

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

MAY 11, 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; Charles Rahm, Vice President; Fred Berry, Anthony Harris, Tonya Scales Haynes, Clark McKinney and Scottie Poarch.

Staff present: Robert Gribble, Executive Director; Elizabeth A. Bendell, 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 printed.

Seconded by Charles Rahm

Adopted by Voice Vote

APPROVAL OF MINUTES:

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

Seconded by Anthony Harris

Adopted by Voice Vote

ASSISTANT COMMISSIONER FOR REGULATORY BOARDS:

Alex Martin, Assistant Commissioner for Regulatory Boards, appeared and introduced himself to the Board. Commissioner Martin thanked the board members for their service and informed the board members to contact him if he could be of service.

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

Note: Board Member Anthony Harris recused himself from participation in the entire legal report.

1. Case No.: 2021002491 – Funeral Director

This is an ex-employee complaint alleging unprofessional conduct by the Respondent. The Complainant alleges that the Respondent's employee chased them down and tried to hit their car and shoot them. Additionally, the Complainant alleges that the Respondent has tried in forcing the Complainant to be intimate.

This complaint was sent for investigation. In March 2021, a Board Field Investigator interviewed and obtained documents from the Respondent. The Complainant was contacted via email but failed to provide a working telephone number or address. Per the investigation, this matter appears to be a domestic dispute; no violations were found.

Recommendation:

- Closure

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

Seconded by Clark McKinney

Adopted by Voice Vote

2. Case No.: 2021005851 – Funeral Establishment

In December 2021 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that a General Price List indicating that a price match guarantee discount would be given on preneed and at-need funeral arrangements. The Representative indicated that the Respondent informed them that the wrong General Price List

was provided and that the issue has been corrected. The Representative indicated that they were able to locate a GPL in the arrangement and business offices that the discount on preneed funeral arrangements did not appear.

The Respondent responded to the complaint and indicated that a mistake was made by giving the Representative an old price list, but that the mistake was immediately corrected. The Respondent states that the current General Price List does not contain any language indicating that preneed discounts are available.

Recommendation:

- Letter of Warning

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

Seconded by Fred Berry

Adopted by Voice Vote

3. Case No.: 2021012011 – Funeral Establishment

This is a consumer complaint alleging unprofessional and fraudulent conduct. The consumer states that they were asked to sign a credit charge and contract multiple times via DocuSign.

The Respondent responded to the complaint and indicated the following:

1. The contract needed to be signed by the consumer, who was the contract payor, and also the legal next of kin.
2. The contract and the credit card forms were sent via the contract system.
3. The consumer signed the contract, and then it was sent to the next of kin (but the system did not allow signatures after 48 hours).
4. The contract was re-sent to get signatures, but the contract was not signed by the consumer.
5. It was discussed with the consumer that the contract would be sent to them, but a contract with a balance due was accidentally sent.
6. The Respondent spoke to the consumer clarifying the mistake, and a contract with a zero balance was re-sent.
7. The Respondent states that the consumer did not sign the contract, and they did not hear anything until the complaint was received.

Recommendation:

- Closure

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

Seconded by Clark McKinney

Adopted by Voice Vote

4. Case No.: 2021014531 – Funeral Establishment

5. Case No.: 2021014741 – Expired Funeral Directors

In January 2021 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the funeral director license for the Respondent funeral director expired on June 30, 2020 and had not been renewed at the time of the exam, during which the Respondent funeral director conducted services and acted as the establishment manager.

The Respondent responded to the complaint and apologized for the oversight. The Respondent stated that during the expiration period they were dealing with a life altering health situation. The Respondent indicated it was never their intent to not renew and was an oversight.

Funeral Establishment Recommendation:

- Authorization for Hearing. Authorization for Consent Order with \$250.00 civil penalty via consent order.

Funeral Director Recommendation:

- Letter of Warning

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

Seconded by Scottie Poarch

Adopted by Voice Vote

6. Case No.: 2021017141 – Funeral Director

This is a consumer complaint alleging unprofessional conduct. The consumer states that the Respondent was contacted regarding a simple cremation, but that the Respondent arrived to remove the deceased and informed the wife of the

deceased that they were not going to assist her. The Complainant states that the Respondent was hostile, and that the Respondent reported the conditions of the home as unsafe which is false.

