

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 10, 2022

President Charles Rahm called the meeting to order at 10:02 a.m. The meeting was conducted in Conference Room 1-B, Davy Crockett Tower, Nashville, Tennessee.

Board members physically present: Charles Rahm, President; Anthony Harris, Vice President; Fred Berry, Tonya Scales Haynes, Christopher Lea, and Pamela Stephens

Board member(s) absent: Scottie Poarch

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

ADOPTION OF AGENDA:

A motion was made by Anthony Harris to approve the Agenda as published.

Seconded by Fred Berry

Adopted by Voice Vote

APPROVAL OF MINUTES:

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

Seconded by Christopher Lea

Adopted by Voice Vote

RULEMAKING HEARING:

Troy Bryant, Associate General Counsel, conducted a rulemaking hearing before the Board. There were two public comments associated with these rules. The first comment was from Steve Spann, President of John A. Gupton College in Nashville, Tennessee, who complimented the Board on these rules. The second

comment was from Steve Murphy with Music City Mortuary in Nashville, Tennessee, who also complimented the Board on these rules. The Board voted to adopt the language of the rules, Regulatory Flexibility Addendum/Economic Impact Statement, Impact on Local Government Statement, and responses to the questions required by the Joint Government Operations Committee.

- 1) A motion was made by Fred Berry and seconded by Pamela Stephens to adopt the hearing rules language for Tenn. Comp. R. & Regs. 0660-05-.01.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 2) A motion was made by Darrell Anthony Harris and seconded by Fred Berry to adopt the hearing rules language for Tenn. Comp. R. & Regs. 0660-11-.05.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 3) A motion was made by Fred Berry and seconded by Christopher Lea to adopt the Regulatory Flexibility Addendum for Tenn. Comp. R. & Regs. 0660-05-.01.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	

Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 4) A motion was made by Darrell Anthony Harris and seconded by Fred Berry to adopt the Regulatory Flexibility Addendum for Tenn. Comp. R. & Regs. 0660-11-.05.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 5) A motion was made by Darrell Anthony Harris and seconded by Fred Berry to adopt the Impact on Local Government Statement.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 6) A motion was made by Fred Berry and seconded by Christopher Lea to adopt the information for the Joint Government Operations Committee for Tenn. Comp. R. & Regs. 0660-05-.01.

Roll Call Vote		
Board Members	Yes	No

Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	X	

Adopted by Roll Call Vote

- 7) A motion was made by Darrell Anthony Harris and seconded by Fred Berry to adopt the information for the Joint Government Operations Committee for Tenn. Comp. R. & Regs. 0660-11-.05.

Roll Call Vote		
Board Members	Yes	No
Charles Rahm	X	
Darrell Anthony Harris	X	
Fred Berry	X	
Tonya Scales Haynes	X	
Scottie Poarch	Absent	Absent
Christopher Lea	X	
Pamela Stephens	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: Board Members Fred Berry and Christopher Lea both recused themselves from participating in the entire legal report.

1. Case No.: 2021080451 – Funeral Establishment

Complainant, mother of the deceased, filed a complaint against Respondent establishment alleging that the Respondent had provided services to the deceased at the behest of Complainant’s mother who did not have legal custody of the deceased. Complainant contends that because her mother did not have

legal custody of the deceased, Respondent establishment should not have provided services for the deceased. Complainant did not provide a date of the alleged services.

Respondent replied stating that after checking their records, they had no records to suggest that they had handled the services of the deceased. Complainant gave two names that the deceased may have gone by, however, Respondent had neither name in their records for the alleged rendered services.

The Department attempted to send this case for investigation. However, after several months of attempts, our investigator was never able to successfully contact Complainant. The investigator left numerous messages on Complainant's voicemail and provided a callback number. Based on the address provided in the complaint, Complainant lives in Ohio, and the investigator had no avenues other than telephone to attempt to contact Complainant.

Recommendation:

- Closure for lack of sufficient evidence

A motion was made by Anthony Harris to close the complaint.

Seconded by Pamela Stephens

Adopted by Voice Vote

2. Case No.: 2022003061 – Funeral Establishment

Complainant, sister of the deceased, alleged unprofessional conduct on behalf of the Respondent. Specifically, Complainant alleged that Respondent establishment had allowed a non-family member to make funeral arrangements for the deceased. Complainant alleged that when she called the Respondent stating she did not give them permission to start services that the Respondent hung up. Likewise, Complainant alleged that once she informed Respondent that she would like to have the services performed elsewhere, that Respondent became hostile towards Complainant and demanded, as Complainant contends, that Complainant pay Respondent \$1,610.00.

Respondent replied stating that he received a call from a "Helen" regarding the deceased. Respondent stated that they confirmed with Helen that the deceased had no spouse or children. After the deceased was in the Respondent's custody,

Respondent received a call from Complainant on January 23, 2022 who informed Respondent that she had talked to Helen and asked to confirm that Respondent had her sister. After discussing price, Complainant stated that she would look around for other prices. Respondent stated he soon received a call from Complainant stating that she had found another funeral home that would perform a direct cremation for less money. Respondent stated that he was willing to release the deceased's remains into the custody of any funeral home she requested.

Complainant provided additional information to the complaint stating that Respondent was requiring payment for services rendered before the body would be released.

