

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

OCTOBER 20, 2021

President Robert Shackelford, III, called the meeting to order at 10:20 a.m. The meeting was conducted in Conference Room 1-A, Davy Crockett Tower, Nashville, Tennessee.

Board members physically present: Robert Shackelford, III, President; Fred Berry, Anthony Harris, Tonya Scales Haynes, Clark McKinney and Scottie Poarch.

Board member(s) present by virtual means: Charles Rahm, Vice President.

Staff physically present: Robert Gribble, Executive Director, and Anthony Glandorf, Chief Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

ADOPTION OF AGENDA:

A motion was made by Fred Berry to approve the Agenda as published.

Seconded by Clark McKinney

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 Anthony Harris to approve the Minutes of the September 14, 2021 Board Meeting.

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

LEGAL REPORT:

TROY BRYANT, 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: Clark McKinney recused himself from participation in the entire legal report.

1. Case No.: 2021052911 – Funeral Establishment

This is a complaint made by the County Medical Examiner for Iuka, Mississippi. Complainant, as County Medical Examiner, certified the death of an inpatient in Iuka, Mississippi, on May 24, 2021. The decedent was transferred to Respondent’s facilities in Memphis. Complainant alleges that as of June 30, 2021, Respondent has yet to complete the death certificate. Further, Complainant made repeated calls to Respondent that were not answered, providing only an automated recording that did not allow for a message or call back number to be left.

Respondent indicated that they had released the death certificate on July 1, 2021, the same day they received the letter regarding the complaint. Respondent stated that the State of Mississippi has not allowed funeral homes to pick up death certificates in person due to Covid-19, and thus must be ordered through Vital Check – a process that Respondent claims may take anywhere from four days to two weeks.

Recommendation:

- \$750 civil penalty for unprofessional conduct for failing to treat members of the public in a respectful manner and for an unreasonable delay in filing the death certificate. Authorize settlement via consent order and a formal hearing if necessary.

A motion was made by Anthony Harris for a \$1,000 civil penalty for unprofessional conduct for failing to treat members of the public in a respectful manner and for an unreasonable delay in filing the death certificate. Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

2. Case No.: 2021054591 – Funeral Establishment

Complainant/daughter of the deceased submitted a complaint against Respondent/funeral establishment alleging unprofessional conduct and delay of death certificate. The Complainant states that their father passed away on March 27, 2021 and alleges that they contacted the Respondent numerous times regarding the status of their father’s death certificate. Complainant states they were advised by Respondent that the medical examiner refused to sign the death certificate due to uncertainty of the deceased’s cause of death. Complainant alleges that Respondent failed to follow up with the coroner’s office regarding the status of the death certificate. Further, Complainant contends that Respondent wrongly made Complainant and their sister financially responsible for their father’s services as his beneficiaries.

The Respondent stated that on March 30, 2021 they sent all necessary information to the medical examiner. On April 14, 2021 the medical examiner returned the case refusing to sign the death certificate. Respondent then searched for a doctor or certifier and eventually contacted the medical examiner's office for help. After enlisting the medical examiner's office, Respondent sent the death certificate to them on June 17, 2021 where it was signed the following day. Respondent states that occasionally death certification takes longer in some cases than in others and that the next of kin, the deceased's wife, had not contacted them regarding any issues relating to the death certificate. Additionally, Respondent contended that as the beneficiaries, Complainant and their sister were required to provide information and documentation as a policy of the Respondent.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

3. Case No.: 2021054891 – Funeral Director

Complainant/daughter of the deceased submitted a complaint against Respondent/funeral director alleging unprofessional conduct. Complainant states that her father passed away on July 6, 2012 and was ultimately cremated. Complainant alleges that following the funeral services, Respondent agreed to contact Complainant or their family when the cremation process was completed in order to pick up their father's cremated remains. Complainant has contacted

Respondent numerous times as to the whereabouts of the remains but given conflicting information each time. Complainant states that the death certificate identifies the remains location at a veteran’s cemetery despite the fact the family decided to not have the deceased’s ashes buried there. Complainant called the cemetery, but the cemetery has no records of the deceased’s burial there. According to the Complainant, the Respondent is unable to produce information or records regarding the whereabouts of their father’s cremated remains.

