

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

OCTOBER 9, 2018

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

Board members present: Charles Rahm, President; Jeff Duffer, Vice President; Dennis Bridges, Mark Cochran, Robert Davis, Clark McKinney, and Robert Shackelford, III.

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

ADOPTION OF AGENDA:

A motion was made by Clark McKinney to approve the Agenda as printed.

Seconded by Jeff Duffer

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Robert Shackelford to approve the Minutes of the June 20, 2018 Board Meeting.

Seconded by Dennis Bridges

Adopted by voice vote

A motion was made by Robert Shackelford to approve the Minutes of the August 14, 2018 Board Meeting.

Seconded by Dennis Bridges

Adopted by voice vote

RULEMAKING HEARING:

Cherelle Hooper, Assistant General Counsel, conducted a rulemaking hearing before the Board on October 9, 2018. There was one public comment associated with these rules. The comment was from B. Steven Spann, President of John A. Gupton College, who complimented the Board on these rules. The Board voted to adopt the language of the rules, Regulatory Flexibility Addendum/Economic Impact Statement, Impact on Local Government Statement, and responses to the questions required by the Joint Government Operations Committee. Additionally, Ms. Hooper explained the steps of the rulemaking process to be taken following the hearing.

- 1) A motion was made by Mark Cochran and seconded by Clark McKinney to adopt the hearing rules language.

Roll Call Vote		
Board Members	Yes	No
Dennis Bridges	X	
Mark Cochran	X	
Robert Davis	X	
Jeff Duffer	X	
Clark McKinney	X	
Charles Rahm	X	
Robert Shackelford, III	X	

Adopted by roll call vote

- 2) A motion was made by Jeff Duffer and seconded by Robert Davis to adopt the Economic Impact Statement.

Roll Call Vote		
Board Members	Yes	No
Dennis Bridges	X	
Mark Cochran	X	
Robert Davis	X	
Jeff Duffer	X	
Clark McKinney	X	
Charles Rahm	X	
Robert Shackelford, III	X	

Adopted by roll call vote

- 3) A motion was made by Dennis Bridges and seconded by Robert Shackelford to adopt the Impact on Local Governments Statement.

Roll Call Vote		
Board Members	Yes	No
Dennis Bridges	X	
Mark Cochran	X	
Robert Davis	X	
Jeff Duffer	X	
Clark McKinney	X	
Charles Rahm	X	
Robert Shackelford, III	X	

Adopted by roll call vote

- 4) A motion was made by Clark McKinney and seconded by Jeff Duffer to adopt the Joint Government Operations Information.

Roll Call Vote		
Board Members	Yes	No
Dennis Bridges	X	
Mark Cochran	X	
Robert Davis	X	
Jeff Duffer	X	
Clark McKinney	X	
Charles Rahm	X	
Robert Shackelford, III	X	

Adopted by roll call vote

Note: The Board recessed at 11:18 a.m. and reconvened at 11:30 a.m.

LEGAL REPORT:
ASHLEY GENO, 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

Note: Board member Robert Shackelford recused himself from participation in the entire Legal Report.

1. Case No.: 2018019121 – Establishment**2. Case No.: 2018049151 – Funeral Director**

On May 2, 2018, a board field representative performed a routine inspection of the Respondent establishment. At that time, the representative discovered Respondent funeral director continued to serve as the manager of Respondent establishment for two (2) weeks while his license was expired. He also served in the capacity of funeral director with respect to one (1) deceased person. In response, Respondent funeral director did not deny the allegations and indicated he is currently working on steps to ensure that renewal dates do not go unnoticed in the future.

Recommendation:

- Respondent Establishment: Authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00
- Respondent Funeral Director: Letter of Warning

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

Seconded by Mark Cochran

Adopted voice vote

3. Case No.: 2018044851 – Establishment

On June 27, 2018, a board field representative performed a routine inspection of the Respondent establishment. At that time, the representative discovered:

1. The immediate burial price range was incorrect when compared to the price of caskets offered for sale on the Casket Price List.
2. The immediate burial price with an Apollo 20 gauge steel non-gasketed casket was incorrect when compared to the price of the Apollo 20 gauge steel casket on the Casket Price List.
3. Direct cremation on the General Price List did not include the required Funeral Rule disclosure.
4. The casket price range listed on the General Price List was incorrect when compared to the price of caskets on the Casket Price List.
5. The outer burial container price range listed on the General Price List was incorrect when compared to the price of outer burial containers on the Outer Burial Container Price List.

6. Respondent's website advertises "Direct Cremation \$1195/Funeral Package w/20g Casket, Starting at \$4,200."

In response, Respondent indicated all the items listed in the citation were corrected, all pricing was removed from the website, and the General Price List was corrected. In support, Respondent supplied a revised General Price List which was dated June 28, 2018.