This case was sent for investigation. The investigator spoke first to Complainant who stated that when she spoke to Respondent, she questioned the stated charges and informed Respondent that their prices were too high. After Complainant had looked and found another funeral home to arrange the services, Complainant, Respondent, and an employee of the new funeral home had a three-way telephone conversation to arrange the details. When Complainant contacted Respondent later to arrange the deceased's release, Complainant stated she would not pay the \$1,610.00 for services rendered because she had not authorized the services to be rendered. Finally, Complainant alleged that Respondent was rude and unprofessional during their discussions and did not know where her sister's remains were located at the time.

The investigator spoke next to Helen, who stated that she had known the deceased since she was a child. Helen stated that the deceased had poor health conditions and that she had been the deceased's caregiver and had looked after her for many years. Helen stated that she arrived at the deceased's house after the Shelby County Sheriff's Department had arrived and was asked to identify the body since none of the deceased's immediate family could be contacted. Helen stated she then contacted Shirly, the deceased's aunt who lived out of state. Shirly spoke to the deputy sheriff on the phone who informed her that she needed to contact a funeral home to have the remains removed. Helen stated that Shirly inquired if she knew a funeral home that would make the removal, and Helen suggested Respondent establishment. Helen stated that Shirly agreed to allow Respondent establishment to make the removal and prepare the body. Lastly, Helen stated that she spoke to Complainant several times who maintained that she would come to Memphis to pick up the deceased's

possessions and make funeral arrangements; but to Helen's knowledge, Complainant had never come to Memphis.

The investigator spoke next to an employee of the Funeral Home who Complainant requested the deceased be transported to. The employee stated that she received a call from Complainant on January 28, 2022 inquiring about pricing and procedure needed to pick her sister up from another funeral home. After informing Complainant of the procedure, the employee also informed Complainant that it was their funeral home's policy to require a letter from the original funeral home indicating that the charges had been paid or waived before they would make a removal from another funeral home. The employee stated that Complainant said she did have charges at Respondent funeral home and that she would work them out with Respondent. The employee stated that after speaking with Complainant, she spoke to Respondent, who stated they were willing to release the deceased into the new funeral home's custody. The employee inquired as to whether Complainant had paid the outstanding fees, and Respondent stated that she had not. The employee stated that at no time did the Respondent refuse to release the remains of the deceased, nor did he request that any fees be paid prior to releasing the remains. The employee stated that this continued across several conversations with Respondent and that they were always willing to release the deceased into the new funeral home's care.

The investigator spoke finally to the Respondent who largely reiterated what was in their formal response, adding that they were professional and were never rude to Complainant, that he informed Complainant that he would be willing to release the deceased to whatever funeral home she requested, and that to their knowledge the Complainant had never come to Memphis to set up any arrangements for the deceased. Respondent further stated that they did still have the remains and made an application to have the deceased buried at the Memphis Shelby County Cemetery.

Based on the above and the sworn affidavits of multiple sources, it appears based upon the sworn statements obtained during investigation, that although Respondent would have liked to have been paid the \$1,610.00 for services rendered, Respondent did not hold the body of the deceased in consideration of that payment being made.

Recommendation:

- Closure.

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

Seconded by Pamela Stephens

Adopted by Voice Vote

3. Case No.: 2022003001 – Funeral Director

Complainant alleged that on January 22, 2022, Respondent funeral director utilized an unlicensed apprentice to fill the role of licensed funeral director. Complainant further alleged that unlicensed apprentice was named "Stacy" and that they were a licensed emergency medical technician (EMT) but was not a licensed funeral director.

Respondent replied stating that they conducted only one service on January 22, 2022 and that they themselves had worked that service. Respondent included a worksheet of services that documented the services provided before and after January 22. Likewise, Respondent stated that they have only one funeral apprentice, and their name is not "Stacy."

This case was sent for investigation. The investigator spoke first to the Complainant who stated she only became aware of the alleged issue after she heard about the matter from a deputy sheriff who escorted one of the funerals from Respondent's funeral home. Complainant alleged that the officer asked a "Stacy" who was in charge and that "Stacy" allegedly replied that "she guessed she was running the show." Complainant admitted that she was not physically present for any of the services conducted by Respondent's funeral home and admitted she had no proof of her complaint.

The investigator spoke next to Respondent who largely reiterated what they had stated in their formal response adding that in the entire time they had been in business, they had never employed someone named "Stacy."

Based on the above, and the admitted lack of proof on behalf of Complainant, Legal would recommend closure.

Recommendation:

- Closure

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

4. Case No.: 2022003681 – Embalmer

Complainant, a co-worker of the Respondent, submitted a complaint alleging unprofessional conduct on behalf of Respondent. Specifically, Complainant alleged that Respondent was disrespectful in her language directed to the bodies of the decedents. Further, Complainant alleged that the Respondent created a toxic work environment by speaking lowly of other employees or by yelling at them. Finally, Complainant alleged that Respondent is negligent in their embalmings and does not properly set the features or embalm.

Respondent replied apologizing if any comments they had made could be misconstrued and acknowledged that “transparency and bluntness may be [their] fatal flaw.” Respondent denied that they negligently perform their duties stating that they take the necessary steps to properly treat and preserve each decedent that comes into their care.

Based on the above, the bulk of the complaint appears to be a workplace dispute and is beyond the jurisdiction and authority of this Board. However, Respondent did not deny or refute Complainant’s allegation of calling the decedents disrespectful names. Therefore, Legal recommends a Letter of Warning.

