

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

DECEMBER 8, 2020

President Clark McKinney called the meeting to order at 10:00 a.m. The meeting was conducted via WebEx.

Board members present: Clark McKinney, President; Robert Shackelford, III, Vice President; Fred Berry, Anthony Harris, Tonya Scales Haynes and Charles Rahm.

Staff present: Robert Gribble, Executive Director; Elizabeth A. Bendell, Associate General Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

STATEMENT OF NECESSITY (TENN. CODE ANN. § 8-44-102):

Elizabeth A. Bendell, Associate General Counsel for Regulatory Boards, read the Statement of Necessity for the record.

ADOPTION OF AGENDA:

A motion was made by Charles Rahm to approve the Agenda as printed.

Seconded by Fred Berry

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

APPROVAL OF MINUTES:

After being informed by Legal Counsel, that the complaint number for case #15 on the Legal Report for the October 13, 2020 board meeting needed to be

corrected to 2020062681, a motion was made by Robert Shackelford to approve the Minutes of the August 11, 2020, September 8, 2020, and October 13, 2020 (as revised to reflect the complaint number correction) Board Meetings.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

LEGAL REPORT:
ELIZABETH A. BENDELL, ASSOCIATE 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: Vice President Robert Shackelford recused himself from participation in the entire legal report.

- 1. Case No.: 2020052161 – Former Funeral Director**
- 2. Case No.: 2020052181 – Former Embalmer**

This is an anonymous complaint submitted against the Respondent alleging the Respondent is acting in the capacity of a Funeral Director and Embalmer despite the Respondent surrendering both their licenses.

The Respondent has not responded to the complaint. The two funeral homes associated with the Respondent did respond to the complaint and indicated that they are either not working with the Respondent or the Respondent is not acting in the capacity of a Funeral Director or Embalmer.

These complaints were sent for investigation.

In October and November 2020, a Board Field Investigator interviewed and obtained documents from the various parties involved. The investigator obtained affidavits from five licensed funeral directors connected to the Respondent as well as the Respondent themselves. No violations were found.

Recommendation:

- Closure

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

3. Case No.: 2020065441 – Funeral Establishment

4. Case No.: 2020065451 – Funeral Director

In August a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on May 31, 2020 and was not reinstated until June 26, 2020, during which the Respondent funeral director conducted services for eight (8) deceased persons.

The Respondent responded to the complaint and apologized for the oversight. Additionally, the Respondent stated that during the time of license expiration the Respondent funeral director was dealing with their father’s illness and ultimate passing but that as soon as they found out about their license expiration, they rectified the situation.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel's recommendation.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

5. Case No.: 2020065511 – Funeral Establishment

In August 2020 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent's establishment license expired on July 1, 2020 and was not renewed until July 13, 2020, during that time the Respondent conducted services.

The Respondent has not responded to the complaint at this time.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$250.00 via consent order.

A motion was made by Anthony Harris to accept Counsel's recommendation.

Seconded by Fred Berry

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

6. Case No.: 2020065691 – Funeral Establishment

7. Case No.: 2020065711 – Funeral Director

In August 2020 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on June 30, 2020 and was not reinstated until August 4, 2020. The Respondent funeral director did not appear to conduct any services during this time.

The Respondent responded to the complaint and indicated that they attempted to renew the Respondent’s license but had technical issues. Respondent indicated that during the period, the Respondent did not conduct any services.

Funeral Establishment Recommendation:

- Letter of Warning

Funeral Director Recommendation:

- Letter of Warning

A motion was made by Fred Berry to accept Counsel’s recommendation.

Seconded by Tonya Haynes

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

8. Case No.: 2020065801 – Funeral Establishment

This is a Consumer complaint alleging unprofessional conduct by the Respondent establishment. The Consumer indicated that in August 2020 their sister passed away in Kentucky and was transported to the Respondent establishment. The Consumer states that over a three-week period they contacted the Respondent, informing them that she was the next of kin, and that her sister needed to be transported back to Kentucky. The Consumer states that the Respondent would not release their sister's remains without her paying them.

