

# TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

## MINUTES OF BOARD MEETING

**MARCH 8, 2022**

Vice President Anthony Harris called the meeting to order at 10:00 a.m. The meeting was conducted in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members physically present: Anthony Harris, Vice President; Fred Berry, Scottie Poarch, Christopher Lea and Pamela Stephens

Board members absent: Charles Rahm, President, and Tonya Scales Haynes

Staff physically present: Robert Gribble, Executive Director; Troy Bryant, Associate General Counsel and Lisa Bohannon, Regulatory Board Administrative Manager

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### **WELCOME NEW BOARD MEMBER:**

Vice President Anthony Harris introduced and welcomed new board member Pamela Stephens of Franklin, Tennessee, a funeral director representing the Middle Grand Division. Ms. Stephens was recommended by the Tennessee Funeral Directors Association and appointed by Governor Bill Lee as a board member.

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### **ADOPTION OF AGENDA:**

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

Seconded by Christopher Lea

Adopted by Voice Vote

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### **APPROVAL OF MINUTES:**

A motion was made by Fred Berry to approve the Minutes of the February 8, 2022 Board Meeting.

Seconded by Christopher Lea

Adopted by Voice Vote

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**LEGAL REPORT:**  
**TROY BRYANT, ASSOCIATE GENERAL COUNSEL**

As a reminder, Mr. Bryant mentioned the that the Rule Making Hearing is scheduled for May 10, 2022.

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

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**1. Case No.: 2021064981 – Expired Apprentice Funeral Director**

Complainant, sister of the deceased, filed a complaint alleging unprofessional conduct against Respondent. Specifically, Complainant contends that upon signing and paying the contract in full on June 25, 2021, they inquired about when the ceremony and family viewing could take place and were told by an employee of the establishment that they would not be able to do anything until they received the death certificate. Complainant maintains that they were never notified even after attempting to contact the establishment for a week. Complainant stated that Respondent did not contact them until July 1, 2021 and informed Complainant that the deceased had been cremated back on June 25, 2021. Complainant picked up the deceased's urn on July 1, 2021 and inquired about the death certificate. Complainant alleges that an employee of the establishment stated that they would contact Complainant when they received it. An hour after Complainant left, Complainant contends to have received a call from the establishment stating that they had the death certificate. Finally, Complainant contends that upon picking up the death certificate the following day, she attempted to take a moment to sit and read the certificate. As Complainant alleges, the establishment escorted Complainant out without compassion or remorse.

Respondent, the administrative manager of the establishment, replied stating that on the day Complainant came into the funeral home, Respondent was not present, but added that Complainant was not escorted out of the establishment upon receiving the death certificate. Respondent stated that on June 22, 2021 they were provided permission to cremate the deceased by the Medical Examiner's Office and provided documentation to show the approval. Respondent purports that on June 25, 2021 Complainant called Respondent and

inquired as to whether the deceased had been cremated. Respondent contends that they confirmed with the establishment, and informed Complainant that the cremation had been completed. Respondent further stated that on July 1, 2021 the establishment texted Complainant informing her that the death certificate could be picked up, and Complainant picked up the certificate the following day on July 2, 2021. Regarding Complainant's concerns regarding a ceremony, Respondent stated that Complainant paid only for a direct cremation and attached a Statement of Funeral Goods and Services to reflect this. Respondent further provided that despite the complaint being opened against them as a funeral director, they never represented themselves as a funeral director to Complainant in any capacity.

This case was sent for investigation. The investigator spoke first with Complainant who reiterated that she was told that the establishment could not proceed until the funeral home had the completed death certificate and again alleged that she did not hear from establishment from June 25, 2021 until July 1, 2021 even though she had made several attempts via text, email, and phone calls. Finally, Complainant stated that she returned to the establishment on July 2, 2021 and was escorted out of the funeral home before she could read the death certificate. Complainant further alleged that she never received a final copy of the death certificate from the establishment and had to go to the Health Department to obtain one. The investigator was given a copy of the Statement of Funeral Goods and Services Selected document by Complainant. The provided document was identical to the copy provided by Respondent and reflected a direct cremation service only. The investigator spoke to Respondent who claimed that no staff member ever informed Complainant that the funeral home could not proceed with the cremation until the death certificate was filed. Respondent further denied that Complainant was treated rudely after receiving the remains and death certificate.

