

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**MAY 9, 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; Dennis Bridges, Mark Cochran, Robert Davis, Jeff Duffer and Clark McKinney.

Staff present: Robert Gribble, Executive Director; Cherrelle Hooper, Assistant General Counsel; Pamela Spicer, 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 Clark McKinney

Adopted by voice vote

**FORMAL HEARING:**

**Docket No. 12.21-142962A –  
Case Nos. FUN- 201603761(1) and (2) and FUN-201602254(1) and (2)**

Respondents:

Bartlett Funeral Home, Inc., Bartlett, TN, Establishment License No. 1005, and  
Alfred Thomas Tacker, Memphis, TN, Funeral Director License No. 2773

Legal announced that this hearing has been continued until the board meeting scheduled for August 8, 2017.

**APPROVAL OF MINUTES:**

A motion was made by Clark McKinney to approve the Minutes of the March 14, 2017 Board Meeting.

Seconded by Jeff Duffer

Adopted by voice vote

**LEGAL REPORT:**

**PAMELA SPICER, 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.: 2017001461 – Establishment**
  - 2. Case No.: 2017001462 – Funeral Director**

Pursuant to inspection in December 2016, the establishment was cited for failure to maintain crematory inspection records and failure to maintain a copy of the funeral director's license. The inspector's memorandum further stated that the funeral director was not present during the inspection and the owner stated that the funeral director works from another office location. The funeral establishment responded and provided all necessary documentation.

**Recommendation:**

- Establishment: Authorize a formal hearing with authority to settle via Consent Order with a \$500 Civil Penalty. Further authorize a new complaint to investigate possible unlicensed activity of the establishment's owner.
- Funeral Director: Close with a Letter of Warning due to Legal's request for authorization to open a new complaint to investigate unlicensed activity.

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

Seconded by Mark Cochran

Adopted by voice vote

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**3. Case No.: 2017007661 – Establishment**

Pursuant to inspection in August 2016, the establishment was found to be in violation for failure to notify the Board Office regarding a change of location. Specifically, the lease for the funeral home ended in June 2016 and the funeral home changed locations and executed a new lease on July 1, 2016. The funeral home states no services were provided between June 17, 2016 and July 1, 2016.

**Recommendation:**

- Authorize a formal hearing with authority to settle via Consent Order with a \$250 Civil Penalty.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Charles Rahm

Adopted by voice vote

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#### **4. Case No.: 2017007981 – Establishment**

Pursuant to inspection in January 2017, the establishment was found to have changed managers without first notifying the Board. The funeral establishment responded stating that the change in management was made on January 2, 2017 but the notice to the Board was not mailed until January 20, 2017. However, the funeral home states that it had a telephone call with the Executive Director for the Board about the change of management and is requesting this matter be closed.

#### **Recommendation:**

- Close with a Letter of Warning.

A motion was made by Clark McKinney to accept Board's recommendation.

Seconded by Dennis Bridges

Adopted by voice vote

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#### **5. Case No.: 2017008111 – Establishment**

Pursuant to inspection in August 2016, the funeral home's license was found to be expired between August 1, 2016 and August 14, 2016 and during that time the funeral home arranged for and performed two services. The funeral home was also cited for failure to itemize the cremation fee which constituted a violation of the funeral rule. The funeral home responded acknowledging their mistakes for both issues stating that there was a credit card "glitch" which caused non-payment of the license renewal fee and acknowledging a mistake on the Statement of Funeral Goods and Services Selected which has been corrected.

#### **Recommendation:**

- Close with a Letter of Warning.

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

Seconded by Jeff Duffer

Adopted by voice vote

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**6. Case No.: 2017010161 – Establishment**

This is a consumer complaint alleging that the funeral home failed to provide flowers at the graveside memorial service for cremated remains and failed to provide a free three line obituary in the newspaper. The Complainant also states that the Respondent failed to file the Statement of Death with the Social Security Office. However, the funeral home responded with proof that the statement was properly filed. In addition, the funeral home responded and acknowledged that the flowers were not ordered and refunded those funds to the Complainant. The funeral home denies that it failed to provide the obituary because in response to the complaint the funeral home states that the deceased family never provided the information to be included in the obituary. Legal has been in contact with the Complainant and the Complainant has no proof that he sent an email to the funeral home with the information needed for the obituary.

**Recommendation:**

- Authorize a formal hearing with authority to settle via Consent Order with a \$250 Civil Penalty.

A motion was made by Charles Rahm to authorize a formal hearing with authority to settle via Consent Order with a \$500 Civil Penalty.

