

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

AUGUST 3, 2021

President Robert Shackelford, III, called the meeting to order at 10:00 a.m. The meeting was conducted in Conference Room 1-A, Davy Crockett Tower, Nashville, Tennessee.

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

Board Member(s) absent: Charles Rahm and Tonya Scales Haynes

Staff present: Robert Gribble, Executive Director; Anthony Glandorf, Chief 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 June 8, 2021 Board Meeting.

Seconded by Clark McKinney

Adopted by Voice Vote

LEGAL REPORT:
ANTHONY GLANDORF, CHIEF COUNSEL

Abbreviations:

GPL – General Price List

CPL – Casket Price List

OBCPL – Outer Burial Container Price List

SFGSS – Statement of Funeral Goods and Services Selected

1. Case No.: 2021023991 – Funeral Director

Complainant/preneed sales agent contended that Respondent/funeral director used his notary public seal and forged his name on documents. The Respondent denied the allegations. An investigation was conducted and during such, the Complainant would not agree to meet with the investigator. The investigator finally found Complainant at his home wherein he stated he wished to withdraw the complaint in this matter and stated he was going back to work for Respondent. There is no evidence of any actual forgery or unauthorized use of notary public seal.

Recommendation:

- Close – Complainant wished to withdraw complaint.

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

Seconded by Anthony Harris

Adopted by Voice Vote

2. Case No.: 2021026401 – Funeral Establishment

Complainant is licensed as a funeral director and an embalmer at the Respondent funeral establishment. This complaint is upon the owner/unlicensed person who is not licensed by the board. The Complainant makes allegations about poor working conditions, particularly during COVID, lack of proper personal protective equipment (PPE) for embalming, discriminatory statements regarding race and gender, a lack of apathy for exhausting conditions, and harassment. Further, Complainant makes allegations of unlicensed activity on part of the owner making telephone arrangements with potential customers. This was done to the knowledge and in the presence of the Complainant/funeral director. Given such, this claim could not be substantiated. The allegations regarding workplace conditions are not within the authority of the Board and should be made to the proper agency with authority over employer-employee relations.

Recommendation:

- Close

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

Seconded by Clark McKinney

Adopted by Voice Vote

3. Case No.: 2021028661 – Funeral Establishment

Complainant is a North Carolina funeral establishment that received remains of deceased transported by Respondent, a Tennessee funeral establishment. Complainant originally alleged that payment was sent with the remains to Respondent, but included the incorrect name of funeral establishment on the check. However, after the complaint was filed, Complainant states the matter was resolved with the Respondent, having received a corrected check. Complainant requested this matter be closed and upon review, it appears the matter was settled amongst the parties.

Recommendation:

- Close

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

Seconded by Anthony Harris

Adopted by Voice Vote

4. Case No.: 2021031021 – Funeral Director

Complainant alleged that Respondent/funeral director failed to allow Complainant and relatives of deceased to view the human remains of decedent prior to cremation. The issue was regarding the COVID status of the decedent. The Complainant alleged the decedent received multiple negative COVID tests from the hospital prior to death/release; however, Respondent refused to follow-up on this notion and refused to allow family the viewing. Complainant did not provide any documentation of any COVID test result(s) or other documentation showing such. Respondent provided a release documentation from the hospital which states decedent died of 'communicable disease' and notation 'Rule out COVID.' Further, a photo was provided by Respondent which he alleges is of the pouch in which decedent was placed in the hospital which did indicate the writing "COVID Pending." Complainant states the doctor treating the decedent indicated several times to Complainant that decedent was COVID negative and also informed Respondent. Respondent denies this. Respondent states that CDC guidelines

indicated that there was a risk of spreading COVID to others in touching unprepared remains. Respondent provided documentation where Complainant refused 'embalming' given that the remains were to be cremated. It is not known if this was an intentional position of the Complainant (refusing embalming but demanding viewing). However, it appears Respondent was not comfortable and would not allow family of decedent to view the remains without preparation given they were to be cremated and states this position was for public health concerns and attempting to follow CDC guidelines (which were provided in response to the complaint). Given such, it does not appear there is a violation of any professionalism given that Respondent has reason to believe decedent posed a COVID concern, and there was no documentation negating this concern provided by either the hospital or decedent family.

