve the Minutes of the February 9, 2016 Board Meeting.

Seconded by Robert Helms

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 funeral director license (License No. 5453) of Dwight Darrell Crayton who resides in West Memphis, Arkansas. Denard Mickens, Assistant General Counsel for the Department, presented the Department's version of the situation, and Mr. Crayton was not present for the meeting.

Respondent Dwight Darrell Crayton was unrepresented at the conference but did submit a written response for the Board's review as he was unable to attend the meeting.

Respondent was a licensed funeral director accused of falsifying death certificates by using the name and license number of a licensed embalmer that never worked for his establishment.

Investigation showed that Respondent entered all information on the death certificates produced by the establishment himself prior to giving them to the trade embalmers and that no witnesses contacted by investigators had ever seen the Complainant working at the establishment.

Respondent had no evidence to refute the claim that the Complainant never worked at his establishment – the Respondent told our investigator that he destroyed the Complainant’s personnel file after she separated employment because it contained sensitive information such as a social security number.

Based on the evidence presented, the Board voted to suspend Respondent’s funeral director license pending a formal hearing before the Board to be scheduled at a reasonable time.

A motion was made by Charles Rahm regarding the summary suspension of the Dwight Darrell Crayton’s funeral director license.

Seconded by Dennis Bridges

Adopted by voice vote

LEGAL REPORT:
ANTHONY GLANDORF, CHIEF COUNSEL

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

1. Case No.: L15-FUN-RBS-20150221541

Complainant alleges that she went to the funeral home with an insurance policy for a deceased relative. Respondent verified the policy had \$10,000 and then proceeded to explain the charges. Complainant states that the Respondent called back and stated that they would owe \$4,500 because the insurance policy wasn’t \$10,000 after all, only \$5,500. Complainant states that she was only shown one package of services and would have chosen a lesser one if she knew the insurance policy wouldn’t cover all the funeral expenses. Respondent did not

respond to the complaint. An investigation was conducted. The funeral director stated that at the time the family came to the funeral home, the life insurance policy was initially thought to be for \$10,000 but later verified at only \$5,500 prior to contracting with the family member for services. Statements were taken from pertinent family members who claim slightly different stories as to when they were informed of the policy limit of only \$5,500. Some family members claimed they learned of this after contracting for the funeral services. There is an inconsistency making it difficult to determine with a degree of certainty as to when the family was informed of the policy limit. As such, there is insufficient evidence to show that the funeral home intentionally misinformed the family as to the limit of the insurance policy at the time of contracting and withheld this information until after services provided.

Recommendation:

- No violation as to any deception or misrepresentation based upon the inability to prove such violation. For failure to respond to the initial complaint in violation of Rule 0660-11-.05(d), recommend authorization of a consent order for \$250 or formal hearing.

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

Seconded by Jeff Duffer

Adopted by voice vote

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- 2. Case No.: L15-FUN-RBS-20150225101**
 - 3. Case No.: L15-FUN-RBS-20150225102**
 - 4. Case No.: L15-FUN-RBS-20150225103**
 - 5. Case No.: L15-FUN-RBS-20150225104**
 - 6. Case No.: L15-FUN-RBS-20150225105**

Complainant states that her father passed away and was cremated by Respondent crematory. When Complainant's step-mother picked the cremains up at the Respondent funeral home, she noticed as she was leaving that the social security number was incorrect on the box containing the cremated remains. She spoke to the office assistant who provided her with the box and explained the error. The office assistant contacted the crematory but merely crossed out the wrong SSN and wrote in the correct one, stating that it was fixed. The tag in the cremains also had the wrong SSN but the name was correct. The Complainant was concerned that the cremains were not those of her father.

The crematory manager states that he mixed up the SSNs of the two deceased persons. His explanation was that this happened while he was creating this ID tag. Another deceased person, whose SSN appeared on the box and tag in the cremains was in the retort but his paperwork was also on the desk along with the paperwork of the decedent when he created the ID tag.

Funeral home Respondent states that after the family expressed concern, the establishment double checked all their paperwork and discussed the situation with the crematory. They agreed the SSN was a mix-up and were confident the crematory gave the funeral home the correct cremains. The crematory manager even told the family what clothes the decedent was wearing when he cremated the decedent. The funeral director states that from now on they will double check everything before calling the family to pick up cremains.

An investigation was conducted showing it is most likely that the SSN of outgoing cremains were inadvertently placed on the permanent identification device and on the box of the temporary urn of the decedent. The Complainants also stated that they most likely believe the cremains they received were those of their father.

Recommendation:

- Issue a Letter of Warning to the Crematory and Funeral Home regarding the display of incorrect social security number of the deceased to the family member as a potential violation of unprofessional conduct under T.C.A. § 62-5-317(a)(4).

