

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

APRIL 12, 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 Charles Rahm to approve the Agenda as printed.

Seconded by Robert Helms

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Robert Helms to approve the Minutes of the March 8, 2016 Board Meeting.

Seconded by Charles Rahm

Adopted by voice vote

PRESENTATION OF AN AGREED FINAL ORDER:

Carl R. Points

Columbia, TN

Docket No. 12.21-135604A

Complaint No. 2013017481

A motion was made by Charles Rahm to accept the Agreed Final Order as presented by Robyn L. Ryan, Assistant General Counsel.

Seconded by Robert Helms

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-2015014901**
- 2. Case No.: L16-FUN-RBS-2016006081**

Complainant states that Respondent was using her name and embalmer license number without permission to file multiple death certificates. Complainant states that aside from her apprenticeship with another funeral home she never worked in the funeral industry. Approximately eighty-eight (88) fraudulent death certificates using the Complainant's information were filed. Complainant applied for a job with Respondent and provided the Manager with a copy of her funeral director and embalmer licenses. During the investigation, Respondent claims that Complainant worked at Respondent Establishment. However when she separated employment, Respondent destroyed her employee file due to concern for her personal information. Respondent admits that there is no evidence to refute Complainant's allegations that she never worked at the Respondent Establishment. Further investigation concluded that the death certificates are completed by the Manager before ever giving them to the embalmers to review.

Complainant is a wholesale supplier of caskets and vaults. This company regularly sells merchandise to the Respondent and allows Respondent 30 days to pay. Respondent ran up a bill of over \$10,000. A salesman for Complainant called to collect and co-owner for Respondent said that he would meet the salesman the next day with a check for \$5,000 which was the amount overdue. Complainant's attempts to contact Respondent were never successful. The salesman was instructed to pick-up the remaining caskets to deduct from the bill. The salesman picked up three (3) caskets which left a balance of \$7,754. Respondent did not respond to this complaint.

Respondent has submitted an official letter closing the Establishment.

Recommendation:

- Revocation and authorization for a hearing.

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

Seconded by Dennis Bridges

Adopted by voice vote

3. Case No.: L16-FUN-RBS-2016003731

4. Case No.: L16-FUN-RBS-2016011731

Upon routine examination there were several issues with the General Price List and the Casket Price List: (a) The high-end range for caskets on the Casket Price List is inconsistent with the General Price List. (b) Under direct cremations, the low to high end ranges do not correspond with the Casket Price List. (c) On the General Price List under direct cremations with container provided by the purchaser, this is inconsistent with the Casket Price List. (d) On the General Price List under direct cremations with an unfinished wood box, the box needs to be included in the price. (e) On the Casket Price List under alternative container with an unfinished wood box, the box needs to be added to the Casket Price List. (f) On the General Price List under direct cremations with a cardboard container, the price is inconsistent with the Casket Price List. (g) On the General Price List under immediate burial with container provided by the purchaser, this needs to be added with the price. (h) On the General Price List under immediate burial with container provided by the purchaser, this needs to be added with the price. (i) On the General Price List under immediate burial with a cardboard container, the price is inconsistent with the Casket Price List. (j) On the Casket Price List under immediate burial with an unfinished wood casket, the name of the casket must be added with the price. The price list now is inconsistent with all the wood caskets.

Respondent did not respond to the complaint.

Complainant sent in proof that Respondent advertised in the February 2016 edition of a local magazine. The advertisement depicted a licensed Funeral Director and an unlicensed individual. The unlicensed individual was noted with an asterisk and labeled at the bottom as "Non-Licensed Funeral Director."

Respondent did not respond to the complaint.

Recommendation:

- #3: Consent order for \$1,000 and authorization for a hearing.
- #4: Consent order for \$250 for no response, instructions on misleading advertising, and authorization for a hearing.

