

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

Tuesday, May 7, 2019
1200 West Third Street
1st Floor Hearing Room
Little Rock, AR
9 a.m. – 11:40 a.m.

Chairman Bill Booker called the meeting to order. Members present: Billy Curl, Professional Member, Chuck Dearman, Professional Member, Rausch Hodges, Professional Member, Stephanie Neipling, Consumer Member, Josephine Perry, Senior Citizens Member, and Steve Whitwell, Professional Member and Vice-Chair. Member(s) absent: Commissioner, Allen Kerr and Bruce Smithson, Professional 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 was any desire to change or deviate from the proposed agenda. Hearing none, the Board preceded with the agenda as prepared by staff.

3. **Administrative**

a. Approval of the October 30, 2018, meeting minutes;

Motion made by Curl to approve the minutes of the October 30, 2018 meeting, as submitted by staff, seconded by Dearman, all in favor. Motion carried.

b. Approval of the December 4, 2018, meeting minutes;

Motion made by Curl to approve the minutes of the December 4, 2018 meeting, as submitted by staff, seconded by Hodges, all in favor. Motion carried.

c. Approval of the January 8, 2019, meeting minutes; and

Motion made by Dearman to approve the minutes of the January 8, 2019 meeting, as submitted by staff, seconded by Neipling, all in favor. Motion carried.

d. Approval of the March 20, 2019, teleconference meeting minutes.

Motion made by Curl to approve the minutes of the March 20, 2019 teleconference meeting, as submitted by staff, seconded by Neipling, all in favor. Motion carried.

4. **Robert Akers, Funeral Services Division Director**

Mr. Akers explained to the members present, this was a preface for some items a little bit later on the agenda. It has to do with the construction and operation of a crematorium. Discussion with staff, it seems there is a logistical issue with how the law is currently constructed. In order to get approved for a final operating license, for a Type C crematorium, you have to run the burner and do a test run in the presence of the inspector and also in the presence of the manufacturer sets the retort up. You cannot get your final Type C license until the first cremation, but if you look at the law, you cannot do the first cremation without receiving approval of your license. We had a logistical issue, where the funeral home was approved previously for the construction of the crematorium by the board and based on the dates for the manufacturer to install and do the first burn, it was going to be several weeks between inspection day and date of this meeting. A conditional or provisional operating certificate was issued for when the inspector went and witnessed the first cremation and then made the funeral home provide us with documentation of every single cremation between the issuance of the conditional operating certificate and final approval date. We knew there would be 3 to 4 weeks between the install and this meeting; we felt there needed to be some sort of accountability and tracking mechanism. We hope to make some changes to the code and rule to address this issue. There were no objections by the board with this procedure being put into place.

5. **New Business**

a. **Embalmers & Funeral Directors – Establishments Seeking Approval**

[A.C.A. §17-29-304 Funeral Establishment – Requirements and §17-29-305 Examinations – Licenses]

- i. **Lewis Funeral Chapel – Board ID No. 25116.** Requested a **Type A** establishment license located at 4817 Kelley Highway, Fort Smith, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by Lewis Funeral Chapel, Inc., on **Friday, March 22, 2019**. The manager of record will be Thomas Joel Lewis, Board ID No. 23607, Aaron Beasley Embalming Service, Board ID No. 20476 in Fort Smith, Arkansas, will be performing embalming under the direction of Aaron Beasley, Board ID No. 23608. Aaron Beasley Crematory, Board ID No. 20560 in Fort Smith will perform cremations. All required documentation submitted was pending Board approval. Establishment currently operates as Lewis-Roberts Funeral Chapel, Board ID No. 20401.
- ii. **Lewis Funeral Chapel – Board ID No. 25117.** Requested a **Type A** establishment license located at 255 AR 96, Lavaca, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by Lewis Funeral Chapel, Inc., on **Friday, March 22, 2019**. The manager of record will be Thomas Joel Lewis, Board ID No. 23607, Aaron Beasley Embalming Service, Board ID No. 20476 in Fort Smith, Arkansas, will be performing embalming under the direction of Aaron Beasley, Board ID No. 23608. Aaron Beasley Crematory, Board ID No. 20560 in Fort Smith will perform cremations. All required documentation submitted was pending Board approval. Establishment currently operates as Lewis-Roberts Funeral Chapel, Board ID No. 20428.
- iii. **Lewis Funeral Chapel – Board ID No. 25118.** Requested a **Type A** establishment license located at 2911 West Highway 10, Greenwood, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by Lewis Funeral Chapel, Inc., on **Friday, March 22, 2019**. The manager of record will be Thomas Joel Lewis, Board ID No. 23607, Aaron Beasley Embalming Service, Board ID No. 20476 in Fort Smith, Arkansas, will be performing embalming under the direction of Aaron Beasley, Board ID No. 23608. Aaron