The Respondent responded to the complaint and indicated the following:

1. The Respondent was contacted by the deceased's wife regarding a cremation. The Respondent indicates that no written or verbal agreements were made, but that they discussed potential payment plans or donations from a local church.
2. The Respondent states that they were informed a neighbor would be available to assist with the removal since no additional staff was available for a house call.
3. The Respondent states when they arrived at the residence they expressed concerns with the condition of the ramp and inspected additional doorways, but they were too narrow to get a stretcher through the doorways.
4. The Respondent states that they did not speak to the deceased's wife except to say "hello".
5. The Respondent states that they inquired about the neighbor's assistance as the deceased needed to be carried out the back door to be placed on a stretcher, but the Respondent was informed that the neighbor would not be assisting.
6. The Respondent states that they had to assess the situation and determine that they would not be able to safely remove the decedent.
7. The Respondent states that contact information for a funeral home that could better assist the family was sent to the Complainant, and the family ultimately ended up using that funeral establishment.
8. The Respondent denies the allegation that they were hostile at any point.

Recommendation:

- Letter of Warning

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

Seconded by Clark McKinney

Adopted by Voice Vote

Board Member(s) voting contrary to the conclusion: Charles Rahm

7. Case No.: 2021018581 – Funeral Establishment

In January 2021 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent's preneed seller registration expired on September 30, 2020, and was not renewed at the time of the exam, during which the Respondent executed eleven preneed funeral contracts without a valid registration.

The Respondent responded to the complaint and apologized for the oversight. The Respondent indicated that they were relying on the website to inform them that it was time to renew. The Respondent acknowledges that they should not have relied solely on the website, but they were dealing with the effects of the pandemic and personal health issues as well.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$250.00 via consent order.

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

Seconded by Scottie Poarch

Adopted by Voice Vote

8. Case No.: 2021018771 – Funeral Establishment

In January 2021 a Board Field Representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent's preneed seller registration expired on September 30, 2020, and was not renewed at the time of the exam, during which the Respondent executed forty preneed funeral contracts without a valid license.

The Respondent responded to the complaint and apologized for the oversight.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$250.00 via consent order.

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

Seconded by Tonya Haynes

Adopted by Voice Vote

9. Case No.: 2021019541 – Funeral Establishment

This is a complaint by an ex-employee who served as manager of the establishment alleging unprofessional conduct by the Respondent. The complaint indicates that the Respondent establishment has an infestation of rodents, and that owner management has not taken the steps to mitigate and resolve the issue and due to such, rodents caused physical damage to the remains of decedents.

This complaint was sent for investigation. In March 2021, a Board Field Investigator interviewed and obtained documents from the various parties involved, as well as conducted an inspection of the Respondent establishment. The investigation discovered several violations including the following:

1. The Respondent owner management was notified on multiple occasions of a rodent infestation. An exterminator was hired to mitigate the issue; however, documentation indicates that access to the building by the rodents was not addressed in a timely manner.
2. Two known remains of decedents suffered physical harm and damage due to the rodent infestation.
3. Despite the warnings from the ex-employee (employed at the time), Respondent continued to use the preparation room despite the known risk of damage to remains and continued to use the preparation room after the initial damage to first decedent's remains was found (damage to the decedents by rodents occurred during separate instances) and did not purport to use a separate preparation room until fourteen days after authority was given to do so.

Counsel's Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$10,000 via consent order and the following to the satisfaction of the Board/Department:
 1. Respondent must ensure both families are informed of the instances and provide an affidavit from the representative stating when they

- informed the family and the substance of that conversation within 30 days of signing the Order.
2. Respondent must provide both families a full refund of all monies received for services and merchandise related to the two decedents. Provide proof of refund and calculation within 30 days of signing the Order.
 3. Respondent must Cease and Desist from using the preparation room facility for embalming or any other activity with dead human remains until such time the building is repaired sufficiently to keep out any rodent. Provide an affidavit from funeral home operator that the repairs have been made sufficient to keep out all rodents. Provide a summary of all work done to make repairs. Once affidavit is provided, will not use until the Executive Director of the Board in consultation with legal counsel are satisfied that such repairs are sufficient, in no case, a response by the Board must be made within 30 days.
 4. Provide a monthly report for 12 months from the time of entering the consent order from a licensed extermination company as to the presence or indication of any rodent within the embalming facility. Upon notification from the extermination company of any sign of rodent in the building, Respondent must immediately take safeguard precautions to ensure no damage by rodents, maintain a continuous presence within the facility by an agent until such time that all remains are removed from the building, the latest being within 24 hours of such notice.

