

**TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

**MINUTES OF BOARD MEETING**

**AUGUST 14, 2018**

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

Board members present: Charles Rahm, President; Jeff Duffer, Vice President; Dennis Bridges, Mark Cochran, Robert Davis, Clark McKinney, and Robert Shackelford, III.

Staff present: Robert Gribble, Executive Director; Cherrelle Hooper, Assistant General Counsel; Ashley Geno, Assistant General Counsel; and Lisa Bohannon, Administrative Manager.

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**ADOPTION OF AGENDA:**

A motion was made by Jeff Duffer to approve the Agenda as printed.

Seconded by Clark McKinney

Adopted by voice vote

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**APPROVAL OF MINUTES:**

A motion was made by Clark McKinney to approve the Minutes of the May 8, 2018 Board Meeting.

Seconded by Dennis Bridges

Adopted by voice vote

President Charles Rahm announced that the June 20, 2018 Minutes will be presented for review/approval at the next board meeting.

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**LEGAL REPORT:**  
**ASHLEY GENO, ASSISTANT GENERAL COUNSEL**

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List  
SFGSS – Statement of Funeral Goods and Services Selected

Note: Board member Jeff Duffer recused himself from participation in entire the Legal Report.

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1. **Case No.: 2018026221 – Establishment**
  2. **Case No.: 2018026241 – Funeral Director #1**
  3. **Case No.: 2018026261 – Embalmer**
  4. **Case No.: 2018026281 – Funeral Director #2 - not the managing director**

Complainant (funeral director / embalmer) alleged Respondent Establishment and Respondent Funeral Director #1 aided and abetted Respondent Funeral Director #2 to engage in unlicensed embalming. Respondents denied this allegation. An investigation was conducted. The results of the investigation did not support a finding of unlicensed activity.

Respondent Funeral Director #2's wife is a licensed funeral director and embalmer. Over the years, she has performed trade embalming and other work for Respondent Establishment when Respondent Funeral Director # 1 was not available. In 2014, for personal and health reasons, the wife requested her husband, Respondent Funeral Director #2, be made the point of contact if Respondent Establishment and / or Respondent Funeral Director #1 were in need of her services. She also requested all checks for her work be made out to her husband because he handles their banking and bill paying.

By affidavit, the wife attested that her husband would accompany her when her services were needed and, while he would assist her, he did not embalm bodies. The wife also attested her husband has assisted Respondent Funeral Director # 1 with removals, dressing, casketing, and conducting funerals.

**Recommendation:**

- Funeral Establishment: Closure
- Funeral Director #1 / Embalmer: Closure
- Funeral Director #2: Closure

A motion was made by Dennis Bridges to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

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**5. Case No.: 2018026011 – Establishment****6. Case No.: 2018026681 – Funeral Director**

During an inspection, a Board Field Representative discovered Respondent Funeral Director's license expired December 31, 2017, but the requirements for reinstatement were not met until January 10, 2018. During that time, Respondent Funeral Director remained an employee and manager of Respondent Establishment. Three (3) services were conducted during that time.

Neither Respondent responded to the complaint.

**Recommendation:**

- Establishment: Authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00.
- Funeral Director: Authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Dennis Bridges

Adopted by voice vote

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**7. Case No.: 2018029791 – Establishment****8. Case No.: 2018029841 – Funeral Director**

During an inspection, a Board Field Representative discovered Respondent Funeral Director's license expired on January 31, 2018, but the requirements for reinstatement were not met until April 26, 2018. During that time, Respondent Funeral Director remained manager of Respondent Establishment. Respondent Funeral Director also served as the funeral director for five (5) services during that time.

In response, Respondent Funeral Director indicated a payment was made to the Board for the renewal fee on January 31, 2018, but was lacking continuing education hours. The licensee claimed not to have received notification from the State that because of the continuing education deficiency, the license would be placed in a 90-day grace period. The licensee indicated a belief that he / she could still act as a funeral director during this grace period.