Recommendation:

- Letter of Warning

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

Seconded by Pamela Stephens

Adopted by Voice Vote

5. Case No.: 2022003861 – Funeral Director

Complainant, mother of the deceased, alleged unprofessional conduct against Respondent funeral director. Specifically, Complainant contends that following the initial interaction setting up arrangements for removal, it was very difficult to get in touch with Respondent. Complainant maintains that scheduling issues continued as Respondent informed Complainant that there may be a conflict with

another service and that Respondent may not be able to do the time agreed upon for funeral services. Complainant contends that when they next spoke to Respondent they inquired when the earliest they could arrive at the funeral home for a private family viewing. Complainant stated that Respondent told them that they could come by at any time because the doors would be unlocked, and that Respondent's wife would be there. Complainant stated that their parents (decedent's grandparents) drove four hours to discover that doors were locked and attempts to contact Respondent were unsuccessful. On the day of the service Complainant alleges that Respondent did not conduct the funeral as arranged and still could not be contacted, instead the wife of Respondent conducted the services. Complainant had numerous complaints regarding the services provided including that Respondent's wife was rude, claimed she intentionally said the deceased's name wrong, and that agreed upon details were not done as requested. Finally, Complainant alleged that the deceased was buried improperly and that she and her family had to pick rocks out of the dirt for the grave and filled the grave themselves.

The wife of Respondent replied on Respondent's behalf stating first that that they informed Complainant that the date of January 29, 2022 had been scheduled for another family but maintained that Complainant was adamant about that date. Respondent's wife and Respondent stated that they are both licensed funeral directors and to meet the needs of the families, Respondent put the wife in charge of Complainant's service. Finally, Respondent's wife stated that at the gravesite, a young man from the family asked if he could use the shovel to place the first few shovels of soil. Respondent's wife stated that she obliged, but that the young man did not return the shovel and that the family began digging through the soil looking for rocks and gravel. Respondent's wife stated that they continued stating that they wanted a discount for their work. Respondent's wife added that she pronounced the deceased's name as written and apologized if she misspoke when pronouncing the deceased's name.

This case was sent for investigation. The investigator spoke first with Complainant who stated that:

1. Respondent was unresponsive to her calls from the beginning after the death of the deceased and throughout the week while making arrangements and bringing items for the deceased to wear.
2. The church was not opened at the time Respondent stated it would be open on the day of the service. Opening at 1:00 p.m. when it was

quoted to open at 8:00 a.m. thus causing the 1:30 p.m. funeral service to be delayed.

3. Complainant specifically requested that Respondent, not Respondent's wife, conduct the services because of past negative dealings with the wife. Complainant asserted that Respondent assured her he would conduct the services but did not.
4. Complainant stated that Respondent's wife was extremely rude and unprofessional to her and the family.
5. Complainant stated that details of the funeral, such as the music and a bracelet to be placed on her daughter were not used or implemented as agreed.
6. Complainant stated that at the cemetery there was no tent, chairs, or stand for the casket to be placed for the service; that the grave was covered with a blue tarp, and that the family had to remove rocks from the dirt pile and fill the grave themselves.

The investigator spoke next to Respondent who stated that he received numerous calls from Complainant and paternal grandmother of the deceased regarding arrangements for the services. Respondent stated that when he met with Complainant, she requested he conduct the funeral services. However, Respondent claims that he informed Complainant that he had two additional services that day and denied that he stated he would be the funeral director for their service. Finally, Respondent stated that on the morning of January 29, 2022 he took the remains to the church and set everything up for the service and had an employee wait for his wife and the family to arrive. Respondent then left to attend to the other two services he had that day. Finally, Respondent added that on the following morning, he went to the cemetery to check on the grave and saw that the grave had been filled and enough room had been left at the top for the city to add sod to the grave later.

Finally, the investigator spoke to Respondent's wife, a licensed funeral director. The wife stated that she arrived at the church at approximately 11:30 a.m. on the day of the service. Further, the wife stated that while conducting business with the father of the deceased, Complainant interrupted them on several occasions and was very upset. The wife maintained that at the cemetery the dirt did have rocks and the family did not want the rocks in the grave, so the family removed the rocks from the dirt pile. The wife reiterated that a member of the family asked to place the first shovels of dirt on the grave but would not return the shovel and began filling the grave himself. The wife stated that she explained to the family that the cemetery was owned by the city and that a maintenance worker would

be by to tamp the grave and apply sod. The wife denied being rude, disrespectful, or unprofessional to the family and added that to date, the father, who had agreed to pay for the funeral services, had only paid for half of the bill and informed the wife that he would not be paying for any additional money because so many things had gone wrong.

Based on the above and documentation provided during the investigation, it appears that Respondent failed to respond to communications of Complainant, failed to have someone at the gravesite to close the grave, and failed to have the church open at the promised time.

Recommendation:

- \$250.00 civil penalty plus the costs of the investigation. Authorize via consent order and formal hearing if necessary.

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Anthony Harris

Adopted by Voice Vote

6. Case No.: 2022004851 – Funeral Establishment

Complainant alleged unprofessional conduct on behalf of Respondent. Specifically, Complainant alleged that they had been trying to contact Respondent and had had no response. Complainant stated that they had contracted to have the body of the deceased sent to Mexico, but that they could not get in contact with the Respondent.

Respondent replied stating that they received the first call from Respondent on December 9, 2021 and wrote and emailed the funeral bill to Complainant on December 21, 2021. Respondent contended that they received partial payment on December 28, 2021 and were told to hold the check for 10 days, but ultimately held it for two weeks. Respondent contends that they gradually received partial payments up and until January 20, 2022. Respondent denied that they had delayed or failed to communicate with Complainant or their family. Respondent stated that the paperwork had been signed off by the Secretary of State and that the flight arrangements had been made.