The Respondent responded to the complaint and indicated the following:

1. The Respondent was contacted by the Bowling Green Medical Center indicating that the family requested their services.
2. The Consumer then contacted the Respondent indicating that they did not have money and that they wanted their sister sent back to Kentucky.
3. The Respondent disputes the claim that they informed the Consumer that they threatened to hold the body until the Consumer paid them.
4. The Respondent transported the Consumer's sister back to Kentucky free of charge.

The Consumer provided a rebuttal disputing the Respondent's claims. The Consumer provided documentation regarding their communications with the Respondent.

Recommendation:

- Closure

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

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

9. Case No.: 2020067331 – Expired Apprentice Funeral Director Registration

This is a Consumer complaint alleging unprofessional conduct. The Consumer states that they met with the Respondent regarding the purchasing of a headstone for their nephew. Consumer states they paid the Respondent in March 2020 with the remaining balance to be paid in May 2020. In April 2020 the Consumer states the headstone design was finalized. Consumer states that the Respondent was unresponsive to phone calls after the finalization of the marker. Consumer states that the Respondent indicated that the marker would be placed in August 2020; but as of the date of the complaint, the marker had not been placed.

The Respondent has not responded to the complaint. All correspondence with the Respondent was returned as undeliverable.

Legal reached out to the Consumer to follow up but was unsuccessful.

Recommendation:

- Letter of Warning

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

Seconded by Fred Berry

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

10. Case No.: 2020069641 – Embalmer

This is a complaint submitted by a licensed funeral director alleging unprofessional conduct. Specially, the Complainant alleges that they took over a position from the Respondent at a medical college and noticed that there were multiple un-embalmed bodies left by the Respondent, despite the Respondent listing that the bodies had been embalmed on the death certificates. The Complainant states they alerted the Office of Vital Statistics and amended the death certificates.

The Respondent responded to the complaint and indicated that they were informed they were terminated from the medical college due to a reduction in staff. Because of the termination being effective immediately the Respondent indicated they were unable to complete the embalming process, to which the college was alerted of such. The Respondent states that embalming of cadavers for anatomical donations is unlike a regular embalming and requires more time than normal. Therefore, they were unable to complete the embalming prior to their departure. The Respondent also states that they were not responsible for entering the data on death certificates. Lastly, Respondent states that the college internally investigated the concerns and no basis was found.

The medical college provided a letter indicating that they internally investigated the matter and found that the Respondent did nothing wrong.

Recommendation:

- Closure

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

11. Case No.: 2020071041 – Funeral Establishment

This is a Consumer complaint alleging unprofessional conduct by the Respondent. Specifically, the Consumer indicated that in or around late July / early August 2020 the Respondent establishment removed the consumer’s father’s body from the hospital after the Consumer requested an autopsy. Additionally, the Consumer states that the Respondent refused to give them the death certificate, despite the Consumer being next of kin.

The Respondent responded to the complaint and indicated the following:

1. That on July 31, 2020 the Respondent received a phone call from the deceased’s fiancé regarding the passing of the deceased.
2. On that day the hospital called the Respondent regarding the removal of the deceased, and an appointment was made for the removal to occur on August 3, 2020.
3. The Respondent states that the Consumer never expressed wanting an autopsy to the Respondent.
4. The Respondent denies the allegation that the Consumer was refused a death certificate. The Respondent states that they informed the Consumer that they would order a death certificate, but they have not heard from the Consumer since.

Recommendation:

- Closure

A motion was made by Anthony Harris to accept Counsel’s recommendation.

Seconded by Charles Rahm

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

12. Case No.: 2020092901 – Embalmer

Note: Cases 12 and 13 were considered together.

This complaint was opened based on a 2018 complaint which was previously presented to the Board at its November 13, 2018 meeting as follows: *Complainant alleged Respondent embezzled money from a funeral establishment and obtained several credit cards in the funeral home’s name, but used them for personal purchases.*

A final judgment was entered in the case. The Respondent was found guilty of a class E felony charge of theft greater than \$1,000 but less than \$2,500. The Respondent received a one-year sentence that was suspended to one year of probation supervised by Community Corrections.

