

Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services
Board Meeting Minutes

Tuesday, January 8, 2019
1200 West Third Street
1st Floor Hearing Room
Little Rock, AR
9 a.m. – 11 a.m.

Chairman Bill Booker called the meeting to order. Members present: Billy Curl, Professional Member, Chuck Dearman, Professional Member, Rausch Hodges, Professional Member, Commissioner, Allen Kerr, Josephine Perry, Senior Citizens Member, Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member and Vice-Chair. Member(s) absent: Stephanie Neipling, Consumer Member. Staff Present: Robert Akers, Director, Funeral Services Division, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, Leslie Stokes, Inspector, Amelia Vestal, Senior Securities Examiner, and Amanda Gibson, Arkansas Insurance Department, Associate Counsel.

1. **Call to Order** – Introduction of Board members and staff.

2. **Approval of the Agenda**

Chairman Booker inquired if there were any desire to change or deviate from the proposed agenda. Hearing none, the Board preceded with the agenda as prepared by staff.

3. **New Business**

a. **Embalmers & Funeral Directors – Establishments Seeking Approval** (*§17-29-304 Funeral Establishment – Requirements and §17-29-305 Examinations – Licenses*)

i. **Doty Southside Funeral Service – Board ID No. 25085.** Requests a Type A establishment license and is located at 2180 Batesville Blvd., Batesville, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by The Doty Group, Inc., on **Thursday, January 3, 2019**. The manager of record will be Tommie W. Doty and Doty Family Funeral Services in Salem, Arkansas, is to be performing the embalming under the direction of Anthony Allen, Board ID No. 22066. Northeast Arkansas Crematory, Board ID No. 20565, in Hardy will perform cremations. All required documentation submitted is pending Board approval.

The board received notice on Tuesday, January 8, 2019, that Anthony Allen had resigned as their embalmer of record.

Motion made by Whitwell to approve the Type A Establishment license for Doty Southside Funeral Service, contingent the board receiving an embalmer agreement within ten (10) days, seconded by Curl, all in favor. Motion carried.

b. Crematory Permit Application Approval (*§17-29-313 Crematorium Construction*)

- i. S. E. Funeral Homes of Arkansas, LLC d/b/a Gross Funeral Home - Crematory Permit Application** – Requests a Crematory Construction Permit and will be located at 120 Wrights Street, Hot Springs, Arkansas. All required documentation submitted is pending Board approval.

Justin Nicklas was present representing Gross Funeral Home.

Motion made by Curl to approve the permit to construction as presented, seconded by Hodges, all in favor. Motion carried.

c. Perpetual Care Cemeteries (*§20-17-1013 Permanent maintenance fund generally*)

- i.** To consider the question raised by Bob Pointer of Roselawn Memorial Park (License No. 11788), Little Rock regarding how much is too much money in a perpetual care trust account.

Only income from the trust fund can be used for the maintenance of the cemetery. The current laws and rules do not allow for a perpetual care cemetery to stop making deposits into the trust fund.

d. Perpetual Care Cemeteries – To consider the complaint(s) on-file with the State Board (*§23-61-1111 Duties of the State Insurance Department*)

- i.** To consider the resolution of Mr. Bruce Hodges complaint against **Forest Hills Cemetery**, Alexander (License No.11853).

The consumer’s complaint was that he did not believe that he was presented his deed in a timely manner. Consumer is now satisfied as he has received his deed. The complaint is considered resolved at this time.

4. Hearings

a. In the matter of: Julia Carmella Myers, an Applicant for an Apprentice Funeral Director, Respondent. Case No. 18-16

Russ Galbraith, Chief Deputy Insurance Commissioner, served as Hearing Officer;
Amanda Gibson, Board Counsel, represented the Board;
Tiffanie Harrison, Court Reporter;
Julia Carmella Myers, Respondent, represented himself;
Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record and explained the purpose of the hearing. Mr. Galbraith noted that Respondent Myers was present and had received notice of hearing. Mr. Galbraith explained that the hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will be given latitude in presenting testimony and evidence, to promote a fair hearing. This hearing is subject to the Arkansas Freedom of Information Act and therefore all parts of the hearing, including deliberations, are open to the public. The Board will base its decision solely on evidence presented today.

Ms. Gibson gave a brief summary of exhibits 1 – 3 and inquired if she had permission to publish the Board’s Exhibit Packet. There were no objections and exhibits 1-3 were entered into the record. Respondent had no further exhibits.

Respondent Myers plead guilty in September 2016 to a violation of the Uniform Narcotic Drug Act, which was her first offense. Respondent was sentenced to 24 months incarceration with 36 months suspended sentence. Respondent was incarcerated for 9 months and is currently on unsupervised parole.

Motion made by Whitwell to find factual allegations 1 – 4 and charge 1 proven, seconded by Curl, all in favor. Motion carried.