A motion was made by Charles Rahm to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

7. Case No.: L15-FUN-RBS-2015014885

This case came about from the investigation of a previous complaint. That Complainant transferred the deceased to Respondent after problems with a different establishment. At the December 2015 meeting, the Board requested that the Respondent be asked to respond to the allegations below. Since that

time, the Respondent did respond with the following information regarding the allegation.

1. An unlicensed individual signed as the "Funeral Director" on Respondent's Reassignment Form.
 - a. Respondent states that this was signed in error and corrected the same day with Respondent's signature.
2. Emails from the deceased's file show Respondent's owner and manager directing his unlicensed employees to meet with the family and sign the Statement of Funeral Goods and Services and the Insurance Form.
 - a. Respondent states that arrangements were made three (3) days earlier, but the insurance company contacted the next of kin, so Respondent employees were helping him fill documents out while Respondent was on the phone with the insurance company in the other room.
3. The second Statement of Funeral Goods and Services was not signed by the next of kin.
 - a. Respondent states that this was only for the insurance company quote, as they wouldn't do anything without the Statement. He contends that the family signed the final version.
4. The second Statement of Funeral Goods and Services had items added without next of kin approval (with no signature): \$100 added for bi-fold color programs and an increase of the insurance policy processing fee from \$294.35 to \$444.95 for an increase of \$150.60.
 - a. States that they cancelled the programs the same day and were given a refund in cash; Respondent states that the investigator confirmed this with the Complainants.

Recommendation:

- Authorization of a consent order for \$1,500 (\$1,000 for allowing unlicensed persons to act in capacity of a licensed funeral director and \$500 for deceptive practice of adding unauthorized services or charges to the Statement of Funeral Goods and Services) and authorization for a formal hearing.

A motion was made by Charles Rahm to increase the civil penalty and send a consent order for \$2,500 and authorization for a formal hearing.

Seconded by Robert Helms

Adopted by voice vote

8. Case No.: L15-FUN-RBS-20150225831

Complainant states that the funeral home did not work with them when they were trying to pick up the cremains. Complainant states that the secretary was rude, and when she called the owner to complain, her calls were not returned. Respondent did not respond to the complaint.

Recommendation:

- Consent order for \$250 for failing to respond to the complaint and authorization for a hearing.

A motion was made by Jeff Duffer to accept Counsel's recommendation.

Seconded by Charles Rahm

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

Bill(s) Directly Affecting the Board of Funeral Directors and Embalmers:

SB2534 / *HB2569

Professions and Occupations - As introduced, revises various provisions regarding cemetery owners and companies, architects, insurers, shops licensed by the board of cosmetology and barber examiners, funeral directors, real estate firms, real estate brokers, affiliate brokers, time-share salespersons, and acquisition agents. - Amends TCA Section 46-2-101; Section 56-1-213 and Title 62.

<http://www.capitol.tn.gov/Bills/109/Bill/HB2569.pdf>

Other Bill(s) of Interest to Funeral Directors and Establishments:

SB0621 / *HB0199

Insurance Companies, Agents, Brokers, Policies - As introduced, defines funeral merchandise for prearrangement insurance policies. - Amends TCA Title 46 and Title 62, Chapter 5.

<http://www.capitol.tn.gov/Bills/109/Amend/SA0502.pdf>

SB2246 / *HB1499

Anatomical Gifts - As introduced, requires that documents of anatomical gifts made after July 1, 2016, specify whether the gift includes specific body parts or the entire body; requires certain notices by hospitals and nursing homes. - Amends TCA Section 55-50-352 and Title 68.

<http://www.capitol.tn.gov/Bills/109/Bill/HB1499.pdf>

SB1972 / *HB1894

Estates - As introduced, increases the maximum amount of a life insurance policy from \$7,500 to \$15,000 in order that a photocopy of a certificate of death, along with certain statements, may constitute proof of death; authorizes certain financial institutions and associations to pay out all accounts of certain deceased, and checks payable to certain deceased, to certain creditors, relatives, and representatives as long as the sums do not exceed \$15,000 in the aggregate. - Amends TCA Title 45 and Title 56.

<http://www.capitol.tn.gov/Bills/109/Bill/HB1894.pdf>

***SB2045 / HB2263**

Trusts - As introduced, authorizes a trustee to establish a single trust fund for all pre-need funeral contracts issued by multiple pre-need sellers, instead of having to establish a trust fund for each pre-need seller. - Amends TCA Title 62, Chapter 5, Part 4.

<http://www.capitol.tn.gov/Bills/109/Bill/SB2045.pdf>

SB2488 / *HB2268

Cemeteries - As introduced, creates a nine-member task force to make recommendations for statutory changes concerning funding for community exempt cemeteries; task force will make a report and cease to exist by January 1, 2017. - Amends TCA Title 46.

