

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

Tuesday, December 7, 2021

1 Commerce Way
Diamond Mine Room– 2nd Floor
Little Rock, AR
9:05 AM – 2:12 PM

Vice-Chair Steve Whitwell, Professional Member called the meeting to order. Member(s) present: Billy Curl, Professional Member, Commissioner Appointed Designee Dan Honey, Professional Member, Rausch Hodges, Professional Member, Bruce Smithson, Professional Member, and Josephine Perry, Senior Citizens Member.

Members absent: Stephanie Neipling, Consumer Member and Bill Booker, Professional Member.

Staff present: Robert Akers, Director, Funeral Services Division, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, Amanda Gibson, Arkansas Insurance Department, Associate Counsel, Josh Taylor, Board Inspector/Investigator, and Amelia Vestal, Senior Securities Examiner.

1. **Call to Order** – Introduction of Board members and staff.
2. **New Business**
 - a) **Perpetual Care Cemeteries Application Permit- Transfer of Ownership** (*§20-17-1012 Permit-Transfer of Ownership*)
 - i. To consider transfer of ownership of **Arlington Memorial Park, El Dorado** (License No. 11824) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - ii. To consider transfer of ownership of **Edgewood Memorial Park, North Little Rock** (License No. 11866) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - iii. To consider transfer of ownership of **Greene County Memorial Park, Paragould** (License No. 11828) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - iv. To consider transfer of ownership of **Jonesboro Memorial Park, Jonesboro** (License No. 11867) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve

- McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
- v. To consider transfer of ownership of **Memorial Garden Cemetery, Pine Bluff** (License No. 11827) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - vi. To consider transfer of ownership of **Rest Haven Memorial Gardens, El Dorado** (License No. 11831) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - vii. To consider transfer of ownership of **Rest Haven Memorial Park, Russellville** (License No. 11826) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.
 - viii. To consider transfer of ownership of **Woodlawn Memorial Park, Fort Smith** (License No. 11830) from Serenity Cemeteries, LLC d/b/a Serenity 1 (Steve McDonald) to Anthem Holdings (USA), Inc. d/b/a Anthem Serenity Operations, LLC.

Steve McDonald, Seller could not attend the meeting. Mark Shalz, Executive Vice-President Anthem Partners was present representing the buyer. Anthem Partners is a privately held company based out of Frisco, Texas. They operate funeral homes and cemeteries in California. Will Andrews is the President. Founder and Chairman is Andrew Clark. Mr. Shalz made onsite visits of all the properties. All managers will remain in place as well as employees. They are aware of when the reports are due.

Motion made by Curl to approve all 8 transfers of ownerships as presented, with understanding that the preneed block of business transfer will be administered by previous owner until all paperwork is completed, seconded by Smithson, all in favor. Motion carried.

- ix. To consider transfer of ownership of **Garden of Memories, Charleston** (License No. 11780) from Hahn Investments, LLC (Cythia Hahn) to Brotherton Brothers Funeral Home, Inc. (Wendel Holmes)

Shannon Robertson was present representing Hahn Investments, LLC. Cythia Hahn is her mother. Eddie Hahn her father passed away 4 years ago. Matthew Brotherton was present representing the new owners. Ms. Robertson stated this has been a family-owned business for years, until her father passed away. Then they had a manager run it until about a year ago. It's

time for her mother to retire and sell the business. Brotherton Brothers worked for Mr. Hahn prior to opening their first location in early 2000's.

Motion made by Smithson to approve the transfer of ownership, seconded by Curl, all in favor. Motion carried.

3. Hearings

a) **In the matter of Conner Family Funeral Home, a Type A Establishment, John Conner, a Licensed Embalmer and Funeral Director, Bryan Moore, a Licensed Funeral Director, and Jackie Conner, a Licensed Funeral Director. Case No. 20-03**

Russ Galbraith, Deputy Commissioner | Arkansas Insurance Department, served as Hearing Officer.

Amanda Gibson, Board Counsel, represented the Board.

John Conner, Jackie Conner, and Bryan Moore, Respondents

Witness for the Board: Amy Goode, Executive Secretary, Cecil Rolin Hutching, Complainant, Earl Cruse, Complainant, and Brianna Uffman.

Jennifer Barnett, Conway Court Reporting, Court Reporter

Hearing Officer, Russ Galbraith called the hearing on the record at 9:28 A.M. and explained the purpose of the 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 all parties 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 introduced Board's Exhibits 1-15 and briefly explained those documents. There was no objection by any party and those exhibits were entered into the record.

All witnesses were sworn in on the record.

Amy Goode was called as the board's first witness. Ms. Goode is the Executive Secretary and the custodian of records for the board. Ms. Goode stated, Mr. Bryan Moore, is currently a licensed funeral director and not a licensed embalmer. Ms. Goode was questioned about his embalming apprenticeship and length of apprenticeship. Currently Mr. Moore is not an embalmer apprentice.

