

Arkansas State Board of Embalmers and Funeral Directors
Board Meeting

MINUTES
Wednesday, May 14, 2015
101 East Capitol Avenue
Conference Room C
Little Rock, AR
9:00 a.m. –1:30pm

Chairman James Terry Woodard called the meeting to order. Members present were: Vice Chairman Bobby Thurman, Bobby Burns, Patricia Roberts, Ben Brazzel, Jerry Adams, and John Wilkerson. Staff that were present: Amy Goode, Executive Secretary, Leslie Stokes, Investigator/Inspector, and Nina Carter, Board Counsel.

1. Introduction of the Board

2. Oral Examinations

- a. Corey Feikema oral exam administered.

- 3. **Website Redesign-Bob Sanders INA** – Mr. Sanders explained to the Board it had been 2001 since our website was last modified. It's outdated and they would like to move the Board to a new plan "content management system" or begin charging the Board an hourly rate. The content management system would be a set-up fee and a one hundred dollar (\$100) per hour fee. The Board was in agreement to move with the update if the Executive Secretary thought it was necessary.

4. Establishment Licenses seeking approval

- a. **Eternal Light Funeral Home, 607 Commerce Drive, Earle, AR –Manager Brenda Lane, Owner Ronald Broussard - inspected on May 7, 2015.** Motion made by Burns to grant Eternal Light their funeral establishment Type A license, seconded by Adams, all in favor. Motion carried.

5. Hearings

- a. **In the matter of: Seanna Hamm, an Applicant for an Out of State Funeral Director and Embalmer License**

Evelyn Gomez Assistant Attorney General served as Hearing Officer and swore in witnesses.

Assistant Attorney General Nina Carter represented the Board.

Seanna Hamm represented herself.

Amy Goode – Executive Secretary witness for the Board.

Lee Ann Dickens Court Reporter –Grigsby Court Reporting.

Ms. Gomez swore in the witnesses for the record.

Hearing Officer Evelyn Gomez called the hearing on the record and explained the purpose of the hearing. Ms. Gomez explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public.

FINDINGS OF FACT

F.1. Applicant Seanna Hamm has submitted an application to the Board to reciprocate in the business of funeral directing and embalming pursuant to Ark Code Ann. § 17-29-310 and Rule VIII of the Rules of the Arkansas State Board of Embalmers and Funeral Directors.

F.2. In making application to the Board for licensure, Applicant self-disclosed her past criminal convictions.

F.3. Pursuant to Ark. Code Ann. § 17-29-311, the Board “may . . . refuse to issue a license . . . for the practice of embalming or funeral directing or may place the holder thereof on a term of probation after proper hearing upon the finding the holder of the license to be guilty of acts of commission or omission, including the following: (1) Conviction of a felony.”

F.4. Applicant was approved for licensure by the Tennessee Board of Funeral Directors and Embalmers on October 14, 2014.

Motion made by Wilkerson to find factual allegations A.1-A.4 true, seconded by Burns, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.1 The Board may refuse to issue Applicant a license in the business of funeral directing based on her felony convictions.

Motion made by Burns that no charges be found and to approve Ms. Hamm’s temporary out of state license request, seconded by Brazzel, all in favor. Motion carried.

ORDER

Based upon the Findings of Facts and the Conclusions of Law determined by the Board, it is hereby entered as a final order of the Board that the Applicant, Seanna Hamm, be granted a reciprocal funeral director and embalmer license in the State of Arkansas.

b. In the matter of: Case#15-17 Board V. Hardy Funeral Home, Charles Hardy, Jr. Funeral Director and manager

Evelyn Gomez Assistant Attorney General served as Hearing Officer and swore in witnesses.

Assistant Attorney General Nina Carter represented the Board.

Charles Hardy, Jr. represented himself.

Amy Goode – Executive Secretary witness for the Board.

Lee Ann Dickens Court Reporter –Grigsby Court Reporting.

Ms. Gomez swore in the witnesses for the record.

Hearing Officer Evelyn Gomez called the hearing on the record and explained the purpose of the hearing. Ms. Gomez explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public.

FINDINGS OF FACT

F.1. Respondent Hardy Funeral Home is currently licensed as a Funeral Establishment Type A in the State of Arkansas. Respondent’s license was first issued December 8, 2003.

F.2. Respondent Charles Hardy, Jr. holds a funeral director’s license issued by the Board and served as the licensed funeral director under whose general management and supervision Hardy Funeral Home, a licensed Funeral Establishment Type A, operates. In connection with all matters described in this order, Respondent Charles Hardy, Jr. was so licensed at all times relevant to the matters addressed herein.

F.3. Respondents failed to renew their funeral home license for 2015 by the statutory deadline of December 31, 2014. Thus, Respondent's funeral home license became delinquent on January 1, 2015, pursuant to Ark. Code Ann. § 17-29-306 (b).