<http://www.capitol.tn.gov/Bills/109/Bill/HB2268.pdf>

***SB1480 / HB2436**

Cemeteries - As introduced, extends to all local governments the authorization that county governments currently have to use local funds at their discretion to rehabilitate or maintain dilapidated or abandoned cemeteries that do not maintain a sufficient improvement care trust fund or are not maintained adequately. - Amends TCA Title 46, Chapter 2, Part 1.

<http://www.capitol.tn.gov/Bills/109/Bill/SB1480.pdf>

SB2562 / *HB1558

Veterans Services, Dept. of - As introduced, prohibits any person working for or representing the department from participating in certain solicitations from the public for veterans' cemeteries; grants the commissioner rule-making authority for such cemeteries; adds other provisions regarding such cemeteries. - Amends TCA Title 46, Chapter 6.

<http://www.capitol.tn.gov/Bills/109/Bill/HB1558.pdf>

SB1090 / *HB0828

Veterans - As introduced, specifies that no fee shall be charged for the interment of an eligible veteran in a state veterans' cemetery and limits the fee to \$300 for the interment of an eligible veteran's spouse. - Amends TCA Title 46, Chapter 6.

<http://www.capitol.tn.gov/Bills/109/Bill/HB0828.pdf>

***SB0320 / HB0289**

Autopsies - As introduced, rewrites Post-Mortem Examinations Act effective January 1, 2017; requires counties to appoint a medicolegal death investigator; terminates Tennessee medical examiner advisory council. - Amends TCA Title 4, Chapter 29, Part 2; Title 38, Chapter 7 and Title 68, Chapter 1, Part 11.

<http://www.capitol.tn.gov/Bills/109/Bill/SB0320.pdf>

SB0870 / *HB0446

Cemeteries - As introduced, makes various changes with regard to the treatment of urn vaults, vaults, outer burial containers, and other merchandise offered by a cemetery company in pre-need contracts and in the disbursement of trust assets; clarifies the law applicable to pre-need contracts offered by cemetery companies. - Amends TCA Title 46, Chapter 1.

<http://www.capitol.tn.gov/Bills/109/Bill/HB0446.pdf>

Website for Legislative Bill Searches:

<http://wapp.capitol.tn.gov/apps/billsearch/BillSearchAdvanced.aspx>

LICENSEE REPORT:

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
FEBRUARY 9, 2016 – MARCH 7, 2016**

Establishment(s)

Type of Action(s)

Essentials Funeral and Cremation Services
Chattanooga, TN

New Establishment

Jasper Memorial Funeral Home, LLC
Jasper, TN

New Establishment

Smith Funeral Directors, Inc.
Nashville, TN

Ownership and Name Changes

Upton-Hay Funeral Home, LLC
Celina, TN

Ownership and Name Changes

Saddler Funeral Home & Crematory Services
Lebanon, TN

Name Change

Individual(s)

Harold Wayne Hunter
Bowling Green, KY

Type of License(s)

Funeral Director
Reapplication

CLOSED ESTABLISHMENT REPORT:

One (1) establishment has reported closing since the last board meeting:

- Byrd’s Mortuary, 205 Monroe Street, Maynardville, TN.

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF
FEBRUARY 1, 2016 – FEBRUARY 29, 2016**

Respondent: Pettus-Turnbo Funeral Home, Lawrenceburg, TN
 Violation: Knowingly permitted an unlicensed person to engage in the profession or business of funeral directing or embalming under the licensee’s supervision, aided or abetted an unlicensed person to practice within the funeral profession, and false or misleading advertising
 Action: \$1,000 Civil Penalty

Respondent: Woodall-Anderson & Dugger Funeral Home & Cremation Services, Johnson City, TN
 Violation: Engaged in the operation of a funeral establishment while the establishment license was expired
 Action: \$750 Civil Penalty

OPEN COMPLAINT REPORT:

As of March 8, 2016 there were 33 open complaints.

A motion was made by Robert Helms to accept the Executive Director’s Report.

Seconded by Charles Rahm

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**LIFE CELEBRATION CENTER OF FRANKLIN
ATTN: CHRISTOPHER TAYLOR, MGR.
1881 GENERAL GEORGE PATTON DRIVE, SUITE 102
FRANKLIN, TN 37067-4661**

New Establishment

Ownership: Limited Liability Company

**Owner(s): Franklin Funeral Home, LLC, 7427 Charlotte Pike, Nashville, TN
37209-5001**

Upon motion by Mark Cochran and seconded by Dennis Bridges, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

ADJOURN:

A motion was made by Robert Helms to adjourn.

Seconded by Mark Cochran

Adopted by voice vote

The meeting was adjourned by President David Neal at 10:50 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director