However, by letter dated February 8, 2018, the Executive Director for the Board specifically advised Respondent Funeral Director's renewal fee was not received prior to the expiration date of the license and that "[a]ccording to Tennessee Code Annotated § 62-5-316, this license is now invalid, and you shall not practice the professional for which the license was issued until such time as the license has been renewed, reinstated, or a new license issued by the Board." The letter also advised that in order to renew / reinstate the license, the Board must receive payment of the penalty fee and the renewal fee within ninety (90) days of the expiration of the license and, if the continuing education was not completed by the license expiration date, the renewal application was considered incomplete and subject to a late penalty fee.

Respondent Establishment indicated it was under the understanding Respondent Funeral Director's license had been applied for within the time limit of expiration, that the license was not renewed due to lack of continuing education hours, and that Respondent Funeral Director had a 90-day grace period to fulfill the obligation without penalty.

**Recommendation:**

- Establishment: Letter of Warning
- Funeral Director: Authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00.

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Robert Shackelford, III

Adopted by voice vote

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**9. Case No.: 2018031041 – Unlicensed Establishment**

Anonymous complaint filed alleging Respondent does not have a place to have funerals or anywhere where flowers may be sent, and the decedent cannot be viewed unless you go to the family hour. In support, Complainant provided newspaper clippings of seven (7) obituaries. The obituaries indicated services for the respective deceased persons would be held at specific churches and the flowers could be sent to the same. The obituaries also provided professional arrangements were entrusted to Respondent at a licensed establishment in another city in Tennessee.

In response, Respondent indicated it has served hundreds of families and never had an issue with viewing of bodies or a florist being able to deliver flowers.

**Recommendation:**

- Closure

A motion was made by Dennis Bridges to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

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**10. Case No.: 2018032991 – Establishment**

**11. Case No.: 2018033011 – Funeral Director**

During an inspection, a Board Field Representative discovered Respondent Funeral Director's license expired from April 1, 2018 through April 7, 2018. During that time, Respondent Funeral Director remained manager of Respondent Establishment. There were also seven (7) Statements of Funeral Goods and Services Selected that were written by Respondent Establishment during that time.

In response, Respondents did not deny the allegations and apologized for unknowingly allowing the license to lapse.

**Recommendation:**

- Establishment: Letter of Warning
- Funeral Director: Letter of Warning

A motion was made by Clark McKinney to accept Counsel's recommendation.

Seconded by Mark Cochran

Adopted by voice vote

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**12. Case No.: 2018035121 – Establishment**

Complainant alleges the burial vault company mistakenly delivered his mother's concrete vault to Respondent and that Respondent used the vault for another deceased. In response, Respondent indicates it had no knowledge the burial vault company had delivered the vault to the wrong cemetery. It also indicates it had no knowledge the vault did not belong to the deceased for whom it was

providing services. Respondent indicates it was told by the family that the church would be taking care of all arrangements associated with that deceased's burial. When Respondent's staff arrived at the cemetery, there was a full set-up, including the vault, and the cemetery sexton stated "the grave was for [the deceased] and was the only grave that was dug for that day." It was not until later that Respondent discovered the vault had been mistakenly delivered and that it did not belong to the deceased for whom it provided services.

**Recommendation:**

- Closure

A motion was made by Dennis Bridges to accept Counsel's recommendation.

Seconded by Clark McKinney

Adopted by roll call vote

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- 13. Case No.: 2018030721 – Establishment**
  - 14. Case No.: 2018030791 – Funeral Director #1**
  - 15. Case No.: 2018030831 – Embalmer #1**
  - 16. Case No.: 2018030871 – Funeral Director #2-not the managing director**
  - 17. Case No.: 2018030901 – Embalmer #2**

In her complaint, Complainant (consumer) alleged the following:

1. Respondent Funeral Director # 1 failed to provide her with a price list or Statement of Funeral Goods and Services Selected.
2. Respondent Funeral Director # 1 made false statements, including that there was a ten (10) day waiting period for cremation and that three (3) doctors refused to sign the death certificate.
3. The deceased did not receive a military funeral.
4. Respondents forged her name on a Statement of Funeral Goods and Services Selected and on the insurance claim for the preneed funds.
5. Respondents failed to refund her the \$640.00 excess for opening / closing of the crypt, which was not performed.
6. It took thirty-three (33) days for Respondent to cremate the deceased.

She also alleged that after the above acts and omissions, she met with a director for Respondent Establishment, but nothing was accomplished. She claimed he stated that she needed to move on with her life and that he would not pursue the forgery matter.

