

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **MINUTES OF BOARD MEETING**

**SEPTEMBER 13, 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; Dennis Gregory, Assistant General Counsel; Allison Ratton, Assistant General Counsel; and Lisa Mosby, Administrative Manager.

### **ADOPTION OF AGENDA:**

A motion was made by Charles Rahm to approve the Agenda as printed.

Seconded by Robert Helms

Adopted by voice vote

### **FORMAL HEARING – ADMINISTRATIVE LAW JUDGE:**

**DOCKET NO. 12.21-136334A**

**CASE NOS. L15-FUN-RBS-20150218081, 20150218082, and 20150218083**

The formal hearing for the matter of V. E. Parham and Son Funeral Home and Virgil Parham, III, was set for the September 13, 2016 meeting of the Board of Funeral Directors and Embalmers (“the Board”). The Administrative Law Judge was Steve Darnell. Counsel for the State, Dennis Gregory, and Counsel for the Respondent, David Grimmert of Nashville, TN, appeared before the Board. The formal hearing was noticed to begin at 10:00 a.m.; however, Virgil Parham, III was not present. Mr. Grimmert made several attempts to reach Mr. Parham by phone but was unsuccessful.

After the Board concluded all other business, Mr. Grimmert requested that the Board continue the formal hearing until October 11, 2016 at 10:00 a.m., the next scheduled board meeting. Mr. Gregory, in response to the motion, asked that the Board hear the case without Mr. Parham present as the matter had been filed in March 2016, and had already been continued by agreement from the July 2016 to September 13, 2016.

A motion was made by Robert Helms for a continuance of the Formal Hearing to October 11, 2016.

Seconded by Mark Cochran

Adopted by voice vote

**APPROVAL OF MINUTES:**

A motion was made by Robert Helms to approve the Minutes of the June 14, 2016 Board Meeting.

Seconded by Charles Rahm

Adopted by voice vote

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

Seconded by Jeff Duffer

Adopted by voice vote

**LEGAL REPORT:**

**ALLISON RATTON, 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

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**1. Case No.: 2016029131**

This complaint was filed by decedent's mother who stated she has not received the cremated remains of her son. She alleges that for one month after the funeral she had not received the cremains and thought the establishment was holding the cremains hostage. In its response, the establishment owner stated that when funeral arrangements were made, the Complainant who is the deceased's biological mother, the person that raised decedent ("decedent's caregiver"), and decedent's daughter were present and working together to make arrangements, and decedent's daughter, as his next of kin, signed the cremation authorization. After the funeral, the cremains were given to decedent's caregiver who had communicated with Complainant regarding decedent's burial. The establishment owner stated that decedent's daughter was in agreement that decedent's caregiver should possess cremains for burial. Under Tenn. Code Ann. Section

62-5-703, the right to control the disposition of the decedent's remains is child before the surviving parent. Legal spoke with decedent's caregiver who stated that after the funeral service she had decedent's daughter's approval to take the cremains home and held them until the cemetery plot was approved for burial. Decedent's caregiver also stated Complainant was present when Decedent's cremains were buried so no issue remains as to the whereabouts of said cremains.

**Recommendation:**

- Close

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

Seconded by Mark Cochran

Adopted by voice vote

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**2. Case No.: 2016037771**

Upon routine inspection it was discovered that the establishment failed to disclose to purchasers on the Statements of Funeral Goods and Services Selected that the amount the establishment charged for the cremation/crematory fee was higher than the price the establishment paid to the crematory for three decedents. Further, the establishment had failed to retain completed cremation authorizations for two decedents. When questioned about the missing authorizations during the inspection, the establishment manager called the cremation company and was able to obtain a copy of the missing authorizations shortly thereafter.

In his response, the establishment manager stated he was unclear of the breakdown with the cremation portion of cash advances but in no way was attempting to deceive customers. He also stated the cremation authorizations were misplaced, he accepts responsibility, and will see that the issues are corrected.

**Recommendation:**

- Civil penalty for \$500 and authorization for a hearing.