Recommendation:

- Authorization for a formal hearing. Authorization for suspension of funeral director and embalmer licenses for a period of six calendar months, beginning on the first day of the month following execution of the Order, a civil penalty of \$1,000.00, ten hours of continuing education courses approved by the Board, and successfully pass the Tennessee Laws, Rules, and Regulations Examination via Consent Order. Additionally, the Consent Order shall include that the Respondent cannot work, perform services, or be associated in any manner with a funeral establishment during the suspension period.

13. Case No.: 2018049971 – Funeral Director

This case was previously presented to the Board at its November 13, 2018 meeting as follows: *Complainant alleged Respondent embezzled money from a funeral establishment and obtained several credit cards in the funeral home's name, but used them for personal purchases. Respondent denied these allegations.*

Complainant reported the matter to the police. It is our understanding this matter is being investigated.

Recommendation: Litigation monitoring.

Board Decision: Approved.

UPDATE:

A final judgment was entered in the case. The Respondent was found guilty of a class E felony charge of theft greater than \$1,000 but less than \$2,500. The Respondent received a one-year sentence that was suspended to one year of probation supervised by Community Corrections.

Recommendation:

- Authorization for a formal hearing. Authorization for suspension of funeral director and embalmer licenses for a period of six calendar months, beginning on the first day of the month following execution of the Order, a civil penalty of \$1,000.00, ten hours of continuing education courses approved by the Board, and successfully pass the Tennessee Laws, Rules, and Regulations Examination via Consent Order. Additionally, the Consent Order shall include that the Respondent cannot work, perform services, or be associated in any manner with a funeral establishment during the suspension period.

Board Decision for Cases 12 and 13:

A motion was made by Charles Rahm to increase the suspension to twelve calendar months and an Authorization for a formal hearing. Authorization for suspension of funeral director and embalmer licenses for a period of twelve calendar months, beginning on the first day of the month following execution of the Order, a civil penalty of \$1,000.00, ten hours of continuing education courses approved by the Board, and successfully pass the Tennessee Laws, Rules, and Regulations Examination via Consent Order. Additionally, the Consent Order shall include that the Respondent cannot work, perform services, or be

associated in any manner with a funeral establishment during the suspension period.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Recused
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

Our office has not received any official notification from 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 upcoming legislative session. We extend an open invitation to both associations and any other interested parties to meet with our staff and legal counsel prior to introduction of legislation affecting the Board of Funeral Directors & Embalmers.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF OCTOBER 10, 2020 – DECEMBER 4, 2020

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Celebration of Life Funeral Services Bartlett, TN	New Establishment
Crematory Care Center, Inc. Kingsport, TN	New Establishment
Good Samaritan Funeral Home LLC Athens, TN	New Establishment

McMinnville Crematory LLC McMinnville, TN	New Establishment
Biereley-Hale Funeral Home, Inc. Madisonville, TN	Ownership
Biereley-Hale Funeral Home, Inc. Tellico Plains, TN	Ownership
Presley Funeral Home Cookeville, TN	Ownership
Anderson Upper Cumberland Funeral Home, Inc. Gainesboro, TN	Ownership and Name
Decatur Funeral Home & Cremation Services Decatur, TN	Ownership and Name
Hooper-Huddleston & Horner Funeral Home & Cremation Services – Dyer Chapel Cookeville, TN	Name
Partlow Funeral Chapel, Inc. Lebanon, TN	Location
Bartlett-Heritage Funeral Home & Cremation Center Bartlett, TN	Location and Name
<u>Individual(s)</u> Nash Brian Faught White Bluff, TN	<u>Type of License(s)</u> Funeral Director and Embalmer
Tomecia Lynn Thorn Clarksville, TN	Funeral Director and Embalmer
Austin Oliver York Shelbyville, TN	Funeral Director and Embalmer
Travis Glen Austin Fort Campbell, KY	Funeral Director and Embalmer Reapplication
Heath Barnette Lawhon Jonesborough, TN	Funeral Director and Embalmer Reapplication