In response to these allegations, Respondents indicated as follows:

1. Respondent Funeral Director # 1 generally denied the allegations against him, indicating:
  - a. He had no reason to believe Complainant was not offered a price list, but he could see where the price list would not have been of concern to Complainant since she presented with a preneed funeral contract and the cremation cost was guaranteed.
  - b. Complainant did not receive a Statement of Funeral Goods and Services Selected at the arrangement conference because the insurance company was having system issues and could not provide the funeral establishment a current death benefit before the family arrived.
  - c. He was not present when the purported forged documents were signed. He, however, was told Complainant signed the documents.
  - d. A military funeral was not provided due to Complainant's delay in providing the proper documents. Complainant did not provide the proper documents until the day before the memorial service. He called the U.S. Army to make arrangements, but they were already full for the day of the service.
  - e. He did not tell Complainant there was a ten (10) day waiting period for cremation. Rather, he told her the establishment could not cremate without a certified death certificate, which could take 10-14 business days to receive.
  - f. There were issues getting the death certificate signed because the hospital initially provided a traveling hospitalist's name to sign the certificate. The hospitalist's secretary referred the establishment to the surgeon, who was out of the office at the time. When the surgeon returned, he advised he would not sign the certificate.
  
2. Respondent Establishment indicated:
  - a. It cannot verify what took place at the arrangement meeting. However, Funeral Director # 1 was trained to comply with the Funeral Rule and was aware of Respondent Establishment's policy to provide a price list and contract copy to customers.
  - b. Respondent Funeral Director # 1 is no longer employed with it.
  - c. Respondent Funeral Director # 2 denied forging Complainant's signature on any document and stated she witnessed Complainant executing all documents herself.
  - d. Complainant was refunded \$1,635.00.

- e. Complainant mischaracterized the conversation with the Funeral Director. He did not tell Complainant to move on with her life and did not state that he would not pursue the forgery matter.

Due to the conflicting narratives, an investigation into this matter was conducted. The investigation revealed:

1. Respondent Funeral Director # 2 met with Complainant on March 6, 2018 (after services were provided). She was told to have Complainant sign the Statement of Funeral Goods and Services Selected and the insurance claim during that meeting. However, she failed to do this before Complainant left. In effort to prevent Complainant from having to return to the establishment, Respondent Funeral Director # 2 stated she believed it would be acceptable for her to sign the documents for Complainant, which she ultimately did.
2. Several family members present during the arrangement conference corroborated Complainant's allegation that Respondent Funeral Director # 1 told her there was a required ten (10) day waiting period before a person could be cremated. These family members also corroborated the allegation that Respondents did not provide Complainant a price list or Statement of Funeral Goods and Services Selected at the arrangement conference.
3. The deceased died on January 14, 2018. However, Respondent Establishment did not receive the signed permit from the Health Department and consent from the Medical Examiner to cremate until February 7, 2018. Complainant met with Respondent Funeral Director # 1 on February 14, 2018 to sign the Cremation Viewing Disclosure Acknowledgement and Release of Liability form. The deceased was cremated on February 19, 2018. The cremated remains were delivered to Respondent Establishment on February 23, 2018.
4. Respondent Establishment refunded Complainant the total amount paid for the prearranged cremation. Manager for Respondent Establishment advised it would also refund interest received on preneed policy.

**Recommendation:**

- Establishment: Letter of Warning
- Funeral Director #1 / Embalmer #1: Letter of Warning addressing compliance with the Funeral Rule



- Funeral Director #2 / Embalmer #2: Authorizing for a formal hearing. Authorization of a civil penalty in an amount of \$250.00.

A motion was made by Clark McKinney to accept counsel's recommendations regarding Respondent #13 (the establishment) and Respondents #16 and 17 (funeral director #2 / embalmer #2) and as for Respondents #14 and 15 (funeral director #1 and embalmer #1), authorization for a formal hearing. Authorization of a civil penalty in an amount of \$250.00.

Seconded by Robert Shackelford, III

Adopted by voice vote

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

**LEGISLATIVE UPDATE:**

The Board Office has not been contacted by the Tennessee State Funeral Directors & Morticians Association or the Tennessee Funeral Directors Association regarding any new legislation that they intend to pursue during the next legislative session.

