

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 14, 2019

President Jeff Duffer called the meeting to order at 8:30 a.m. in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members present: Jeff Duffer, President; Clark McKinney, Vice President; Robert Davis, and Dennis Bridges.

Board Member(s) absent: Charles Rahm and Robert Shackelford, III.

Staff present: Robert Gribble, Executive Director; Cherrelle Hooper, Assistant General Counsel; Ashley Van Klein, Assistant General Counsel; Pamela Spicer, 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 Dennis Bridges

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Dennis Bridges to approve the Minutes of the February 12, 2019 Board Meeting.

Seconded by Robert Davis

Adopted by voice vote

A motion was made by Dennis Bridges to approve the Minutes of the March 12, 2019 Board Meeting.

Seconded by Clark McKinney

Adopted by voice vote

LEGAL REPORT:

ASHLEY VAN KLEIN, 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: President Jeff Duffer recused himself from the Legal Report. Vice President Clark McKinney chaired this particular part of the meeting.

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- 1. Case No.: 2019005191 – Funeral Director**
 - 2. Case No.: 2019005211 – Embalmer**
 - 3. Case No.: 2019005171 – Establishment**

This is a consumer complaint alleging issues with the funeral services provided by the Respondents. Specifically, the consumers alleged the following issues:

1. They were told by employees of the establishment that the casket the deceased specified before passing away could be ordered and an adjustment could be made to the package that was purchased to allow for the difference in price, but no adjustment was made and the Respondent funeral director/embalmer told them no exception would be made on the casket.
 - a. The Respondent funeral director/embalmer explained that prior to the arrangement conference she pulled a photograph from a casket catalog to show the family at the conference to confirm the casket that would be ordered. However, when she showed the family the picture, she was informed that while that was the casket chosen during the prearrangement, they did not like the gold hardware and wanted to substitute it. The Respondent funeral director/embalmer indicated that after some discussion and at the family's request, she contacted the casket manufacturer to see if they had a white casket with silver hardware in stock. She recalled that she was able to make that special order in order to accommodate the request.
 - b. As for the price issue, the Respondent funeral director/embalmer indicated that common practice would be to charge the difference between the two caskets if the prearrangement casket was changed to a different priced casket.
2. The Respondent funeral director/embalmer left a family friend waiting in the hallway of the establishment with the deceased's things for almost 45 minutes.

3. Their meeting with the Respondent funeral director/embalmer lasted six (6) hours despite the fact that the deceased had pre-planned her arrangements in detail.
 - a. The Respondent funeral director/embalmer denied the meeting lasted this long. She did, however, admit that the establishment was having technical difficulties on the day of the meeting and that the casket process did take some time.
4. When the consumers left the establishment after the meeting, the Respondent funeral director/embalmer called them back and purportedly stated "I was NOT finished with you, and you did NOT have my permission to leave. I wasn't done!"
 - a. The Respondent funeral director/embalmer admits she contacted the consumers after they left but denies making this statement. She indicated she called to explain there was still paperwork for the deceased's husband to sign.
5. The deceased's obituary directed mourners and flowers/gifts to the wrong place. The consumers claim the Respondent would not accept delivery of flowers even though it was their error that resulted in the flowers being sent to the establishment instead of the church.
 - a. The Respondent funeral director/embalmer stated that she had no recollection or knowledge of this issue.
6. The deceased's footstone was not placed in a timely manner.
 - a. The footstone has been installed and the Respondent establishment refunded its price to the consumer.
7. There were issues with the engraving of the deceased's headstone.
 - a. The headstone has been engraved.

In a general response to the complaint, the Respondent establishment indicated that when it spoke with the consumers in December 2018, the only issue raised was in regard to the foot marker. The Respondent establishment also indicated that the Respondent funeral director/embalmer is no longer employed with this establishment.

This matter was sent for an investigation, at which time both consumers indicated they considered the matter to be closed. The deceased's husband requested to withdraw his complaint and requested his complaint against the establishment be

closed. He indicated that the manager of the establishment was able to resolve all of the issues.

Recommendation:

- Funeral Director – Close
- Embalmer – Close
- Establishment – Close

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

Seconded by Robert Davis

Adopted by voice vote

4. Case No.: 2019003391 – Establishment

Complaint filed alleging an employee of the Respondent establishment has been visiting nursing homes in the area and passing out his business cards to residents. The complaint also alleges the employee indicated he was an employee of the nursing home. In support of the complaint, the Complainant provided a copy of the employee's business card and the "history and staff" portion of the establishment's website, where the employee is listed as a "family service funeral assistant".

The employee, however, indicated that while he does volunteer at the nursing home, he does not pass out business cards or act as a representative of the establishment while there. He also indicated that he has never claimed to be an employee of the nursing home. In support, a letter was provided from the activity director of the nursing home stating that the employee "has never been seen soliciting any type of business at [nursing home] nor has he ever been seen handing out business cards. [Respondent's employee] has never been heard stating he is an 'employee or Chaplain' for this business."