Recommendation:

- Letter of Warning

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

Seconded by Jeff Duffer

Adopted by voice vote

4. Case No.: 2018041131 – Establishment

On or about June 22, 2018, a complaint was filed against Respondent alleging Respondent published a non-compliant advertisement in a newspaper. The advertisement contained, in part, the following text: "Standard Funeral: All professional services, viewing, quality casket, no out-of-pocket expense when using your life insurance ... Less than \$3,998.00..."

In response to the complaint, Respondent argued because the advertisement contained the qualifier "less than", it was not in violation of Tenn. Code Ann. § 62-5-106.

Tenn. Code Ann. § 62-5-106 provides:

Any advertisement by a funeral director or embalmer for the sale of merchandise or services that indicates a specific price shall include an itemized listing of each and every item, procedure or service and shall show the price of the item. Failure to include the itemized price listing in any advertisement constitutes misrepresentation or fraud in the conduct of the business of the funeral establishment or false and misleading advertising as used in § 62-5-317.

Recommendation:

- Letter of Warning

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

The motion was withdrawn by Mark Cochran.

A motion was made by Clark McKinney to issue a Letter of Warning and include a requirement the Respondent provide written notification to the Board within thirty (30) days that this advertisement has been corrected and/or removed from circulation.

Seconded by Dennis Bridges

Adopted by voice vote

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5. **Case No.: 2018045651 – Establishment**
 6. **Case No.: 2018047841 – Establishment**
 7. **Case No.: 2018045771 – Funeral Director**
 8. **Case No.: 2018047871 – Funeral Director**
 9. **Case No.: 2018045621 – Embalmer**
 10. **Case No.: 2018047901 – Embalmer**

On April 3, 2018, a board field representative performed a routine inspection of the Respondent establishment #1 and Respondent establishment #2. At that time, the representative discovered Respondent funeral director/embalmer had let his licenses lapse. Specifically, his licenses expired on October 31, 2017. However, at the time of the inspection, he had yet to renew his licenses. During this period of expiration, Respondent funeral director/embalmer served in the capacity of funeral director and/or embalmer with respect to seventeen (17) deceased persons.

In response, Respondents indicated they were unaware Respondent funeral director/embalmer had let his licenses lapse. They further indicated Respondent funeral director/embalmer was instructed on April 3, 2018 (the date of the inspection) to stop serving as a funeral director and/or embalmer until he got his licenses reinstated. The licenses were reinstated on July 31, 2018.

Recommendation:

- Respondent Establishment #1: Letter of Warning
- Respondent Establishment #2: Letter of Warning
- Respondent Funeral Director/Embalmer: Authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00

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

Seconded by Jeff Duffer

Adopted by voice vote

RE-PRESENTS

11. Case No.: 2017028871 – Funeral Director

12. Case No.: 2017028891 – Embalmer

These complaints were originally presented as follows:

This complaint alleges unprofessional conduct of a funeral director and embalmer. The alleged allegation stems from an arrest regarding domestic violence. The Respondent failed to respond; however, since the time of the arrest the Respondent has entered a plea to misdemeanor domestic assault as an Alford plea which allows the Respondent to maintain his innocence and be placed on probation for less than one year and ordered to attend anger management classes.

Recommendation:

- Authorize formal hearing. Authorize settlement by consent order with \$500.00 civil penalty against each license for failure to respond and conduct not becoming of a Funeral Director and Embalmer.

Decision:

- The Board accepted the recommendation of legal counsel.

Update: No additional evidence has become available and no witnesses have come forth, which would be necessary to proceed to a formal hearing. Therefore, there is insufficient evidence to demonstrate Respondent committed domestic assault and, therefore, acted unprofessionally. By entering into an Alford plea, Respondent asserted innocence and did not admit to the criminal act.

Updated Recommendation:

- Closure

A motion was made by Clark McKinney to authorize a formal hearing. Authorization of a civil penalty in the amount of \$250.00 against each license type (\$500.00 total) for failure to respond to an open complaint.

Seconded by Jeff Duffer

Adopted by voice vote

A motion was made by Clark McKinney to close the part of the complaint regarding domestic assault.

Seconded by Jeff Duffer

Adopted by voice vote

13. Case No.: 2015013401 – Funeral Director

This matter was previously presented to the Board at the October 13, 2015 meeting as follows: Funeral home reports that one of their now former funeral directors has been taking checks and depositing them in his own personal account. They show proof that he opened his own account as X (his last name) Funeral Home and added a “d/b/a” of Respondent’s name. Upon confrontation, Respondent admitted to this practice and told the funeral home that “he could not guess” how many checks he had done this with. Respondent states that this is a civil dispute. Complainant has found 60 checks for a total of \$122,613.18 from November 2013 through the present. Respondent was arrested on September 15 for theft.

Response: Respondent states that this is a civil dispute.

Recommendation:

- Revocation of funeral director’s license and authorization for a hearing.

Decision:

- The Board accepted the recommendation of legal counsel.