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

Seconded by Robert Helms

Adopted by voice vote

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**3. Case No.: 2016048271**

The complaint was filed by the Board upon receiving the investigation report from a county air pollution control bureau who responded to a report of black smoke coming from the crematory stack operated by the establishment. According to the complaint received by the investigator, the emissions were at approximately 80% opacity, and the investigator personally observed emissions with 10% opacity. The investigator went to the crematory building where an active cremation was occurring, but was unable to make contact with anyone at the crematory or funeral home. The investigator reached an establishment employee through an answering service. The investigator advised this establishment employee of the complaint and the employee, by his own admission, remarked that no one was present during the cremation as it was the normal practice not to remain on site after a cremation commences. In its response, the establishment stated that the violations pertaining to the complaint brought by the county air pollution control bureau had been remedied and alleged the conduct did not violate state regulations pertaining to crematory operation.

**Recommendation:**

- Civil penalty of \$500 and authorization for a hearing.

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

Seconded by Dennis Bridges

Adopted by voice vote

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**4. Case No.: 20160051141**

**5. Case No.: 20160051142**

**6. Case No.: 20160051143**

The complaint was filed by a Medical Examiner that autopsied human remains, then created and signed an original death certificate that was released with the body to the establishment. A few weeks later the Medical Examiner received a copy of the filed death certificate which is not consistent with the original death

certificate, as the filed death certificate has a different typeface, omits information that was on the original certificate, and the Complainant adamantly states the signature on the filed death certificate is not his signature, so his signature must have been forged by the funeral director. The Complainant submitted the death certificate he purported to have filled out and the death certificate that he purports was filed, with his complaint, which do contain differing typefaces.

In the response, the funeral director/embalmer, responding for himself and the establishment, stated his secretary thought all death certificates had to be typed or computer generated. He admitted to the mistake of not instructing his staff and that he signed the certificate by mistake without recognizing it was from the Medical Examiner's Office.

**Recommendation:**

- Establishment: Civil penalty of \$1,000 and authorization for a hearing -
- Funeral Director/Embalmer: Letter of Warning

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

Seconded by Jeff Duffer

Adopted by voice vote

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**7. Case No.: 2016041171**

**8. Case No.: 2016041172**

The complaint was filed by a funeral director alleging the funeral director/embalmer filed a complaint with the Board using a false and misleading context. The Complainant states that the information provided by Respondent to the Board is false and could be potentially damaging to Complainant. Complainant also alleges that Respondent has taken photos of deceased individuals that Respondent has embalmed.

In his response, Respondent states he personally witnessed the conduct that led him to file a complaint with the Board, and provided further details about the incident that prompted him to file a complaint. Respondent stated he showed Complainant pictures of the visitation Respondent arranged for Respondent's father and showed Complainant a picture of a body that had been exhumed after many years, which he attests was used between licensed directors in a professional manner as a learning experience.

**Recommendation:**

- Close

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

Seconded by Charles Rahm

Adopted by voice vote

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**9. Case No.: 2016047311**

The complaint was filed by a consumer alleging the funeral director placed an obituary for a public figure on all the websites of funeral homes owned by his company though he was never given permission, which, in Complainant's opinion, falsely gave the impression funeral director's establishments assisted decedent's family when they had not. Complainant also stated that when she requested that the obituary be removed from the websites, it was not removed immediately and took nearly all day to be taken down.

In his response, the funeral director stated his posting shared a tribute from information posted by other media and was posted as a tribute, not to benefit his company. Further, the funeral director stated he was not privy to the family's desire that the obituary not be published, and once he personally received word of the family's wishes, he had it pulled from the websites. With his response, the funeral director also provided the obituary that was posted by his funeral homes and in no way did the post mention that his funeral homes assisted the family.

**Recommendation:**

- Close

A motion was made by Dennis Bridges to accept Counsel's recommendation.

Seconded by Robert Davis

Adopted by voice vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**PERFORMANCE AND COMPLIANCE AUDIT:**

The Tennessee Comptroller of the Treasury, Division of State Audit, is in the process of conducting a Performance and Compliance Audit for the Board of Funeral Directors and Embalmers and other regulatory boards within the Department of Commerce and Insurance.

Executive Director Robert Gribble met with Jafar K. Ware, Connie Calloway, and Drew Sadler, Legislative Auditors with the Comptroller of the Treasury, on Monday, August 22, 2016, for an entrance conference (initial interview) regarding the Board of Funeral Directors and Embalmers.

The Performance and Compliance Section of the Comptroller’s Office conducts performance audits based on identification of risks in statewide processes and programs or agency-specific operations and activities. This section also conducts performance audits to evaluate the efficiency and effectiveness of government programs in accordance with the Governmental Entity Review Law. In coordination with the financial and compliance audit section, this section is responsible for auditing functional areas of departments, agencies, and institutions of state government as well as federally sponsored programs in accordance with the Single Audit Act.