Based on the above and the documents provided in the scope of the investigation, it appears Complainant paid strictly for a direct cremation service. Both parties offer conflicting stories regarding Complainant's alleged removal from the funeral home. Both parties agree that Complainant contacted Respondent on June 25, 2021 and that Respondent contacted Complainant on July 1, 2021; however Complainant provided no proof of the attempted communication within that week's period, and Respondent made no mention of those communications in their response.

**Recommendation:**

- Letter of Instruction regarding responsiveness to Complainant's attempted communications.

A motion was made by Fred Berry to close the complaint.

Seconded by Christopher Lea

Adopted by Voice Vote

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## **2. Case No.: 2021073551 – Funeral Establishment**

Complainant, cousin of the deceased filed a complaint against Respondent establishment alleging unprofessional conduct. Specifically, Complainant alleged that:

1. The body was not ready for viewing on October 28, 2021, the time quoted by the establishment.
2. The establishment delayed Complainant from viewing the body at the newly rescheduled time.
3. The parking lot of the establishment was blocked off the day of the service forcing Complainant to park in the lot of another business.
4. The establishment did not allow anyone to enter the building until the scheduled time for the start of the services; thus not allowing for visitation time prior to the service.
5. Ignored earlier inquiries about streaming the service online for the next of kin who was unable to make it to the service, and then asked for an additional \$200.00 for streaming on the day of the service.
6. The establishment did not provide instructions regarding how to line up for the funeral procession.
7. The establishment told a few people mingling inside the funeral home following the conclusion of the service to leave as there was another service scheduled within the next few minutes.

Respondent replied stating that the sister, next of kin of the deceased who lived in California, made all of the arrangements for the service. Respondent contends that Complainant was only involved as the sister was unable to travel to the establishment and that the sister required the Complainant assist with paying and signing documents. Respondent contends they spoke to the sister daily and made arrangements for a family member to view the body on October 29, 2021 (not October 28, 2021), and that no arrangements were ever made by the establishment with Complainant. Respondent further stated that on Saturdays

they block the entrance to their main parking lot due to the activity of the limousines to be used at services, but stated that their outsourced professional escort service staff were present to provide parking instructions to the family and how to line up for the procession to the burial site. Respondent further stated that on the morning of the service the sister called and expressed regret she could not be present but inquired about a streaming service. Respondent informed the sister that unfortunately the company they use charges \$250.00 for the service and arrangements had to be made three days prior to the service; however, Respondent contends that they suggested and provided their personal phone to allow the sister to view the service and interact with other family members present at no charge. Finally, Respondent stated that due to Covid-19 precautions, they opened their doors at 10:00 a.m. and contended that Complainant opposed the establishment's request to wear a mask inside their building at all times. Respondent also attached to their response a thank you card and email from the sister expressing gratitude to Respondent establishment.

This case was sent for investigation. The investigator spoke first to Complainant whose statement was largely identical to his formal complaint. Likewise, the investigator spoke to Respondent whose statements were also largely duplicative of their formal response, adding that they spoke daily with the sister of the deceased and that all arrangements were made over the phone. Likewise, Respondent stated the sister scheduled the viewing of the body for October 29, 2021 and contended that the staff made photographs of the deceased along with the casket and flowers to be sent to the sister, which Respondent stated the sister was very appreciate of.

On February 24 and 25, 2022, the Legal Department attempted to speak with the sister to directly determine her experience with the Respondent, however the sister did not wish to discuss these matters.

**Recommendation:**

- Closure.

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

Seconded by Pamela Stephens

Adopted by Voice Vote

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**3. Case No.: 2022000381 – Funeral Establishment**

**4. Case No.: 2022000401 – Funeral Director**

Complainant, brother of the deceased, filed a complaint against Respondent establishment and Respondent funeral director alleging unprofessional conduct. Specifically, the Complainant who purports to be the next of kin, alleged that Respondent never consulted him for the arrangements of the deceased. Complainant further alleged that Respondent only consulted with a non-related representative of a bank in regard to final arrangements for the deceased. As Complainant contends, Respondent informed him that the representative of the bank was the executor of the estate, but as Complainant purports, Respondent produced no documentation to prove that the representative had the legal right to plan the arrangements.