Recommendation:

- Close

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

Seconded by Anthony Harris

Adopted by Voice Vote

5. Case No.: 2021032261 – Funeral Director

Complainant is the niece of the decedent, filing this complaint against Respondent/funeral director stating she would like the cremains of her aunt be released to her by Respondent. An investigation was conducted. The investigation found that decedent died in 2017. The next of kin with right of disposition is the daughter of decedent. The daughter made arrangements for cremation with the Respondent but could not pay the entire cost. Payment for a later date was arranged with Respondent. The decedent was cremated and Respondent informed daughter for pickup. The daughter would not return the calls of Respondent. The daughter never paid Respondent either beyond \$50.00. The Complainant contacted Respondent requesting status of the cremains stating family members had provided the daughter funds for the cremation. The Respondent stated that daughter would not pick up the cremains and had only paid \$50.00. After this conversation, Respondent states daughter contacted him and threatened legal action if Respondent either took payment for the cremation or released the cremains to anyone else. Respondent then informed Complainant and the investigator that the daughter is the next of kin but will not pick up cremains and she has moved out of state. Respondent further

states it has never stated payment must be made prior to releasing the cremated remains and has encouraged daughter to pick up cremains. Complainant states that her grandmother (mother of decedent) is requesting the cremains be released to her and transported to her in New Jersey. Respondent maintains that the daughter is the next of kin and with threat of legal action, cannot release the cremains to Complainant.

Recommendation:

- Close – Complainant does not have right of possession of cremains. Determination otherwise is a decision for a Court to decide pursuant to Tenn. Code Ann. § 62-5-705.

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

Seconded by Clark McKinney

Adopted by Voice Vote

6. Case No.: 2021032351 – Funeral Establishment

Complainant/grandchild of deceased grandparents submitted a complaint against Respondent/funeral home stating the location of grandparents grave and headstones are missing from cemetery/final resting place. The Respondent states that it does not own the cemetery, that a prior owner (now deceased) was previously involved in the cemetery in the years past. Further that the grandparents were buried approximately sixty and thirty years ago, respectively. However, Respondent offered in reaching out to the Complainant and assisting them in attempting to locate the burial plots.

A search of our licensing database indicates this cemetery is not registered. Further, a search of the cemetery found that it is known to have been abandoned, owned by the cemetery itself, has a property card of tax exempt/religious. It appears that for the plots purchased, persons have continued to be buried. This is generally a historic cemetery of over 150 years old.

Given that Respondent/funeral home has no legal responsibility over the cemetery and has offered to assist as a kind gesture towards Complainant, there are no violations found.

Recommendation:

- Close

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

Seconded by Fred Berry

Adopted by Voice Vote

7. Case No.: 2021036201 – Funeral Establishment

Complainant/family of deceased submitted a complaint against Respondent/funeral establishment stating that she was provided an urn with the remains of another person and not that of her husband. Complainant states that a representative did provide confirmation the remains were that of her husband but that she still "feels the deepness of her sadness." The Respondent submitted a response and admitted they did initially provide Complainant with the remains of another person that were placed in the same type urn as Complainant's husband. Both similar urns were ready for pickup the same day. Complainant was the first to pick up the cremains and it was not until the family of the second deceased came to pick up their cremains that it was determined that Complainant was given incorrect remains. Complainant was notified and brought the cremains back and was provided the cremains of her husband. However, after some time, Complainant came to the funeral establishment stating she was not comfortable that the cremains in her possession were that of her husband. An agent of the funeral establishment accompanied the Complainant to her home and verified the cremains via the identification device from the crematory. This complaint was submitted after that verification. Further, Respondent has indicated that they are arranging the shipping of the cremains out of state for final disposition at the request of the Complainant.

Recommendation:

- \$500 civil penalty for unprofessional conduct in providing incorrect cremains. Authorize settlement via consent order and a formal hearing if necessary.