Staff will update the Board as the audit progresses.

**LEGISLATIVE UPDATE:**

There was no proposed legislation submitted to Administration regarding the Board of Funeral Directors and Embalmers for consideration of inclusion in the Governor’s legislative packet for the next legislative session.

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF AUGUST 9, 2016 – SEPTEMBER 12, 2016**

<b><u>Establishment(s)</u></b>	<b><u>Type of Action(s)</u></b>
Good Samaritan Funeral and Cremation Services, LLC Smyrna, TN	New Establishment
Sellars Funeral Home at Hendersonville Hendersonville, TN	New Establishment
Superior Funeral Home McLemore Chapel	New Establishment

Memphis, TN

Alder Funeral Home  
Morristown, TN

Change of Name

Mayes Mortuary  
Morristown, TN

Change of Name

**Individual(s)**

**Type of License(s)**

William Stephen Feldhaus  
Shelbyville, TN

Funeral Director and Embalmer

Michael Samuel Brewer  
Hendersonville, TN

Funeral Director and Embalmer  
Reciprocity – Kentucky

Joshua William Stotts  
Burkesville, KY

Funeral Director and Embalmer  
Reciprocity – Kentucky

Natasha Ann Glover  
Murfreesboro, TN

Funeral Director

Kandy T. Shackelford  
Bolivar, TN

Funeral Director

Violet Callianne Cummings  
Crump, TN

Embalmer  
Reciprocity – Florida

**CLOSED ESTABLISHMENT REPORT:**

Two (2) establishments have reported closing since the last board meeting:

- H. H. Hudson Funeral Home, 525 West Market Street, Dyersburg, TN; and
- Jackson County Funeral Home – Cremation Services, 402A East Gore Avenue, Gainesboro, TN.

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF  
AUGUST 1, 2016 – AUGUST 31, 2016**

Respondent: Church & Chapel Funeral Service, LLC, 105 Main Street,  
Portland, TN

Violation: Failed to report a change in identity of the licensed funeral  
director managing, supervising, and responsible for the

- funeral establishment, failed to retain a Cremation Authorization Form and a Statement of Funeral Goods and Services Selected, the latest inspection report for the crematory that the establishment uses was not available, and failed to comply with aspects of the Funeral Rule
- Action: \$750 Civil Penalty
- Respondent: Dwight Darrell Crayton, 3506 East Polk Avenue, West Memphis, AR
- Violation: Immoral or unprofessional conduct (falsified numerous death certificates while serving as establishment manager by using the name and license number of a licensed embalmer that never worked for the establishment), misrepresentation or fraud in the conduct of business of the funeral establishment, and knowingly making false statements on the certificates of death
- Action: Revocation of funeral director license indefinitely and assessed all costs associated with the action, including prosecutorial, investigatory, and hearing costs
- Respondent: N. H. Owens & Son Funeral Home, 421 Scott Street, Memphis, TN
- Violation: The names of numerous employees were listed on the establishment's website and were shown or displayed in a manner as to give or tend to give the impression that the persons were licensed or entitled to practice either as a funeral director or embalmer
- Action: \$250 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of September 13, 2016 there were 24 open complaints.

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

Seconded by Jeff Duffer

Adopted by voice vote

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**ADOPT BOARD MEETING DATES FOR 2017:**

Upon motion by Charles Rahm and seconded by Jeff Duffer, the Board adopted by voice vote meeting dates for 2017, the second Tuesday of each month.

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**ESTABLISHMENT APPLICATION:**

**TRIBUTE FUNERAL AND CREMATION SERVICES  
ATTN: PAUL CHRISTIAN DAILEY, MGR.  
419 WEST ELK AVENUE, SUITE 4  
ELIZABETHTON, TN 37643-2569**

**New Establishment**

**Ownership: Limited Liability Company**

**Owner(s): Tribute Funeral Alternative and Cremation Center, LLC, 355  
Cameron Court, Jonesborough, TN 37659-3262**

Upon a motion by Robert Helms and seconded by Charles Rahm, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

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**ADJOURN:**

A motion was made by Robert Helms to adjourn.

Seconded by Jeff Duffer

Adopted by voice vote

The meeting was adjourned by President David Neal at 10:39 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director