F.4. After submitting all necessary paperwork and fees for renewal, Respondent's funeral home license was reinstated on January 29, 2015.

F.5. During the time period between January 1, 2015 and January 28, 2015, there were three families served in violation of Ark. Code Ann. § 17-29-311(e).

Motion made by Burns to find factual allegations A.1 – A. 5 proven, seconded by Brazzel, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.1 The facts set forth in paragraphs F.3., F.4., and F.5 above constitute violations of Arkansas Code Annotated § 17-29-311(a) which provides that the Board may issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon find the holder of the license to be guilty of acts of commission or omission, including:

- (2) Misrepresentations made or fraud committed as a holder of a license;
- (9) Violation of any provision of this subchapter, the Embalmers and Funeral Director's law, and §§ 17-29-201, et seq.
- (18) Failure to answer a complaint within the fifteen-day time period.

C.2. Respondents are in violation of Arkansas Code Annotated § 17-29-311(e) for failing to maintain the establishment license.

C.3. Respondents are in violation of Arkansas Code Annotated § 17-29-306 (b), which provides:

- (1) Renewal of a funeral establishment license shall be made on or before December 31 of each year and shall be accompanied by the annual renewal fee prescribed in § 17-29-208.
- (2) A license not renewed by December 31 of any year shall be considered delinquent and constitute grounds for disciplinary action by the board.

Motion made by Brazzell to find charges C. 1-C. 3 proven, seconded by Wilkerson, all in favor. Motion carried.

ORDER

Based upon the evidence of record and the foregoing Findings of Facts and Conclusions of Law, the Board finds the following:

- A. Charles Hardy, Jr.'s license to practice funeral directing will be placed suspended for a period of six (6) months from the date of this Order.
- B. The establishment license for Hardy Funeral Home will be suspended for a period of six (6) months from the date of this Order.
- C. Respondents are ordered to pay a civil penalty in the amount of five hundred dollars (\$500), which must be paid to the Board within sixty (60) days of the date of this order.

Motion made by Burns to suspend Charles Hardy, Jr. and Hardy Funeral Homes license for a period of six (6) months and issue a civil penalty against Charles Hardy, Jr. in the amount of five hundred dollars (\$500) to be paid within 60 days of the date of order, seconded by Brazzel, all in favor. Motion carried.

c. In the matter of: Case#15-18, 15-19, 15-20, 15-21 P. K. Mortuary V. A. C. Shelton, Edward Shelton, Randy Williams, and Harold Reed

Evelyn Gomez Assistant Attorney General served as Hearing Officer and swore in witnesses.

Assistant Attorney General Nina Carter represented the Board.

Aaron "A.C." Shelton represented himself.

Amy Goode – Executive Secretary witness for the Board.

Lee Ann Dickens Court Reporter –Grigsby Court Reporting.

Ms. Gomez swore in the witnesses for the record.

Hearing Officer Evelyn Gomez called the hearing on the record and explained the purpose of the hearing. Ms. Gomez explained that the Board would base its decision solely on evidence presented today and that this hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will give latitude in presenting testimony and evidence. This hearing is subject to the Freedom of Information Act and is open to the public.

FINDINGS OF FACT

F.1. Respondent A.C. Shelton holds a funeral director's license issued by the Board and served as the licensed funeral director under whose general management and supervision P&K Mortuary, a licensed Funeral Establishment Type A, operated until December 5, 2014. In connection with all matters described in this hearing notice, Respondent was so licensed at all times relevant to the matters addressed herein.

F.2. On February 10, 2015, the Board received a complaint from Phillip Watson, owner of P&K Mortuary, a Licensed Funeral Establishment Type A, concerning what Mr. Watson believed to be potential violations of solicitation against his manager the Respondent.

F.3. On or about November 24, 2014 a call was placed to P&K Mortuary ("P&K") for the Respondent, owner of 1st Class Transport, to do a possible transport of Mr. Parker Cobbs, Sr., from Texas to Branscumb Funeral Home in Brinkley, AR.

F.4. On or about November 25, 2014, calls started coming into P&K, asking for the address of the funeral home in order to send floral arrangements for Parker Cobbs, Sr.

F.5. On or about November 25, 2014, Respondent placed a call to Mr. Watson stating that the family decided to use P&K and that they were scraping up money to bury their father, because there was no insurance and very little cash.

F.6. Respondent stated the family was purchasing the casket and vault wholesale, the programs were being provided by a family member, and the only money P&K would receive was a partial service charge.

F.7. On or about November 26, 2014 a casket was purchased through Christianway Funeral Home and delivered to P&K Mortuary.

F.8. On or about November 27, 2014, Respondent stated he would be traveling to Texas to pick up Mr. Cobbs and bring him and dress him. The Board found this allegation to be unfounded.