Motion made by Whitwell to approve Julia Myers’ application to register as an Apprentice Funeral Director, seconded by Hodges, all in favor. Motion carried.

b. In the matter of: Brown’s Eternal Light Funeral Services, Board ID# 24862 and Larry Brown, Funeral Director and Manager, Board ID# 22697, Respondents. Case No. 17-48

Russ Galbraith, Chief Deputy Insurance Commissioner, served as Hearing Officer;
Amanda Gibson, Board Counsel, represented the Board;
Tiffanie Harrison, Court Reporter;
Larry Brown and Brown’s Eternal Light Funeral Services, Respondents, represented by James Valley;
Sharonda Nelson, Respondents witness.
Court reporter swore in witness.

Hearing Officer, Russ Galbraith called the hearing on the record and explained the purpose of the hearing. Mr. Galbraith noted that Respondents Larry Brown and Brown’s Eternal Light Funeral Services were present and had received notice of hearing. Mr. Galbraith explained that the hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will be given latitude in presenting testimony and evidence, to promote a fair hearing. This hearing is subject to the Arkansas Freedom of Information Act and therefore all parts of the hearing, including deliberations, are open to the public. The Board will base its decision solely on evidence presented today.

The board's exhibit packet containing exhibits 1 – 10 received an objection from Mr. Valley, he objected to the title of exhibits 2 and 5. Mr. Galbraith allowed Ms. Gibson to give a brief explanation concerning the objected exhibits to which she explained, that we were not here to discuss exhibit 2 the consumer complaint. That we were here to discuss exhibit 5 which was a complaint at the department level; however, they were related and why it was included in the packet. Parties agreed to relabel exhibit 2 as "Previous Compliant" and exhibit 5 as "Complaint" and exhibits 1-10 were entered into the record. Mr. Valley had no additional exhibits.

Brown's Eternal Light Funeral Services is a new entity that was previously known as Brown's Christianway Home for Funerals. Mr. Brown's funeral home previously held a pre-paid funeral permit which was revoked by the department in March of 2018. In that case, the respondents were found to have double charged for a funeral. The consumers were made whole as part of a resolution of that matter, but a violation of the pre-paid law triggered a violation of the embalmers and funeral directors law.

Motion made by Hodges to adopt factual allegations 1-21 as allegations of fact and to find charges 1-4 substantiated, seconded by Dearman, all in favor. Motion carried.

Motion made by Curl to adopt charges 1-4 as conclusions of law, seconded by Hodges, all in favor. Motion carried.

Motion made by Hodges to issue a letter of reprimand and to place all licenses under jurisdiction of the board on probation for six (6) months, seconded by Smithson, all in favor. Motion carried.

5. **New Business**

- a. Board approval of travel reimbursement and stipends for calendar year 2019, in accordance with Ark. Code Ann. §25-16-902 and 25-16-904 respectively. Amount cannot exceed eight-five dollars (\$85.00) per day. Possible exceptions: Teleconference meetings.

Motion made by Curl to approve travel reimbursement and stipends for 2019 with an exception of teleconferences, seconded by Dearman, all in favor. Motion carried.

6. **Legal Administrative Update**

There is one administrative appeal pending in Miller County. Roy Lyles and Lyles Funeral Home appealed a November 2017 final order issued by the prior board, whereas the funeral home was put on probation for six (6) months and fined \$600.00. Roy Lyles funeral

director license was put on probation for one (1) year and was ordered to receive four (4) additional CE hours. He appealed that order, but his attorney failed to request a stay of the board's order.

Motion made by Hodges to table any further action against Lyles Funeral Home and Roy Lyles until appeal status is resolved, seconded by Curl, all in favor. Motion carried.

7. Rules Committee Report, January 7, 2019 – Billy Curl

Mr. Curl reported to the board that the rules committee held a meeting on Monday, January 7, 2019. The committee discussed and determined that there needs to be a complete review of the rules from start to finish. The new statutes need to be posted on the website was one thing that was determined.

Additionally, the committee discussed the licensing requirements for a crematory retort operator and having retort operators get certified every five (5) years. Also, that a Type C should be under the supervision of a licensed funeral director.

8. Next Rules Committee Meeting

- a. **Monday, February 4, 2019 (1:00 p.m.)**
- b. **Monday, March 4, 2019 (1:00 p.m.)**

9. Next Meeting Date

- a. **Tuesday, February 5, 2019 (9:00 a.m.)**
- b. **Tuesday, March 5, 2019 (9:00 a.m.)**

10. Potential Future Meeting Date(s)

- a. **Tuesday, April 9, 2019 (9:00 a.m.)**
- b. **Tuesday, May 7, 2019 (9:00 a.m.)**

11. Comments and Announcements

12. Adjournment

Motion made by Hodges to adjourn at approximately 12:05 p.m., seconded by Curl, all in favor. Motion carried.