Legal spoke to Complainant on April 22, 2022 and confirmed that the body had made it to Mexico. Complainant however reiterated that Respondent would deny their phone calls and that he had been very difficult to get in touch with and were often given the “run around” when trying to communicate with him.

Recommendation:

- Letter of Warning

A motion was made by Anthony Harris for a \$750 civil penalty. Authorize via consent order and formal hearing if necessary.

Seconded by Pamela Stephen

Adopted by Voice Vote

7. Case No.: 2022006091 – Funeral Director

Complainant, son of the deceased, filed a complaint against Respondent funeral director alleging unprofessional conduct. Specifically, Complainant stated that he had met with Respondent on January 18, 2022 where he paid for the deceased’s cremation and for extra copies of the death certificate. Since Complainant lived out of state, Complainant requested that Respondent ship the ashes and death certificates to him at his home address. Complainant stated that Respondent informed him this would not be a problem and was quoted that he would receive them in “no more than two weeks.” Complainant stated that as of filing the complaint, February 17, 2022, he had not received the ashes nor the death certificates. Complainant further avers that when attempting to contact Respondent he is never able to speak to him directly and that that staff is rude to him.

Respondent replied stating that on January 17, 2022 Complainant had contracted with Respondent for delivery of the ashes of the deceased and death certificates. Respondent contends that he stated the delivery “will take some time, four weeks or more.” Respondent further stated that the death certificates were signed by the doctor and forwarded to Respondent on January 18, 2022, and that on February 9, 2022 the third-party crematory cremated the body. Respondent stated that on February 16, 2022 Respondent mailed the remains, death certificate, and jewelry through the U.S. Postal Service. Respondent further stated that during the four weeks following the contracting for the services on January 17, 2022, Complainant called Respondent at least three times

regarding the status of the process. Respondent contends that since there was no new information to provide Complainant, Respondent had no reason to contact Complainant during this time. Respondent stated that on February 16, 2022 Respondent contacted Complainant to inform Complainant that the death certificates, ashes, and jewelry were being mailed, and to confirm the mailing address. Respondent denies that he was ever rude to Complainant.

On May 4, 2022, Legal spoke with Complainant to receive an update on the complaint. Complainant stated that they had eventually received the ashes and death certificates, roughly a week and a half after speaking to an employee of the establishment for the final time. Complainant stated that it took roughly a month and a half in total to receive the ashes and certificates.

Recommendation:

- \$250.00 civil penalty. Authorize via Consent Order and formal hearing if necessary.

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

Seconded by Charles Rahm

Adopted by Voice Vote

8. Case No.: 2022006771 – Funeral Establishment

Complainant, a former employee of Respondent establishment, alleged mistreatment of human remains. Specifically, Complainant alleged that Respondent failed to fix a failing cooler causing decedents to deteriorate. Complainant also alleged that Respondent engaged in body stacking on three separate occasions.

Due to the severity of the allegations, Legal did not send this complaint for response and immediately conducted an investigation. First, the investigator pulled the two most recent inspection reports for Respondent conducted July 13, 2020 and June 30, 2021 respectively. Neither of the reports noted any findings related to the allegations of Complainant. The investigator next arrived at Respondent establishment unannounced and arrived first at the crematory. The investigator observed two three body refrigeration units, one labeled "Out of Service" and the other that contained three deceased human remains with the temperature gauge at 38 degrees. The investigator also noted a large

refrigeration unit which could house approximately thirty-six deceased bodies. The temperature gauge reflected a reading of thirty-six degrees. The investigator found thirteen deceased remains in the large refrigeration unit; however, none of the bodies were stacked on each other and were either dressed or in some type of body bag. The investigator also noted that the cremation log appeared to be complete. The investigator then moved to the funeral home where he observed six deceased bodies. One in the chapel; one in the visitation room; and four in the preparation room. The investigator stated that all bodies were properly labeled with the required identification devices. The investigator spoke with the Board's Field Representative regarding his past inspections who stated that he had inspected Respondent establishment numerous times and always visited the refrigeration units and never once saw any body stacking or bodies not properly covered.

The investigator spoke next to Complainant who alleged that the refrigeration units were constantly breaking down and that on a few occasions she witnessed bodies being placed on the floor of the walk-in refrigeration unit and bodies not properly covered. Finally, Complainant stated that she had brought to the regional manager's attention several individual instances with the deceased remains not being properly cared for including body fluids and blood spills contained in the walk-in refrigeration unit. Complainant added that she had filed a complaint against Respondent with TOSHA (Tennessee Occupational Safety and Health Administration) as well.

Two days later, the investigator returned to Respondent establishment for a second surprise inspection. Again, the inspector did not see any bodies placed on the floor nor bodies not properly covered, nor did he discover any body fluids or blood spills in the refrigeration unit as Complainant had alleged. During the second visit, the three-body refrigeration unit contained three bodies and displayed a temperature of 37.9 degrees, and the walk-in unit contained ten bodies and displayed 33 degrees. The investigator interviewed the manager of Respondent establishment who stated that he had never witnessed any body stacking nor bodies failing to be properly covered. The manager stated that in the event the units were at capacity, the staff would place the deceased human remains in a cremation alternative container and place the alternative container on a casket dolly. The manager reiterated that bodies were never placed directly on the floor. The manager further stated that any time a refrigeration unit stopped functioning properly, they would call a company to make repairs. The manager added that since one unit was always having problems, they opted to put an out of order sign on it so that it would not be inadvertently used.