A motion was made by Clark McKinney regarding:

- Authorization for a formal hearing. Authorization for a civil penalty of \$14,000 via consent order and the following to the satisfaction of the Board/Department:
 1. Respondent must ensure both families are informed of the instances and provide an affidavit from the representative stating when they informed the family and the substance of that conversation within 30 days of signing the Order.
 2. Respondent must provide both families a full refund of all monies received for services and merchandise related to the two decedents. Provide proof of refund and calculation within 30 days of signing the Order.
 3. Respondent must Cease and Desist from using the preparation room facility for embalming or any other activity with dead human remains until such time the building is repaired sufficiently to keep out any

- rodent. Provide an affidavit from funeral home operator that the repairs have been made sufficient to keep out all rodents. Provide a summary of all work done to make repairs. Once affidavit is provided, will not use until the Executive Director of the Board in consultation with legal counsel are satisfied that such repairs are sufficient, in no case, a response by the Board must be made within 30 days.
4. Provide a monthly report for 12 months from the time of entering the consent order from a licensed extermination company as to the presence or indication of any rodent within the embalming facility. Upon notification from the extermination company of any sign of rodent in the building, Respondent must immediately take safeguard precautions to ensure no damage by rodents, maintain a continuous presence within the facility by an agent until such time that all remains are removed from the building, the latest being within 24 hours of such notice.

Seconded by Tonya Haynes

Adopted by Voice Vote

10. Case No.: 2021020441 – Funeral Establishment

In January 2021 a Board field representative performed an inspection of the Respondent establishment. During the inspection, the representative discovered that the Respondent's preneed seller registration expired on December 31, 2020, and was not renewed at the time of the exam, during which the Respondent executed seven preneed funeral contracts without a valid registration.

The Respondent responded to the complaint and apologized for the oversight. Respondent stated they were unaware their license had expired and indicated that as soon as they found out about their license expiration, they rectified the situation.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$250.00 via consent order.

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

Seconded by Fred Berry

Adopted by Voice Vote

11. Case No.: 2021021361 – Funeral Director

This is a consumer complaint alleging that the Respondent is advertising they are a licensed funeral director when they are not.

The Respondent responded to the complaint and indicated that they are licensed and are unaware of the advertisement the complainant mentions.

Per CORE (the Board's licensing system), the Respondent holds a valid funeral director license.

The Complainant followed up asking to withdraw their complaint.

Recommendation:

- Closure

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

Seconded by Fred Berry

Adopted by Voice Vote

12. Case No.: 2021022931 – Funeral Establishment

This is a consumer complaint alleging unprofessional conduct. Specifically, the consumer states that a prepaid funeral plan was purchased from the Respondent. The consumer states that after the decedent passed on March 21, 2021, they contacted the Respondent regarding the removal of the deceased and that the Respondent was unresponsive. The consumer states that the decedent had arranged to donate his brain to MSA Research, and the pathologist needed to be able to harvest his brain within twelve hours to make the donation. The consumer states that a decision was made to call another funeral home, as the Respondent had yet to retrieve the decedent. The consumer states that the Respondent has been unresponsive.

The Respondent's representative responded to the complaint and indicated the following:

1. The Respondent does not have any record of calls received related to the passing of the decedent prior to one they received the morning after.
2. The Respondent met with the family on March 31, 2021, to finalize arrangements for the funeral and the burial. The funeral service was held at the funeral home on April 2, 2021 and the decedent was buried the same day.
3. The Respondent is reaching out to the family to discuss any additional concerns they may have and to offer apologies.

The consumer provided a rebuttal indicating that they left multiple messages for the Respondent that were never returned. The consumer states that the decedent was with another funeral home for over a week before they were contacted by the Respondent about making arrangements.

Recommendation:

- Authorization for a formal hearing. Authorization for a civil penalty of \$500.00 via consent order.

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

Seconded by Scottie Poarch

Adopted by Voice Vote

RE-PRESENTS

13. Case No.: 2019100731 – Funeral Director

This matter was previously presented to the Board at its May 12, 2020 meeting as follows: *This is a consumer complaint alleging that the consumer arranged for her father's cremation in November 2019, and as of the date of the complaint had not received the death certificates or confirmation that her father's remains had shipped.*

The Respondent has not responded to this complaint at this time.

Legal spoke with the consumer who indicated they received her father's cremated remains and the death certificates in late December 2019. Consumer also indicated that they received a refund from the Respondent's establishment.

Recommendation: Authorization for a formal hearing. Authorization for a civil penalty of \$500.00 via consent order (for failure to respond after receiving notice of an open complaint).

Board Decision: APPROVED

Update: Legal spoke to the Respondent who indicated that they were unaware that there was an outstanding complaint against them. Our records indicate that all mail was returned as undeliverable. The Respondent indicated that they thought that by providing a response to complaint filed against the funeral home, it would automatically be used as a response to the complaint against them personally. Respondent provided documentation of this response as well as proof that the matter had been resolved with the consumer.

Recommendation:

- Closure

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

Seconded by Charles Rahm

Adopted by Voice Vote

14. Case No.: 2020001851 – Funeral Director

This matter was previously presented to the Board at its May 12, 2020 meeting as follows: *This is a consumer complaint alleging that the consumer arranged for his mother's cremation in late October 2019 and did not receive her remains until late November 2019. Consumer further alleges that as of the date of the complaint, January 2020, they had not received certified copies of the death certificates for which they had previously paid. Authorization for a formal hearing. Authorization for a civil penalty of \$500.00 via consent order*

The Respondent has not responded to the complaint at this time.