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

Seconded by Anthony Harris

Adopted by Voice Vote

8. Case No.: 2021037001 – Funeral Establishment

Complainant is an attorney submitting a complaint on behalf of brother-in-law of decedent. Complainant states that Respondent funeral home contracted for services to include shipment of decedent to his home country of Guatemala; however, that was never done. An investigation was conducted. During the investigation it was found that Respondent/funeral establishment owner was contacted by a funeral director to associate (“Associated FD”) with in order to embalm decedent and arrange shipment to Guatemala. (Associated FD surrendered all licenses after the facts of this complaint stemming from similar issues.) The body of decedent was brought to Respondent funeral establishment on August 5, 2019, arrangements to ship were to be made on August 22, 2019. Respondent states they were informed by Associated FD that the remains of decedent were shipped on September 4, 2019. Associated FD was not available to confirm this statement. On about March 6, 2020, Respondent/owner states a second funeral establishment (“Establishment 2”) contacted him stating the remains of decedent were at his funeral home but belonged to Respondent/owner establishment. Respondent states he was unaware of this until contacted and he arranged for decedent to be moved to the establishment of Respondent/decedent. Respondent states he attempted to contact the brother-in-law to no avail, the Mexican consulate for assistance (no explanation as to why not the Guatemalan consulate). Respondent made contact with Associated FD and stated he would not cooperate with providing updated contact information to the brother-in-law. Respondent determined that due to decomposition, the remains could not be flown to Guatemala. There was also an issue of air travel restriction at that time. Respondent communicated with Associated FD regarding further arrangements without a clear understanding as to who had right of disposition authority as the Associated FD stated he has a Power of Attorney from the family; however, that was not produced during the investigation. The Respondent made the decision to bury the remains of decedent and paid for such burial and headstone. The information on location of plot was sent to Associated FD to provide to the family.

Recommendation:

- Letter of Warning

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

Seconded by Clark McKinney

Adopted by Voice Vote

9. Case No.: 2021037021 – Funeral Establishment

Complainant is same as the case above, attorney who filed a complaint against Respondent/funeral establishment which is named as Establishment 2 in the above complaint. The complaint against Establishment 2 above indicated that Respondent allowed Associated FD to use its facilities and allowed bodies to decompose greatly while in its care. This Respondent was the subject of a previous complaint regarding a connected matter in the case, numbers 2020019301 and 2020017091. During an investigation of those cases, the remains of the decedent were identified at that location. Immediately after the investigation, the Respondent in this case (and Respondent 2) in case above returned the remains to the original funeral establishment. Respondent in this matter was already issued a civil penalty via consent order for the same facts as involving decedent.

Recommendation:

- Close – Respondent already disciplined for this matter in cases 2020019301 and 2020017091.

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

Seconded by Fred Berry

Adopted by Voice Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

OFFICE OF INTERNAL AUDIT:

The Office of Internal Audit (OIA) at the Department of Commerce & Insurance has completed a review of funeral establishment inspections conducted during 2019 by the Board of Funeral Directors & Embalmers and released their final audit report on July 15, 2021 which stated no material discrepancies.

The purpose of the review was to evaluate whether the Board was properly and timely completing annual inspections. The objective of the audit was to ensure

funeral establishments were inspected in accordance with Tenn. Code Ann. § 62-5-208. Specifically, OIA completed the following: 1) ensured all funeral establishments received an inspection during calendar year 2019 and 2) for a sample of inspections, ensured each inspection was conducted timely and proper inspection documentation was retained in the licensing database system. The audit conclusion was “The OIA’s review indicated that the Board has a sound inspection process in place and inspection records were complete and are in good order. No material discrepancies were noted during the OIA’s examination.”

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF JUNE 1, 2021 – JULY 31, 2021

<u>Establishment(s)</u>	<u>Type of Action(s)/Change(s)</u>
High’s Cremations, Inc. McMinnville, TN	New Establishment
Legacy Memorial Funeral Home Springfield, TN	New Establishment
Gentry-Smith Funeral Home Woodbury, TN	Name of Establishment
<u>Individuals)</u>	<u>Type of License(s)</u>
Carson Alan Correll Kingsport, TN	Funeral Director and Embalmer
Jessica Michelle Law Lafayette, TN	Funeral Director and Embalmer
Lorraine Kay Phalen Knoxville, TN	Funeral Director and Embalmer
Natosha Snow Simpson Rockwood, TN	Funeral Director and Embalmer
Samantha Rae Taranek Grandview, TN	Funeral Director and Embalmer
Jenna Wolfgang Columbia, TN	Funeral Director and Embalmer

Ilish Murhpy Stevens Antioch, TN	Funeral Director and Embalmer Reciprocity – Virginia
Cody Ray Martin Union City, TN	Funeral Director and Embalmer Reapplication
Paul Alan Meeks Coldwater, MS	Funeral Director and Embalmer Reapplication
Shana Ewton Brady Dunlap, TN	Funeral Director
Hunter Wyatt Lane Fort Blackmore, VA	Funeral Director
Gregory Allen McKnight, Jr. Murfreesboro, TN	Funeral Director
Kelli Malone Smartt Manchester, TN	Funeral Director
Kaleigh Breann Eastwood Lebanon, TN	Funeral Director Reciprocity – Oklahoma
Amber Lynn Boehman Manchester, TN	Funeral Director Reapplication
Joshua Andrew McNabb Lenoir City, TN	Embalmer
Amy Lee Banks Summerville, SC	Embalmer Reciprocity – Kentucky and South Carolina
Gina Ortiz Gaffney Somerville, TN	Embalmer Reciprocity – Washington
Gerald Lenard Myrick Clarksville, TN	Embalmer Reciprocity – North Carolina

