

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

Tuesday, September 17, 2019
1200 West Third Street
1st Floor Hearing Room
Little Rock, AR
9 a.m. – 11:53 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, and Steve Whitwell, Professional Member and Vice-Chair. Member(s) absent: Stephanie Nepling, Consumer Member and James Bruce Smithson, Professional Member. Staff present: Robert Akers, Director, Funeral Services Division, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, 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 May 16, 2019, special hearing minutes;**

Motion made by Kerr to approve the special hearing minutes of the May 16, 2019 hearing, as submitted by staff, seconded by Dearman, all in favor. Motion carried.

- b. **Approval of the May 16, 2019, special meeting minutes;**

Motion made by Curl to approve the special meeting minutes of the May 16, 2019 meeting, as submitted by staff, seconded by Kerr, all in favor. Motion carried.

- c. **Approval of the June 3, 2019, Humphrey Crematory Public Hearing minutes, and;**

Motion made by Curl to approve the crematory public hearing minutes of the June 3, 2019 hearing, as submitted by staff, seconded by Kerr, all in favor. Motion carried.

- d. **Approval of the July 16, 2019, regular meeting minutes.**

Motion made by Dearman to approve the minutes of the July 16, 2019 meeting, as submitted by staff, seconded by Kerr, all in favor. Motion carried.

4. **Election of Chair**

Motion made by Whitwell to nominate Bill Booker to continue to serve as Board Chair, seconded by Kerr, all in favor. Motion carried.

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. **Powell Funeral Home of Woodruff County – Board ID No. 25155.** Requests a **Type A** establishment license and is located at 700 North Ninth Street, Augusta, AR. Interim Inspector Smithson inspected the Type A Full-Service establishment, owned by David R. Powell, Jr., on **Thursday, August 1, 2019**. The manager of record will be John Tyler Hyatt, Board ID No. 21687 and Powell Funeral Home, Inc., Board ID No. 20204 in Bald Knob, Arkansas, is to be performing the embalming under the direction of John Tyler Hyatt, Board ID No. 21687. Bishop-Crites Crematory, Board ID No. 20558 in Greenbrier will perform cremations. All required documentation submitted is pending Board approval.

John Tyler Hyatt and David Powell were both present representing Powell Funeral Home of Woodruff County. Mr. Hyatt stated they do not have current plans to use the prep room.

Motion made by Whitwell, to approve the Type A establishment license for Powell Funeral Home of Woodruff County, seconded by Hodges, all in favor. Motion carried.

- ii. **Diamond State Cremation and Mortuary Service – Board ID No. 25133.** Requests a **Type A** establishment license and is located at 14980 Industrial Park Dr., Lead Hill, AR. Interim Inspector Smithson inspected the Type A Full-Service establishment, owned by Parris Robles and P. J. Sullivan, on **Tuesday, August 20, 2019**. The manager of record will be Parris Robles, Board ID No. 24313 and the embalming will be under the direction of Parris Robles Board ID No. 24313. Diamond State Cremation Service, Board ID No. 25040 in Lead Hill will perform cremations. All required documentation submitted is pending Board approval.

P. J. Sullivan and Parris Robles were both present representing Diamond State Cremation and Mortuary Service.

Motion made by Curl, to approve the Type A establishment license for Diamond State Cremation and Mortuary Service, seconded by Kerr, all in favor. Motion carried.

- iii. **Diamond State Cremation Service – Board ID No. 25040.** Requests a **Type C** establishment license and is located at 14980 Industrial Park Dr., Lead Hill, AR. Interim Inspector Smithson inspected the Type C Full-Service establishment, owned by Parris Robles and P. J. Sullivan, on **Tuesday, August 20, 2019**. They were issued a Temporary Certificate of Authorization to Operate a Crematory on Tuesday, August 20, 2019. The manager of record will be Parris Robles, Board ID No. 24313. All required documentation submitted is pending Board approval.

P. J. Sullivan and Parris Robles were both present representing Diamond State Cremation Service. It was noted that they received their manufacturer training and Ms. Robles had also received retort operator training from CANA.