Mr. Cecil Rolin Hutching was called. He was a former employee, a license funeral director and embalmer at Conner Family Funeral Home. A family by the name of Kocherer lost a loved one in a car accident. The spouse of the deceased was in the hospital as well. Their son and his spouse came down and took over the arrangements. The arrangements were prepaid involving burial in the state that he was from, but there was no way to do all that. So, they decided to go with a traditional service with a cremation after. Which meant changing their prepaid

arrangements. The family picked a wooden oak casket and believed he was going to be cremated in it. The casket was not cremated, because the casket was too good to be cremated. Mr. Hutching stated that the casket was then resold and used by another family. A person was buried in it. Mr. Hutchings also stated that Bryan Moore was left to embalm unattended. Hutchings claimed that he was told by Bryan Moore, that he did Mr. Conner's CE for him.

Earl Cruse was the next witness called, from Mountain Home, AR. He is employed by Roller in Mountain Home and is a licensed Funeral Director. In April 2021, he filed two written statements with the board. Prior to the April 29th statement, he had turned in his two weeks' notice and his son Micah Cruse also had turned in his notice. He had noticed that he had been taken off the website and the Conners don't do much updating to it in general. So, he started contacting and emailing the state departments, that he would no longer be working there after a certain date. That he should be removed from any lists for them. The next day, he stated he received a call from Darriel Ezell wanting to visit with him about things that had been talked about in past and refreshed his memory about Hutching filing a complaint. Mr. Ezell asked if Cruse was willing to visit with him about that and he informed Mr. Ezell that he still had a week of work and that he really didn't want to get involved. He told Mr. Ezell of other employees that no longer worked there that might would talk to him. Mr. Moore came in the next day, wondering what he was doing talking to the state and was terminated prior to his last day.

He also stated he witnessed documents being signed and CE being completed by others for John. Additionally, he claimed that Bryan Moore was left to embalm without Mr. Conner.

He was aware of the Oak Manor Casket situation, that there was talk around the funeral home to take Mr. Kocherer out of the casket, because it was too nice of a casket to burn. He left the funeral home and when he returned, he was not in the casket. He was apprentice at the time.

Lunch break from 11:40 to 12:45.

Reconvened at 12:45 PM.

Brianna Uffman was the board's last witness. Ms. Uffman is a licensed funeral director and embalmer, currently working at Roller-Christeson in Harrison, Arkansas. She previously served an apprenticeship at Conner Family Funeral. She relied on James Bryant or Rolin Hutching to sign off on her cases. She had only seen Mr. Conner in the prep room one time, when she was there. She could not confirm any specific dates that Mr. Conner was listed as embalmer but was out of town. She can only say she did witness them being gone on vacation and Mr. Moore would embalm, putting John Conner on the death certificates.

Mr. John Conner explained that it was his understanding that the Kocherer family had originally planned on a traditional funeral, but ever since they installed their retort, they were told never to burn a standard casket. That it could cause damage to the retort. It had not ever been their practice to use anything other than a cremation casket. They use a rental casket, which is popular wood, they use for the time of service and then remove the body. The families sign off they understand that it is a rental casket.

Mr. Curl confirmed with the Connors that the Kocherer's were sold a full service with a cremation. The casket was sold to them and their loved was placed in it for the funeral service. The family owns the casket. Mr. Kocherer was taken out of the casket. Curl inquired if the family gave them permission to take him out of the casket or were they aware he was removed?

Mrs. Conner stated that when Mr. Hutching came to her, she thought it was a rental casket, that the family had a preneed policy that included a metal casket, since he was to be buried out of state. They wanted to change everything around, that the son wanted his father in the Oak Manor. She stated that was not a normal rental casket and Mr. Hutching stated he was aware, but the son wanted his father in that casket. You need to understand and explain to them, that they are not going to get any money back, so they need to use all the funds, because they do not issue refunds on irrevocable policies. Mr. Hutching said the family didn't care about that; they wanted that casket for his service. So, she assumed it was going to be used as a rental. Mr. Curl said there wasn't a charge for rental casket on the contract and she stated no, because they do not rent an Oak Manor. Right after his service he was removed and the casket was moved over to their back room, where they have their rental casket. Was the family notified that he was going to be removed? She stated, she was not aware if they were notified or not, she did not know what Rolin told them. Mr. Curl asked if John Conner as the manager was aware that the casket was not used. He stated that Jackie had told him that they had the casket and she wanted to know if they could use as a display only. He said no and that it has been held in storage at the car lot ever since. The family was not aware that the casket was not used, but that were okay with using all their funds from their policy, since they were not getting a refund. Mr. Curl stated that the family does own that casket and the Conner's agreed they did.