The office has been contacted recently by an individual who owns two funeral establishments concerning his interest in legislation regarding alkaline hydrolysis. The person is to follow up with detailed plans regarding possible legislation that he intends to pursue in the upcoming session.

**LICENSEE REPORT:**

**REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF JUNE 20, 2018 – AUGUST 13, 2018**

<b><u>Individual(s)</u></b>	<b><u>Type of License(s)</u></b>
Monte Vista Funeral Home Johnson City, TN	New Establishment
Hathaway-Percy Funeral and Cremation Svcs Elizabethton, TN	Ownership
Jim Rush Funeral and Cremation Services North Ocoee Chapel	Ownership

Cleveland, TN

Jim Rush Funeral and Cremation Services      Ownership  
 Wildwood Avenue Chapel  
 Cleveland, TN

Motley & Rivers Funeral Home, LLC      Ownership  
 Whiteville, TN

Mountain Empire Cremation & Burial Services      Ownership  
 Jonesborough, TN

Oakley-Cook Funeral Home and Crematory      Ownership  
 Bristol, TN

Tetrick Funeral Home      Ownership  
 Elizabethton, TN

Tetrick Funeral Home – Bluff City Chapel      Ownership  
 Bluff City, TN

Tetrick Rhododendron Chapel      Ownership  
 Roan Mountain, TN

Valley Funeral Home      Ownership  
 Erwin, TN

**Individual(s)**

**Type of License(s)**

Christopher David Thorne  
 Wartburg, TN

Funeral Director and Embalmer

David Anthony Love  
 Waynesboro, TN

Funeral Director and Embalmer  
 Reapplication

John Michael Harrison  
 Trenton, TN

Funeral Director

Charles Christopher LaRue  
 Maryville, TN

Funeral Director

Scott Thomas Gullett  
 Keavy, KY

Funeral Director  
 Reciprocity – Kentucky

Amanda Renee Hicks  
 Memphis, TN

Embalmer  
 Reciprocity – Arkansas

Kristina Danielle Lovett  
Church Hill, TN

Embalmer  
Reciprocity – California

**CLOSED ESTABLISHMENT(S):**

One (1) establishment has reported closing since the last board meeting:

- Life Celebration Center of Franklin, 1881 General George Patton Drive, Suite 102, Franklin, 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 June 2018 Regulatory Boards Disciplinary Action Report:**

Respondent: Woodlawn-Roesch-Patton Funeral Home & Memorial Park,  
Nashville, TN

Violation: Failure to act in a professional manner

Action: \$125 Civil Penalty

Respondent: Cosmopolitan Funeral Services, Jackson, TN

Violation: Allowing funeral director to serve in the capacity of manager during the time the funeral director's license was expired

Action: \$250 Civil Penalty

**OPEN COMPLAINT REPORT:**

As of August 14, 2018 there were 63 open complaints.

A motion was made by Clark McKinney to accept the Executive Director's Report.

Seconded by Jeff Duffer

Adopted by voice vote

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**NEW BUSINESS:**

**Rulemaking Hearing:**

Cherelle Hooper, Assistant General Counsel, provided an update regarding the rules adopted by the Board on March 13, 2018, for a rulemaking hearing. Specifically, she referenced the e-notify sent on August 1, 2018 to those on the list. She further provided the details of the rulemaking hearing including the date,

time, and location (Tuesday, October 9, 2018, at 10:00 a.m., Davy Crockett Tower, Nashville, TN). Ms. Hooper briefly explained the substance of the changes to be reviewed in the Rulemaking Hearing.

**Fresh Start Act – Public Chapter 0793:**

Cherelle Hooper, Assistant General Counsel, provided the Board with details regarding the Fresh Start Act, including an in depth explanation of the act as well as guidance regarding implementation of the Act.

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**ADJOURN:**

A motion was made by Clark McKinney to adjourn.

Seconded by Jeff Duffer

Adopted by voice vote

The meeting was adjourned by President Charles Rahm at 10:56 a.m.

Respectfully submitted,

*Robert B. Gribble*

Robert B. Gribble, CFSP  
Executive Director