F.9. On or about November 28, 2014, Respondent, Edward Shelton, and Randy Williams worked the service for Mr. Cobbs at the Brinkley Convention Center. Mr. Watson felt something was not right with this case, after being informed of who worked the service and was convinced that the Respondent had done something shady.

F.10. Respondent was asked for the funeral bill and money collected from the service several times by Mr. Watson and no paperwork or money was ever received.

F.11. On or about January 6, 2015, Mr. Watson received a phone call from Shameeka Armstrong, that her father Parker Cobbs, Jr. was found dead at home. Ms. Armstrong wanted P&K to handle the service.

F.12. Mr. Watson was given verbal phone authorization by Ms. Armstrong to pick up and embalm Parker Cobbs, Jr.

F.13. On or about January 7, 2015, Ms. Armstrong came to P&K to make arrangements for Parker Cobbs, Jr. After Mr. Watson obtained information for the death certificate, the family went to the selection room and indicated that they wanted similar merchandise to what the grandfather, Parker Cobbs, Sr., had been provided for \$2,800.00. Mr. Watson explained that the merchandise had been purchased wholesale by Ms. Armstrong's aunts.

F.14. Ms. Armstrong began receiving telephone calls from her aunt in Texas, who wanted a breakdown on the bill, and inquired if \$500.00 could be taken off the bill. Mr. Watson explained that "the bill was taken down to \$1,450.00, which brought the service down to \$2,400.00." Ms. Armstrong stated she would get back with him.

F.15. Mr. Watson was informed that Respondent was on the telephone with Ms. Armstrong's aunt while she was making the arrangements at the funeral home. Ms. Armstrong later called Mr. Watson and stated that her aunt would be handling and paying for the service. In addition, the Armstrong family had entrusted Parker Cobbs, Jr. to Colonial Southern Services in Carlisle, AR.

F.16. Mr. Watson alleges that on the day of the service, the funeral was directed by Respondent, Edward Shelton, and Randy Williams.

Motion made by Burns to find factual allegations A. 1 – A.7 and A.9 – A.16 proven and factual allegation A. 8 not proven, seconded by Roberts, all in favor. Motion carried.

CONCLUSIONS OF LAW

C.1 Respondent violated this Board's Statutes as set forth in Ark. Code Ann. §17-29-311(a) (2) and (9), including making misrepresentations or fraud in soliciting the business of P&K Mortuary.

C.2. The remaining charges of Ark. Code Ann. §17-29-311(a)(4), (5), and (6), as set forth in paragraph C.1. of the Notice of Hearing issued to Respondent on April 22, 2015, were not proven and should therefore be dismissed.

Motion made by Wilkerson to find charge C. 1 (a) (2) (9) proven and charge C. 1 (a) (4)(5)(6) not proven, seconded by Roberts, all in favor. Motion carried.

ORDER

Based upon the evidence of record and the foregoing Findings of Facts and Conclusions of Law, the Board finds the following:

- A. A.C. Shelton's license to practice funeral directing will be placed on probation for a period of six (6) months from the date of this Order. Any failure to comply with the provisions of the Embalmers and Funeral Directors Law, or the receipt of complaints against the Respondent or Respondent Funeral Home during the period of probation may result in the suspension or revocation of the license;
- B. Respondent is ordered to pay a civil penalty in the amount of \$500, which must be paid to the Board within thirty (30) days of the date of this Order. If the Respondent fails to pay the civil penalty in full within thirty days of the date of this Order, his funeral director's license shall be suspended until such time as he pays the full amount of the civil penalty; and
- C. A Letter of Reprimand shall be issued to Respondent with a copy to be placed in his permanent file.

Motion made by Brazzel to issue a letter of reprimand, six (6) month probation, and a five hundred dollar (\$500) civil penalty to be paid within thirty (30) days of the date of order. Motion carried with a vote of 5 to 1 in favor. President Woodard did not have to vote.

6. *Inspector Updates – Leslie Stokes*

The Inspector did the following since the last meeting:

- See attached report.

7. *Attorney Updates –Nina Carter*

- a. ***Appeal status- Javier Buck and Richardson Memorial Funeral Home*** – Working on motion to dismiss.
- b. ***Appeal status – Effie Collins and Collins Chapel*** – Working on a motion to dismiss.
- c. ***Appeal Status – Leonard Fitzgerald*** – The motion to dismiss was granted.
- d. ***Elmer Davis*** – Working on a motion to dismiss.

8. *Meeting dates:*

- a. May 14, 2015 annual meeting 1pm.
- b. July 9, 2015 – 9am
- c. September 10, 2015 – 9am
- d. November 12, 2015 – 9am

9. *Adjournment*

Motion made by Brazzel to adjourn the meeting, seconded by Wilkerson, all in favor. Motion carried.