

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

Tuesday, November 16, 2021

1 Commerce Way
Diamond Mine Room– 2nd Floor
Little Rock, AR
9:00 AM– 10:50 AM

Chair Bill Booker, 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, and Josephine Perry, Senior Citizens Member.

Members absent: Stephanie Neipling, Consumer Member, Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member.

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

1. **Call to Order** – Introduction of Board members and staff.
2. **New Business**
 - a) **Embalmers & Funeral Directors – Establishments Seeking Approval**
[[A.C.A. §17-29-304 Funeral Establishment – Requirements](#), [§17-29-305 Examinations – Licenses](#)]
 - i. **R.E.W Mortuary – Board ID No. 25454.** Requests a **Type A** establishment license and is located at 4201 East Broadway, North Little Rock, Arkansas. Inspector Taylor inspected the Type A Full-Service establishment owned by Rob Wells on **Wednesday, November 10, 2021**. The manager of record will be Naomi Brown, Board ID No. 25105 and embalming will be done under the direction of Randy Sharpe, Board ID No. 22438 at AR Central Mortuary Service, Board ID No. 20347, Little Rock, Arkansas. The establishment will use Arkansas Central Crematory Service, Board ID No. 20544, in Little Rock, Arkansas for their cremations. All required documentation submitted is pending Board approval.

Robert Wells, owner and Naomi Brown, Licensed Funeral Director and Manager, were present representing the funeral home. Mr. Taylor stated that upon the initial inspection, he noted some issues with the general price lists and some issues with the flooring outside the arrangement room. There were no hours of operation posted. The Board did address several issues and concerns with the owner and manager concerning the price lists not being compliant with the FTC. It was suggested they review the Complying with the FTC Funeral Rule and elect services from the National Funeral Director Associations that can assist in review for compliance.

Motion made by Curl to approve the establishment license of R.E.W. Mortuary, subject to receipt of FTC compliant price lists, seconded by Honey, all in favor. Motion carried.

The following item was deferred until December 7, 2021.

b) 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.

3. Hearings

a) In the matter of Robert R. Burns, a Licensed Funeral Director, Robin Johnson, a Licensed Funeral Director, and Mark Sullivan, a Licensed Funeral Director, Respondents. Case No. 20-17.

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

Amanda Gibson, Board Counsel, represented the Board.

Robert B. Burns, Robin Johnson, and Mark A. Sullivan, Respondents

Witness for the Board: Carrie Beverage, Complainant

Witness for Respondents Burns and Johnson: Danny Parson

Christy Wilson, Court Reporter

Hearing Officer, Russ Galbraith called the hearing on the record at 9:25 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 1-12 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.

Ms. Gibson called Carrie Beverage from Savannah, Georgia. The decedent in this matter was her mother. Beverage confirmed she never received or was given a statement of funeral goods and services. She also confirmed she never received or was given a general price list. She stated there was not a price list available on the table. Ms. Beverage further stated she was only given a credit card receipt for the removal, but nothing was broken down. She received notice her mom passed May 7, 2020, and she took emergency leave.

Robin Johnson from Beebe, Arkansas was called. Johnson currently does not work at a funeral home but is a licensed funeral director. At the time of arrangements price lists are on the table, but no I did not specifically say here is a copy of the price list. Each chair has a copy of the price list in front of it. She did not get a chance to give the family a copy of the statement of funeral goods and services. Ms. Johnson stated she used a price list to add up the cost of the services they had provided and gave her a total, but before she could print the statement, she was given a credit card. Their credit card machine is in a different area from where they print statements. The initial card was declined, and there were profanities muttered, after the second card was ran, the family left before she could present them the actual statement for services. The \$73 charge

was for dressing and preparing the body for a private viewing, since the family had said they would like to see her. She did arrive nude, purging, and skin slippage, so they prepared her for her viewing. The family did not sign statement, because they left before she could obtain their signature. Johnson assumed she failed to sign it, before it was sent in. She charged the family for the removal, because at the time of arrangements, she was not aware that the coroner had transported the decedent to the funeral home. Up until in the middle of the arrangement conference, they believed they were serving the family. Smith-Westbrook did refund the removal after the error was discovered.