John Conner stated they were told by Mr. Heath, that if Mr. Conner was within a reasonable distance, that Mr. Moore could embalm. They did not know his apprenticeship expired. He has been able to schedule test. Mr. Moore is a good embalmer and knew he could call me at any time he had an issue, and he would be right there. A lot of funeral homes are using their apprentices this way, not just them. If he was out of town, he always had someone licensed lined up to be there. The Connors use Elite and Funeral Service Academy for continuing education. He did attend the ARORA seminar last year.

Mr. Curl inquired of Mr. Moore if he allowed anyone to utilize the trocar? He stated that he wasn't sure if Earl and Micah ever did, but they have been in the prep room with him. He doesn't remember if they did or not. Mrs. Gibson asked Mr. Conner if he remembered when completed his apprenticeship if he had an expiration date. He did not recall, because he completed everything and became licensed in the time frame. It was never an issue. He was not aware of Mr. Moore's apprenticeship expiring.

Ms. Gibson asked Mr. Moore if he understood that his apprenticeship was for a period. The way he understood it, he had to do the 50 case reports and pass the test. He finished his case reports under supervision but hasn't been able to pass the test. He continues to register for the exam, so didn't realize he wasn't an apprentice anymore. He never told anyone that he wasn't an apprentice or claimed to be a licensed embalmer. He thought they were doing what they could do, based on what they were previously told. He never tried to train anybody. He was not sure how many he has done, but he was not trying to do anything wrong or hide anything.

Ms. Gibson closed by informing the board, they heard lots of witnesses' testimony and it will be the boards charge to weigh the credibility of their testimony. Reminded the board to not give any weight to legal conclusions that were drawn by former Inspector Ezell in his investigative report.

Mr. Conner state he has been doing this since 1983. Everything leading up today, they worked hard to get there. He would do the same again as far as firing these employees and he has fired more sense. He stated that his name is on a lot of death certificates, that the secretary at the funeral home he worked would sign their names on the death certificates. When they opened their funeral home, local funeral homes fought it and they still have succeeded. He has received numerous responses from families about Moore and that he is a great funeral director. He has lots of responsibilities around the funeral home because he is trusted. He stated they possibly were in the wrong and he didn't deny that, and ignorance is not an excuse. The amount of money he has invested, he would never jeopardize it over something like that. He never spoke with Mr. Ezell, and he believes he should have spoken to him, if he was investigating him. He apologized for being out of line. He never intended to do anything he wasn't supposed to do and apologizes.

The board went off the record at 1:30 PM.

The board found allegations 1-7 true and 8-10 false. The board found charges 1 and 3 true and 2, 4-6 were false. Issue a letter to Kocherer family informing them of the casket, a letter of reprimand, one year probation against Conner and Moore. Embalming Case reports are to be sent monthly during that year.

On the record at 1:55 PM

Motion made by Smithson, to find factual allegations 1-7 true and 8-10 false, seconded by Honey, all in favor. Motion carried.

Motion made by Honey to find charges 1 and 3 proven and charges 2, 4-6 was unproven, seconded by Curl, all in favor. Motion carried.

Motion made by Curl to request staff to issue a letter to Kocherer family informing them of their casket, seconded by Smithson, all in favor. Motion carried.

Motion made by Curl to issue letter of reprimand and one (1) year probation against the licenses of John Conner and Bryan Moore, that all embalming's will be done by a licensed embalmer and case reports are to be submitted to the board each month with a copy of the death certificate, seconded by Smithson, all in favor. Motion carried.

Record was closed at 2:02 PM.

4. **Complaints**

a) 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 we had one complaint to discuss.

Case No. 20-22 is a funeral home inspection case that occurred in September of 2020. The Board and the Respondents entered into a consent agreement in August of 2021, which ordered the Respondents to take corrective action and successfully pass a re-inspection in 90 days. The Board's Inspector inspected the funeral home after 90 days and found the corrective action had not been taken. Counsel advises the Board to set for a hearing.

Motion made by Hodges to set for a hearing, seconded by Smithson, all in favor. Motion carried.

5. **Next Meeting Date(s)**

a) Tuesday, January 18, 2022 (9:00 a.m.) Board Meeting and Hearings

b) Tuesday, January 18, 2022 (1:00 p.m.) Rules Sub-Committee to follow regular meeting.

The Board decided to go to every other month meetings if hearings will allow. The Board can always call meetings.

6. **Future Meeting Date(s) 2022:**

a) Monday, March 14, 2022 (1:00 p.m.) Rules Sub-Committee.

b) Tuesday, March 15, 2022 (9:00 a.m.) Board Meeting and Hearings

7. **Adjournment**

Motion made by Smithson to adjourn at 2:12 PM, seconded by Curl, all in favor. Motion carried.