Beasley Crematory, Board ID No. 20560 in Fort Smith will perform cremations. All required documentation submitted was pending Board approval. Establishment currently operates as Lewis-Roberts Funeral Chapel, Board ID No. 24543.

Lance Glenn was present representing Lewis Funeral Chapel.

Motion made by Whitwell to approve all three Type A establishment license requests from Lewis Funeral Chapel, seconded by Hodges, all in favor. Motion carried.

- iv. **Eternal Light Funeral Services – Board ID No. 25128.** Requested a [Type A](#) establishment license located at 1103 3rd Street, Earle, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by Ronald J. Broussard, on **Monday, April 29, 2019**. The manager of record will be Ronald J. Broussard, Board ID No. 24049, Larry Brown, Board ID No. 22697, will be performing embalming. D.E. Cremator Company, Board ID No. 24325 in England will perform cremations. All required documentation submitted was pending Board approval.

Ronal Broussard was present representing Eternal Light Funeral Services.

Booker questioned Broussard about his price list and casket price list; explaining he may want to get some advice, because Booker believes that each individual casket needs to be listed with the price and not a range. Booker cautioned Broussard about “In Account with” may not be in compliance with the Federal Trade Commission (“FTC”) and sample lists and Statements of Funeral Goods and Service could be found on the “FTC” website. Curl also recommended he contact the National Funeral Directors Association and ask review of their price list, because one violation from the FTC is \$40,000.00 fine.

Motion made by Whitwell to approve the Type A establishment license request from Eternal Light Funeral Services, seconded by Neipling, all in favor. Motion carried.

- v. **Gross Crematory – Board ID No. 25113.** Requested a [Type C](#) establishment license located at 120 Wright Street, Hot Springs, Arkansas. Inspector Stokes inspected the Type C Crematory establishment, owned by S.E. Funeral Homes of Arkansas, LLC, on **Thursday, April 4, 2019**. The primary operator will be Justin Nicklas, Board ID No. 21447. Applicants were granted a permit to construct the crematory on January 8, 2019. All required documentation submitted was pending Board approval.

Justin Nicklas, General Manager with Dignity Arkansas, was present representing Gross Funeral Home and Gross Crematory on behalf of SCI.

Motion made by Curl to approve the Type C establishment license requested from Gross Funeral Home and Gross Crematory, seconded by Dearman, all in favor. Motion carried.

- vi. **Diamond State Crematory – Board ID No. 25040.** Requested a [Type C](#) temporary operational permit and establishment license located at 14980 Industrial Park Dr., Lead Hill, Arkansas. The Type C Crematory establishment is owned by P.J. Sullivan and Parris Robles. The primary operator will be Parris Robles, Board ID No. 24313. Applicants were granted a permit to construct the crematory on August 21, 2018. All required documentation submitted was pending Board approval.

