

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MARCH 14, 2017

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

Board members present: Robert Helms, President; Charles Rahm, Vice President; Mark Cochran, Jeff Duffer and Clark McKinney.

Board member(s) absent: Dennis Bridges and Robert Davis

Staff present: Robert Gribble, Executive Director; Cherrelle Hooper, Assistant General Counsel; and Lisa Mosby, Administrative Manager.

ADOPTION OF AGENDA:

A motion was made by Clark McKinney 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 14, 2017 Board Meeting.

Seconded by Jeff Duffer

Adopted by voice vote

LEGAL REPORT:

ALLISON RENFRO, 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.: 2017003181

A complaint was filed by a consumer who states the following grievances against the funeral establishment. First, the staff seemed too busy and overwhelmed to attend to the family. Then, when the family drove from the building to the burial plot, they found an urn sitting on the table at Complainant's mother's burial site. Upon learning that the establishment had the wrong urn present, the funeral director took the urn back inside, leaving the family in 14 degree weather for 15 minutes. When the family was speaking at the burial site, the funeral director was guiding grave diggers to the site. Complainant states a rude man arrived and jerked the covers off the chairs and started folding and stacking them. When it came time to put the urn inside the vault, the rude man and funeral director realized they had no glue to seal the urn vault. Once again, the funeral director went inside to remedy the situation while leaving the family in the cold weather.

In its response, the establishment staff expressed its shock to hear Complainant filed a complaint, as the family seemed appreciative of the way things were handled while acknowledging there were a few issues along the way. The funeral director dropped off a staff associate, who had mistakenly thought the urn in her possession was the urn for Complainant's mother, at Complainant's mother's burial site on the way to another burial site. When the funeral director reached the other burial site and realized she did not have the correct urn for that site, she immediately went back to Complainant's mother's site. The establishment asserts the urn was being retrieved from Complainant's mother's burial site as the family was pulling up to the site which took a matter of minutes. The funeral director apologized and acknowledged to the family that the associate had accidentally gotten out of the car with the wrong urn. When the service was over, the family stated they wanted to see the urn placed and lowered in the vault, which had not been discussed when making funeral arrangements, which necessitated a trip back inside at that time to get glue to fulfill the family's wishes. The establishment contends that the glue issue was remedied and the inurnment was then completed.

Recommendation:

- Close with a Letter of Warning regarding Professional Conduct – It was the responsibility of the establishment's funeral director to ensure the appropriate urn was taken to and placed at the correct gravesite for inurnment and the funeral director should have maintained proper decorum around the inurnment site. Rule 0660-11-.05(1)(a) requires that members of the public be treated in a respectful manner.

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

Seconded by Clark McKinney

Board member(s) recorded as voting contrary to the conclusion: Charles Rahm

Adopted by voice vote

2. Case No.: 2017007741

3. Case No.: 2017007742

4. Case No.: 2017007743

Upon inspection it was discovered that the funeral director's license had expired on June 30, 2016, and was not reinstated until July 20, 2016. During the time period when the license was not valid, the funeral director completed funeral arrangements for two decedents.

In her response, the funeral director expressed her remorse for the error. She stated she has been licensed since 1979 and has not experienced negativity towards neither of her personal licenses. She stated she did not receive a renewal notice and upon learning the license had expired, she immediately contacted the Board Office and renewed the license.

Recommendation:

- Funeral Director: Close with a Letter of Warning
- Establishment No. 1: Close with a Letter of Warning
- Establishment No. 2: Close with a Letter of Warning

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

Seconded by Clark McKinney

Adopted by voice vote

5. Case No.: 2016069071

The complaint was filed by a consumer who states the funeral establishment denied her from seeing her son's remains. Complainant's son and his cousin died when the motorcycle they were riding crashed into a tractor trailer at a high rate of speed. Complainant is concerned the remains of her son and his cousin got mixed up by the establishment.

The establishment responded, Complainant responded to the response, and legal requested an investigation.

Upon investigation, the police officer who worked the crash scene stated via sworn affidavit that the bodies were removed from the crash scene and identified by the Medical Examiner's Office. The police officer stated that the son's body was not in as severe condition as the cousin's, as the son's body had many broken bones but his face remained intact.

The apprentice funeral director stated via sworn affidavit that as each body was brought out separately from the forensic center that each body bag was opened for visual identification and the toe tag containing personal information was matched with the chain of custody form. After checking and confirming the identification of the first body, he signed the electronic signature form and placed the remains in the transfer vehicle and repeated the same process for the second body. He checked the chain of custody paperwork when the bodies arrived at the funeral home; he opened the body bags, checked the toe tags labeled with personal information, matched that information to the chain of custody forms, completed an aluminum identification device which includes name, date of birth, date of death, social security number, and secured that device on the toe of each body. Because the cousin was being sent for cremation he was never placed on the embalming table and stayed on the removal cot, but the apprentice funeral director placed the son on the embalming table in the preparation room. The embalmer stated via sworn affidavit that the bodies were properly tagged and the son's body was on the embalming table.