Seconded by Clark McKinney

Adopted by voice vote

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**7. Case No.: 2017013701 – Establishment**

Pursuant to inspection in January 2017, the establishment was found to be in violation for failure to provide the description of merchandise on four of the nine caskets displayed and five of the nine caskets were not listed on the Casket Price List. The funeral home responded and states that the reason for the

violation was due to the display room being in the process of being restocked at the time of inspection. The funeral home provided an updated and corrected price list.

**Recommendation:**

- Authorize a formal hearing with authority to settle via Consent Order with a \$250 Civil Penalty.

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

Seconded by Clark McKinney

Adopted by voice vote

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**8. Case No.: 2017013731 – Establishment**

Pursuant to inspection, the establishment was found to have failed to maintain the most recent crematory inspection report as required by law. Further, the funeral home violated the funeral rule by failing to disclose as a "cash advance" item of the cremation fee on two Statements of Funeral Goods and Services Selected. The funeral home responded and states that it provided a copy of the crematory inspection report on the date of the inspection after it was requested. Further the funeral home acknowledges the mistake with regard to the cremation fee being inserted in the wrong place on the statements.

**Recommendation:**

- Close with a Letter of Warning.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Jeff Duffer

Adopted by voice vote

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**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.

As the board members may recall, Executive Director Robert Gribble initially met with auditors from the Comptroller of the Treasury on August 22, 2016 for an entrance conference (initial interview) regarding the Board of Funeral Directors and Embalmers.

Since the last board meeting on March 14, 2017, there has not been any requests for information or documents from the auditors of the Division of State Audit that are conducting the Performance and Compliance Audit.

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 regarding the audit.

**LEGISLATIVE UPDATE:**

- 1. SB0019\*/HB0993 Funeral Directors and Embalmers – Enacted – Public Chapter 158 Effective Date: July 1, 2017**

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 7; Title 62, Chapter 5 and Title 68, relative to funeral service practices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 5, Part 7, is amended by adding the following as a new, appropriately designated section:

A funeral establishment that has custody of the remains of a deceased person, but is not the establishment selected by the persons named in § 62-5-703 with the right of disposition to provide funeral services, shall release the remains to the funeral establishment selected by the persons named in § 62-5-703 with the right of disposition during normal business hours unless otherwise agreed to by

the two (2) funeral establishments. The receiving funeral establishment shall be responsible for the cost of any merchandise or services provided by the initial funeral establishment, which shall be payable to the initial funeral establishment at the time of release. However, the cost of the merchandise or services provided shall not exceed the prices for the merchandise or services listed on the general price list of the initial funeral establishment.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

**Link to Public Chapter:**

<http://publications.tnsosfiles.com/acts/110/pub/pc0158.pdf>

**2. SB0428\*/HB0471 Funeral Directors and Embalmers –  
Enacted – Public Chapter 139  
Effective Date: April 17, 2017**

AN ACT to amend Tennessee Code Annotated, Section 62-5-313, relative to requirements for funeral establishments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-5-313(d), is amended by deleting the language "date of birth, date of death and social security number" and substituting instead the language "date of birth, and date of death" wherever it may appear.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**Link to Public Chapter:**

<http://publications.tnsosfiles.com/acts/110/pub/pc0139.pdf>

**3. SB0611\*/HB0624 Funeral Directors and Embalmers –  
Enacted – Public Chapter 144  
Effective Date: April 17, 2017**

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5 and Title 68, relative to services provided by funeral directors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-5-313, is amended by adding the following language as a new subsection:

(f) Nothing in this chapter prohibits the use of a licensed funeral establishment to prepare any remains for disposition or to perform, or offer to perform, commemorative services, if the commemorative services are performed in compliance with this chapter and applicable provisions in title 68, and rules promulgated pursuant to this chapter and title 68. For the purposes of this subsection (f), "commemorative services" means any ceremony for the dead prior to burial, cremation, or any other legal form of final disposition.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

**Link to Public Chapter:**

<http://publications.tnsosfiles.com/acts/110/pub/pc0144.pdf>

**4. SB1305/HB1217\* Funeral Directors and Embalmers –  
Enacted – Public Chapter 154  
Effective Date: July 1, 2017**

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, relative to continuing education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-5-601(c), is amended by deleting the subsection and substituting the following:

(c) Each licensee holding a Tennessee license shall submit with the license renewal application satisfactory proof of completion of a minimum of ten (10) hours of continuing education coursework approved by the board. Compliance with the continuing education coursework is mandatory for renewal of a license. Of the ten (10) hours of continuing education coursework, five (5) hours must be attended in person. For purposes of this subsection (c), "attended in person" means the continuing education coursework is completed by the licensee in the physical presence of the provider of the coursework or is completed by the licensee through an interactive virtual program that requires participants to confirm their presence during the program.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

**Link to Public Chapter:**

<http://publications.tnsosfiles.com/acts/110/pub/pc0154.pdf>

**Website for Legislative Bill Searches:**

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

**Website for Public Acts Search for Tennessee 110<sup>th</sup> General Assembly:**  
<http://tnsos.org/acts/PublicActs.110.php?showall>

**EXAM TESTING CONTRACT:**

The exam administration contract between the Tennessee Board of Funeral Directors and Embalmers and the International Conference of Funeral Service Examining Boards, Inc., expires June 30, 2017.