P. J. Sullivan and Parris Robles were present, representing Diamond State Crematory.

Motion made by Whitwell to approve the temporary operational permit becoming a final Type C license upon completion of the manufacturer training, first cremation, and department staff approval without any further appearance before the board, seconded by Curl, all in favor. Motion carried.

vii. Little Rock Cremations, Inc. – Board ID No. 25013. Requested a [Type C](#) temporary operational permit and establishment license located at 8801 Knoedl Court, Little Rock, Arkansas. The Type C Crematory establishment is owned by Brad Leggett. The primary operators will be Steve Schade, Board ID No.21728, David Dillahunty, Board Id No. 22345, and Monica Knight, Board ID No. 21682, all licensed funeral directors. Applicants were granted a permit to construct the crematory by the previous board on June 7, 2018. All required documentation submitted was pending Board approval.

Brad Leggett was present representing Little Rock Cremations, Inc.

Motion made by Whitwell to approve the temporary operational permit becoming a final Type C license upon completion of the manufacturer training, first cremation, and department staff approval without any further appearance before the board, seconded by Hodges, all in favor. Motion carried.

viii. Prince Transport Service – Board ID No. 25127. Requested a [Type D](#) establishment license located at 135 Cooper Road, Rose Bud, Arkansas. Inspector Stokes inspected the Type D Transport establishment owned by Mike Prince on **Friday, April 12, 2019**. Mr. Prince, Board ID No. 23846, is the only listed driver for the transport service and he received his blood-borne pathogen training on April 12, 2019. All required documentation is pending Board approval.

Mike Prince was present representing Prince Transport Service.

Booker recused himself from discussion due to his firm's relationship with Mike Prince.

Motion made by Curl to approve the Type C establishment license requested from Prince Transport Service, seconded by Dearman, all in favor. Motion carried.

b. Funeral Directors and Embalmers – To consider applications for reinstatement [[A.C.A. §17-29-306 Renewal](#)]

i. Clifton O. Blunt, Sr. – Board ID. No. 20997. Mr. Blunts funeral director's license lapsed in December 2004 for non-payment. [Rule IX. 4.](#) State a licensed embalmer and or funeral director who fails to renew his/her license for a period of five (5) years, in addition to appearing before the Board and paying the required delinquent fees of fifty (\$50.00) dollars per quarter, per license for a maximum of two (2) years, plus the license fees for those two (2) years, shall be required to take and pass the Arkansas Laws exam.

Clifton Blunt appeared requesting reinstatement of his funeral director's license explaining to the board he had a full-time job in 2004 and was a funeral director part-time and also had a car wreck. He has the opportunity to go back to work for Brown's Funeral Home in Pine Bluff needing his license reinstated to be able to better serve the funeral home needs.

Motion made by Whitwell to approve request to reinstate upon passing LRR exam and subsequently paying appropriate fees before issuance, seconded by Neipling, all in favor. Motion carried.

- ii. **Gary Day – Board ID No. 24251.** Mr. Day’s funeral director’s license lapsed in December 2014 for non-payment. [Rule IX. 2.](#) States if a licensed funeral director or embalmer has failed to renew for a period of more than three (3) years, but less than five (5) shall be required to appear before the board and pay the maximum delinquent fees.

Gary Day was present and explained he left the business in 2014 to pursue his bachelor’s degree. Also moved out of state, but has moved back to Arkansas and his requesting to reinstate his funeral director’s license.

Motion made by Whitwell to approve reinstatement upon payment of appropriate fees before issuance, seconded by Dearman, all in favor. Motion carried.

- c. **Funeral Directors and Embalmers – To consider request from expired apprentice** [[A.C.A. §17-29-302 Funeral Director – Qualifications](#); [Rule V – Apprenticeship](#)]

- i. **Vlanika “Niki” Flonnoy – Board ID No. 24212.** Ms. Flonnoy initially registered March 7, 2013 and re-registered February 1, 2019 with her apprenticeship expiring March 8, 2019. Ms. Flonnoy failed the exam by 7 points on March 8, 2019. [Rule V. 4.](#) States if an apprenticeship is not completed within six (6) years of the date of original registration, he or she shall not be eligible to register as an apprentice for twenty-four (24) months.

Niki Flonnoy appeared to request for an extension of time of her apprenticeship. She is asking for an additional sixty (60) days to pass the law exam.

Motion made by Whitwell to allow Flonnoy a sixty (60) extension of her apprenticeship with no additional fees, seconded by Neipling, all in favor. Motion carried.

