

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

DECEMBER 8, 2015

President Robert Starkey called the meeting to order at 10:15 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 W. T. Patterson.

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

ADOPTION OF AGENDA:

A motion was made by Robert Helms 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 October 13, 2015 Board Meeting.

President Starkey announced that the November 10, 2015 Minutes will be presented for review/approval at the next board meeting.

APPEARANCE BEFORE THE BOARD:

Addison Russell, the Department's new Legislative Director, appeared before the Board, introduced herself, and stated that she looked forward to working with the Board of Funeral Directors and Embalmers on future legislative matters.

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.: L15-FUN-RBS-20150213711**
2. **Case No.: L15-FUN-RBS-20150213712**
3. **Case No.: L15-FUN-RBS-20150213713**

Complaint / Response:

- Respondent unlicensed individual used to be licensed as both a funeral director and an embalmer but let his licenses lapse when he left the industry. He returned to the industry many years later working for Respondent funeral establishment as an unlicensed assistant. A former employee of Respondent establishment states that there were a few times that Respondent individual conducted embalmings with either only an assistant present or with no one else present. The former employee did state that it was rare and Respondent only did it when there was no one else available to do the embalming.
- Respondent states that he assists in embalmings but always with a licensed embalmer present. Employees of the Respondent funeral establishment state that they have never seen or known of the unlicensed assistant to embalm without the presence of a licensed embalmer.

Recommendation:

- Close with a Letter of Caution

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

Seconded by Mark Cochran

Adopted by voice vote

4. Case No.: L15-FUN-RBS-20150218381**Complaint / Response:**

- Complainant is the son of the deceased and beneficiary of the insurance policies. Complainant's daughter had Durable Power of Attorney for Health Care (POA) regarding the Deceased. Complainant alleges that the Respondent had him sign over insurance to pay for costs and never allowed him to accept or authorize the funeral bill. Someone else had a "purported POA" and increased the bill without his authority. Complainant states that he was the beneficiary of the insurance policies and only wanted four thousand dollars to go toward the funeral expenses.
- Respondent states that the Deceased's granddaughter had appropriate POA and made the arrangements. The granddaughter called

Complainant three (3) times during the arrangement conference to make sure he was happy with the arrangements. They delayed the service by a week so that the Complainant could come into town. When Complainant came to town, he was still two hours late to the funeral. He signed an assignment of the policy to the funeral home and only asked if it would cover it all and stated that he did not want to pay anything out of pocket. Respondent assured him that if there was any balance remaining, then the granddaughter had stated that she would cover it. Because she stated she would be responsible, Respondent did not require him to sign the bill. Respondent states that the Complainant did not ask for the SFGSS until months later.

- Deceased's granddaughter states that her father's only concern was that the insurance would cover it all and that he not have to pay any extra. He did not say anything about a \$4k limit and was indifferent to the whole process.

Recommendation:

- Close

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

Seconded by David Neal

Adopted by voice vote

5. Case No.: L15-FUN-RBS-20150218981

Complaint / Response:

- Respondent did not have a valid Casket Price List or an Outer Burial Container Price List. Respondent manager told the inspector that he uses the price cards on the caskets; the inspector informed the Respondent that the funeral rule requires a price list to be shown at the beginning of discussions. There was a "list" on a notebook, but the prices were not in agreement with the display cards, and six (6) caskets that were displayed were not on this "list" at all. Additionally, neither the Outer Burial Container Price List nor the Statement of Funeral Goods and Services Selected had the required language disclosures.

Recommendation:

- Consent Order with civil penalty of \$2000 and authorization for a hearing.

A motion was made by W. T. Patterson to accept Counsel's recommendation.

Seconded by Robert Helms

Adopted by voice vote

6. Case No.: L15-FUN-RBS-2015017251

7. Case No.: L15-FUN-RBS-2015017252

Complaint / Response:

- Complaint alleges that Respondent added additional charges to the service. Respondent quoted a price of \$2,855.00. The total bill was \$4,799, but the total bill also included cemetery merchandise. A thorough review of the Statement of Funeral Goods and Services Selected reveals that Respondent double charged the family for services.
- Complainant also alleges that Respondent promised the family a church discount which never materialized, that Respondent funeral director was not at the service, and that Respondent will not release the death certificate until the balance of the funeral bill is paid.
- An investigation revealed that the family assumed they would get a church discount because the family member and the Respondent attend the same church where the service was scheduled, but there is no evidence that a discount was actually discussed or offered. Respondent funeral director was not at the service, but he did hire another funeral director who was in attendance. Respondent told our investigator that when he called Complainant to inform her that the death certificate was ready, he did remind her about her remaining balance but did not condition its release on payment of the balance. He stated that she would need to pay \$7, which is the charge by Vital Records for a certified copy of the certificate of death. Complainant has paid on the contract and currently has a remaining balance of only \$199.00.