Recommendation:

- Close

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

Seconded by Robert Davis

Adopted by voice vote

5. Case No.: 2019014821 – Funeral Director

6. Case No.: 2019014831 – Embalmer

This is a complaint from an apprentice funeral director alleging he has been unable to contact the Respondent (his sponsor) to sign his quarterly report. The apprentice alleged that he attempted to contact the Respondent several times without success. He even went to the Respondent's home, but got no answer. After this, he contacted the sheriff's department to do a welfare check.

In response, the Respondent indicated he was the manager of an establishment where the apprentice was serving his apprenticeship, but he had not worked since January 2, 2019 and had lost contact with the establishment (he is no longer the establishment manager). He also indicated that he would be meeting with the apprentice in March so he could sign the quarterly report, but as of May 7, 2019, the Board office has not received the report.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty in the amount of \$250.00 and reduced to a Letter of Warning provided that a properly completed Quarterly Report of Apprentice Training is received by the Board Office within 30 days.

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

Seconded by Robert Davis

Adopted by voice vote

7. Case No.: 2019022781 – Establishment

8. Case No.: 2019022831 – Funeral Director

A routine examination of the Respondent establishment revealed the following:

1. Issues with the GPL, including 1) the high-end range on the GPL was not consistent with the high-end range on the CPL and 2) there were two (2) prices quoted under immediate burial with casket provided by purchaser.
2. The Respondent funeral director's license expired on January 31, 2019. Despite this, he served in the capacity of manager of the establishment. There were also two (2) SFGSS contracts written by the establishment during the expiration period.

In response, the Respondents indicated upon realization of the license lapse, the Respondent funeral director was relieved of management duties until the license was renewed.

According to the field representative, corrections to the GPL were made on site.

Recommendation:

- Establishment - Authorization for formal hearing. Authorization of a civil penalty in an amount of \$750.00.
- Funeral Director - Authorization for formal hearing. Authorization of a civil penalty in an amount of \$500.00.

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

Seconded by Dennis Bridges

Adopted by voice vote

9. Case No.: 2019023941 – Establishment

A routine examination of the Respondent establishment revealed the following:

The casket price range listed on the GPL was incorrect when compared to the price of caskets on the CPL (upper price range);

Two (2) caskets in the casket selection room were not included on the CPL;

Two (2) caskets were on display in the casket selection room, but neither had a price available.

Some employees indicated that the manager of the establishment had some health issues and was not serving in the capacity of manager.

In response, the Respondent establishment indicated:

The GPL has been corrected. It mistakenly used an old template when updating the price list in January 2019.

The Respondent explained that the two (2) caskets that were not included on the CPL were caskets purchased for families. They are being removed from the showroom.

The Respondent accepted fault for the caskets without a price and explained neither casket had been opened yet. One (1) of the two (2) caskets still had plastic halfway covering it.

After the examination, it sent in a change of establishment manager form to the Board Office. The Respondent establishment explained it was reluctant to remove the manager because of hopes of her returning to full time status.

Recommendation:

- Letter of Warning

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

Seconded by Robert Davis

Adopted by voice vote

10. Case No.: 2019024601 – Unlicensed Establishment

On March 22, 2019, a board field representative traveled to the Respondent's location where he observed and photographed signage placed on the building indicating "...Funeral & Cremation Services". By March 25, 2019, the signage had been removed. On that same date, the board field representative met with the Respondent's owner. The owner informed the representative that he had removed the signage. The representative explained to the owner that he had also observed a Facebook page for the Respondent that also appeared to be a violation.

In response, the Respondent indicated the sign was placed for reference purposes so it could get everything lined up between the two (2) lights and for a reference from the main and side highways so that it could be determined what the sign looked like from the road and whether it would need to be moved upon final installation after its receives an establishment license. The Respondent explained the owner did not have a chance to remove the sign as quickly as hoped, but the sign was removed two (2) days before the owner met with the board field representative.

The Respondent indicates all signage for the location will remain off the building and property until it receives an establishment license. The Respondent apologized for the mistake.

Recommendation:

- Letter of Warning

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

Seconded by Robert Davis

Adopted by voice vote

LITIGATION UPDATE:
PAMELA SPICER, ASSISTANT GENERAL COUNSEL

Note: President Jeff Duffer recused himself from the Litigation Update. Vice President Clark McKinney chaired this particular part of the meeting.

Ms. Spicer provided a litigation update to the Board on the pending cases of Watson-North Funeral Home, Cremation Center & Memorial Park; Whispering Winds Crematory; and Thomas Henry North, Jr.