Respondent indicated that the deceased’s cremated remains have been located. Respondent stated that they informed Complainant that they would need some time to locate their father’s records since the original service had been done nine years ago. Respondent discovered that they had stored and held the remains for the past nine years and investigated to confirm that they would be releasing the correct remains to Complainant. After confirming this, Respondent informed Complainant that the cremated remains of their father were available to be picked up at their convenience.

Recommendation:

- Letter of Warning (failing to treat a member of the public in a respectful manner.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

4. Case No.: 2021058661 – Funeral Establishment

Complainant/the eldest sibling of the deceased's children submitted a complaint against Respondent/funeral establishment alleging unprofessional conduct. The complaint alleges that Complainant, as executor of the deceased's will and eldest child of the deceased, contacted Respondent numerous times regarding the required information for death certification and what date it was sent to the State. Complainant alleges that Respondent has yet to respond to their request. Likewise, Complainant stated that they had previously been in contact with Respondent regarding the death and burial of the deceased. Complainant contends that they had not been notified by Respondent of the date of burial and service until the deceased had already been buried because, as Complainant alleges, Respondent wrongly allowed another person to make the arrangements for the deceased. A responsibility that Complainant contends was rightfully theirs as executor of the decedent's will.

Respondent indicated the following:

1. After the decedent passed, hospice notified Respondent as to who the next of kin was, the deceased's daughter.
2. Respondent met with the deceased's daughter, the stated next of kin, to make arrangements for the deceased. The next of kin never notified Respondent that there was another party with equal or greater right to make decisions.
3. The next of kin requested that no information regarding the decedent's passing would be provided to anyone and requested that they refuse to confirm whether Respondent was even handling the arrangements. Respondent followed this request.
4. Respondent maintains that they answered or responded to each of Complainant's calls but did not provide Complainant with any information regarding the decedent in light of the next of kin's request.

Complainant provided a rebuttal stating when Complainant attempted to prove their relationship to the decedent, Respondent refused to accept any of Complainant's documentation. Complainant likewise contends that as the oldest of five surviving siblings, they fall within the "majority" of next of kin whereas the stated next of kin is only one of two daughters.

Recommendation:

- Closure, determination should be by a court of competent jurisdiction.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

5. Case No.: 2021060151 – Funeral Establishment

This complaint was opened because of a board field representative’s inspection. During the inspection, it was determined that a funeral director’s license expired on May 31, 2021 and was not reinstated until August 2, 2021. During that time, their employee acted in the capacity of a Tennessee licensed funeral director, including but not limited to, making funeral arrangements, and/or cremation arrangements for fifteen deceased persons. This constitutes a violation of Tenn. Code Ann. § 62-5-309 and Tenn. Code Ann. § 62-5-316(a).

Respondent replied and apologized for the oversight stating failure to renew their license was a mistake caused by being preoccupied with the pandemic and was corrected as soon as they became aware of the expiration.

This complaint is related to the below matter FUN-2021060141.

Recommendation:

- \$250 civil penalty for aiding and abetting an unlicensed person (practice of a funeral director with an expired license). Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

6. Case No.: 2021060141 – Funeral Director

This complaint was opened because of a board field representative’s inspection and is related to case number #5 above. During the inspection, it was determined that a funeral director’s license expired on May 31, 2021 and was not reinstated until August 2, 2021. During that time, Respondent acted in the capacity of a Tennessee licensed funeral director, included but not limited to, making funeral arrangements, and/or cremation arrangements for fifteen deceased persons. This constitutes a violation of Tenn. Code Ann. § 62-5-309 and Tenn. Code Ann. § 62-5-316(a).

Respondent replied and apologized for the oversight stating failure to renew their license was a mistake caused by being preoccupied with the pandemic and was corrected as soon as they became aware of the expiration.

Recommendation:

- \$250 civil penalty for aiding and abetting an unlicensed person (practice of a funeral director with an expired license). Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

7. Case No.: 2021060721 – Funeral Establishment

This complaint was opened because of a board field representative’s inspection. During the inspection it was determined that a funeral director’s license expired on June 30, 2021 and was not reinstated until July 12, 2021. During that time, Respondent acted in the capacity of a Tennessee licensed funeral director in violation of Tenn. Code Ann. § 62-5-309 and Tenn. Code Ann. § 62-5-316(a). Respondent’s activity during this time included but was not limited to, continuously serving as manager of the establishment while license was expired, making funeral arrangements and/or conducting funeral services for three deceased persons.

