

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MARCH 9, 2021

President Robert Shackelford, III called the meeting to order at 10:10 a.m. The meeting was conducted via WebEx.

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

Staff present: Robert Gribble, Executive Director; Anthony Glandorf, Chief Counsel; Elizabeth A. Bendell, Associate General Counsel; and Lisa Bohannon, Regulatory Board Administrative Manager.

STATEMENT OF NECESSITY (TENN. CODE ANN. § 8-44-108):

Elizabeth A. Bendell, Associate General Counsel for Regulatory Boards, read the Statement of Necessity for the record.

ADOPTION OF AGENDA:

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

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

APPROVAL OF MINUTES:

A motion was made by Fred Berry to approve the Minutes of the January 12, 2021 Board Meeting.

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

Adopted by Roll Call Vote

A motion was made by Fred Berry to approve the Minutes of the February 9, 2021 Board Meeting.

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

Adopted by Roll Call Vote

ETHICS TRAINING FOR BOARD MEMBERS:
ELIZABETH A. BENDELL, ASSOCIATE GENERAL COUNSEL

Elizabeth A. Bendell, Associate General Counsel, conducted ethics training for the board members. Ms. Bendell presented “You are My Sunshine, My Only Sunshine.” Among other information, Ms. Bendell covered Open Meetings and Public Records for Regulatory Boards and Commissions.

LEGAL REPORT:
ELIZABETH A. BENDELL, 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

1. Case No.: 2020089341 – Funeral Establishment

This is a consumer complaint alleging unprofessional and deceptive conduct. Specifically, the consumer alleges that their signature was forged on an "Assignment of Proceeds of Insurance", along with their social security number, date of birth, and phone number.

Respondent responded to the complaint and denies the allegations.

Complainant provided a rebuttal with additional documentation to further their claim.

This complaint was sent for investigation. In February 2021 a Board field investigator interviewed and obtained documents from the various parties involved. No violations were found.

Recommendation:

- Closure

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

Seconded by Tonya Haynes

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

Adopted by Roll Call Vote

2. Case No.: 2020092001 – Funeral Establishment

This is a complaint from a licensed Funeral Director. The complaint alleges that the Respondent carries a license at a location that is no longer in business. The Complainant further indicated that they were informed that the building has sold, but the Respondent is still in business, meeting with families virtually.

The Respondent responded to the complaint and indicated that they are in the process of moving their physical location. The Respondent stated that due to the pandemic and a misunderstanding with the city, the process has been delayed.

The establishment signed a commercial lease agreement effective March 30, 2020 and moved their location without any notification to the Board Office until filing an application for change of location on February 12, 2021 subsequent to the complaint filed on November 30, 2020. Per the board’s licensing system, all paperwork and fees for the location change has been submitted.

Recommendation:

- Authorization for Hearing. Authorization for Consent Order with \$1,000.00 civil penalty.

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

Seconded by Scottie Poarch

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

Adopted by Roll Call Vote

3. Case No.: 2020094421 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct by the Respondent establishment. The consumer states that they were named the executor of their grandfather's estate. The consumer states that the Respondent establishment failed to provide her with any information or documentation. The consumer states that the Respondent provided information the consumer's father instead of providing the information to her. The consumer further stated that they were treated poorly and talked down to by Respondent's employees.

The Respondent responded to the complaint and indicated the following:

1. The Respondent had discussed the wishes of the deceased prior to his passing and executed the services in accordance to those wishes.
2. The Respondent worked with the deceased's son because at the time of the services, the deceased's wife was hospitalized with COVID.
3. The Respondent states they were never presented with any legal documents from the consumer that would have put the consumer in charge of the arrangements/services.
4. The Respondent provided all of the requested documentation to the consumer.
5. The Respondent denies the allegation that the Respondent's staff was unprofessional.

Recommendation:

- Closure

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

4. Case No.: 2020096301 – Funeral Establishment

In December 2020 a Regulatory Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent’s establishment license expired on May 31, 2020 and at the date of inspection, it had not been renewed.

The Respondent responded to the complaint and apologized for their oversight. The Respondent stated that they are a small business that does not conduct a lot of business; and due to the ongoing pandemic and paperless renewal process, they failed to renew on time. The Respondent stated that this was the first time they have missed a renewal and will assure it will not happen again.

Recommendation:

- Authorization for Hearing. Authorization for Consent Order with \$500.00 civil penalty.

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

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

5. Case No.: 2020096581 – Funeral Director

This is a consumer complaint alleging unprofessional conduct by the Respondent. The Consumer states that they contacted the Respondent establishment inquiring about her grandson’s services, and the Respondent failed to disclose the information to her. The consumer additionally states that the Respondent was unresponsive to their calls.

The Respondent provided a response to the complaint and indicated the following:

1. The deceased’s mother and maternal grandmother arranged for the deceased services and informed the Respondent that they did not want the father’s side of the family to have any information regarding the services.
2. The Respondent states that the consumer continuously harassed and threatened the Respondent and others at the funeral home.
3. The Respondent states that following the services the County Sherriff’s Office had to be called due to the threats of violence and presence of guns.

The Respondent also provided a letter written by the deceased’s mother indicating that the Respondent conducted themselves in a professional manner despite the circumstances.

Recommendation:

- Closure

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

Seconded by Anthony Harris

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

Adopted by Roll Call Vote

6. Case No.: 2021000201 – Funeral Establishment

This is a complaint submitted by a removal service alleging that the Respondent’s employees have been using the Complainant’s company name

under false pretenses to pick up and deliver bodies. The Complainant states that they have asked the Respondent to stop and they have not.

