

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

FEBRUARY 11, 2020

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

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

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

ADOPTION OF AGENDA:

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

Seconded by Robert Shackelford

Adopted by voice vote

APPROVAL OF MINUTES:

A motion was made by Jeff Duffer to approve the Minutes of the November 11, 2019 Board Meeting.

Seconded by Charles Rahm

Adopted by voice vote

President Clark McKinney announced that the January 14, 2020 Minutes will be presented for review/approval at the next board meeting.

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

1. Case No.: 2019096351 – Funeral Establishment

2. Case No.: 2019096361 – Funeral Director

In November 2019, a board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent's funeral director and embalmer licenses were suspended from June 4, 2019 until July 24, 2019. During the time of the Respondent's invalid licenses, the Respondent acted in the capacity of a Tennessee licensed funeral director by serving as manager for the Respondent establishment. The Respondent also made funeral arrangements and conducted funeral services for at least one person.

Respondent responded to the response and indicated they did not knowingly operate the Respondent funeral establishment without a funeral director serving as the manager. Respondent states that his licenses were suspended for late child support payments, and he was not aware of the suspension until informed by the courts.

Recommendation Establishment:

- Authorization for a formal hearing. Authorization for a \$250 civil penalty via consent order.

Recommendation Funeral Director:

- Authorization for a formal hearing. Authorization for a \$250 civil penalty via consent order.

A motion was made by Charles Rahm to accept Counsel's recommendation for the establishment; and as to the funeral director, Authorization for a formal hearing. Authorization for a \$500 civil penalty via consent order.

Seconded by Robert Shackelford

Adopted by voice vote

3. Case No.: 2019097591 – Funeral Establishment

This is a consumer complaint alleging that the Respondent establishment did not return all of the funds for a canceled pre-paid insurance policy. Specifically, the consumer alleges the following:

- a. The consumer went to the Respondent establishment in September 2019 to check the prices for his terminally ill brother.
- b. The consumer was informed by the Respondent that they could pay in advance, and the funds would be held in an interest earning account.
- c. When the consumer got back home, they received an insurance policy despite being told the money would be held in an interest earning account.
- d. The consumer contacted the Respondent and was informed that they would have to sign a form to get their money back.
- e. The consumer waited to get the form and eventually had to go to the Respondent establishment to get the form.
- f. Consumer states that the check they received was for \$10,065.00 when they paid \$10,515.00.

Respondent responded to the complaint and gave the following timeline:

- a. On September 30, 2019 the consumer came to the Respondent funeral establishment to pre-plan for his brother. A pre-plan policy was established with Global Atlantic in the amount of \$10,515.45
- b. On October 8, 2019 the consumer called to cancel his brother's policy because he stated he did not want insurance. Global Atlantic was contacted and stated they would send the cancellation form to the consumer.
- c. On October 18, 2019 the consumer called stated they have not received the form. Global Atlantic stated they would re-send it.
- d. On October 25, 2019 the consumer came to the Respondent establishment and demanded his money. It was then requested that Global Atlantic send the paperwork to the Respondent for the consumer to sign and fax back.
- e. On November 13, 2019 the consumer's brother passed away and on November 14, 2019 the consumer's family came in to make arrangements. The family informed the Respondent that the consumer had stated the Respondent cheated him out of \$500. The Respondent contacted Global Atlantic who stated the amount of the contract was \$10,065.00 while the statement of goods was \$10,515.45; the amount of tax had failed to be included on the contract. Global Atlantic stated that they issued the contract for the amount of the contract not the statement of goods. The consumer was informed that the amount debited from his account was the same amount he received back.

The Respondent provided paperwork from Global Atlantic indicating that although they received a check for \$10,515.45, only \$10,065.00 was withdrawn, which is the amount that was refunded to the consumer.

Recommendation:

- Closure

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

Seconded by Anthony Harris

Adopted by voice vote

4. Case No.: 2019099301 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. The consumer states that the arrangements for her husband's funeral were not satisfactory. Specifically, the consumer alleges that the Respondent threatened to hold the deceased if the funeral bill was not paid. The consumer additionally states that the Respondent got into an argument with her grieving son during the funeral and made her whole funeral experience unpleasant.