This complaint is related to the below matter FUN-2021060731.

Recommendation:

- \$250 civil penalty for aiding and abetting an unlicensed person (practice of a funeral director with an expired license). Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

8. Case No.: 2021060731 – Funeral Director

This complaint was opened because of a board field representative’s inspection. During the inspection it was determined that a funeral director’s license expired on June 30, 2021 and was not reinstated until July 12, 2021. During that time, Respondent acted in the capacity of a Tennessee licensed funeral director in violation of Tenn. Code Ann. § 62-5-309 and Tenn. Code Ann. § 62-5-316(a). Respondent’s activity during this time included but was not limited to, making funeral arrangements and/or conducting funeral services for three deceased persons.

Respondent stated that though they were aware that their license had lapsed, they were unable to renew it in a timely manner due to contracting Covid-19. Respondent contends that once they recovered, they renewed their funeral director license.

Recommendation:

- \$250 civil penalty for aiding and abetting an unlicensed person (practice of a funeral director with an expired license). Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

9. Case No.: 2021065521 – Funeral Director

This complaint was opened by a member of the Vital Records and Statistics division of the Department of Health alleging unprofessional conduct on behalf of the Respondent and alleging that Respondent failed to complete and file the death certificates of several cases. Complainant states that Respondent is often rude to members of their staff. Likewise, Complainant alleges that Respondent has yet to have the death certificates of 13 decedents dating back to June 2, 2021 at one location and 6 decedents dating back to May 16, 2021 at another location, in their VRISM queue and not yet certified by a physician as to the cause of death/filed with the Department of Health. Complainant alleges that Respondent has indicated to Vital Records that it is the State's responsibility to get physicians to sign a death certificate.

Respondent contends that it is difficult to have doctors sign death certificates at this time and stated that Complainant acknowledged that the death certificates had been sent to doctors for them to sign. Respondent did not deny that they may have been rude with Complainant but asserts that a member of Complainant's staff was rude initially, causing Respondent to respond in kind.

Recommendation:

- \$250 civil penalty for unprofessional conduct for an unreasonable delay in filing death certificates and for failing to treat members of the public in a respectful manner. Authorize settlement via consent order and a formal hearing if necessary.

A motion was made by Anthony Harris for \$500 civil penalty for unprofessional conduct for an unreasonable delay in filing death certificates and for failing to

treat members of the public in a respectful manner and notify the Board when the death certificates have been filed. Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

10. Case No.: 2021064091 – Funeral Director

Complainant/daughter of the deceased alleges that Complainant’s aunt was allowed to forge their signature in order to gain possession of their father’s belongings. Complainant contends that their aunt and Respondent had a personal relationship, and due to the familiarity between the two parties, Respondent knew and should have known that the person they were releasing decedent’s belongings to did not match the identity of the required signature. Likewise, Complainant asserts that in addition to their father’s belongings, they made numerous attempts to pick up the deceased’s file, only to be denied by Respondent each time.

Respondent stated that they had no recollection of Complainant requesting the deceased’s file as they are kept at the front desk and would have been present following the deceased’s service. Additionally, Respondent admits that the decedent’s belongings were picked up by Complainant’s aunt, the sister of the deceased. Respondent states that they were aware Complainant’s aunt had been the decedent’s caregiver and had been handling his affairs. Respondent did not require any signature from the aunt as it was their general practice to allow next of kin to pick up a decedent’s belongings without requiring a signature.

Recommendation:

- \$250 civil penalty for knowingly allowing an individual to sign another person’s name to release the deceased’s belongings to an individual who was not the next of kin. Authorize settlement via consent order and a formal hearing if necessary.

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

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- 11. Case No.: 2021064721 – Funeral Director**
 - 12. Case No.: 2021070321 – Embalmer**
 - 13. Case No.: 2021066051 – Funeral Director**
 - 14. Case No.: 2021070341 – Embalmer**

Complaint numbers 11 and 13 were filed by two separate Complainants. Complaint numbers 12 and 14 were administratively opened regarding Respondent’s embalming license. Complainants/daughter and former wife of the deceased submitted complaints against Respondent/funeral director stating that Respondent failed to properly care for the deceased in the embalming and funeral service process. Complainants allege that during the funeral service the casket began to leak bodily fluid and the room was overcome with a strong odor. As Complainants contend, Respondents did not communicate to them that the decedent had decomposed past the point of embalment. Additionally, Complainants are upset that the funeral director did not notify them that the body of the deceased was not present inside the casket during the visitation. Finally, Complainants maintain that in addition to their traumatic experience, Respondent charged Complainants for services they did not render.

