

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 12, 2015

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

Board members present: Robert Starkey, President; Anita Taylor, Vice President; Mark Cochran, Robert P. Helms, David Neal and Jane Gray Sowell.

Note: Vice President Anita Taylor arrived at 10:10 a.m. during the legal report.

Board member(s) absent: W. T. Patterson

Staff present: Robert Gribble, Executive Director; Ellery Richardson, Assistant General Counsel; Lisa Mosby, Administrative Manager; and DePrey Flournoy, Administrative Secretary.

ADOPTION OF AGENDA:

A motion was made by Jane Gray Sowell to approve the Agenda as printed.

Seconded by David Neal

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Robert Helms to approve the Minutes of the April 14, 2015 Board Meeting.

Seconded by Jane Gray Sowell

Adopted by voice vote

AGREED ORDER:

Docket No. 12.21-130639A

**Case Nos.: L13-FUN-RBS-2013014351, L13-FUN-RBS-2013014352, and
L13-FUN-RBS-2013014353**

- **Respondents: New Heritage Chapel, 21625 Seminary Street, Hollow Rock, TN 38342-5001
Unlicensed Establishment
Melvin LaShun Shaw, 4052 Algee Lane, Milan, TN 38358-6541**

**Apprentice Funeral Director Registration No. 4800
Apprentice Embalmer Registration No. 4801**

New Heritage Chapel – Melvin Shaw and his wife were operating this facility as a funeral establishment. The Respondent New Heritage Chapel is not a licensed funeral establishment and Respondent Melvin Shaw is not a licensed funeral director or a licensed embalmer in the State of Tennessee. New Heritage Chapel was providing adult and infant caskets for sale at the establishment. Respondent did not have and could not produce a General Price List. According to the Respondent, the bodies would be prepared at another funeral home in Tennessee and the funerals would be held at New Heritage Chapel. The Respondent, Melvin Shaw had an apprentice funeral director registration and an apprentice embalmer registration (No. 4800 and No. 4801) that expired on March 31, 2015. Further, no quarterly reports were submitted by Melvin Shaw for his apprenticeships. No licensed funeral director was present at the establishment and the Respondent was operating as a funeral establishment and did not have a funeral establishment license or a funeral director or embalmer license.

Following the filing of the Notice of Hearing and Charges, the Respondent admits the violations and would like to informally settle this matter by Agreed Final Order.

Respondent admits he has violated the following: TENN. CODE ANN. § 62-5-303(a)(1), TENN. CODE ANN. § 62-5-303(a)(2), TENN. CODE ANN. § 62-5-303(b), TENN. CODE ANN. § 62-5-304(a), TENN. CODE ANN. § 62-5-309(a), TENN. CODE ANN. § 62-5-309(b), TENN. CODE ANN. § 62-5-313(a), TENN. CODE ANN. §62-5-313(2)(c), TENN. CODE ANN. §62-5-313(4)(c), TENN. CODE ANN. §62-5-313(b)(1), TENN. CODE ANN. §62-5-313(c), and TENN. CODE ANN. §62-5-314.

Under the terms of the Agreed Final Order, the Respondents have agreed to the following:

- The Respondent will not attempt to use or operate an establishment without an appropriate license;
- The Respondent will not receive any credit for his apprentice funeral director or apprentice embalmer registrations since the required reports were not timely submitted for his apprenticeships;
- Respondent agrees to a one year waiting period from the date of the signing this Agreed Final Order before applying for an apprentice funeral director registration and/or apprentice embalmer registration with the Board;
- Respondent agrees to a one year waiting period from the date of the signing of this Agreed Final Order before applying for a funeral establishment license as an owner, partner, etc. with the Board;
- Respondent will be required to pay a civil penalty in the amount of Five Hundred Dollars (\$500). This amount has been reduced from \$1,000 in light of the fact the Respondent has closed New Heritage Chapel, is no longer operating it as a funeral establishment, working at a minimum wage paying

job, and has agreed to the one year waiting period for applying for any application for a funeral, embalmer or establishment license. Additionally, the Respondent will be required to remit the \$200 fee for filing this matter with the Administrative Procedures Division of the Secretary of State.