The Respondent's employer responded to the complaint and indicated the following:

- a. The deceased passed away in November 2019; and at the time of death, it was difficult to locate the family members of the deceased. The consumer came forward as the wife of the decedent, and it took two (2) days to prove she was the estranged wife.
- b. There were conflicts between the consumer and the son of the deceased which led to two (2) separate memorial services being held, one in Knoxville and the other in West Tennessee.
- c. Two plans were presented to the consumer, a full service with burial and a full service with cremation, but both presented financial hardship for the consumer. The funeral home considered having the decedent buried and written off as a "pauper burial." However, the consumer insisted on making arrangements for the deceased.
- d. The establishment proceeded forward with the second plan with the understanding that it was concrete and final. However, after the

- deceased was embalmed, a third plan was presented, a direct cremation with a memorial service. The cost for embalming was not charged due to the lack of communication.
- e. As a courtesy to the family, a private viewing of the deceased after the embalming was given at no cost.
 - f. The consumer was informed that all funds had to be paid before any service was held. Payment plans were presented to the consumer but were not feasible. Conversations between the consumer and the Respondent began to get “heated.” The Respondent was then instructed to not have contact with the consumer.
 - g. The Respondent was paid by the consumer.
 - h. A confrontation took place on the day of the services between the Respondent, the consumer, and a son which was quickly stopped by the Vice President of the funeral home.
 - i. After the services were completed, additional funds were obtained by the family from a healthcare facility. Those funds, although written to the funeral home, were promptly returned to the family.
 - j. The Consumer received the utmost services despite the conflicts between the scenes.

Recommendation:

- Letter of Warning

A motion was made by Charles Rahm for Authorization of a formal hearing. Authorization for a \$250 civil penalty via consent order.

Seconded by Jeff Duffer

Adopted by voice vote

5. Case No.: 2019096611 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. The consumer states that on July 16, 2019 the Respondent establishment picked up the consumer’s deceased husband along with a teddy bear. Consumer states that she never personally saw her husband again and has concerns about whether he was truly in the coffin that was buried. The consumer additionally states that in August 2019, she noticed an error on the death certificate. Specifically, the deceased’s ethnicity was listed incorrectly. Consumer contacted the Respondent establishment and was informed it would

take six (6) weeks to get a corrected death certificate. The Consumer indicated that they did not receive an amended death certificate until December 2019.

The Respondent responded to the complaint and indicated that in their initial conversation with the consumer she expressed that she did not wish to view her husband. Respondent states that the consumer was given multiple opportunities to view her husband, but she refused to do so. Respondent states that they honored the consumer's wishes, but they did take photographs of the deceased in the casket in case she later changed her mind. Respondent alleges that at the cemetery both the consumer and the son were shown the photos. The Respondent provided copies of the photos. Respondent additionally states that once they learned of the death certificate mistake, they filed to get a corrected one and provided them to the consumer at no charge due to it being the Respondent's error.

Legal contacted the Department of Health to inquire about the timeline regarding the filing of the death certificates. Legal was informed that the original death certificated was filed on July 19, 2019. The amended death certificated was filed on August 15, 2019, and on August 27, 2019 certified copies of the death certificate were given to the Respondent establishment.

Recommendation:

- Authorization of a formal hearing. Authorization for a \$250 civil penalty via consent order.

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

Seconded by Robert Shackelford

Adopted by voice vote

RE-PRESENT

6. Case No.: 2019075321 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent. The consumer alleges the following:

1. *The consumer was informed that the price for a burial would be \$600.00 and then later was told the price would be \$1,600.00.*
2. *Due to the \$1,000.00 price increase for the burial services, the consumer could not afford the burial and was informed that the deceased was going to be cremated.*
3. *A guest book for friends and family to sign was purchased but was not present at the services.*
4. *Flowers purchased for the services were not present at the services and were thrown out.*
5. *The deceased's services were held on June 15, 2019, but the consumer did not receive the cremated remains until July 8, 2019.*
6. *The cremated remains of the consumer's husband were in a box that was placed inside of a bag from Office Depot.*
7. *The deceased was placed in a rented casket that was falling apart.*
8. *Consumer ordered a flag due to her husband's military service but was later told she would have to pick it up from the post office.*
9. *Consumer requested for her husband's hair not be cut; but when she went to view the body, his hair had been cut.*

Respondent responded to the complaint and indicated the following.

1. *On June 6, 2019 the Respondent received a call from the consumer regarding handling the funeral services of her husband.*
2. *The Respondent was informed that the price for a funeral with burial, using a silver casket included would be \$1,611.63.*
3. *The consumer informed the Respondent that the deceased was a veteran. The Respondent contacted the Veterans Administration cemetery but was told that the deceased did not qualify.*
4. *Respondent informed consumer of her option to have her husband buried at another cemetery for a total cost of \$2,857.00. Consumer stated that price was too much and inquired about cremation pricing. The consumer was told a funeral with cremation is \$1,995.00 plus tax, but ultimately the consumer paid \$1,682.03.*
5. *The consumer was informed that the rental casket would be a coppertone color.*
6. *The consumer approved the cutting of the deceased's hair.*
7. *The guest book was placed on the table going into the chapel, but none of the guests wanted to sign it.*

8. *Consumer was informed of the cremation process. The Medical Examiner's Office approved the death certificate on June 25, 2019, and the deceased was cremated on June 26, 2019.*
9. *The consumer did not inform the family of the deceased that the burial plans had changed, and the Respondent had to explain the changes to the family.*

Recommendation: Closure.