Robert “Bobby” Burns from Beebe, Arkansas was called. He is a retired embalmer and funeral director as of January 1st. Employees left early that day and he was on call. He received the death call from Matt Smith, White County, Deputy Coroner, he told Mr. Burns they wanted him to bring her to their funeral home. He assumed he meant the family. The coroner did deliver Ms. Dixon to Smith-Westbrook and let Mr. Burns know the family’s contact information later. Ms. Johnson was working the next day, so he passed along the family information to her. The family wanted cremation, but they wanted to see her first. That is why they had the other preparation of the body charge for cleaning, dressing, and then placed her in cremation container. During the arrangement conference, Ms. Johnson came out to Mr. Burns who was outside working and informed him they were upset with the price and wanted to change to Sullivan. She asked him if he wanted to discount or match their price. He stated yes, that was fine since they had come a long way. Ms. Johnson came back out and informed Mr. Burns they were still not happy, they were irate and cussing. Johnson told Burns, the family stormed out before she could give them a statement for services. Mr. Burns stated later he received a call from Mark Sullivan about over charging and he explained it was just a mistake and they would refund the money to the family for the removal. When Sullivan came to make the removal, she was in a gown and cremation container.

Mr. Booker informed the audience, that today was the first time they are seeing these 39 pages and why they may duplicate or ask questions that in are in the material.

Mark Sullivan had Respondents Exhibit 1 a letter to Ms. Beverage and Exhibit 2 a copy of a check. They were entered with no objections. Mr. Sullivan stated he was from Searcy, Arkansas. He was the owner and manager, of Sullivan Funeral Care. During the complaint process, he discovered the charge for the container and his mistake for charging the family. Mr. Booker stated that his letter to Ms. Beverage was not dated. Mr. Sullivan said he must have failed to include it on the letter, but it was written May 3, 2021, that is the date of the check. Mr. Booker said that was almost a year after the death and you became aware of the over charge for the cremation container during the complaint process? Mr. Sullivan indicated yes. He further stated that you know as well as I do that, we never charge our cremation fee without the container included. Mr. Booker clarified that you never charge the cremation fee without that container in it? Mr. Booker further stated that the Federal Trade Commission requires you to list your cremation fee with a container and without a container. You’re not keeping families from bringing their own container, are you? Mr. Sullivan stated no, but during the general course of business we don’t charge that secondary price without the container. It just did not cross his mind that day, he had already prepared the statement for the family when they arrived. He

realized his mistake and refunded the fee. He understands the FTC requirements. The issue was the family did not ask Westbrook for a container.

Mr. Burns called Danny Parsons, who works part-time for Smith-Westbrook Funeral Home. Mr. Parsons was surprised at the families' reactions, language, and behavior. Mr. Parson did state that the price lists are on the table. Mr. Booker asked if the price lists being on the table were compliant. Burns stated it was a gray area. Mr. Curl stated that the FTC says you should present the GPL at the beginning of arrangement discussions. The term presented and being on the table is a little bit of a gray area. He believes the intent of that was it was to be given to them.

Ms. Gibson called Ms. Beverage again and asked if she wanted to respond to the statements made that she stormed out or possibly used some inappropriate language. Ms. Beverage stated that she only got out of character when Ms. Johnson's demeanor completely changed when she decided to go with a different funeral home. When she stated she would see if they could price match, it was a completely emotional time and her attitude and the way she had stated it, was like she was shopping for a car and not laying my mother to rest. After that, she felt they had washed their hands of her and that was the only time she had anything negative to say about the situation.

Ms. Gibson stated that the Board is now charged with weighing the creditability of each witness's testimony and make an appropriate determination.

Mr. Burns stated he thanked the Board and when someone loses someone it's an emotional and tense time. Emotions ran high and neither they nor Mr. Sullivan ever had an intent to defraud anyone. Mistakes were made on both parts, and they were rectified.

Off the record at 10:17 AM

The Board determined during discussion that allegations 1-9 were proven, allegation 10 was amended as following, 10 a. The family was presented a general price list and 10 b. The family was not given a general price list because they left before the statement of goods and services could be prepared. Allegations 11-16 were proven. An additional finding 17 was added to reflect that Sullivan did refund the \$75 fee for the cremation container on May 3, 2021.