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

HB0048*/SB0856 Funeral Directors and Embalmers –
Enacted – Effective Date 04/18/2019
Public Chapter 161

SB0432*/HB0967 Funeral Directors and Embalmers –
Signed by the Governor – 05/10/2019

HB0304*/SB0384 Licenses –
Enacted – Effective Date 07/01/2019
Public Chapter 195

SB0602*/HB0785 Trusts –
Enacted – Effective Date(s) 05/02/2019; 07/01/2019

Public Chapter 247

HB0650*/SB1173 Insurance Companies, Agents, Brokers, Policies –
Signed by the Governor – 05/10/2019

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 12, 2019 – MAY 13, 2019**

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Appalachian Funeral Home & Cremation Services Johnson City, TN	Ownership
Jefferson Mortuary, Inc. Millington, TN	Ownership
Woodall-Anderson & Dugger Funeral Home & Cremation Services Johnson City, TN	Ownership
London Funeral Home and Crematory Lewisburg, TN	Name
<u>Individual(s)</u>	<u>Type of License(s)</u>
Cara Dionne Carver Memphis, TN	Funeral Director and Embalmer
Robert Charles Eastep Johnson City, TN	Funeral Director and Embalmer
Jessica Dianne Lineberry Dyersburg, TN	Funeral Director and Embalmer
John Roy Taylor, Jr. Chattanooga, TN	Funeral Director and Embalmer
Leilani Jones Memphis, TN	Funeral Director and Embalmer Reciprocity – Mississippi
Jorida Elsa Mihali-Allison	Funeral Director and Embalmer

Ooltewah, TN	Reciprocity – Arkansas
Harrison Edward Atchley Sevierville, TN	Funeral Director
Anna Elizabeth Hogan Lafayette, TN	Funeral Director
Randall Lee Webster Columbia, TN	Funeral Director
Ronnie William Buggs II Cordova, TN	Funeral Director Reapplication
Herbert Shane McElveen Chattanooga, TN	Funeral Director Reapplication

CLOSED ESTABLISHMENT REPORT:

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

- Bartlett Funeral Home, Inc., 5803 Stage Road, Bartlett, TN and
- Scales Funeral Home, Inc., 1412 Jefferson Street, Nashville, 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 February 2019 and March 2019 Regulatory Boards Disciplinary Action Reports:

Respondent: Justin Joseph Ford, Bartlett, TN
Violation: Failed to provide a response to two complaints
Action: \$500 Civil Penalty and \$200 costs

Respondent: Justin Ford Funeral Home, Memphis, TN
Violation: Funeral establishment did not have a fixed place of business for thirteen (13) days. Failed to notify the Board of a change of location within the time limits required by law
Action: \$21,000 civil penalty and \$755 hearing costs

Respondent: Roland Lee Gosey, Arkadelphia, AR
Violation: Failure to comply with the manager's responsibility of a funeral establishment; knowingly permitting unlicensed activity of a person under one's supervision; misrepresentation or fraud in the conduct of the business of

the funeral establishment; aiding or abetting an unlicensed person to practice within the funeral profession; unreasonably refusing to promptly surrender the custody of a dead human body; failure to treat members of the public in a respectful manner; engaging in unfair or deceptive acts or practices defined in the Funeral Rule; and any other act, omission or practice that is misleading or deceptive

Action: Revocation of funeral director and embalmer licenses, \$7,000 civil penalty plus costs

Respondent: Revonda Rucker, Murfreesboro, TN

Violation: Engaged in an act or practice that is misleading or deceptive

Action: \$250 civil penalty

Respondent: Signature Funeral Home by Premier, Memphis, TN

Violation: Failure to comply with the manager's responsibility of a funeral establishment; knowingly permitting unlicensed activity of a person under one's supervision; misrepresentation or fraud in the conduct of the business of the funeral establishment; aiding or abetting an unlicensed person to practice within the funeral profession; unreasonably refusing to promptly surrender the custody of a dead human body; failure to treat members of the public in a respectful manner; engaging in unfair or deceptive acts or practices defined in the Funeral Rule; and any other act, omission or practice that is misleading or deceptive

Action: Revocation of funeral establishment license up until the effective date of the change of ownership and the name change, \$7,000 civil penalty plus costs

OPEN COMPLAINT REPORT:

As of May 13, 2019 there were 43 open complaints.

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

Seconded by Robert Davis

Adopted by voice vote

NEW BUSINESS:

Executive Director Robert Gribble presented and discussed correspondence received from the Kentucky Board of Embalmers and Funeral Directors. The

Board designated Executive Director Gribble to respond and provide information to the Kentucky Board.

Executive Director Robert Gribble introduced David A. Shannon and informed the Board about his qualifications and duties as a new employee of the Board, in the position of Regulatory Board Field Representative 2.

ADJOURN:

A motion was made by Robert Davis to adjourn.

Seconded by Clark McKinney

Adopted by voice vote

The meeting was adjourned by President Jeff Duffer at 9:15 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director