

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 9, 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, Charles Rahm and Tonya Scales Haynes.

Staff present: Robert Gribble, Executive Director and Elizabeth A. Bendell, Associate General Counsel.

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 Anthony Harris to approve the Agenda as printed.

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

APPROVAL OF MINUTES:

A motion was made by Robert Shackelford to approve the Minutes of the February 11, 2020 Board Meeting.

Seconded by Anthony Harris

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

President Clark McKinney announced that the May 12, 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

Note: Board member Anthony Harris recused himself from participation in all matters related to this legal report.

1. Case No.: 202007231 – Funeral Director

This is a complaint against the Respondent alleging unprofessional and deceptive conduct. Specifically, the consumer alleges that, in advance of an upcoming audit of the establishment’s preened funeral contracts, the Respondent added information on completed and filed paperwork including cash advance forms and actual contracts. Complainant indicated they informed the Respondent that the paperwork was approved and that they should not be altered after the consumers signed them but that the Respondent stated that they could be altered or added to.

Respondent responded to the complaint and indicated that the Complainant is a former employee of the Respondent’s establishment who was terminated for cause in January 2020. Respondent stated that the Complainant threatened to do anything in his power to ruin the Respondent and that employees of the

establishment heard these statements. Respondent stated that they pulled the documents in anticipation of the upcoming audit and during his review noticed inconsistencies, including the documents missing vital information. Respondent states he made minor, non-substantive administrative changes to documents and that he will not do the same going forward.

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

Recommendation:

- Closure

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

Seconded by Robert Shackelford

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

2. Case No.: 2020014811 – Funeral Establishment

This is a consumer complaint alleging that the consumer arranged for her father's cremation in November 2019, and as of the date of the complaint had not received the death certificates or confirmation that her father's cremated remains had been shipped.

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

Legal spoke with the consumer who indicated they received her father's cremated remains and the death certificates in late December 2019. Consumer also indicated that they received a refund from the Respondent.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty in the amount of \$500.00 (for failure to respond after receiving notice of an open complaint).

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

3. Case No.: 2020019191 – Funeral Establishment

This is a consumer complaint alleging that the Consumer’s mother purchased a burial insurance policy through the Respondent and that the Respondent failed to honor the policy. Specifically, consumer alleges the following:

1. Consumer’s parents purchased an insurance policy from the Respondent in 1942. The policy was ultimately paid off in 1987.
2. Consumer’s father passed away in 1998, and the policy was used to cover his funeral and burial expenses.
3. The Consumer’s mother passed away in January 2020. Consumer met with another funeral establishment with the understanding that the policy had been transferred there after Respondent’s one funeral establishment branch closed.
4. Consumer stated that a representative from the other establishment called the Respondent regarding the policy and Respondent stated that the paperwork would be hard to find and that they no longer honored the policy in question. Consumer indicated that they provided the Respondent with the documents kept in her mother’s records.

5. Consumer was unable to find any evidence regarding the money paid to the policy so she ended up paying for the funeral expenses up front at the third-party establishment.
6. The consumer followed up in February 2020 regarding location of the policy after it was not honored, and consumer was informed of the policy's location with assistance provided from the Insurance Division of the Department of Commerce & Insurance..

The Respondent responded to the response and indicated the following:

1. The Respondent does not have any record of the policy in its files; but if a family were to present such a policy, the Respondent would honor it pursuant to its terms.
2. The consumer never provided the Respondent with any record of the policy.
3. The Respondent maintains that it does not owe the consumer a refund or credit as the policy that was later located provided that the Respondent was to provide the funeral arrangements. The consumer ultimately received services from a third-party.

The consumer provided a rebuttal indicating that they did provide the Respondent with the policy, and they did not offer to honor the policy. The consumer maintains that they provided the documents to the Respondent, and the Respondent failed to honor them.

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

4. Case No.: 2020019361 – Funeral Establishment

This is a complaint submitted by a removal service alleging that Respondent has failed to pay for multiple services over a seven-month period of time. The Complainant provided documentation regarding the lack of payment for services rendered.

The Respondent responded to the complaint and that the former managing partner tasked with accounts payable let the invoices slip through the cracks. The Respondent indicated that he mailed payment on March 18, 2020 to cover the two oldest invoices and are planning to bring the rest of the invoices up to date as soon as possible.

Counsel’s Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty in the amount of \$250.00.

A motion was made by Fred Berry to issue a Letter of Warning.

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

5. Case No.: 2020029221 – Funeral Establishment

This is a consumer complaint alleging that the consumer paid for a marker and as of the date of the complaint it had not been placed. Consumer alleges their father passed away in February 2017. Consumer states that they were informed that the marker would be placed after it was made. Consumer states that they have been to the Respondent’s office multiple times and were informed each

time that the marker would be placed. Consumer additionally states that they were informed that the government would supply the marker because the deceased was a veteran, but that the Respondent failed to file the paperwork. Consumer states the Respondent has failed to follow up with any information regarding the placement of the marker.

The Respondent responded to the complaint, and indicated that the marker was supposed to be provided by the government as the deceased was a veteran. The Respondent indicated they followed up with the Veterans Affairs but they did not have any record of a request for the marker. The Respondent stated that they have since requested a marker be sent to the Respondent; but that due to COVID-19, shipping times are delayed. Respondent indicated that they will install the marker as soon as it arrives, and they have informed the consumer.

Recommendation Funeral Establishment:

- Authorization for a formal hearing. Authorization for a civil penalty in the amount of \$250.00.

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

Seconded by Robert Shackelford

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:

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.

Passed – SB2538 has been assigned [Public Chapter Number 625](#) by the Secretary of State.

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 MAY 9, 2020 – JUNE 5, 2020

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Chattanooga Memorial Funeral Home, LLC Chattanooga, TN	New Establishment
<u>Individual(s)</u>	<u>Type of License(s)</u>
Cayley Kristin Freeman Mount Juliet, TN	Funeral Director and Embalmer
Hunter Glenn Ingram Millington, TN	Funeral Director and Embalmer
Christopher George Kline Maryville, TN	Funeral Director and Embalmer
Jordan Nicole Lester Chattanooga, TN	Funeral Director and Embalmer
Robert Lee Breeden, Jr. Farragut, TN	Funeral Director and Embalmer Reciprocity – Alabama and Florida
Blake Alan Farr Hohenwald, TN	Funeral Director
Donnie Hansel Bobo Hernando, MS	Funeral Director Reciprocity – Mississippi
Gerald Dubose Bowen Murfreesboro, TN	Funeral Director Reciprocity – Oklahoma and Louisiana
Patrick Dwayne Cates Clarksville, TN	Funeral Director Reciprocity – Kentucky
Jeffrey Lee Carroll Maryville, TN	Funeral Director Reapplication
Robert Burr Rogers Chattanooga, TN	Funeral Director Reapplication

CLOSED ESTABLISHMENT REPORT:

There are no closed establishment(s) to report.

DISCIPLINARY ACTION REPORT:

There are no disciplinary action(s) to report.

OPEN COMPLAINT REPORT:

As of June 9, 2020, there were 51 open complaints.

A motion was made by Anthony Harris to accept the Executive Director’s Report.

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

REQUEST FOR CONTINUING EDUCATION EXTENSION:

A motion was made by Fred Berry to approve a request from a funeral director and embalmer for an extension of sixty (60) days to be granted regarding completion of their continuing education credits due to an illness which has caused extenuating circumstances for the licensee.

Seconded by Anthony Harris

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

ADJOURN:

A motion was made by Anthony Harris to adjourn.

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

The meeting was adjourned by President Clark McKinney at 10:41 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director