Recommendation:

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

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

Seconded by Mark Cochran

Adopted by voice vote

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8. Case No.: L15-FUN-RBS-2015014881
 9. Case No.: L15-FUN-RBS-2015014882
 10. Case No.: L15-FUN-RBS-2015014883
 11. Case No.: L15-FUN-RBS-2015014884

Complaint / Response:

- Deceased had a prearrangement policy with Respondent. Upon her death, Respondent picked up the body and proceeded with making the preparations as stated in the pre-need funeral contract, with phone conversations with the next of kin, embalming, preparing the death certificate, obituary notice in the paper, scheduling the visitation and service, notification of the cemetery, and ordering of the casket. The next of kin, when she came in, met with the owner and another staff member, neither of whom are licensed. She then expressed concern at the cost, asking to lower it. The next of kin then decided to go with another funeral establishment. Complainant states that when the other establishment called on speaker phone and asked about charges, Respondent stated they were \$1300. Respondent's price list sent later charged \$2800 (embalming, basic services, and two (2) transportations – from hospital and to other establishment). Respondent denies giving a price but instead told them that the insurance policies would cover it. When Complainant called to discuss the discrepancies, Respondent would not discuss it with her; Respondent stated that the service was over so there was nothing to discuss.
- An investigation revealed that during the arrangement conference with the second establishment, both the family and the establishment remember Respondent quoting either \$1200 or \$1300. An investigation also revealed that the second establishment had violations in their contract.

Recommendation:

- Owner: Consent order with civil penalty of \$1000 and authorization for a hearing.
- Establishment: Consent order with civil penalty of \$1000 and authorization for a hearing.
- Manager's Funeral Director License: Consent order with a civil penalty of \$1000 and authorization for a hearing.
- Manager's Embalmer License: Close

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

Seconded by Mark Cochran

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 NOVEMBER 10, 2015 – DECEMBER 7, 2015

<u>Establishment(s)</u>	<u>Type of Action(s)</u>
Premier Sharp Funeral Home Oliver Springs, TN	Name Change
Mountain Empire Cremation & Burial Services Jonesborough, TN	Name and Location Changes

<u>Individual(s)</u>	<u>Type of License(s)</u>
Chuck Edward Maupin Dickson, TN	Funeral Director/Embalmer
Joseph Boyd Grimm Corbin, KY	Embalmer Reciprocity – Kentucky

CLOSED ESTABLISHMENT REPORT:

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

- Colboch-Price Funeral Home, 101 West Street, Rogersville, TN.

DISCIPLINARY ACTION REPORT:

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

Respondent: Signature Funeral Services, LLC, Memphis, TN
 Violation: Unprofessional and immoral conduct (performed multiple embalming procedures on-site in establishment's break room and used a casket multiple times that had previously

been used in connection with the disposition of another dead human body)
Action: \$1,000 Civil Penalty and \$200 Hearing Costs

Respondent: Rodney Erric Williams, Memphis, TN
Violation: Unprofessional and immoral conduct (performed multiple embalming procedures on-site in establishment's break room and used a casket multiple times that had previously been used in connection with the disposition of another dead human body)
Action: \$1,000 Civil Penalty, \$200 Hearing Costs, \$425 Investigation Costs, suspension of funeral director and embalmer licenses for a period of sixty-two (62) days, licensee must remove himself from Signature Funeral Services, LLC, during the period of suspension, ten (10) hours of continuing education, three (3) of which shall be in ethics, and licenses to be immediately revoked if found by the Board to violate any term of this agreed disposition

OPEN COMPLAINT REPORT:

As of December 7, 2015 there were 32 open complaints.

A motion was made by Anita Taylor to accept the Executive Director's Report.

Seconded by David Neal

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**ESSENTIALS FUNERAL AND CREMATION SERVICES
ATTN: BRIAN KEITH GIVENS, MGR.
2114 CHAPMAN ROAD, SUITE 110
CHATTANOOGA, TN 37421-1619**

New Establishment

Ownership: Corporation

**Owner(s): Precious Memories Enterprises, Inc., 958 Elaine Trail,
Chattanooga, TN 37421-4088**

Upon motion by Anita Taylor and seconded by Robert Helms, based upon an incomplete application record, the establishment application was tabled until the next Board meeting.

Adopted by voice vote

ELECTION OF BOARD OFFICERS FOR THE YEAR OF 2016:

President:

Robert Helms made a motion to nominate and elect David Neal as President of the Board for 2016.

Seconded by Anita Taylor

Adopted by voice vote

Vice President:

Anita Taylor made a motion to nominate and elect Robert Helms as Vice President of the Board for 2016.

Seconded by David Neal

Adopted by voice vote

APPOINTMENT OF CONTINUING EDUCATION LIAISON FOR 2016:

Anita Taylor made a motion to appoint Mark Cochran as the Continuing Education Liaison for 2016.

Seconded by Robert Helms

Adopted by voice vote

ADJOURN:

A motion was made by W. T. Patterson to adjourn.

Seconded by Mark Cochran

Adopted by voice vote

The meeting was adjourned by President Robert Starkey at 10:59 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director