Respondent replied stating that they were surprised to receive the complaint as they had never spoken to the Complainant and only learned of his dissatisfaction with their services upon receiving the complaint. Respondent contends that the medical center where the deceased passed provided family contact information that included the name and information of the decedent's wife. Soon after, the representative of the bank contacted Respondent regarding arrangements for the deceased stating he was the decedent's executor and had received disposition directions directly from the decedent. As Respondent contends, both the representative and the wife of the deceased met with Respondent during an arrangement conference. Respondent purports that the representative's arrangement directions were given to him verbally and through text message. During the arrangement meeting, Respondent contends that the information for the deceased's siblings were provided for the obituary information. Respondent maintains that the siblings were presented and listed only as "siblings" with no distinction between them or contact information and thus, Respondent had no identifying information about Complainant. Finally, Respondent contends they spoke to the bank representative who provided an email stating that Complainant was made aware of the time of the arrangement conference. Respondent stated that they relied on the disposition directives given to them by the bank representative in good faith due to his impeccable reputation, and that they had never heard directly from Complainant before during or after the service.

The Legal Department spoke with Respondent to gather additional information. In these communications, the Respondent stated that the representative of the bank stated that they would "do it the way [the decedent] wanted it done" and referred to phone conversations and text messages with the decedent. However, the representative was unable to present the text messages to the Respondent. Further, the Respondent stated the wife of the decedent was present with the

representative during the arrangement conference and collaborated with the representative on the details of the arrangements in light of the decedent's wishes. At no time did the wife of the decedent express any problems with the decisions being made.

Based on the above the heart of the matter is a next of kin determination.

**Funeral Establishment Recommendation:**

- Closure, with any lingering next of kin determinations to be made by a court of competent jurisdiction.

**Funeral Director Recommendation:**

- Closure, with any lingering next of kin determinations to be made by a court of competent jurisdiction.

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

Seconded by Christopher Lea

Adopted by Voice Vote

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**5. Case No.: 2022002041 – Funeral Establishment**

Complainant, son of the deceased, filed a complaint against Respondent Establishment alleging unprofessional conduct. Specifically, Complainant alleged that Respondent did not provide the requested final accounting of services and other ancillary costs, that Respondent made changes to the services without communicating with Complainant, and alleged that Respondent claimed they were relying on a note left by Complainant's father who had passed several years ago regarding changes and final instructions. Complainant maintains that they have yet to see the note.

Respondent replied stating that on August 29, 1996 they met with the father and mother of the Complainant regarding their pre-planned funeral arrangements. Respondent stated that they took careful notes throughout the meeting. Respondent stated that during this meeting, the father and mother of the deceased directed respondent to reach out to their daughter / sister of the Complainant if anything went wrong. Respondent maintained that in neither case was Complainant to be contacted regarding the arrangements. As such, Respondent reached out to the sister of the Complainant to assume the arrangement responsibilities. Respondent maintains that they spoke with the

sister of the Complainant exclusively and provided death certificates that the sister had paid for. Respondent stated further that Complainant bullied, intimidated, threatened, and attempted to defame the establishment while asking for the requested documents. Respondent contends that they informed Complainant that he would need to talk to his sister since she had been handling all the arrangements. In their response, Respondent attached the handwritten notes they relied upon that denoted the sister of the Complainant as the person with right of disposition if anything were to go wrong.

Presumably at the request of the Respondent, the sister of Complainant wrote a letter corroborating Respondent's recollection of events. The sister further stated that the issue regarding the death certificates is related to the fact that Complainant refuses to speak with her.

Based on the above, the heart of the matter is a next of kin determination.

**Recommendation:**

- Closure, with any lingering next of kin determinations to be made by a court of competent jurisdiction.