6. **Break 10:00 – 10:10 a.m.**

7. **Hearing – 10:12 a.m.**

- a. **In the matter of: Darrius Clay, Applicant for Apprentice Funeral Director; Board ID No. 25074; Case No. 19-07.**

Russ Galbraith, Chief Deputy Insurance Commissioner, served as Hearing Officer;
Amanda Gibson, Board Counsel, represented the Board;
Faith Grisby, Court Reporter;
Darrius Clay, 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 Respondent Clay was present and had received notice of hearing. Mr. Galbraith explained 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 – 5 and inquired if she had permission to publish the Board’s Exhibit Packet. There were no objections and exhibits 1-5 were entered into the record. Respondent had no further exhibits.

During the Board’s deliberations, Respondent requested to go back on the record. Respondent then requested to withdraw his application.

Hearing and record was close at 10:45 a.m.

8. **New Business**

a. Perpetual Care Cemeteries – To consider the complaint(s) on-file with the State Board

[[A.C.A. §23-61-1111 Duties of the State Insurance Department](#)]

i. Case No. 19-PCC001 - Pinecrest Memorial Park Cemetery d/b/a Forest Hills Cemetery #11845 (Alexander, AR). David and Eloise Lewis re: cemetery’s inability to locate their paperwork in a timely manner. Paperwork was found. The Lewis’s also requested the Board investigate the cemetery regarding “possible records keeping violations.” **Determination:** Staff found no violations of the act and/or the rules. Consumer did receive his paperwork.

ii. Case No. 19-PCC002 – Rest Haven Cemetery #11831 (El Dorado, AR). Marvin Dunn re: condition of the cemetery.

The cemetery did respond, the response was sent the complainant. They did not have any further complaints. The case can be closed.

iii. Case NO. 19-PCC004 – Arkansas Memorial Gardens #11775 (North Little Rock, AR). Louise Boone re: marker. **Determination:** Staff found no violations of the act and/or the rules.

Mr. Whitwell recused, since he is the President of Arkansas Memorial Gardens. Ms. Vestal indicated the matter had been resolved and could be closed.

b. Perpetual Care Cemeteries – 2018 Annual Reports – Status Update

Ms. Vestal reported notice was sent out to all cemeteries and trustees around the end of December and the actual due date for their reports was March 18, 2019. We had four requested extensions due to unforeseen circumstances. Currently have one outstanding report for Woodlawn Memorial in Fairfield Bay. Mrs. Olmstead had passed away and Warren the son was working with someone to get the report completed, Ms. Vestal had requested.

c. Burial Associations – December 2018 Semi-Annual Reports – Status Update

Mr. Hillery reported all reports have been received with the exception of Sims-Shaw Burial Association. Their report is currently in excess of 60 days late. Letters have been sent.

d. Funeral Directors and Embalmers – To consider the complaint(s) on-file with the State Board

[[A.C.A. §23-61-1111 Duties of the State Insurance Department](#)]

Ms. Gibson stated she has four complaints to present to the board. Three she will recommend be closed and another will need some immediate action.

Case No. 18-17, was a case with two or three sets of siblings and the statute says you must have the majority of the children to determine the right to decide and in this case the majority had decided they wanted arrangements at one funeral home and one sibling wanted arrangements at another funeral home. The funeral home gave the sibling the opportunity to participate in the arrangements and they declined. The estranged sibling wanted one thing and the majority wanted another. Recommended closed by board counsel.

Case No. 19-03, was filed by Department of Health, because the Respondent did not file a death certificate within ten (10) days. The Respondent, coroner for the county, acting in his capacity as coroner and not as a funeral director. He got a call from the hospital about a fetal death, the family did not have any money, so they asked him to bury in the cemetery, in which he was the caretaker. The funeral home was not involved at all except for digging the grave and setting up the tent and chairs. The Funeral director told the Health Department the doctor was responsible for certifying the cause of death, because it was a fetal death and the doctor pronounced. The delay was on the doctor and not the funeral director, since he was acting in his capacity as coroner. Recommended closed by board counsel.