Nicole Lynn Lauth-Cleary Knoxville, TN	Funeral Director
Jody Lee Murray Lebanon, TN	Funeral Director
Keith A. Epperson Madison, TN	Funeral Director Reciprocity – Arizona
Darren Edward Douglas Cleveland, TN	Funeral Director Reapplication
Chad Dealan Kirby Smithville, TN	Funeral Director Reapplication

DISCIPLINARY ACTION REPORT:

These are Consent Orders that have been administratively accepted / approved by the Executive Director pursuant to Board authority and as report on the September 2020 and October 2020 Regulatory Board's Disciplinary Action Reports:

Respondent: Forest Hill Funeral Home & Memorial Park - South, Memphis, TN

Violation: Funeral establishment did not have a fixed place of business as required by law

Action: \$1,000 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - East, Memphis, TN

Violation: Failure to honor financial obligations in a timely manner and did not respond to a complaint within the time specified in the notice

Action: \$1,000 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - Midtown, Memphis, TN

Violation: Failure to treat a member of the public in a respectful manner and failed to file a certificate of death in a timely manner

Action: \$1,500 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - East, Memphis, TN

Violation: Did not file numerous death certificates in a timely manner and did not maintain the preparation room of the establishment in an orderly manner

Action: \$500 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - Midtown, Memphis, TN

Violation: Failure to treat a member of the public in a respectful manner

Action: \$500 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - East, Memphis, TN

Violation: Failure to treat a member of the public in a respectful manner

Action: \$250 Civil Penalty

Respondent: Saddler Funeral Home & Crematory Services, Lebanon, TN

Violation: Failure to treat members of the public in a respectful manner, did not have a permanent identification device affixed to four (4) decedents as required by law, utilizing the services of a funeral director and an embalmer reasonably aware that the funeral director and embalmer was in violation of the Board's statutes and / or rules, and immoral or unprofessional conduct

Action: \$15,000 Civil Penalty

Respondent: Nelson & Sons Memorial Chapel, LLC, Shelbyville, TN

Violation: Failure to treat members of the public in a respectful manner, did not have a permanent identification device affixed to seven (7) decedents as required by law, failed to provide funeral files for four (4) decedents, utilizing the services of a funeral director and an embalmer reasonably aware that the funeral director and embalmer was in violation of the Board's statutes and / or rules, and immoral or unprofessional conduct

Action: \$14,000 Civil Penalty

Respondent: Terrell Broady Funeral Home, Inc., Nashville, TN

Violation: Failure to treat a member of the public in a respectful manner

Action: \$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of December 8, 2020, there were 41 open complaints.

A motion was made by Charles Rahm to accept the Executive Director’s Report.

Seconded by Fred Berry

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ELECTION OF BOARD OFFICERS FOR 2021:

President:

Charles Rahm made a motion to nominate and elect Robert Shackelford as President of the Board for 2021.

Seconded by Anthony Harris

Roll Call Vote			
Board Members	Yes	No	Abstained
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III			X

Adopted by Roll Call Vote

Vice President:

Anthony Harris made a motion to nominate and elect Charles Rahm as Vice President of the Board for 2021.

Seconded by Tonya Haynes

Roll Call Vote			
Board Members	Yes	No	Abstained
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm			X
Robert Shackelford, III	X		

Adopted by Roll Call Vote

APPOINTMENT OF CONTINUING EDUCATION LIAISON FOR 2021:

Charles Rahm made a motion to appoint Anthony Harris as the Continuing Education Liaison for 2021.

Seconded by Tonya Haynes

Roll Call Vote			
Board Members	Yes	No	Abstained
Fred Berry	X		
Anthony Harris			X
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADJOURN:

A motion was made Anthony Harris to adjourn.

Seconded by Robert Shackelford

Roll Call Vote			
Board Members	Yes	No	Absent
Fred Berry	X		
Anthony Harris	X		
Tonya Scales Haynes	X		
Clark McKinney	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by roll call vote

The meeting was adjourned by President Clark McKinney at 10:38 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director