The terms of the Agreed Final Order requires that it must be presented, considered and accepted by the Board in order to settle this matter.

A motion was made by Jane Gray Sowell to accept the Agreed Order.

Seconded by David Neal

Adopted by voice vote

LEGAL REPORT:
ELLERY RICHARDSON, ASSISTANT GENERAL 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.: L14-FUN-RBS-2014031561**
 - 2. Case No.: L14-FUN-RBS-2014031571**

Complaint:

- Complainant supplied an advertisement and asked whether it is legal. It is for an entity licensed in the State of Mississippi and run by a Tennessee licensed funeral director and embalmer. The advertisement states it is affiliated with Respondent entities. The advertisement is for cheap cremations; the advertisement states that you never meet with a funeral director, everything is done over the phone, and all the required documentation will be delivered via FedEx.

Response:

- Respondent states that the affiliation is only common ownership, and the complaint should not have been opened against them.

Recommendation:

- Close

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

Seconded by Mark Cochran

Adopted by voice vote

3. Case No.: L15-FUN-RBS-2015000331

4. Case No.: L15-FUN-RBS-2015000332

Complaint:

- Respondent funeral director's license expired on July 1, 2014 and was not renewed until August 19, 2014. During this time, Respondent was the manager of a funeral home and served as the funeral director in four cases.

Response:

Respondent apologizes for the oversight.

Recommendation:

- For Establishment: Consent Order with civil penalty for \$200 and authorization for a hearing.
- For Funeral Director: Consent Order with civil penalty for \$200 and authorization for a hearing.

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

Seconded by David Neal

Adopted by voice vote

5. Case No.: L15-FUN-RBS-2015000221

Complaint:

- An inspection revealed that Respondent did not have the funeral director and embalmer licenses of one of its employees available for inspection. Additionally, eight (8) cremation authorization forms were missing, and eleven (11) cremation authorization forms were not properly signed and dated. It appears that Respondent did not receive the renewal notice because the individual had not updated their mailing address with the Board Office.

Response:

- Respondent states it conducted a full review of all their files and corrected the cremation authorization form issues.

Recommendation:

- Consent Order with civil penalty of \$500 and authorization for a hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

6. Case No.: L15-FUN-RBS-2015000361

Complaint:

- Respondent did not properly itemize a charge of \$352 for two contracts which the Respondent stated were for both an alternative container and an urn. Respondent stated that this was a computer glitch that they have corrected.

Response:

- Respondent showed proof that the items were entered separately, but the software lumped those items together.

Recommendation:

- Close

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

Seconded by David Neal

Adopted by voice vote

7. Case No.: L15-FUN-RBS-2015000371

Complaint:

- Respondent's establishment license lapsed on November 30, 2014, and was not renewed until December 11, 2014. Respondent did not conduct any business during this time period. Additionally, Respondent did not have the latest crematory inspection report; this was faxed to Respondent during the inspection.

Response:

- Respondent apologizes for the oversight and has put measures in place to prevent this from happening again.

Recommendation:

- Close with a Letter of Warning.

A motion was made by Jane Gray Sowell to accept Counsel's recommendation.

Seconded by Anita Taylor

Adopted by voice vote

8. Case No.: L15-FUN-RBS-2015002291**Complaint:**

- Complainant states that her daughter's step-father passed away, and deceased's biological daughter handled the arrangements. Although she and her husband were close friends with the deceased, they were not allowed to attend the memorial service. When they arrived at the funeral establishment, they were told they could not come inside. It was extremely humiliating, and many friends and family called asking why they did not come.