Legal spoke with the consumer in February 2020. The consumer indicated that they received the death certificates in January 2020.

Recommendation: Authorization for a formal hearing. Authorization for a civil penalty of \$750.00 via consent order (including \$500.00 for failure to respond in a specific time after receiving notice of an open complaint).

Board Decision: APPROVED

Update: Legal spoke to the Respondent who indicated that they were unaware that there was an outstanding complaint against them. Our records indicate that all mail was returned as undeliverable. The Respondent provided a detailed response as well as documentation regarding that the issues in the original complaint were promptly addressed and resolved.

Recommendation:

- Letter of Warning

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

Seconded by Charles Rahm

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.

Note: 05/04/2021 – Sent to the Speakers for signatures

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.

Note: Passed, Signed by Governor, Public Chapter [0141](#), and Effective Date: 04/13/2021

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.

Note: 04/27/2021 – Transmitted to Governor for his action

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.

Note: 04/29/2021 – Sent to the Speakers for signatures

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 MARCH 6, 2021 – APRIL 30, 2021

| <u>Establishment(s)</u> | <u>Type of Action(s)/Change(s)</u> |
|---|---|
| Edward Hatch Funeral Directors Nashville, TN | New Establishment |
| Lumen Cremation, LLC Nashville, TN | New Establishment |
| M. J. Edwards Funeral Home Care Center Memphis, TN | New Establishment |
| The New Beginning Funeral Home Pulaski, TN | New Establishment |
| Two Rivers Cremation Services, Inc. Gainesboro, TN | New Establishment |
| Evans Mortuary Rockwood, TN | Change of Ownership |
| White-Ranson Funeral Home, LLC Union City, TN | Change of Ownership |
| White-Mahon Funeral Home Troy, TN | Change of Ownership |
| Wann Funeral & Cremation Center Chattanooga, TN | Changes of Name & Location |
| Rose Funeral & Cremation Broadway Knoxville, TN | Change of Name |
| Rose Funeral & Cremation Mann Knoxville, TN | Change of Name |
| Anderson Funeral Home Alexandria, TN | Reinstatement |
| <u>Individuals</u> | <u>Type of License(s)</u> |
| Holden Harrison Ayers Christiana, TN | Funeral Director and Embalmer |
| William Blake Cobb | Funeral Director and Embalmer |

Blue Ridge, GA

Brockton Thomas Elkins
Friendship, TN Funeral Director and Embalmer

Tristan Walker Stirewalt
Nashville, TN Funeral Director and Embalmer

Lawrence Allan Vail
Knoxville, TNN Funeral Director and Embalmer

Kasha Rae Willis
LaVergne, TN Funeral Director and Embalmer

Vondershell Denise Thomas
Haynesville, LA Funeral Director and Embalmer
Reciprocity – Texas & Louisiana

Sierra Monet White
Laurel, MD Funeral Director and Embalmer
Reciprocity – Maryland

Alisha Leah Baskerville
Medina, TN Funeral Director

Terrell Andre Broady, II
Nashville, TN Funeral Director

Eric David Chapman
Rogersville, TN Funeral Director

Andrew Royce Goodman
Maryville, TN Funeral Director

Cody Douglas Hunter
White House, TN Funeral Director

Jada Waurice Love
Memphis, TN Funeral Director

Clifford Ray Walker, Jr.
Jackson, TN Funeral Director

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 2021 and March 2021 Regulatory Boards Disciplinary Action Reports

Respondent: Eastland Funeral Home & Cremation Service, Nashville, TN
Violation: Conducted funeral services while the funeral establishment's license was expired and did not respond to a complaint within the time specified in the notice
Action: \$250 Civil Penalty

Respondent: SAG Funeral Home, Nashville, TN
Violation: Engaged in deceptive acts or practices as defined in the Funeral Rule and displayed the names of unlicensed persons on the funeral establishment's website to give or tend to give the impression that the person is licensed to practice either as a funeral director or embalmer
Action: \$500 Civil Penalty

Respondent: Bledsoe Funeral Home, Inc., Jackson, TN
Violation: Failed to treat a member of the public in a respectful manner
Action: \$250 Civil Penalty

OPEN COMPLAINT REPORT:

As of May 5, 2021, there were 41 open complaints.

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

Seconded by Charles Rahm

Adopted by Voice Vote

ADJOURN:

A motion was made Clark McKinney to adjourn.

Seconded by Anthony Harris

Adopted by Voice Vote

The meeting was adjourned by President Robert Shackelford at 10:58 a.m.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CPM, CFSP
Executive Director