The investigator spoke finally to the regional manager who also stated that he had never witnessed any body stacking, and that if he had, he would immediately correct the situation and investigate the infraction. The regional manager also stated he had never witnessed bodies being placed on the floor but stated that during the peak of COVID-19 when the refrigeration units were near capacity, the staff did place deceased bodies in an alternative tray and placed the tray on a casket dolly. The regional manager did say he could understand how someone might have misconstrued that as “placing bodies on the floor.” The regional manager also stated that TOSHA had been contacted and following their inspection, the regional manager stated that there were no findings by TOSHA concerning the allegations of Complainant in their complaint to the Board of Funeral Directors and Embalmers.

However, in Legal’s follow up communications with the investigator, the investigator stated that he observed on his first visit, it did not appear that the bodies stored in the walk-in refrigeration unit were being handled in a respectful manner. Specifically, the investigator stated that when he arrived on March 1, 2022 that while there were no bodies stacked on top of each other, some bodies were not entirely covered. Additionally, the investigator added that it appeared the bodies had been “hurriedly placed in the refrigeration unit with very little care.” When the inspector returned to the facility on March 3, 2022, the bodies were covered and had been organized in a more respectful manner. The investigator attached photo comparisons to show the difference in how the bodies were placed from March 1 to March 3.

Additionally, during Legal’s investigation, upon the inspector’s arrival at the crematory during the first visit, the investigator met with an employee of Respondent establishment. The employee stated that when he would arrive each morning, he would wait for the funeral director to arrive on the premises and maintained that the director would call when he arrived and that the employee would proceed with work of cremating bodies and processing ashes. However, upon the investigator’s arrival, the employee was in the process of removing a cremated body from the retort for processing despite the fact that no licensed funeral director was either on the premises or directly supervising the employee.

Based on the above, though no evidence was found to corroborate Complainant’s allegations, due to the way in which the bodies were organized on the March 1, 2022 inspection and the unlicensed activity from the crematory employee we recommend the following.

Recommendation:

- \$1,500.00 civil penalty plus the costs of the investigation. Authorize via Consent Order and formal hearing if necessary.

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

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

9. Case No.: 2022008101 – Funeral Establishment

Complainant, a competitor of the Respondent establishment, alleged unprofessional conduct on behalf of Respondent. Specifically, Complainant stated that they had worked with a particular family for hours on services and that all arrangements were completed. Complainant further stated that the family met with Respondent to secure a grave space, opening and closing and other burial services. However, Complainant stated that there was a funeral home attached to cemetery and that the funeral home offered them a free opening and closing to switch to their services. Complainant alleges that Respondent's director called to inform them that the family would be switching to their services. Complainant stated that they had worked extensively with the family, and they were owed their basic services charge. Complainant alleges that Respondent refused to pay for the charge and then used the obituary Complainant wrote, used the same casket, and emulated the other services that Complainant was going to provide. Complainant stated that it was unfair that they had "worked for free" when Respondent refused to pay them for their services they had already rendered and further alleged that Respondent had solicited that family away from their business.

Respondent replied and denied the allegation that they had solicited the family away from Complainant. Respondent claimed that during their meeting with the family, the family inquired about their offering of a free opening and closing when using their funeral home. The employee directed the family to a funeral director at the Respondent establishment, and Respondent stated that the family indicated that they were interested in a comparison of the services between the Complainant and Respondent funeral homes. Respondent reiterated that the funeral director only answered questions posed to him by the family, and never solicited regarding the free opening and closing. Respondent stated that the

family later chose to meet with another funeral director of their own volition and then began to compare specifics of the contract with the Complainant funeral home and the offerings of the Respondent funeral home.

Respondent attached to their response a letter from the member of the family that corroborated Respondent's version of events, adding that they had used the same outline for the obituary that they had already helped put together for Complainant's establishment. The family member stated that they were very appreciative of Respondent's services and corroborated that they were not solicited by Respondent.

Recommendation:

- Closure

A motion was made by Anthony Harris to table this complaint and requested that Legal find out if the Complainant's bill has been paid or if there is an outstanding balance.

Seconded by Pamela Stephens.

Adopted by Voice Vote

10. Case No.: 2022009481 – Funeral Establishment

11. Case No.: 2022009411 – Funeral Director

Complainant, the daughter of the deceased, filed a complaint against Respondent establishment and Respondent funeral director alleging unprofessional conduct. Specifically, Complainant alleged the following:

1. Complainant and their family were not notified that the deceased had been moved from the Respondent funeral home to a different funeral home. Complainant stated that they were given a 12:00 appointment time for February 18 for a private family viewing at Respondent funeral home. Complainant contends that they called several times, and that the time of the viewing changed multiple times. At 4:37 p.m. that same day, Complainant stated that they were informed that the deceased's remains were no longer at the Respondent funeral home without their notification or permission.

2. The deceased was “unrecognizable” and did not have the earrings or necklace that were given to Respondent to be placed on the deceased.
3. Respondent posted an obituary that incorrectly stated there was a scheduled visitation at the funeral home.
4. Respondent had lost the accessories provided to them by Complainant.
5. Respondent performed improper embalment as the Complainant described the deceased as laying in an unnatural position and was “bloated, disfigured, unrecognizable, and twice her size.”
6. Respondent did not provide the casket that Complainant and their family had chosen. Complainant stated they were told on February 18, 2022 that the deceased did not fit the casket picked out and thus was placed in a different casket.
7. The burial was rescheduled from Saturday to Tuesday due to the casket issues.
8. Likewise, there were no escorts for the procession due to the rescheduling of the burial.
9. The burial was delayed by 30 minutes due to the vault arriving late to the cemetery.