Response:

- Respondent states that the daughter of the deceased approached the staff an hour before the service and told them that she did not want Complainant's husband to attend the services. The staff did not inquire further and told her that the funeral home was a public place, but the staff would convey her request. Complainant's husband left after the request was conveyed to him and stated that he did not want to cause any trouble.
- Deceased's biological daughter stated that she requested that he not attend because she wouldn't have felt comfortable with him being there. She also texted her step-sister (Complainant's daughter) the day before and told her this. Complainant states that the service should have been announced as private if the daughter was going to bar people from coming to it.

Recommendation:

- Close

A motion was made by Mark Cochran to accept Counsel's recommendation.

Seconded by Jane Gray Sowell

Adopted by voice vote

9. Case No.: L15-FUN-RBS-2015003011**Complaint:**

- Employee of a rival funeral home filed a complaint about Respondent's billboard stating that the prices are not itemized.

Response:

- Respondent stated that their Simplicity Burial Package has always been this price, and it is stated as such on their price list. Respondent added an itemization to the billboard.

Recommendation:

- Close with a Letter of Warning.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

10. Case No.: L15-FUN-RBS-2015004341

Complaint:

- Respondent's establishment license expired on December 31, 2014 and was not renewed until January 20, 2015. Respondent handled 21 cases during this time period.

Response:

- Respondent apologizes for missing the renewal date.

Recommendation:

- Consent Order with \$525 and authorization for a hearing.

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

Seconded by Anita Taylor

Adopted by voice vote

11. Case No.: L15-FUN-RBS-2015005121

12. Case No.: L15-FUN-RBS-2015005122

Complaint:

- Respondent posted on Facebook that he was a funeral director, an embalmer, and the manager of an establishment the day before his licenses were granted by the Board. They were still pending at the time.

Response:

- Respondent stated that after finishing his apprenticeship, he switched firms. He updated his Facebook the week he began working at the new firm to notify his friends and acquaintances where he had gone because he hadn't felt comfortable saying it before the firm announced it. He stated that he did not intend the posting to show that he was licensed; in fact he posted again on the day he received his official license from the Board.

Recommendation:

- Close with a Letter of Warning.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by David Neal

Adopted by voice vote

13. Case No.: L15-FUN-RBS-2015005131

14. Case No.: L15-FUN-RBS-2015005132

Complaint:

- Complainant alleges that Respondent owner, who is unlicensed, is going to homes soliciting families for business, offering services for \$2,400. The complaint was filed using fake addresses and phone numbers so there is no way to reach the Complainant for additional information.

Response:

- Respondent denies the allegations and states that their cheapest funeral is \$2,995.

Recommendation:

- Dismiss

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

Seconded by Anita Taylor

Adopted by voice vote

15. Case No.: L15-FUN-RBS-2015005521

Complaint:

- Respondent's establishment license expired on October 31, 2014 and was not renewed until January 21, 2015 (almost 3 months later). Respondent handled sixteen (16) cremations and sold a preneed funeral contract.

Response:

- Respondent apologizes for the oversight.

Recommendation:

- Consent Order with civil penalty of \$750 and authorization for a hearing.

A motion was made by David Neal to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

16. Case No.: L15-FUN-RBS-2015005531

Complaint:

- An inspection revealed that the latest crematory inspection report was not available. Four (4) cremation authorization forms were not signed by the funeral director. Additionally, three (3) contracts had inconsistent prices as compared to the price list and two (2) contracts did not have the reason for embalming listed as required.

Response:

- Respondent stated that it has corrected the problems and has retained another funeral director as the new manager.

Recommendation:

- Consent Order with civil penalty of \$750 and authorization for a hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

17. Case No.: L15-FUN-RBS-2015007721

18. Case No.: L15-FUN-RBS-2015007722

19. Case No.: L15-FUN-RBS-2015007723

Complaint:

- A medical examiner stated that he signed a certificate of death for Respondent funeral establishment. The local health department called the medical examiner later that day and told him that there was another death certificate produced because the deceased's name was misspelled, and someone else had signed Complainant's name. Complainant then asked for a third death certificate, which he appropriately signed. Complainant sent in copies of all three death certificates.