The Respondent responded to the complaint and indicated that the name used by their internal transfer team is based off a geographical description of the area in which the Respondent operates. The Respondent stated they do intend to enter the removal market and they are not using the Complainant’s name under false pretenses.

Recommendation:

- Letter of Warning

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

Seconded by Scottie Poarch

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

Adopted by Roll Call Vote

7. Case No.: 2021004141 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. The consumer states that as of the date of the complaint they have not received the death certificate for their father. The consumer states that the Respondent has been unresponsive.

The Respondent’s representative responded to the complaint and indicated that they informed the consumer that it can take four to six weeks to receive the death certificate. The Representative stated that due to the pandemic, there have been additional delays in getting death certificates. The Respondent provided proof that the consumer has since received the death certificate.

The consumer provided additional information indicating that they have received the death certificate.

Recommendation:

- Closure

A motion was made by Fred Berry to accept Board’s recommendation.

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

8. Case No.: 2021013381 – Funeral Establishment

This is an administrative complaint based on an anonymous tip indicating that they believe there is a decaying/decomposing decedent at the Respondent establishment. The individual stated that they believe the person has most likely been deceased for an extended period of time, and the stench is a strong obnoxious odor with a deceased human as the stimulant.

Due to the nature of the allegations, this complaint was sent for an immediate investigation. In February 2021 a Regulatory Board Field Investigator conducted an inspection of the Respondent establishment. No violations were found.

Recommendation:

- Closure

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

Seconded by Fred Berry

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

Adopted by Roll Call Vote

9. Case No.: 2020084551 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct and unlicensed activity. The consumer states that in October 2020 they contacted the Respondent establishment regarding cremation services. The consumer states that they asked the Respondent to remove the deceased from the hospital, and in the meantime the consumer completed paperwork. The consumer states that four days later they received a call from the Respondent who indicated they could no longer do the cremation. The consumer states that the Respondent informed them that they did not pick up the deceased, and that they would be shredding all of the consumer’s information.

The out of state Respondent has not responded at this time.

Recommendation:

- Letter of Warning

A motion was made by Fred Berry to issue a Letter of Instruction to the Respondent.

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

LEGISLATIVE UPDATE:

HB0780/SB0771 -

Professions and Occupations - As introduced, makes various changes affecting certain professional boards and professions, including court reporters, motor vehicle dealers, barbers, certain apprentices, scrap metal dealers, locksmiths, and other professions. - Amends TCA Title 4; Title 20; Title 47; Title 55; Title 56; Title 62 and Title 68.

HB0334/SB0931 –

Death - As introduced, imposes requirements on the operation of alkaline hydrolysis facilities and the use of alkaline hydrolysis in this state. - AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5.

HB1181/SB0828 –

Abortion - As introduced, requires disposition of aborted fetal remains to be by burial or cremation; requires the Department of Health to promulgate certain rules and forms; and makes certain other changes regarding the disposition of fetal remains. - Amends TCA Title 37, Chapter 10; Title 39; Title 62, Chapter 5 and Title 68.

HB0788/SB1429 –

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

HB0738/SB1091 –

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

HB1466/SB1558 –

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

HB0012/SB0951 –

Criminal Offenses - As introduced, enacts "April's Law" to clarify that a person who engages in sexual contact with a corpse commits the offense of abuse of a corpse, a Class E felony; requires law enforcement officers to ask victims of stalking, domestic abuse, or sexual assault whether the victim requests the defendant be required to wear GPS-tracker if released on bond. - Amends TCA Title 39, Chapter 17, Part 3; Title 40, Chapter 11 and Title 40, Chapter 39, Part 2.

Website for Legislative Bill Searches:

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

LICENSEE REPORT:

REPORT OF LICENSES ADMINISTRATIVELY APPROVED BY EXECUTIVE DIRECTOR PURSUANT TO BOARD AUTHORITY FOR THE PERIOD OF FEBRUARY 6, 2021 – MARCH 5, 2021

Individual(s)

Type of License(s)

Josiah Bailey Klouda
Knoxville, TN

Funeral Director and Embalmer

Madison Reid McKamey
Clinton, TN

Funeral Director and Embalmer

Ronnie Dale Morgan
Red Boiling Springs, TN

Funeral Director and Embalmer

Thomas Zachary Curtis
Maryville, TN

Funeral Director

Thomas Shannon Gillon
Halls, TN

Funeral Director

CLOSED ESTABLISHMENT REPORT:

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

- Gibson Funeral Home, 403 Rozelle Street, Gibson, TN and
- Mercer Brothers Memorial Chapel, 85 Barnhill Street, Lexington, TN.

DISCIPLINARY ACTION REPORT:

There were no disciplinary action(s) to report during this Board meeting.

OPEN COMPLAINT REPORT:

As of March 9, 2021, there were 31 open complaints.

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

Seconded by Clark McKinney

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

Adopted by Roll Call Vote

APPROVAL OF LICENSE APPLICATIONS:

ESTABLISHMENT APPLICATION(S):

**LUMEN CREMATION, LLC
ATTN: TIFFANY CRYSTAL WIDENER, MGR.
7978 COLEY DAVIS ROAD, SUITE 101
NASHVILLE, TN 37221-2420**

**New Establishment
Ownership: Limited Liability Company**

Owner(s): Lumen Cremation, LLC, 7978 Coley Davis Road, Suite 101, Nashville, TN 37221-2420

Upon motion by Fred Berry and seconded by Scottie Poarch, based upon application record, this establishment application was approved for licensure.

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

Adopted by Roll Call Vote

ADJOURN:

A motion was made Clark McKinney to adjourn.

Seconded by Fred Berry

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

Adopted by roll call vote

The meeting was adjourned by President Robert Shackelford at 11:36 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director