Respondent replied and stated the following:

1. The deceased’s remains were properly embalmed by a licensed embalmer for the State of Tennessee
2. Respondent denied that the deceased was bloated, disfigured, unrecognizable and twice her size. As offered proof of this, Respondent stated that the dress that family provided was the correct size and fit the deceased.
3. Respondent stated that the deceased’s remains weighed more than estimated by the family and that her hands were in a natural position for a person laying down.

4. That the family represented to Respondent that the deceased weighed less than 325 pounds at least five or six separate times, and therefore, sold the smaller casket size to the Complainant and their family.
5. Communicated with the Complainant and their family in advance that Respondent would not fit in the original casket provided, and that a larger casket would be required and that it would be quicker to meet at a different funeral home. Respondent contends that Complainant and their family agreed to this.
6. The burial scheduled for Saturday had to be rescheduled to Tuesday because the cemetery required two graves and the vault company couldn't do a larger size vault until Tuesday.
7. Respondent stated that no escort services were paid for regarding Tuesday's services.

This case was sent for investigation. The investigator spoke first with Complainant who stated that they had purchased an oversized casket after meeting with Respondent. Complainant stated that Respondent informed her and her family that they could come to Respondent establishment any time after 12:00 p.m. for a private family viewing of the deceased. However, Complainant stated that she called Respondent at 1:09 p.m. and was told that the deceased was not ready for viewing. Complainant called again at 2:26 p.m. and the call was not answered. Complainant called again at 2:35 p.m. and was told that the deceased would be ready for viewing between 2:40 p.m. and 3:00 p.m. When Complainant called at 3:00 p.m., Complainant contends she was told that the deceased would not fit in the casket that had been selected, but that Respondent had a larger casket the family could use instead. Complainant stated they were upset at the situation because they had specifically selected the former casket due to its color, but because of time constraints accepted the use of the new casket. Complainant stated that they were then informed that a larger vault would need to be ordered to accommodate the larger casket and that the vault would not be delivered until the following Tuesday (February 22, 2022). Complainant then stated that four and a half hours later, Respondent called and informed Complainant that the deceased was ready to be viewed, but that the viewing would take place at another funeral home due to the fact that the new casket would not fit through the doors of the original funeral home. After arriving at the new funeral home at 5:05 p.m., she was told by the staff that the deceased was

not ready to be viewed. Complainant called Respondent three separate times, but Respondent did not answer. Finally, after thirty minutes of waiting, the family was allowed to view the deceased. Complainant further stated that the deceased was unrecognizable and was extremely swollen and that the cosmetics that the Complainant provided to be used on the deceased, such as fingernail polish or lipstick, was not applied to the deceased and that the accessories provided to Respondent had not been returned to the family. Finally, Complainant stated that she had paid for two escorts in the amount of \$400.00, but that no escorts were at the cemetery.

The investigator spoke next to the Respondent, who stated that during the meeting with the family he asked three or four times about the weight of the deceased since they had indicated that she was a larger lady. Respondent contended that Complainant and their family represented each time she weighed less than three hundred pounds. As a result, Respondent recommended a twenty-eight-inch-wide casket which the Complainant eventually selected. Respondent stated after embalment, the body could not be placed in the twenty-eight inch-wide casket because the deceased was around four hundred and fifty pounds. Respondent maintained that he immediately informed the family he would need an even larger oversize thirty-six inch casket. Though the family's original casket had been lavender, Respondent communicated that this casket only came in white, and Respondent stated that Complainant and their family agreed to the new casket. Respondent stated that he also informed Complainant that due to the larger casket, he would need to take the deceased to a different funeral home for the private family viewing, explaining that the thirty-six-inch casket could not fit through the doors of the original funeral home. Respondent further stated due to the size of the deceased, her hands could not have been placed in a folded position across her stomach, and that the Complainant nor the family ever mentioned anything about the cosmetics of the deceased or anything about jewelry. Respondent continued that the service was rescheduled since the family had to purchase an additional grave space due to the oversize casket and to allow the cemetery additional time to prepare the grave, further the vault company could not deliver the forty-six inch oversized metal vault until February 22, 2022. Respondent next stated that the family had paid for two escorts at \$200.00 each that were used to bring the family from their residence on the day of the funeral service (February 19, 2022), but that the family did not pay for any escorts on the day of the committal service (February 22, 2022). Finally, Respondent admitted that there were errors in the obituary, but when they were notified of the mistake, corrections were made immediately. Respondent contended that the additional charges for the oversized casket and vault totaled

approximately \$3,200 over what he had charged the family, but that they had absorbed the cost and did not charge the family.

Finally, the investigator spoke to the manager and assistant manager for the mortuary service who had made the removal and embalmed the deceased. Though they did not recall the exact weight of the deceased, after confirming with the forensic center while the investigator was present, they confirmed that the weight of the deceased was five hundred and seventy-one pounds per their records.

Recommendation for Funeral Establishment:

- \$250.00 civil penalty plus half of the investigation costs. Authorize via consent order and formal hearing if necessary.

Recommendation for Funeral Director:

- \$250.00 civil penalty plus half the investigation costs. Authorize via consent order and formal hearing if necessary.

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

Seconded by Pamela Stephens

Adopted by Voice Vote

12. Case No.: 2022010201 – Funeral Establishment

Complainant, mother of the deceased, alleged unprofessional conduct against Respondent Establishment. Specifically, Complainant alleged that Respondent allowed her contact information to become available to a member of the staff whom she had a protective order against, leading to harassing messages and stalking from the employee.

