

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

Tuesday, October 30, 2018
1200 West Third Street
1st Floor Hearing Room
Little Rock, AR
9 a.m. – 10:37 a.m.

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

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

2. **Approval of the Agenda**

Motion made by Kerr to approve the agenda as written, seconded by Curl, all in favor. Motion carried.

3. **Administrative**

a. **Approval of the September 25, 2018, meeting minutes.**

Motion made by Curl to approve the minutes of the September 25, 2018 meeting, as submitted by staff, seconded by Kerr, all in favor. Motion carried.

4. **New Business**

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

i. **Paradise-Integrity Funeral Home – Board ID No. 25046.**

Requests a Type A establishment license and is located at 206 West Washington Street, Stuttgart, Arkansas. Inspector Stokes inspected the Type A Full Service establishment, owned by J. Morrill Gray, on **Tuesday, October 9, 2018**. The manager of record will be Philomena Allen and Pine Bluff Mortuary, Pine Bluff, is to be performing the embalming, under the direction of Avery Alexander,

Board ID No. 20924. Bishop-Crites Crematory, Board ID No. 20558, in Greenbrier will perform cremations. All required documentation submitted is pending Board approval. This establishment is currently operating as Integrity Funeral Home, Board ID No. 24198.

Mr. James Gray, owner of Paradise-Integrity Funeral Home and Mr. Jethro Harris, announced as manager today at the meeting, were present representing the funeral home.

Motion made by Kerr to approve the Type A establishment license for Paradise-Integrity Funeral Home, Board ID No. 25046, seconded by Smithson, all in favor. Motion carried.

- ii. **Arkansas Cremations – Board ID No. 20527.** Requests approval to relocate from 201 N. IZARD Street, Little Rock, Arkansas to Smith-Benton Funeral Home located at 322 Market Street, Benton, Arkansas. The board would need to approve their request prior to an inspection, since the law changed effective July 1, 2018. The law now requires establishments seeking to share the same physical location to request prior approval of the board. [Specifically A. C. A. §17-29-304 \(k\) Multiple funeral establishments are not permitted to share the same physical location without the prior approval of the board.](#)

Mr. Jeff Smith, owner of Arkansas Cremations and Smith-Benton Funeral Home and Christa McElhaney, manager of Arkansas Cremations, were present representing the funeral home. Mr. Smith owns both locations and their request to relocate would be on a permanent basis, if it works well.

Motion made by Kerr to approve the relocation request permanently, since it's the same owners, seconded by Neipling, all in favor. Motion carried.

5. Complaints

a. Case No. 18-16

Applicant for an apprentice funeral director registration that has some prior felony convictions, which she did self-disclose. She was a school bus driver and was arrested for DUI; there were twenty-seven (27) children on the bus. She was sentenced to twenty-four (24) months and is now on unsupervised released. Recommendation is to set the matter for a hearing.

Motion made by Kerr to set Case No. 18-16 for a hearing, seconded by Curl, all in favor. Motion carried.

b. Frank Reid Burial Association

Complainant filed a complaint against the burial association. The burial association paid the claim to the servicing funeral home, which was in Texas. Complainant was upset, because he thought the payment should have come to him. The burial association paid \$355 to the servicing funeral home. There is not a statute or regulation that requires the burial association pay the claim directly to the family. Ms. Gibson had received a call from the servicing funeral home late Monday, October 29th and they had indicated they had paid the money to the complainant and that they had spoken with the complainant and he was satisfied with the resolution. Recommendation is to close the complaint.

Motion made by Kerr to close the complaint, seconded by Hodges, all in favor. Motion carried.

c. Haven of Rest Cemetery

Ms. Gibson sent a determination letter to Mr. Droughter summarizing the history of interactions and correspondence between him, the Webb's, and the Cemetery Board, along with her conclusion that his complaint was not actionable. He would need to pursue action directly against the Webb's or the cemetery owner. Recommendation is to close the complaint. All remedies have been exhausted. The Webb's have not violated any statutes or rules that govern cemeteries. There is not anything the board can do. Mr. Droughter stated that he had received the letter from counsel and inquired if he would be allowed to speak to the board concerning the letter. The board did not allow Mr. Droughter to speak. Ms. Gibson further explained that Mr. Droughter would have to retain private counsel to bring a lawsuit against the board, the Webb's, or the cemetery owner.