Response:

- Respondent manager states that once she became aware of this situation, she discovered that another funeral director in their firm took the short cut of forging the medical examiner's signature to the certificate. She assured the Board that this particular funeral director will no longer be handling death certificates.

- The funeral director who forged the signature apologizes and states that he has begun seeing a medical professional to deal with his anxiety which may have contributed to this poor decision.

Recommendation:

- For Manager: Close with a Letter of Warning.
- For Establishment: Consent Order with civil penalty of \$500 and authorization for a hearing.
- For Funeral Director: Consent Order with civil penalty of \$1000 and authorization for a hearing.

A motion was made by Anita Taylor to accept Counsel's recommendation.

Seconded by Robert Helms

Board member(s) recorded as present and not voting: Jane Gray Sowell

Adopted by voice vote

20. Case No.: L14-FUN-RBS-2014032321

Complaint:

- Respondent's manager informed the Board that he resigned effective October 31, 2014. At the December 3, 2014 establishment inspection, there was no new manager. Respondent handled seven (7) cases without a manager of record. Additionally, one (1) contract did not include the reason for embalming and contained a price list inconsistency. This establishment has subsequently closed.

Response:

Respondent stated that they corrected the contract. Additionally, they stated that all cases were handled by another licensed funeral director.

Recommendation:

- Close, as the establishment is now closed.

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

Seconded by David Neal

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LICENSEE REPORT:**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE
DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF
APRIL 14, 2015 – MAY 11, 2015****Establishments****Type of License(s)**Lakeway Cremation Center
Morristown, TN

New Establishment

Nashville Funeral and Cremation
Nashville, TN

Ownership and Name

Individuals**Type of License(s)**Jared Logan Baker
Spencer, TN

Funeral Director/Embalmer

Cindy Lee Blalock
Brownsville, TN

Funeral Director/Embalmer

Elizabeth Ann Bell
Bartlett, TN

Funeral Director/Embalmer

Jamie Jean Bergeson
Fairview, TN

Funeral Director/Embalmer

Courtney Summer Hise
Nashville, TN

Funeral Director/Embalmer

Christie R. Keen
Celina, TN

Funeral Director/Embalmer

Robert Frank Pollock
Farragut, TN

Funeral Director/Embalmer

Nathan Craig Westbrook
Lebanon, TNFuneral Director/Embalmer
Reciprocity – WashingtonStephanie Marie Winkle-Miller
Rome, GAFuneral Director/Embalmer
Reciprocity – GeorgiaWillie M. Watts
Kingsport, TNFuneral Director/Embalmer
Reapplication

Perry Craig Whisenant
Toney, AL

Funeral Director
Reciprocity – Alabama

DISCIPLINARY ACTION REPORT:

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO
BOARD AUTHORITY FOR THE PERIOD OF
APRIL 1, 2015 – APRIL 30, 2015**

Respondent: James M. Gerth, Talbott, TN
Violation: Served as the manager of a funeral establishment and practiced funeral directing and embalming while funeral director and embalmer licenses were expired
Action: \$250 Civil Penalty

Respondent: Heritage Funeral Home & Cremation Services, LLC, Franklin, TN
Violation: An outer burial container price list was not available for inspection, a cremation authorization form lacked the signature of a funeral director, and failed to obtain and maintain a copy of the results from the crematory's latest inspection that the funeral home uses
Action: \$1,000 Civil Penalty

Respondent: Hooker Funeral Home, Clarksville, TN
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired
Action: \$150 Civil Penalty

Respondent: Smith-Reagan Funeral Home, Rutledge, TN
Violation: Manager of the funeral establishment engaged in the practice of funeral directing and embalming while funeral director and embalmer licenses were expired
Action: \$250 Civil Penalty