Update: Respondent submitted a signed and notarized letter surrendering his license as part of a resolution of a criminal case prosecution. He indicated in the letter that he “will heretofore refrain from further registration as a funeral director licensee, embalmer, or burial services provider in the State of Tennessee” and

that he “will not make any further application for such license, nor shall [he] accept any further license granted in the State of Tennessee for these services.”

Updated Recommendation:

- The individual has voluntarily surrendered his funeral director license; Close.

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

Seconded by Jeff Duffer

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

We have not been notified by either the Tennessee State Funeral Directors & Morticians Association or the Tennessee Funeral Directors Association of any new legislation that they intend to pursue during the next legislative session.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF AUGUST 14, 2018 – OCTOBER 8, 2018

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
After Care Mortuary Services, LLC Memphis, TN	New Establishment
Henderson County Funeral Services, Inc. Lexington, TN	New Establishment
Heritage Cremation Care Center Elizabethton, TN	Ownership
Oak Hill Funeral and Cremation Services Kingsport, TN	Ownership
Tetrick Funeral Services Johnson City, TN	Name and Ownership

Individual(s)

Type of License(s)

Corina Anne Carrasco-Cox
Knoxville, TN

Funeral Director and Embalmer

Allison Elizabeth Higgins
Auburntown, TN

Funeral Director and Embalmer

Danielle Elise Stagner
Ripley, TN

Funeral Director and Embalmer

Timothy Allen Walker
Bean Station, TN

Funeral Director and Embalmer

Roger Dale Bates, Jr.
Jackson, TN

Funeral Director and Embalmer
Reapplication

Tommy Edgar Miller, Jr.
Middlesboro, KY

Funeral Director and Embalmer
Reapplication

Barry Gregg Bland
Milan, TN

Funeral Director

Kandi Lynn Greenlee
Mohawk, TN

Funeral Director

Tameisha Michelle Parker
Cordova, TN

Funeral Director

Kristina Danielle Lovett
Church Hill, TN

Funeral Director
Reciprocity – California

Felicia Roseta Lashley-Verrett
Chattanooga, TN

Funeral Director
Reapplication

CLOSED ESTABLISHMENT(S):

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

- Tribute Funeral and Cremation Services, 240 Suncrest Street, Johnson City, TN.

DISCIPLINARY ACTION REPORT:

These are Consent Orders that have been administratively accepted / approved by the Executive Director pursuant to Board authority and as

reported on the July 2018 and August 2018 Regulatory Boards Disciplinary Action Reports:

Respondent: Love-Cantrell Funeral Home, Inc., Smithville, TN
Violation: Funeral establishment permitted its manager to engage in funeral directing with an expired funeral director license
Action: \$250 Civil Penalty

Respondent: N. H. Owens & Sons Funeral Home, Memphis, TN
Violation: Failed to treat members of the public in a respectful manner
Action: \$2,000 Civil Penalty

Respondent: Cheryl Owens, Memphis, TN
Violation: Failed to treat members of the public in a respectful manner and engaged in immoral or unprofessional conduct
Action: \$2,000 Civil Penalty

OPEN COMPLAINT REPORT:

As of October 8, 2018 there were 58 open complaints.

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

Seconded by Jeff Duffer

Adopted by voice vote

INDIVIDUAL APPLICATION(S):

Brandon Maurice Berry **Funeral Director/Embalmer**
Memphis, TN

Upon motion by Robert Davis and seconded by Jeff Duffer, based upon application record, these applications were approved for licensure.

Jason David Quesenberry **Funeral Director/Embalmer**
Nashville, TN **Reciprocity – Kentucky**

Upon motion by Robert Shackelford and seconded by Jeff Duffer, based upon application record, these applications were approved for licensure.

Scott Thomas Gullett **Embalmer**

Keavy, KY

Reciprocity – Kentucky

Upon motion by Clark McKinney and seconded by Dennis Bridges, based upon application record, this application was approved for licensure.

Note: Board member Mark Cochran departed the meeting at 12:05 p.m.

ESTABLISHMENT APPLICATION(S):

**Williams Funeral Home
Attn: Rodney Erric Williams, Mgr.
5270 Knight Arnold Road
Memphis, TN 38118-3505**

**Changes of Name and Ownership
Ownership: Limited Liability Company
Owner(s): Williams Funeral Home of Memphis, LLC, 5270 Knight Arnold Road, Memphis, TN 38118-3505**

Upon motion by Clark McKinney and seconded by Robert Shackelford, based upon application record, this establishment application was approved for licensure upon applicant agreeing to an Agreed Order of License Probation for a period of two full calendar (2) years (seven hundred thirty (730) days) from the date the establishment license is issued.

Roll Call Vote			
Board Members	Yes	No	Absent
Dennis Bridges		X	
Mark Cochran			X
Robert Davis	X		
Jeff Duffer	X		
Clark McKinney	X		
Charles Rahm		X	
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADJOURN:

A motion was made by Jeff Duffer to adjourn.

Seconded by Robert Davis

Adopted by voice vote

The meeting was adjourned by President Charles Rahm at 1:45 p.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director