The embalmer stated via sworn affidavit that Complainant had refused to come to the establishment and meet with him or the funeral directors so he met with Complainant's son's uncle. The embalmer's recommendation regarding the cousin was immediate cremation due to complete facial, torso, and limb obliteration, which made him unable to be restored or even embalmed effectively. The embalmer's recommendation was that while the son could be embalmed, he was not able to be restored to a point of viewing due to the extreme facial and head trauma, and a closed casket would need to take place. The message that Complainant's son could not have an open casket or be viewed was conveyed by the uncle and his wife to Complainant and other family members. The uncle clarified via sworn affidavit, that he did not view or identify the remains, but was at the establishment to pay the cousin's funeral bill.

After obtaining the professional opinion of the embalmer, and using his 20+ years' of experience as a funeral director, and personally observing the condition of the body to have severe head and face trauma including several broken bones, the funeral director concurred with the embalmer in recommending that Complainant and her family members should not view the son's remains.

Complainant stated that when she went to the establishment and demanded to see her son, she was shown the casket selected for him with a body bag inside. The funeral director removed an identifying metal tag out of the casket that had her son's information and showed her. Complainant authorized her sister to view the body and advise whether Complainant could handle seeing him. Inside the black bag was another bag that had been zipped and the zipper sealed with tape to prevent possible leakage. Complainant's sister observed that there was room at the top and bottom of the casket and was sure it was the son because he was much shorter than the cousin, and thought if it had been the cousin, the cousin would have filled the casket. (Prior to the accident, Complainant stated her son was approx. 5' 5" tall and the cousin was approximately 6' 4" tall.)

The funeral director stated that establishment staff did not refuse Complainant's request of viewing her son's remains. However, once the sister made her observations, Complainant and her family members seemed satisfied that it was the son in the casket because of the body size. Complainant was satisfied until she received the Medical Examiner's report that said because of injuries the cousin's height had become 5' 10". The Medical Examiner's case file for the son notes a height of 65 inches and 169 pounds with black curly hair and tattoos which the file describes. The Medical Examiner's case file for the cousin notes a height of 70 inches and 185 pounds and severe skull trauma. The crematory file for the cousin indicated a weight of 180 pounds. The crime scene photographs indicate the person with curly hair and tattoos that match the Medical Examiner's description had a damaged but intact face.

Complainant states that she was charged for embalming an autopsied body but no autopsy was performed. In its response, the funeral director stated that numerous changes were made to the funeral arrangements after Complainant signed the original bill; however, the funeral director could not get Complainant to come to the establishment and finalize the changes. The revised bill removed the autopsied embalming fee of \$825 and replaced it with the normal embalming fee of \$785. The family requested a public visitation so while the service would not be an open casket, the body would still be present. Therefore, embalming was

necessary to prevent further decomposition and for sanitary and health reasons, according to the funeral director.

A family member stated the establishment did everything it could to help the family after other funeral homes in the area turned Complainant down for financial reasons. Complainant states the establishment agreed to handle the funeral services for her son for a \$1,000 down payment and holding her car title until the balance was paid in full. The establishment stated that the agreement was that the funeral expenses would be paid by the \$1,000 down payment and the remainder would be paid from a Go Fund Me account. Complainant did not release the Go Fund Me donations to the funeral home, as previously agreed upon; but instead, used \$2,752.25 to purchase a headstone for her son.

Recommendation:

- Close with a Letter of Instruction

A motion was made by Charles Rahm for a Consent Order of with a \$1000 civil penalty and a Letter of Instruction.

Motion failed for lack of a second

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

Motion failed for lack of a second

A motion was made by Mark Cochran to Close with a Letter of Warning.

Seconded by Clark McKinney

President Helms announced that there will be a Roll Call Vote, and the board members present were recorded as voting as follows:

Board Members	Yes	No
Mark Cochran	X	
Jeff Duffer	X	
Robert Helms		X
Clark McKinney	X	
Charles Rahm		X

The motion to Close the Complaint with a Letter of Warning was adopted with three (3) board members voting "Yes" and two (2) board members voting "No".

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

PERFORMANCE AUDIT UPDATE:

The Tennessee Comptroller of the Treasury, Division of State Audit, continues 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.

Since the last board meeting on February 14, 2017, Executive Director Robert Gribble and Administrative Manager Lisa Mosby have responded to an auditor's questions via emails.

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.

We will continue to update the Board as the audit progresses.

LEGISLATIVE UPDATE:

SB0019*/HB0993 Funeral Directors and Embalmers –
As introduced, prohibits the disposition or removal of human remains unless authorized by a person legally entitled to control such disposition or removal, with certain exceptions. - Amends TCA Title 38, Chapter 7; Title 62, Chapter 5 and Title 68.

Amendment expected to be filed to this bill.

SB0428*/HB0471 Funeral Directors and Embalmers –
As introduced, removes social security number from the information that a funeral establishment must include on the permanent identification device attached to a dead human body prior to interment. - Amends TCA Section 62-5-313.