Respondent stated that they had spoken with the employee regarding Complainant's contact information and admonished them for the incident. Respondent further stated that they had corrected the matter and made changes on contacting the next of kin.

This case was sent for investigation. The investigator spoke first to Complainant who stated that she had been in a relationship with an employee of Respondent establishment from 2016 until 2021. Complainant stated she broke off the

relationship after the employee began stalking her, peeping in her windows, and sending threatening voicemails. Complainant stated that she had visited Respondent establishment twice and informed the owner that the employee was stalking her. Complainant purported that the owner said he would talk to the employee about the problem. Complainant stated she filed an order of protection against the employee and provided a copy of the Order to the investigator. Complainant contacted Respondent establishment regarding removal service for her son. Soon after, another employee contacted Complainant stating that the employee who Complainant had dated had said that if he could do anything to assist Complainant to let him know. Complainant said this was very upsetting and ultimately resulted in her moving her son's service to her home state, away from the state of Tennessee. Complainant stated that after this, the employee she had previously dated began calling, texting, and stalking her again. Complainant maintained that the employee did not have her telephone information prior to her contacting Respondent establishment about her son's death.

The investigator spoke next to the owner of Respondent establishment who stated that he spoke to Complainant on February 17, 2022. Respondent stated that Complainant was upset that someone had given out her phone number. The owner stated that he was not aware of the Order of Protection until Complainant had come to the establishment on February 17th. The owner stated that he had a meeting with both employees soon after and admonished them about the importance of not releasing any personal information on any family or family member they serviced. The owner also said that he informed both employees that if another incident like this occurred, they would be immediately terminated. The owner stated that although all funeral files were locked in the office, as part-time employees, both employees would have had access to the files. The owner admitted the events should not have happened and stated that after his discussion with both employees, was confident that it would not happen again.

Recommendation:

- Letter of Warning

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

Seconded by Tonya Scales Haynes

Adopted by Voice Vote

13. Case No.: 2022012411 – Unlicensed Funeral Establishment

This complaint was administratively opened following an email received from a member of the public regarding a printed document. The printed document appeared to be a postcard with the name of the unlicensed establishment and a phone number that invited the person in possession of the postcard to an informational seminar to discuss preplanned cremation. Specifically, the postcard stated that during the seminar they would discuss, (1) The benefits of pre-planning, (2) Locking in today's cremation prices, (3) Peace of Mind, and (4) Plans available in all states. The other side of the postcard provided the name and locations of the restaurants where the seminar would be held in Shelby County, Tennessee.

This case was sent for investigation and was not sent to Respondent for response. The investigator sat in on the presentation at one of the listed times and locations on the postcard. The presenter stated that the Respondent establishment was based in Tampa, Florida, and provided cremations to persons that pre-arranged and paid for their cremation in advance. The presenter further stated that if a person had paid for cremation in advance, at the time of their death, the family would call the number provided and a staff member, who was in Florida, would contact a local funeral or cremation provider. The local funeral or cremation provider would then make the local removal and arrange the cremation. Upon completing the cremation, the local funeral home or cremation provider would ship the cremated remains to the family. The presenter also stated that Respondent establishment would assist the family with all the necessary documents. Following the presentation, the investigator spoke to the presenter. The presenter admitted that although he did have a Tennessee Insurance Producer's License, he was not registered as a Tennessee Preneed Sales Agent or as a Funeral Director. The presenter stated that he was unsure if the Respondent establishment had a Tennessee funeral establishment license or a Preneed Seller Registration (they do not have either license with the State of Tennessee).

Based on the above, it appears that Respondent establishment is operating as an unlicensed funeral establishment.

Recommendation:

- \$1,000.00 civil penalty plus one-third of the investigation costs. Authorize via consent order and formal hearing if necessary.

A motion was made by Pamela Stephens to accept Counsel's recommendation.

Seconded by Anthony Harris

Adopted by Voice Vote

RE-PRESENTS

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- 14. Case No.: 2021024991 – Funeral Director**
 - 15. Case No.: 2021025011 – Embalmer**
 - 16. Case No.: 2021012801 – Funeral Director**

Two of these are administrative complaints based on information provided to the Board office indicating that the Respondent was indicted by a Grand Jury on charges that include two counts of theft of property and one count of burglary. Additionally, a complaint was submitted by the Respondent's ex-employer indicating the same. The complainant indicates that the Respondent was an employee of the complainant's establishment until he was discharged based on the theft and burglary. Documentation provided shows that the city police investigation discovered the amount taken from the Complainant's establishment was estimated to be approximately \$80,000. Additionally, the city police investigation discovered an estimated \$13,000 was taken from individuals and not turned over to the funeral home for payments made toward funerals

Recommendation: *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.*

BOARD DECISION: APPROVED

UPDATE: Legal has been in contact with the Clerk's Offices that are handling the proceedings of the Respondent. Although Respondent has been arraigned and indicted, the criminal proceedings are still pending. The statutes are violated only

upon a conviction of a felony or crime of moral turpitude. Since the proceedings are still ongoing, no conviction has occurred.

RECOMMENDATION: Move all three of these cases to litigation monitoring to be represented to the Board once the criminal proceedings have been resolved.

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

Seconded by Pamela Stephens

Adopted by Voice Vote

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.

Note: Transmitted to Governor for action on 04/27/2022

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.