Representatives of the Department of Commerce and Insurance are working with The Conference on a new contract regarding: 1) the State Board Examination (SBE) which is comprised of two (2) parts, a funeral service arts section (funeral director exam) and a funeral service sciences section (embalmer exam) and 2) a Laws, Rules, and Regulations Examination (LRR).

A new exam administration contract is expected to be in place by the expiration of the current contract.

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE  
 DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF  
 MARCH 14, 2017 – MAY 8, 2017**

<b><u>Establishment(s)</u></b>	<b><u>Type of Action(s)</u></b>
Companion Funeral & Cremation Service Athens, TN	New Establishment
Resthaven Memorial Gardens Dandridge, TN	New Establishment
TriStar Cremation Old Hickory, TN	New Establishment
Unity Memorial Funeral Home Fayetteville, TN	New Establishment
Cumberland Funeral Home, Inc. Monteagle, TN	Ownership and Name
Cumberland Funeral Home, Inc. Tracy City, TN	Ownership and Name
Tennessee Valley Crematory, Inc. Monteagle, TN	Ownership and Name

<b><u>Individual(s)</u></b>	<b><u>Type of License(s)</u></b>
Lisa Michelle Bowman Murfreesboro, TN	Funeral Director and Embalmer
Criston Carter Clark Lafayette, GA	Funeral Director and Embalmer
Crystal Dawn Culbertson Calhoun, GA	Funeral Director and Embalmer Reciprocity – Washington
Adam Scott Beaty Jamestown, TN	Funeral Director and Embalmer Reapplication
Jose Antonio Perez, Jr. Calhoun, GA	Funeral Director and Embalmer Reapplication
Tonya M. Alsobrooks Knoxville, TN	Funeral Director
Bethany Brooke Hensley Columbia, TN	Funeral Director
Deldon Gregory Price Munford, TN	Funeral Director Reciprocity – Florida
James C. Gay Nashville, TN	Embalmer Reciprocity – Massachusetts

**DISCIPLINARY ACTION REPORT:**

**REPORT OF CONSENT ORDERS ADMINISTRATIVELY  
ACCEPTED/APPROVED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
BOARD AUTHORITY FOR THE PERIOD OF  
DECEMBER 1, 2016 – JANUARY 31, 2017**

Respondent:	Heritage Cremation Care Center, Elizabethton, TN
Violation:	An employee, who is not a licensed funeral director, executed permits for cremation of human remains as certification of the person in charge of the cremation
Action:	\$250 Civil Penalty
Respondent:	Kiser-Rose Hill Funeral Home, Greeneville, TN
Violation:	Failed to comply with preventive requirements specified in the Funeral Rule, specifically regarding cash advance items
Action:	\$250 Civil Penalty

Respondent: Nashville Funeral and Cremation, Nashville, TN  
Violation: Advertisement violation, specifically failed to include an itemized listing of each and every item, procedure, or service and the price of each item  
Action: \$250 Civil Penalty

Respondent: Terrell Broady Funeral Home, Inc., Nashville, TN  
Violation: An employee, who is not a licensed funeral director, made funeral arrangements with the family of the decedent and the establishment charged for two limousines when only one was used for funeral services  
Action: \$1,000 Civil Penalty and an Additional \$1,164 Investigatory Costs

**OPEN COMPLAINT REPORT:**

As of May 9, 2017, there were 25 open complaints.

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

Seconded by Charles Rahm

Adopted by voice vote

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**NEW BUSINESS:**

Funeral Establishment Inspection Survey –  
Report by Robert Gribble, Executive Director

A newly designed survey is being sent electronically by the Board Office to each funeral establishment soon after their required annual inspection. The purpose of this survey is for the funeral establishment to provide feedback regarding the actions of the board's representative during the inspection process. In order for a funeral establishment to receive an email with the link to complete the survey, the establishment must have their current email address on file with the Board Office.

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**ADJOURN:**

A motion was made by Clark McKinney to adjourn.

Seconded by Charles Rahm

Adopted by voice vote

The meeting was adjourned by President Robert Helms at 10:31 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director