Respondent: Snow Funeral Home, Memphis, TN
Violation: Failed to have a fixed place of business, failed to have all records subject to inspection by the Federal Trade Commission available to the Board, failed to submit records kept by the licensee in the normal course of business, failed to have licenses of the funeral establishment, funeral director(s) and embalmer(s) available for inspection, and failed to obtain and maintain the current license and a copy

of the results from the crematory's latest inspection that the funeral home uses
Action: \$1,500 Civil Penalty, assessed Investigatory and Hearing Costs not to exceed \$1,500, subject to a future inspection, and if not in compliance with the minimum requirements of a licensed establishment at that the time of that inspection, the funeral establishment license shall be immediately Suspended until compliance requirements are met

OPEN COMPLAINT REPORT:

As of May 12, 2015 there were 61 open complaints.

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

Seconded by David Neal

Adopted by voice vote

LEGISLATIVE UPDATE:

The following report was presented to the Board by Robert Gribble, Executive Director:

SB0194 / *HB0163

Funeral Directors and Embalmers – As introduced, clarifies that the two members of the board of funeral directors and embalmers with a minimum of five consecutive years' experience in this state immediately preceding their appointment shall be licensed as funeral directors, embalmers, or both; and provides that if the board is inspecting a crematory facility in conjunction with an application for initial licensure, change of ownership, or change of location, the authorized representative conducting the inspection for the board shall also be a certified crematory operator. – Amends TCA Title 62, Chapter 5, Part 2.

<http://www.capitol.tn.gov/Bills/109/Bill/HB0163.pdf>

Last Actions:

04/27/2015 – HB0163 – Public Chapter 161

04/27/2015 – SB0194 – Comp. became Public Chapter 161

***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/SB0230.pdf>

Last Actions:

02/11/2015 – SB0320 – Passed on Second Consideration, refer to Senate Health and Welfare Committee

02/11/2015 – HB0289 – Assigned to s/c Health Subcommittee

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/Bill/HB0199.pdf>

Last Actions:

03/17/2015 – HB0199 – Taken off notice for cal in s/c Business and Utilities Subcommittee of Business and Utilities Committee

02/12/2015 – SB0631 – Passed on second Consideration, refer to Senate Commerce and Labor Committee

SB0870 / *HB0446

Cemeteries – As introduced, makes various changes with regards 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>

Last Actions:

02/18/2015 – HB0446 – Assigned to s/c Business and Utilities Subcommittee

02/18/2015 – SB0780 – Passed on Second Consideration, refer to Senate Commerce and Labor Committee

***SB1235 / HB1307**

Cemeteries – As introduced, makes various revisions to regulations governing cemetery companies or other entities engaged in the business of selling, leasing, or renting lots, grave spaces, crypts, niches, and burial rights for the interment of deceased persons; requires the commissioner of commerce and insurance to

issue audit reports after auditing a cemetery company. – Amends TCA Title 46, Chapter 1 and Title 62.

<http://www.capitol.tn.gov/Bills/109/Bill/SB1235.pdf>

Last Actions:

05/06/2015 – SB1235 – Comp. became Public Chapter 288

05/06/2015 – HB1307 – Public Chapter 288

Website for Legislative Bill Searches:

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

A motion was made by Jane Gray Sowell to accept the Legislative Update.

Seconded by David Neal

Adopted by voice vote

ESTABLISHMENT APPLICATION:

CHURCH & CHAPEL FUNERAL SERVICE, LLC

105 MAIN STREET

PORTLAND, TN 37148-1217

New Establishment

Ownership: Limited Liability Company

Owner(s): Church & Chapel Funeral Service, LLC, 105 Main Street, Portland, TN 37148-1217

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

President Starkey announced there would be a roll call vote.

Board Members	Yes	No	Absent
Mark Cochran	X		
Robert Helms	X		
David Neal	X		
W. T. Patterson			X
Jane Gray Sowell		X	
Robert Starkey	X		
Anita Taylor	X		

Adopted with five (5) members voting Yes and one (1) member voting No

ADJOURN:

A motion was made by Robert Helms to adjourn.

Seconded by Anita Taylor

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 10:50 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director