A motion was made by Christopher Lea to accept Counsel's recommendation.

Seconded by Fred Berry

Adopted by Voice Vote

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**6. Case No.: 2021074321 – Funeral Director**

Complainant, wife of the deceased, filed a complaint alleging unprofessional conduct on behalf of Respondent funeral Director. Specifically, Complainant alleged that on November 28, 2021 Respondent assured her that she would have her husband's cremains back home by Christmas. On December 15, 2021, Complainant contacted Respondent for an update on the cremains and death certificate, who stated that all permits are coming from Nashville and they are backlogged. On December 20, 2021, Complainant contacted another staff member at the establishment to inquire about the cremains and death certificate. Complainant was told nothing had been received, but that they would follow up with Respondent. On December 22 after consulting with a different funeral director, Complainant was advised this was not typical and contacted Respondent. Respondent purportedly stated that they had been ill but would follow up. On December 23, Complainant alleges that Respondent contacted her

apologizing, stating that they had forgotten to file the death certificate. On December 27, 2021 the supervisor of Respondent contacted Complainant apologizing for the error and filed the death certificate in person the following day. Complainant received the death certificates and cremains on January 3, 2022 and the establishment refunded the money paid for Respondent's services.

Respondent replied admitting that most of Complainant's statements were correct adding that they were not notified by their (funeral establishment) death certificate clerk that there was an issue getting the doctor to sign the death certificate. Respondent maintains that they were misinformed when they told Complainant that the death certificate was awaiting the doctor's signature. Respondent further stated that they were not given updates and communications in a timely manner by the death certificate clerk which led to the unfortunate situation with Complainant.

**Recommendation:**

- \$250.00 civil penalty for unprofessional conduct. Authorize via consent order and formal hearing if necessary.

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

Seconded by Pamela Stephens

Adopted by Voice Vote

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**7. Case No.: 2022003811 – Funeral Establishment**

Complainant, a funeral home based in New York, filed a complaint alleging that Respondent establishment had not pay their charges. Specifically, Complainant alleged that the deceased contracted with Respondent for pre-paid funeral services which included a shipping charge to send the deceased to the Complainant's funeral home. Complainant stated that the deceased passed on August 15, 2021 with services and interment held on August 15, 2021 and August 24, 2021 respectively. Complainant alleged that they still had not received payment from Respondent as of February 1, 2022 despite making numerous calls and emails.

Respondent replied stating that they were contacted by Complainant on February 1, 2022 to inform them that they had an outstanding balance. Respondent contends they tried to contact Complainant to let them know that they were

mailing a check but stated that the phones were busy. Respondent contends that they mailed a check to Complainant's address the same day. Respondent maintained that to their knowledge, that this was the first time they were contacted regarding the outstanding balance. Respondent attached a copy of the check written to Complainant to their response.

On February 25, 2022 the Legal Department contacted Complainant and confirmed that they had received the check for the entirety of the outstanding balance.

**Recommendation:**

- Letter of Warning regarding the untimely payment to Complainant.

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

Seconded by Christopher Lea

Adopted by Voice Vote

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**ADMINISTRATIVE MATTERS:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**LEGISLATIVE UPDATE:**

**HB2103/SB2570 –**

Funeral Directors and Embalmers - As introduced, authorizes licensed funeral directors to sell pre-need funeral contracts and prearrangement insurance policies without registering with the commissioner of commerce and insurance; requires that continuing education completed virtually for renewal of embalmer and funeral director licenses involve continuous two-way transfer of information; defines unlicensed assistants for funeral establishment licensure laws. - Amends TCA Title 62.

**HB2352/SB1934 –**

Cemeteries - As introduced, specifies that a trustee for an improvement care trust fund may establish a separate trust for each individual cemetery or cemetery company, or a master trust for multiple cemetery companies; specifies that a trustee for pre-need cemetery contracts may establish a separate trust fund for each contract, a single trust fund for all contracts written by an individual cemetery, or a single trust fund for all contracts written by multiple cemetery companies; makes other changes related to the establishment and management of an improvement care trust fund or a trust fund for a pre-need cemetery contract. - Amends TCA Title 35, Chapter 14 and Title 46, Chapter 1, Part 2.