Motion made by Kerr, to approve the Type C establishment license for Diamond State Cremation Service, seconded by Hodges, all in favor. Motion carried.

- iv. **Miles J. Kimble Mortuary & Cremation, L.L.C., – Board ID No. 25173.** Requests a Type A establishment license and is located at 1900 South Washington Street, Forrest City, AR. Interim Inspector Smithson inspected the Type A Full-Service establishment, owned by Miles J. Kimble Mortuary & Cremation, LLC., on **Wednesday, September 4, 2019**. The manager of record will be Miles J. Kimble, Board ID No. 22724 and Arkansas Central Mortuary Service, Board ID No. 20347 in Little Rock, Arkansas, is to be performing the embalming under the direction of Randy Sharpe, Board ID No. 22438. Arkansas Central Crematory Service, Inc., Board ID No. 20544 in Little Rock will perform cremations. All required documentation submitted is pending Board approval.

Miles J. Kimble was present representing Miles J. Kimble Mortuary & Cremation, LLC.

Motion made by Whitwell, to approve the Type A establishment license for Miles J. Kimble Mortuary & Cremation, LLC., seconded by Hodges, all in favor. Motion carried.

b. Crematory Permit Application Approval [*§17-29-313 Crematorium Construction*]

- i. **Proctor Funeral Home, Inc. - Crematory Permit Application** – Requests a Crematory Construction Permit and will be located at 435 Adams Avenue SE, Camden, AR. All required documentation submitted is pending Board approval.

Richard Mosley was present representing Proctor Funeral Home’s request for a crematory construct permit.

Motion made by Kerr, to approve the crematory permit application for Proctor Funeral Home, Inc., seconded by Curl, all in favor. Motion carried.

c. Perpetual Care Cemeteries Application for Permit Amendment (*§20-17-1011 Permit-Amendment*)

- i. To consider the transfer of ownership of **Rex of Hardy, Inc., d/b/a Oaklawn Cemetery**, Highland (License No. 11844) from Kevin & Lita King, Rex of Hardy, Inc., to Tri-County Funeral Home, LLC., Renee Clay-Circle.

- ii. To consider the transfer of ownership of **Roselawn Memorial Gardens**, Batesville/Cave City (License No. 11835) from Jeff & Karyn Qualls to Tri-County Funeral Home, LLC., Renee Clay-Circle.

Peggy Long was present representing Tri-County Funeral Home, L.L.C. and Renee Clay-Circle. They requested the board waive the transfer fees of \$1,500 for each transfer. Mainly due to the death of Judge King concerning Oaklawn Cemetery and for Roselawn since 2012 they have been doing the annual reports and at the same time before they acquired it, they have taken all the records and are trying to recreate the records and ensure that what has been sold has been sold properly.

Motion made by Whitwell, to approve both applications to transfer ownership to Tri-County Funeral Home, L.L.C. and denied the request to waive the transfer fees, seconded by Curl, all in favor. Motion carried.

6. **Hearing – 10:03 a.m.**

- a. **In the matter of: Phillip Mink, Applicant for Apprentice Funeral Director and Embalmer; Case No. 19-23.**

Russ Galbraith, Chief Deputy Insurance Commissioner, served as Hearing Officer;
Amanda Gibson, Board Counsel, represented the Board;
Faith Grigsby, Court Reporter;
Phillip Blake Mink, Respondent, represented herself;
Jason Clenney, witness for Respondent.
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 Mink 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 – 4 and inquired if she had permission to publish the Board’s Exhibit Packet. There were no objections and exhibits 1-4 were entered into the record. Respondent had no further exhibits.

Board found on the record the following:

Factual allegations 1-5 proven, with underlined additional language added to F.A. 4.

1. Respondent is currently employed at Gross Funeral Home in Hot Springs, Arkansas.
2. On or around July 31, 2019, Respondent submitted applications for registration as an apprentice funeral director and apprentice embalmer.