Case No 19-06, was a series of unfortunate events. There was trouble with the burial because the ground was too wet for burial, the casket dislodged from the straps when they were lowering causing the casket to fall on its side. The family then requested they open the casket, to view their loved one noticing she had been disturbed. They did properly re-position her before burial. The Respondent was extremely apologetic and ended up not charging for any of their services, approximately \$15,000.00. The case was very unfortunate and the funeral director did what he could to rectify the problem, the staff recommends this case be closed.

Motion made by Curl to close Case no. 18-17,19-03, and 19-06, based on recommendation, seconded by Dearman, all in favor. Motion carried.

The next couple of cases were against Rhodes and Son Funeral Home in Augusta. One of the cases, the funeral home owes a mortuary service almost \$700 for services and in the other case a family paid for a funeral service and found out after there was a prepaid. The funeral home with the prepaid contract had to pay the servicing funeral home. Rhodes received the payment of approximately \$4,000 and did not refund the family. They wrongly took money from those consumers. The Department revoked their prepaid license in 2011 and the Department also has a hearing set for Thursday, to revoke the Funeral Expense license of Jimmy Rhodes, who is a dual license funeral director and embalmer.

Additionally, the Department's Criminal Investigation Division ("CID") has an open investigation, regarding illegally steal monies from consumers. Jacquie Harper, Investigator with CID explained they had received a complaint from SFLIC last year about missing premium monies. Investigator Harper began an investigation, reviewing numerous policies where Rhodes had not submitted the funds to SFLIC. One policy in particular Rhodes and Son had not submitted funds to SFLIC since 2013. This policy owner had receipts of paying cash for years and the money had not been forwarded to SFLIC. Additional consumers had receipts showing cash payments to Cindy Rhodes. Investigator Harper determined and the monies hadn't been forwarded to insurance companies. At least \$10,000 – \$20,000 in missing funds has been uncovered. SFLIC and other insurance companies have had policies go into "extended term status or ETI", from Rhodes and Son. Investigator Harper is currently working on wrapping up her investigation, so warrants can be issued to arrest Cindy Rhodes and possibly Jimmy Rhodes.

Ms. Gibson's recommendation was to emergency suspend the funeral homes establishment licenses and Mr. Rhodes funeral director and embalmer licenses for the Augusta and McCrory locations. The statute requires a hearing be set within ten (10) days if you do an emergency suspension. Possible hearing date would be May 16, 2019 at 9:00 a.m.

Motion made by Whitwell, to emergency suspend the licenses of Rhodes and Son Funeral Homes in Augusta and McCrory and Jimmy Rhodes, funeral director and embalmer's license, seconded by Hodges, all in favor. Motion carried.

9. **Legal Administrative Update**

Roy Lyles and Lyles Funeral brief was due on June 15, 2019 and our response would be due within thirty (30) days from June 15th.

10. **ARORA Funeral Director Symposium**

Executive Secretary explained the previous relationship the former board had with ARORA regarding the continuing education seminar. The previous board helped oversee and put the training on. The board had no objections with staff continuing to help as long as all rules are followed by the provider.

11. **Rules Sub-Committee Report**

- a. **April 5, 2019 – Billy Curl**
- b. **May 6, 2019 – Billy Curl**

The Rules Sub-Committee has met on two occasions, since the board last met. It's a slow frustrating process, but necessary. Mr. Curl and Mr. Whitwell are going to work with staff directly to get rule changes drafted for burial associations and cemeteries. Mr. Curl explained it's going to be slow, going through as the rules haven't been touched in years.

Mr. Curl mentioned review of the code of ethics and standard code of conduct had been completed.

12. **Potential Future Meeting Date(s)**

- a. **Tuesday, July 16, 2019 (9:00 a.m.)**
- b. **Tuesday, September 10, 2019 (9:00 a.m.)**

13. **Comments and Announcements**

14. **Adjournment**

Chairman Booker adjourned the meeting at 11:40 a.m.