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

Seconded by Charles Rahm

Adopted by voice vote

5. Case No.: L15-FUN-RBS-2015022571

Complainant states that his mother had a pre-arrangement with Respondent. Complainant's mother died on November 6, 2015, and the next day the Complainant went to make arrangements. The pre-arrangement did not cover grave opening and closing which cost \$1,595.00. Complainant paid with a credit card. Respondent charged Complainant's credit card two times for \$1,595.00 each. Complainant notified Respondent of the mistake on November 21, 2015, and was told that the Manager would call him the next day. On November 23, 2015, Complainant called Respondent back because he had not received a call. Complainant spoke with an employee and she said she would take care of it. After nearly six (6) hours, the Complainant called back and the employee said that she was just getting started on it. Respondent states that part of the delay was the Respondent's employee called her supervisor who was on vacation to determine how to best handle the situation. The employee told Complainant that it would have to go to the corporate office. The employee contacted Complainant's wife a few minutes later and said that the correction had been completed. Respondent's Manager spoke to Complainant regarding the lack of communication and slow response to credit the refund back to his card. Respondent's Manager relayed that he had approved the refund approval as soon as he saw it, which was 42 minutes after it was sent to him on November 23, 2015. Complainant called the Respondent's Corporate Office and spoke with a corporate employee. The corporate employee told Complainant that the credit card transaction had not been completed, but that she would handle it and email a correction statement. The corporate employee told Complainant that it would take 7-10 days to reach the credit card company, due to an agreement with the corporation and the credit card company. Nearly one and a half hours later the corporate employee sent an email stating that the \$1,595.00 charge had been credited back to the card. The corporate employee attached an unrelated receipt

to the email. The next morning the corporate employee sent another email with the correct attachment reflecting the proper amount and credit card refund. Complainant continually refers to the Respondent's poor customer service. The Respondent's Manager states that he believed this matter was resolved to Complainant's satisfaction on December 1 or 2, 2015. At the end of the phone call, Respondent's Manager asked if anything else could be done and the Complainant said there was not. Respondent's Manager understands that Complainant was justifiably frustrated; however, there was nothing more than refunding the money that could be done.

Recommendation:

- Close with Letter of Warning about excess funds.

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

Seconded by Charles Rahm

Adopted by voice vote

6. Case No.: L16-FUN-RBS-2016003841

Upon routine examination, neither the latest crematory inspection report nor current crematory license was available for review. Respondent has submitted proof that the license submitted during the examination was current at the time of the last cremation, and they have recently changed the company they contract with to do cremation services. Also a Statement of Funeral Goods and Services Selected could not be produced on the correct paper size. Respondent submits that the fax/copy machine broke the day before the inspection but has since been replaced. Establishment's General Price List did not have alternative containers listed under direct cremation on the Casket Price List. This casket price list has been updated with an alternative container listed. The inspection found the public areas of the establishment to be in a bad state of disrepair: a leaking roof and the need for general cleaning. Respondent stated that this chapel is used only for embalming, and the public areas have been closed while the roof is being repaired. Legal Staff spoke to Respondent on April 8, 2016, and they could not give an estimated time of repair but had received a verbal quote for \$15,000 to repair the roof.

Recommendation:

- Consent order for \$1,000 to be reduced to \$500 if they provide us with a signed contract for repairs within 45 days 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

7. Case No.: L16-FUN-RBS-2016003861

Upon routine examination, neither the latest crematory inspection report nor current crematory license was available for review. Respondent has submitted proof that the license submitted during the examination was current at the time of the last cremation, and they have recently changed the company the contract with to do cremation services. Also a Statement of Funeral Goods and Services Selected could not be produced on the correct paper size. Respondent submits that the fax/copy machine broke the day before the inspection but has since been replaced. The establishment failed to complete all of the required data on a permanent identification device regarding casketed remains. Respondent stated that the body was shipped to this location from California. The identification tag with all needed information was attached before she left the funeral home for burial as no other services were performed other than a private burial. Establishment's General Price List did not have alternative containers listed under direct cremation on the Casket Price List. This Casket Price List has been updated with an alternative container listed.

Recommendation:

- Consent order 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

8. Case No.: L16-FUN-RBS-2016007321

Upon routine examination the Respondent failed to have the current licenses of funeral directors and embalmers. The Respondent submitted photocopies of the

funeral director and embalmer licenses of the Manager which were expired nine (9) months prior to the inspection. Four (4) other employees' licenses were presented by photocopy, all of which were expired (one expired six months prior, two expired four months prior, and one expired the month prior). Upon arrival an unlicensed assistant was the only staff person present. After further investigation, the current licenses would have to be faxed from their main location. The inspector states that the photocopies of the current licenses arrived by fax a short time later. Respondent Manager submits that this was an oversight on his part. Because they have two Tennessee establishments, the originals are kept in each location for those who primarily work from that location, and copies are kept at the other location. The inspector found that a cremation authorization form failed to contain the date regarding signatures of authorizing agents and date of signature for the funeral director completing the cremation authorization. Respondent states that there are several funeral directors who work at this location and this family was seen by one of them. The family was estranged and there were some family infighting causing a distraction. Due to several involved questions, the funeral director decided to complete the form at the end of the arrangement and failed to put in the dates.