Motion made by Smithson to close the complaint, seconded by Curl, all in favor. Motion carried.

6. Old Business – Embalmers & Funeral Directors

- a. A. C. A. §17-29-302 (c) (1) The board shall require applicants for licensure as funeral directors to successfully complete up to twenty (20) hours of classroom instruction in funeral service practices and ethics, laws, and rules affecting funeral service.**

Mr. Curl said he spoke with some funeral directors and owners in his area and they were not aware of this change. Mr. Curl stated it further justifies that we need to send out an information letter concerning what has changed.

Mr. Curl further stated that we should allow for the education to be taken online and not restricted to only classroom. Mr. Curl stated we currently allow for courses to be taken

online for those that hold a current license. Board needs to establish the hours and what should be allowed. Effective July 1, 2018, the new requirement was enacted by Act 788 of 2017. Mr. Curl stated online instruction would be beneficial for those in rural areas. Mr. Whitwell inquired if we had the ability to allow for online instruction when the law says classroom. He further inquired if we can by rule establish the “up to that amount of classroom hours”; can we by rule substitute online x number of hours that satisfies the number of hours? Rules committee can discuss it further and come back to the full board with a recommendation.

During a break, the rules sub-committee met briefly to discuss this matter. Billy Curl was elected as Chair of the rules sub-committee. Mr. Curl reported that there will be a minimum of six (6) hours of classroom environment training, including virtual or online as approved by the board. Currently, if you are a licensed funeral director and embalmer in Arkansas there are programs put on by companies that are approved by the board for their continuing education. Ms. Gibson further stated that the recommendation from the rules sub-committee was for the board to interpret the language in that statute. That classroom instruction would also include web-based, distance, or virtual learning and that it would need to be further clarified in a rule. If the board approves the interpretation of that language then we would further clarify or define it in the rule.

Motion made by Kerr to accept that interpretation, seconded by Hodges, all in favor.
Motion carried.

7. **Legal Administrative Update**

Ms. Gibson explained this would be a standing agenda item for appeals and other information to bring before the board by counsel. We have one administrative appeal pending in Miller County that was entered with the previous board. The funeral director and funeral home were put on probation for a period of one year, the funeral director was ordered to obtain four (4) extra CE hours, and there was a fine. The respondents appealed the previous boards order and Amanda further explained she has filed a motion to substitute parties. She has requested a briefing schedule, so that the appeal can move forward. Ms. Gibson further explained that under the Arkansas Administrative Procedures Act that there is not an automatic stay provision, it has to be affirmatively requested by party appealing the case.

8. **Hearing**

a. In the matter of: Rochelle M. Hardin, Board ID No. 24509, an expired Apprentice Funeral Director, Respondent. Case No. 17-40.

Russ Galbraith, Chief Deputy Insurance Commissioner, served as Hearing Officer;
Amanda Gibson, Board Counsel, represented the Board;
Tiffany Harrison, Court Reporter;
Amy Goode, Executive Secretary, witness for the board.
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 Hardin was not present. 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 inquired if she had permission to publish Board's Exhibit Packet.

Board's exhibits 1-7 were entered into the record without objection. Board witness, Goode, explained the documents in the exhibits. Ms. Gibson noted corrections to be made in the hearing notice that included two name spellings and a date correction.

Motion made by Smithson to find factual allegations 1-6 and charges 1-2 proven, seconded by Kerr, all in favor. Motion carried.

Motion made by Hodges to revoke funeral director apprenticeship of Rochelle Hardin, seconded by Kerr, all in favor. Motion carried.

9. Meeting and/or Hearing Dates

- a. Monday, December 3, 2018 (1:00 p.m.) Rules Sub-Committee Meeting
- b. Tuesday, December 4, 2018 (9:00 a.m.)
- c. Tuesday, January 8, 2019 (9:00 a.m.)

The board scheduled the above referenced dates as meeting and/or hearing dates.

10. Adjournment

Motion made by Kerr to adjourn at 10:37 a. m., seconded by Dearman, all in favor. Motion carried.