Board Decision: Send for an investigation and re-present.

Update:

This complaint was sent for investigation. In January 2020, a board investigator interviewed and obtained documents from the various parties involved in this matter. No violations were found.

New Recommendation: Closure

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

Seconded by Jeff Duffer

Adopted by voice vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

HB2784/SB2538* Funeral Directors and Embalmers –

As introduced, authorizes qualified aliens enumerated in federal law to apply for a funeral director's license or an apprentice registration; deletes an obsolete provision in the code concerning licensees from 1951. - Amends TCA Title 62, Chapter 5.

SB1824* Funeral Directors and Embalmers –

As introduced, authorizes qualified aliens enumerated in federal law to apply for a funeral director's license. - Amends TCA Section 62-5-305.

HB2004*/SB1976 Death –

As introduced, imposes requirements on the operation of alkaline hydrolysis facilities and the use of alkaline hydrolysis in this state. - Amends TCA Title 62, Chapter 5.

HB2279/SB2070* Abortion –

As introduced, increases from three to four years the period for which a funeral director, person in charge of an institution, or other person making final disposition of a dead fetus must retain a copy of the mother's authorization for disposition if the death of the fetus was the result of a surgical abortion. - Amends TCA Title 4; Title 9; Title 10; Title 37; Title 39; Title 40; Title 49; Title 53; Title 56; Title 63; Title 68 and Title 71.

HB1715*/SB1859 Criminal Offenses –

As introduced, creates the offenses sexual abuse of a corpse, a Class D felony, and aggravated sexual abuse of a corpse, a Class C felony; requires a person convicted of either offense to register as a sexual offender. - Amends TCA Title 39, Chapter 17, Part 3 and Title 40, Chapter 39, Part 2.

HB1944*/SB2451 Licenses –

As introduced, enacts the "Licensing Independence for Future Tennesseans Act." - Amends TCA Title 4; Title 62, Chapter 76 and Title 63, Chapter 1.

HB1945*/SB1914 Professions and Occupations –

As introduced, authorizes a person to perform, without a license, work for which a license is normally required if the recipient of the work acknowledges the person's lack of licensure and waives claims against the person. - Amends TCA Title 62 and Title 63.

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 JANUARY 14, 2020 – FEBRUARY 10, 2020

Establishment(s)

Advantage Funeral & Cremation Services
Franklin-Strickland Chapel
Chattanooga, TN

Type of Action(s)/Change(s)

Change of Name

Mid South Mortuary Service
Memphis, TN

Change of Name

Individual(s)

Chaney McGwire Lowe

Type of License(s)

Funeral Director and Embalmer

Knoxville, TN

Amanda Kate Nelson
Shelbyville, TN

Funeral Director and Embalmer

Nina Rose Pollitt
Memphis, TN

Funeral Director and Embalmer

Kyle Anthony Coffin
East Ridge, TN

Funeral Director and Embalmer
Reciprocity – Illinois

Jennifer Lynn Eggers
Nashville, TN

Funeral Director and Embalmer
Reciprocity – Michigan

Courtney Dawn Mourey
Cookeville, TN

Funeral Director and Embalmer
Reciprocity – Ohio

Lori Ardell Watson
Chicago, IL

Funeral Director and Embalmer
Reciprocity – Illinois

John R. Kreft, III
Bartlett, IL

Embalmer
Reciprocity – Illinois

CLOSED ESTABLISHMENT REPORT:

There is no closed establishment(s) to report for this board meeting.

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 December 2019 Regulatory Board's Disciplinary Action Report:

Respondent: Memorial Park Funeral Home and Cemetery, Memphis, TN
Violation: Use of a casket or any part of a casket that had been used previously in connection with the disinterment and reinterment of a deceased human body
Action: \$1,500 Civil Penalty

Respondent: Millington Funeral Home, Inc., Millington, TN
Violation: The names of unlicensed individuals were displayed on the establishment's funeral programs and/or certificate of attendance letters and did not reflect that the persons were neither a licensed funeral director nor a licensed embalmer
Action: \$500 Civil Penalty

Respondent: Trinity Memorial Centers, Kingsport, TN
Violation: Advertisement that indicated a specific price failed to include an itemized listing of each and every item, procedure or service and show the price of the item and engaged in a misleading or deceptive act
Action: \$250 Civil Penalty

Respondent: Carey Lyle Chandler, McKenzie, TN
Violation: Failure to comply with T.C.A. § 36-5-706
Action: Suspension of Funeral Director and Embalmer Licenses

OPEN COMPLAINT REPORT:

As of February 11, 2020, there were 32 open complaints.

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

Seconded by Jeff Duffer

Adopted by voice vote

ADJOURN:

A motion was made by Jeff Duffer to adjourn.

Seconded by Charles Rahm

Adopted by voice vote

The meeting was adjourned by President Clark McKinney at 10:34 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director