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 May 2021 and June 2021 Regulatory Boards Disciplinary Action Reports

Respondent: Anderson Funeral Home, Lewisburg, TN
Violation: Funeral establishment permitted a funeral director to act as the establishment manager and conduct funeral services with an expired funeral director license
Action: \$250 Civil Penalty

Respondent: Miller Funeral Home, Inc., Maryville, TN
Violation: Violation of statute pertaining to the prearrangement of prefinancing, or both, of a funeral
Action: \$250 Civil Penalty

Respondent: Taylor Funeral Home, Inc., Dickson, TN
Violation: Violation of statute pertaining to the prearrangement of prefinancing, or both, of a funeral
Action: \$250 Civil Penalty

Respondent: Rose Funeral & Cremation Mann, Knoxville, TN
Violation: Violation of statute pertaining to the prearrangement of prefinancing, or both, of a funeral
Action: \$250 Civil Penalty

Respondent: Forest Hill Funeral Home & Memorial Park - East, Memphis, TN
Violation: Immoral or unprofessional conduct and failed to treat a member of the public in a respectful manner
Action: \$500 Civil Penalty

OPEN COMPLAINT REPORT:

As of July 28, 2021, there were 36 open complaints.

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

Seconded by Clark McKinney

Adopted by Voice Vote

APPROVAL OF LICENSE APPLICATIONS:

ESTABLISHMENT APPLICATION(S):

**BLOUNT MORTUARY SERVICES, LLC
ATTN: MICHAEL D. HARDING, MGR.
1900 EAST BROADWAY AVENUE**

MARYVILLE, TN 37804-2912

New Establishment

Ownership: Limited Liability Company

Owner(s): Blount Mortuary Services, LLC, 1900 East Broadway Avenue, Maryville, TN 37804-2912

Upon motion by Fred Berry to approve subject to the following: 1) add informational packet that was presented by Mr. Harding at the meeting and 2) Mr. Harding obtain a letter from a local (Maryville) funeral establishment to provide embalming until the preparation room at this location is completely finished. Additionally, the embalming room shall be inspected by the Board prior to its use.

Seconded by Scottie Poarch

Based upon application record and subject to the outlined conditions, this establishment application was approved for licensure.

KIMMINS MORTUARY SERVICE

ATTN: SHERROD ANDRE KIMMINS, MGR.

150 UPTOWN SQUARE, SUITE D

MURFREESBORO, TN 37129-0581

New Establishment

Ownership: Sole Proprietorship

Owner(s): Sherrod Andrea Kimmins, 1043 Capitol Point, Nashville, TN 37203-2730

Upon motion by Fred Berry and seconded by Scottie Poarch, based upon application record and subject to the firm adding the suite number to all documents, this establishment application was approved for licensure.

NEW BUSINESS:

The Executive Director presented the Public Comment Policy that has been developed and instituted June 7, 2021, by the Department of Commerce & Insurance.

The purpose is to encourage public participation in open meetings held by governing bodies housed within the Department. The policy is to encourage Department employees to engage the public in open meetings and increase the public's access to government officials and regulatory body members.

The Department encourages public participation in open meetings through various avenues. The Department welcomes public comments, healthy debate,

and the expression of diverse opinions in a respectful manner. Where a governing body has the authority to limit comments, they should seek inclusive options and avoid unnecessary barriers that create exclusivity. For example, a governing body may limit comments from the public if the length of the meeting would otherwise be unduly increased by reason of repetition, when comments are not reasonably related to the agenda item being discussed, or when a member of the public is using threatening or abusive language, profanity or language that is intended to be, or is reasonably perceived by others to be demeaning, berating, threatening, intimidating, hostile, or offensive.

The Department is committed to providing access to open meetings to members of the public who live in rural areas, live in areas of the state that are not near Nashville, and are from diverse economic backgrounds. The Department encourages all governing bodies to use technology or tools at their disposal to remove barriers to public participation in open meetings wherever reasonable.

ADJOURN:

A motion was made Fred Berry to adjourn.

Seconded by Anthony Harris

Adopted by Voice Vote

The meeting was adjourned by President Robert Shackelford at 11:39 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director