**HB2830/SB2722 –**

Victims' Rights - As introduced, allows a person to file a petition for an injunction to prohibit the delivery of the remains of a victim of certain homicide offenses to the next of kin, if the next of kin is found to have committed the offense by a preponderance of the evidence; requires a court issuing such an injunction to include in its order the next person to whom the remains must be delivered. - Amends TCA Title 31; Title 38; Title 46 and Title 62.

**HB2054/SB2048 –**

Vital Records - As introduced, authorizes a medical examiner or hospital employee to file a death certificate; removes authority for a person acting as a funeral director who first assumes custody of the dead body to file a death certificate; removes requirement for an attending physician or medical examiner to give notice for delay in completing medical certification for the cause of death to a person acting as a funeral director. - Amends TCA Title 68.

**HB0788/SB1429 –**

Indigents - As introduced, requires this state and the county in which the person resided to pay up to \$2,000 for the burial or cremation of a person who dies from COVID-19 if the person's family is financially unable to pay for a proper burial or cremation of the person. - Amends TCA Title 5, Chapter 9; Title 9 and Title 46.

**HB0738/SB1091 –**

Contracts - As introduced, reduces from 100 percent to 80 percent the amount of funds received for funeral services and merchandise to be held in trust pursuant to a pre-need funeral contract funded by trust deposit; requires the contract to disclose to the purchaser in boldface type the percentage of funds the seller is required to trust along with the name of the trust officer, the trust institution, and their respective addresses and phone numbers. - Amends TCA Title 62, Chapter 5.

**HB1466/SB1558 –**

Professions and Occupations - As introduced, reduces from 75 to 60 days after the end of the pre-need seller's fiscal year, the time by which a pre-need seller and trustee must file an annual report with the commissioner of commerce and insurance. - Amends TCA Title 38; Title 44; Title 55; Title 62 and Title 68.

**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  
FEBRUARY 5, 2022 – MARCH 4, 2022**

**Establishment(s)  
Action(s)/Change(s)**

Knoxville Cremation & Memorial Services, LLC  
Knoxville, TN

**Type of**

New Establishment

**Individuals)**

Walter Eugene Baird, V  
Embalmer  
Auburntown, TN

**Type of License(s)**

Funeral Director and

**CLOSED ESTABLISHMENT REPORT:**

There are no closed establishments to report at this meeting.

**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 January 2022 Regulatory Board Disciplinary Action Report**

Respondent: Anderson Funeral Home, Lewisburg, TN  
Violation: Unprofessional conduct (failure to return the deceased's remains/cremated remains to the family), aiding or abetting an unlicensed person to practice within the funeral profession, and engaged in a practice that is misleading or deceptive  
Action: \$5,000 Civil Penalty plus \$420.75 Costs

Respondent: Snow Funeral Home, Memphis, TN  
Violation: Permitted an individual to make funeral and cremation arrangements with an expired funeral director license  
Action: \$250 Civil Penalty

Respondent: James David Feldhaus, Shelbyville, TN  
Violation: Unprofessional conduct (neither caused the obituary of the deceased to be printed in the local newspaper nor refunded the money to the family, despite having been paid for such services)  
Action: \$250 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of March 8, 2022, there were 39 open complaints.

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

Seconded by Christopher Lea

Adopted by Voice Vote

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**NEW BUSINESS:**

Board Member Fred Berry gave a detailed report on the 118<sup>th</sup> Annual Meeting of the International Conference of Funeral Service Examining Boards, Inc., that was attended by him and Executive Director Robert Gribble on February 23 and 24, 2022, in Houston, Texas.

Board Member Fred Berry discussed the process pertaining to nominations for President and Vice President of the board. Mr. Berry asked that the previously appointed committee have this process in place by November 2022 for use regarding the election of board officers for 2023.

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**ADJOURN:**

A motion was made Fred Berry to adjourn.

Seconded by Christopher Lea

Adopted by Voice Vote

The meeting was adjourned by Vice President Anthony Harris at 10:53 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CPM, CFSP  
Executive Director