Respondent replied stating that the body of the deceased was too far decomposed for an embalming procedure. Purportedly, Respondent explained to Complainants that since the deceased had been found 24 hours after their death along with being Covid-19 positive, decomposition had been expedited significantly. Further, Respondent contends they went to great lengths to disguise the odor and absorb any potential fluid by enclosing the body in double pouches and by using a “generous” amount of fragrance powder. However, during the service, Respondent noticed moisture leaking from the casket. Respondent states that there had been no moisture prior to the service. Regarding the alleged charging of non-rendered services, Respondent states they in fact rendered services for which they did not charge but did require a dressing fee due to the additional precautions taken to mask the odor and to mitigate potential leakage.

Recommendation:

- \$1,000 civil penalty for unprofessional conduct for failing to properly control decedent’s odor and fluid leakage during funeral services (\$500 against Respondent’s funeral director license, \$500 against Respondent’s embalmer license). Authorize settlement via consent order and a formal hearing if necessary

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
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

COMMUNICATIONS TO LICENSEES:

The Executive Director provided information concerning Death Certificates Rules and Laws that was communicated through EMMA to all licensed funeral establishments in the State of Tennessee. The Executive Director also presented a suggested narrative to be provided to newly licensed funeral directors and embalmers extending an invitation to attend board meetings.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF SEPTEMBER 1, 2021 – OCTOBER 15, 2021

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
Sellars Family Heritage Westmoreland, TN	New Establishment
<u>Individuals)</u>	<u>Type of License(s)</u>
Jennifer Lee Holladay Nashville, TN	Funeral Director and Embalmer
Jeremy David Salyers Blountville, TN	Funeral Director and Embalmer
Alyssa Morgan Sullivan Knoxville, TN	Funeral Director and Embalmer
Kara Elizabeth Reno Chattanooga, TN	Funeral Director
Charles Sidney Oakley, Jr. Bristol, 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 reported on the August 2021 and September 2021 Regulatory Boards Disciplinary Action Reports

Respondent: Anderson Funeral Home – Lewisburg, TN
 Violation: Utilized the services of an outside provider when knowing or reasonably should have known that the outside provider was in violation of a statute or rule pertaining to the Board and

aiding and abetting an unlicensed person to practice within the funeral profession
 Action: \$2,500 Civil Penalty

Respondent: Coulter-Garrison Funeral Home. Inc. – Dayton, TN
 Violation: Unprofessional conduct (mistakenly gave an urn containing cremated remains to the wrong family) and failed to treat a member of the public in a respectful manner
 Action: \$500 Civil Penalty

Respondent: Christopher L. Neighbours – Nashville, TN
 Violation: Failed to respond to a complaint within the time specified in the notice
 Action: \$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of October 15, 2021, there were 35 open complaints.

A motion was made by Fred Berry to accept the Executive Director’s Report.

Seconded by Clark McKinney

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

INDIVIDUAL APPLICATION(S):

Durrell Sinclair Young **Funeral Director and Embalmer**
Memphis, TN

Upon motion by Clark McKinney and seconded by Tonya Scales Haynes, based upon application record, this individual application was approved for licensure.

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

Adopted by Roll Call Vote

ESTABLISHMENT APPLICATION(S):

**SIMPLE CREMATION AND FUNERAL SERVICES
 ATTN: GERALD DUBOSE BOWEN, MGR.
 423 SMYRNA SQUARE DRIVE, SUITE C
 SMYRNA, TN 37167-3040**

New Establishment

Ownership: Limited Liability Company

Owner(s): Simple Cremation Services of Antioch LLC, 7925 Bradyville Pike, Murfreesboro, TN 37127-5797

Upon motion by Clark McKinney to approve subject to the following: Submission of a revised General Price List – remove incorrect information regarding an on-site crematory.

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		
Scottie Poarch	X		
Charles Rahm	X		
Robert Shackelford, III	X		

Adopted by Roll Call Vote

ADJOURN:

A motion was made Clark McKinney to adjourn.

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

The meeting was adjourned by President Robert Shackelford at 11:25 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director