Note: [Public Chapter 0705](#) with Effective Date(s): 03/18/2022, 01/01/2023

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.

Note: [Public Chapter 0685](#) with Effective Date(s): 03/28/2022

Website for Legislative Bill Searches:

<http://wapp.capitol.tn.gov/apps/billsearch/BillSearchAdvanced.aspx>

LEGISLATIVE PROPOSALS FOR 2023:

The Executive Director provided details and a discussion was held regarding information that had been previously provided to the board members concerning any legislative proposals which they might wish to put forward for consideration in the department's packet.

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF MARCH 5, 2022 – MAY 6, 2022

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
SFH Cremation Gallatin, TN	New Establishment
West Tennessee Cremation Care Center LLC Newbern, TN	New Establishment
Birchette Mortuary & Cremation Service, Inc. Johnson City, TN	Ownership and Name
Sellars Family Heritage At Portland Portland, TN	Ownership and Name
Cremation By Grandview Maryville, TN	Ownership
Tennessee Cremation and Mortuary Service Greenbrier, TN	Ownership
Crawford Funeral Home Nashville, TN	Name
Jackson Funeral Home and Cremation Oliver Springs, TN	Name
J. B. Mayberry & Sons Funeral Home Lewisburg, TN	Location

Nashville Cremation Center
Nashville, TN

Location

Rawlings Funeral Home
Sevierville, TN

Location

Individuals)

Type of License(s)

Bailey Christopher Broyles
Whitesburg, TN

Funeral Director and Embalmer

Katherine Nicole Copas
Hendersonville, TN

Funeral Director and Embalmer

Alyssa Marie Hyden
Joelton, TN

Funeral Director and Embalmer

Steve Allen Mabry
Murfreesboro, TN

Funeral Director and Embalmer

Hayden Wesley Pate
Lewisburg, TN

Funeral Director and Embalmer

Kristen Bowman Stevens
Johnson City, TN

Funeral Director and Embalmer

Michael Edward Pool, Jr.
Mamou, LA

Funeral Director and Embalmer
Reciprocity – Louisiana

Charles Edward Webster
New Port Richey, FL

Funeral Director and Embalmer
Reciprocity – Florida

Keith Rossell Young
Knoxville, TN

Funeral Director and Embalmer
Reciprocity – Florida

Charles Winston Hoover, IV
Memphis, TN

Funeral Director and Embalmer
Reapplication

Herman Bryant Taylor
Lebanon, TN

Funeral Director

Latoya Kewanza Taylor
Horn Lake, MS

Funeral Director

Gordon Arthur White
Maryville, TN

Funeral Director
Reciprocity – Alabama

CLOSED ESTABLISHMENT REPORT:

Two (2) establishments have reported closing since the last board meeting:

- Carr and Hellum Funeral Home, 129 Foxall Street, Hartsville, TN
- Edward Hatch Funeral Directors, 2623 Gallatin Pike, Nashville, TN

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 February 2022 and March 2022 Regulatory Board Disciplinary Action Reports

Respondent: Justin Ford Funeral Home, Memphis, TN
Violation: Unreasonably delaying the filing of multiple death certificates
Action: \$500 Civil Penalty

Respondent: R. Bernard Funeral Services, Memphis, TN
Violation: Unprofessional conduct (provided a metal identification tag in the urn to the family that differed from the name on a subsequently produced paper handwritten label) and failed to treat members of the public in a respectful manner
Action: \$5,000 Civil Penalty plus \$2,475 Costs

Respondent: Ralph Buckner Funeral Home, Cleveland, TN
Violation: Unprofessional conduct (embalmed a deceased despite specific instructions from the next of kin not to embalm the deceased), engaged in an act that is misleading or deceptive, and failed to include an itemized listing of each and every item, procedure, or service charged for on the Statement of Funeral Goods and Services Selected
Action: \$500 Civil Penalty

Respondent: Neighbours Life Celebration Services, Nashville, TN
Violation: Permitted an individual to continue employment as the manager of the funeral establishment with an invalid funeral director license
Action: \$500 Civil Penalty

Respondent: East Tennessee Funeral Home and Cremation Services, Blountville, TN
Violation: Failed to treat members of the public in a respectful manner and unprofessional conduct (bugs throughout the establishment, toilet was not functioning, the obituary information contained errors and was delayed, exterior grass

- was high, and failed to keep sidewalks, entrances, and walkways free from obstacles to the extent practicable)
- Action: \$250 Civil Penalty
- Respondent: Anderson Funeral Home, Alexandria, TN
Violation: Operated a funeral establishment on an expired license
Action: \$500 Civil Penalty
- Respondent: Taylor Funeral Home, Inc., Dickson, TN
Violation: Unprofessional conduct (released the cremated remains of a deceased to an individual who is not the next of kin)
Action: \$500 Civil Penalty
- Respondent: Peter Showers, Jr., Memphis, TN
Violation: Conducted funeral and/or cremation arrangements on an expired funeral director license
Action: \$250 Civil Penalty
- Respondent: Joshua J. Hughes, Grenada, MS
Violation: Failed to notify the Tennessee Board regarding a conviction of conspiracy to commit a crime
Action: \$2,000 Civil Penalty

OPEN COMPLAINT REPORT:

As of May 6, 2022, there were 35 open complaints.

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

Seconded by Fred Berry

Adopted by Voice Vote

ADJOURN:

A motion was made Anthony Harris to adjourn.

Seconded by Christopher Lea

Adopted by Voice Vote

The meeting was adjourned by President Charles Rahm at 11.55 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director