Recommendation:

- Consent Order for \$250 and authorization for a hearing.

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

Seconded by Mark Cochran

Adopted by voice vote

9. Case No.: L16-FUN-RBS-2016016061

Complainant states that the family had to pay out of pocket for the funeral because the insurance company did not pay off. Based on the insurance documentation from Supreme Burial Association provided by the Complainant, the decedent was not one of the insured. The Respondent stated that the Complainant was not in charge of the arrangements or the financial expenses of the funeral of the deceased.

Recommendation:

- Close

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

Seconded by Jeff Duffer

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 MARCH 8, 2016 – APRIL 11, 2016

<u>Establishment(s)</u>	<u>Type of Action(s)</u>
Austin & Bell Funeral Home and Cremation Service Hendersonville, TN	New Establishment
Barlow Funeral Home Covington, TN	Ownership Change
Woodall-Anderson & Dugger Funeral Home & Cremation Services Johnson City, TN	Ownership Change
Appalachian Funeral Home & Cremation Services Johnson City, TN	Ownership and Name Changes
J. E. Herndon Funeral Home, LLC Memphis, TN	Ownership and Name Changes
<u>Individual(s)</u>	<u>Type of License(s)</u>
Katelyn Marie Adams Johnson City, TN	Funeral Director and Embalmer
Ariel Renee Asid Nashville, TN	Funeral Director and Embalmer
Kristin Danielle Hayes Ridgely, TN	Funeral Director and Embalmer
Eric Andrew Hughes Centerville, TN	Funeral Director and Embalmer

Violet Callianne Cummings
Crump, TN

Funeral Director

Lindsey Brooke Miller
Gallatin, TN

Funeral Director
Reciprocity – Mississippi

Alice Grace Whitaker
Oxford, MS

Funeral Director
Reciprocity – Mississippi

Milford Eugene Goodman
West Somerset, KY

Embalmer
Reapplication

CLOSED ESTABLISHMENT REPORT:

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

- Hickory Hill Funeral Home, 5270 Knight Arnold Road, Memphis, TN.

DISCIPLINARY ACTION REPORT:

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

Respondent: Companion Funeral & Cremation Service, Cleveland, TN
Violation: Immoral or unprofessional conduct (forgery of Medical Examiner's signature to certificate of death by an establishment employee)

Action: \$1,000 Civil Penalty

Respondent: Gateway Funeral Home & Cremation Center, Clarksville, TN
Violation: Failed to include itemized pricing on a billboard, failed to maintain a copy of the latest inspection report for the crematory it uses, and failed to comply with multiple aspects of the Funeral Rule

Action: \$250 Civil Penalty

Respondent: Harrison's Memorial Chapel, Inc., Memphis, TN
Violation: Unlicensed activity (employee(s) engaged in funeral directing without a license – made arrangements to provide for funeral services and made financial arrangements for the rendering of funeral services), over-charged for multiple items, and refused to discuss discrepancy with the consumer

Action: \$1000 Civil Penalty

Respondent: Mynatt Funeral Home, Inc., Halls Chapel, Knoxville, TN
Violation: Engaged in the operation of a funeral establishment while the establishment license was expired
Action: \$850 Civil Penalty

Respondent: Scales Funeral Home, Inc., Nashville, TN
Violation: Immoral or unprofessional conduct (overcharged consumer), violated the order in which rights to control disposition vest, and engaged in an act, omission or practice that is misleading or deceptive
Action: \$1,500 Civil Penalty and \$400 Investigation Costs

OPEN COMPLAINT REPORT:

As of April 12, 2016 there were 31 open complaints.

A motion was made by Mark Cochran to accept the Executive Director's Report.

Seconded by Charles Rahm

Adopted by voice vote

ADJOURN:

A motion was made by Mark Cochran to adjourn.

Seconded by Charles Rahm

Adopted by voice vote

The meeting was adjourned by President David Neal at 10:27 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director