SB0611*/HB0624 Funeral Directors and Embalmers –
As introduced, defines funeral directing to include the directing or supervising of other commemorative services, in addition to the existing services provided by

law, such as supervising funerals, preparing dead human bodies for burial, disposing of dead human bodies, maintaining a place for the care of dead human bodies, and other services. - Amends TCA Title 62, Chapter 5 and Title 68.

Amendment 004671 has been filed to this bill.

SB1305/HB1217* Funeral Directors and Embalmers –

As introduced, requires that of the 10 hours of continuing education coursework required for renewal of licensure of funeral directors and embalmers, 5 of those completed in the physical presence of the provider of the coursework or through an interactive virtual program that requires participants to confirm their presence during the program. - Amends TCA Title 62, Chapter 5.

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 14, 2017 – MARCH 13, 2017**

Individual(s)

Jacqueline Marie Anderson
Manchester, TN

Type of License(s)

Funeral Director and Embalmer

Cody Alan Bell
Carthage, TN

Funeral Director and Embalmer

Derek Wayne Diden
Lancing, TN

Funeral Director and Embalmer

Richard Laurent Gallois, III
Spring Hill, TN

Funeral Director and Embalmer

Savannah Joy Jones
Puryear, TN

Funeral Director and Embalmer

Clayton Nave Larson
Tennessee Ridge, TN

Funeral Director and Embalmer

Ren Thomas Scherling
Commerce City, CO

Funeral Director and Embalmer

Larry Joseph Stubblefield
Whitesburg, TN

Funeral Director and Embalmer
Reapplication

Ashley Leigh-Ann Hodges
Clarksville, TN

Funeral Director

ESTABLISHMENT LICENSE UPDATE – AGREED ORDER OF PROBATION:

Executive Director reported to the Board that an Agreed Order of Probation regarding Resthaven Memorial Gardens has now been signed by all required parties and that the establishment license is expected to be issued by the Board Office either the day of the board meeting or the next day. This funeral establishment application was approved by the Board at their February 14, 2017, contingent upon the execution of an Agreed Order of Probation by Bruce S. Claiborne, representing Claiborne Family Properties, Inc., (the owner of Resthaven Memorial Gardens), Robert P. Helms, President of the Board, and Robert Gribble, Executive Director of the Board. Board Counsel Hooper received the signed document back from the funeral establishment one day prior to the board meeting date; President Helms and Director Gribble have also signed the document since its receipt by Counsel Hooper.

DISCIPLINARY ACTION REPORT:

REPORT OF CONSENT ORDERS ADMINISTRATIVELY ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF FEBRUARY 1, 2017 – FEBRUARY 28, 2017

Respondent:	Cheryl L. Owens, 1857 South Parkway East, Memphis, TN
Violation:	As a funeral director serving as the establishment manager allowed unlicensed activity by the establishment operations manager who either gave or tended to give the impression that an unlicensed person was entitled to practice funeral directing
Action:	\$1000 Civil Penalty
Respondent:	N. H. Owens & Sons Funeral Home, 421 Scott Street, Memphis, TN
Violation:	Unlicensed activity by the establishment operations manager who either gave or tended to give the impression that an unlicensed person was licensed or entitled to practice funeral directing
Action:	\$4,000 Civil Penalty, Investigation Costs of \$1,188.25 and Random Establishment Inspections
Respondent:	Ronald Taylor, 6268 Elmore Road, Bartlett, TN
Violation:	Unlicensed person who engaged in funeral directing without ever being licensed to practice funeral directing
Action:	\$2000 Civil Penalty

OPEN COMPLAINT REPORT:

As of March 13, 2017, there were 33 open complaints.

A motion was made by Clark McKinney to accept the Executive Director's Report.

Seconded by Jeff Duffer

Adopted by voice vote

ESTABLISHMENT APPLICATIONS:

**TRISTAR CREMATION
ATTN: CHARLES TIMOTHY RALEY, MGR.
4962 LEBANON ROAD
OLD HICKORY, TN 37138-4126**

New Establishment

Ownership: Corporation

Owner(s): Old Hickory Cremation, Inc., 8120 Sawyer Brown Road, Suite 108, Nashville, TN 37221-1410

Upon a motion by Clark McKinney and seconded by Mark Cochran, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

**UNITY MEMORIAL FUNERAL HOME
ATTN: CHRISTY LEANN ROBERTS, MGR.
210 BELLVIEW AVENUE SOUTH
FAYETTEVILLE, TN 37334-3148**

New Establishment

Ownership: Limited Liability Company

Owner(s): Unity Memorial Funeral Home, LLC, 210 Bellview Avenue South, Fayetteville, TN 37334-3148

Upon a motion by Clark McKinney and seconded by Mark Cochran, based upon application record, the establishment was approved for licensure.

Adopted by voice vote

ADJOURN:

A motion was made by Jeff Duffer to adjourn.

Seconded by Mark Cochran

Adopted by voice vote

The meeting was adjourned by President Robert Helms at 11:01 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director