3. In 2009, Respondent was convicted in Tennessee of possession of a controlled substance, a felony. Respondent disclosed this conviction on his application.
4. In 2016, Respondent pled guilty in Poinsett County, Arkansas, to a felony drug charge for which he received a term of sixty months' probation. Respondent did not disclose this conviction on his application. However, Respondent, in his testimony, clarified that the reason he did not reference the 2016 conviction is because he thought the Board would learn of that conviction from the criminal history report it received from Arkansas State Police.
5. Respondent is currently on probation for his 2016 conviction. Respondent's probation will conclude on December 2, 2021.

Motion made by Whitwell to grant Respondent's apprenticeships and both apprenticeships will be on probation until December 2, 2021 with the following conditions:

1. The probationary period will end simultaneously with release from probation from the Arkansas Department of Community Correction.
2. Respondent shall provide copies of all drug test screens that he undergoes while on probation.
3. Respondent shall not engage in any activity that results in criminal charges being filed.

Seconded by Hodges, motion carried 5:1. Curl opposed.

Hearing and record were closed at 11:02 a.m.

7. Complaints

a. **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 had eleven embalmer and funeral director complaints to present to the board.

Case No. 17-56. Recommended closed by board staff and counsel.

Case No. 18-02. Recommended closed by board staff and counsel.

Case No. 19-04. Recommended closed by board staff and counsel.

Case No. 19-16. Recommended closed by board staff and counsel.

Case No. 19-17. Recommended closed by board staff and counsel.

Case No. 19-20. Recommended closed by board staff and counsel.

Case No. 19-21. Recommended closed by board staff and counsel.

Case No. 19-24. Recommended closed by board staff and counsel.

Case No. 19-25. Recommended closed by board staff and counsel.

Motion made by Whitwell to accept staff's recommendation to close the above referenced cases, seconded by Hodges, all in favor. Motion carried.

Case No. 19-08. Recommended to be set for hearing by board staff and counsel.

Motion made by Curl to set Case No.19-08 for a hearing, seconded by Hodges, all in favor. Motion carried.

Perpetual Care Cemetery complaints presented to be closed:

- Case No. 19-PCC005**
- Case No. 19-PCC006**
- Case No. 19-PCC007**
- Case No. 19-PCC008**
- Case No. 19-PCC010**
- Case No. 19-PCC011**
- Case No. 19-PCC012**
- Case No. 19-PCC013**
- Case No. 19-PCC014**
- Case No. 19-PCC015**
- Case No. 19-PCC016**
- Case No. 19-PCC017**
- Case No. 19-PCC018**
- Case No. 19-PCC019**
- Case No. 19-PCC021**
- Case No. 19-PCC022**
- Case No. 19-PCC032**
- Case No. 19-PCC034**

Staff asked to withdraw case numbers PCC010, PCC011, PCC016, PCC018, PCC021, and PCC032.

Motion made by Dearman to close complaints recommend by staff except for those mentioned above to withdraw, seconded by Curl, all in favor. Motion carried.

8. Legal Administrative Update

There is one case that is on appeal in Miller County. Petitioner filed his brief September 11, 2019 and our brief is due October 11, 2019. The courts will either decide the case based on the briefs or set it for oral arguments.

9. Rules Sub-Committee Report

a. Billy Curl – Recap of rules committee meeting held Monday, September 16, 2019.

Mr. Curl stated he would like to thank the staff that has worked on this for the past several months. The sub-committee did divide the duties with Mr. Whitwell working directly on cemetery rules with Ms. Vestal, Mr. Curl working directly on burial rules with Mr. Akers and Mr. Hillery, and Ms. Gibson and Ms. Goode working on the funeral director and embalmer rules. The embalmers and funeral directors' rules we hope were completed

yesterday. The plan is to get the embalmers and funeral director rules out in the next few weeks via an electronic format for everyone to review and then plan a meeting to discuss those.

10. **Future Meeting Date(s)**

a. **Tuesday, November 19, 2019 (9:00 a.m.)**

11. **Adjournment**

Motion made by Curl to adjourn the meeting at approximately 11:53 a.m., seconded by Whitwell, all in favor. Motion carried.