The board determined that charges 1 and 2 was found unproven. Charge 3 was found unproven with amendment to add "though respondent did give a refund to the complainant later.

Back on the record 10:35 AM

Motion made by Curl, to find allegations 1-9 true, seconded by Hodges, all in favor. Motion carried.

Motion made by Curl to find allegation 10 a. as modified to read "the family was presented a price list", seconded by Hodges, all in favor. Motion carried.

Motion made by Hodges to find allegation 10 b. as modified to read “family was not given a statement because they left before it was prepared”, seconded by Curl, all in favor. Motion carried.

Motion made by Curl to find allegation 11 true, seconded by Hodges, all in favor. Motion carried.

Motion made by Hodges to find allegations 12-16 true, seconded by Curl, all in favor. Motion carried.

Allegation 17 added Sullivan did refund the \$75 fee for the cremation container on May 3, 2021.

Motion made by Hodges to find allegation 17 true, seconded by Curl, all in favor. Motion carried.

Motion made by Curl to find charges 1-3 false seconded by Hodges, all in favor. Motion carried.

Motion made by Curl to issue a letter of caution to Respondent Sullivan for over charging, seconded by Hodges, all in favor. Motion carried.

Hearing closed at 10:47 AM.

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](#)]

Amelia Vestal, Senior Securities Examiner, presented thirteen (13) cemetery complaints that the staff recommended to be closed. The complaints were either resolved with no violation or the board had no authority.

- PCC21-011
- PCC21-013
- PCC21-015
- PCC21-017
- PCC21-018
- PCC21-022
- PCC21-023
- PCC21-025
- PCC21-026
- PCC21-027
- PCC21-028
- PCC21-029
- PCC21-032

Motion made by Curl to accept staff’s recommendation to close all complaints, seconded by Hodges, all in favor. Motion carried.

Ms. Gibson presented two (2) complaints concerning funeral directors and embalmers that the staff recommended be closed, due to lack of violation or authority.

- **Case No. 21-23** – Complainant alleged the funeral director was unprofessional and caused her mental anguish. There was a dispute between the spouse of the decedent and the decedent’s family, as to whether to bury or to cremate the decedent. The spouse wanted cremation, and the family wanted a burial. The decedent was ultimately cremated.
- **Case No. 21-24** – Complainant delivered her baby stillborn and claims the hospital either lost the cremains or gave her the wrong cremains. The crematory has no record of ever receiving the remains.

Motion made by Curl to accept staff’s recommendation to close the complaints, seconded by Hodges, all in favor. Motion carried.

5. Old Business

a) Update from Yell County Burial Association

The association is now completely dissolved, and all monies had been disbursed or insurance policies had been issued.

6. Financial Update October 2021

Funds have not changed over the past month. Revenue and expenses remain steady.

7. Next Meeting Date(s)

- a) Tuesday, December 7, 2021 (9:00 a.m.) Board Meeting and Hearings**

8. Future Meeting Date(s) 2022:

- 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.

9. Comments and Announcements

- a) 118th Annual Meeting of the International Conference of Funeral Service Examining Boards.**

Executive Secretary explained the convention and importance of attending this annual meeting each year. A few board members were interested and were encouraged to attend.

10. Recess for lunch 11:00 AM

The board reconvened the meeting at 11:52 AM. Mr. Booker turned the meeting over to Mr. Curl who is the chair of the rules sub-committee.

11. Old Business

a) Burial Association rule discussion.

Items to discuss and consider during the burial rule promulgation. Would like to ask the staff the top issues to discuss.

- Mr. Curl would like to streamline our processes in our license renewals and reports online.
- Annual Reporting.
- Lack of knowledge of the smaller associations. Education is needed.
- Closing and merging burial associations.
- Stop the sale of Act 443.
- Issue a letter of credit to the consumer
 - Problem contract funeral home issues a letter of credit and consumer uses another funeral home.
 - Brainstorm how to overcome the issues.
- Easing the requirements to closing, dissolving, or merging of burial associations.
- Simplify the process.

12. Potential Rule Committee Meeting Date(s)

- a) Tuesday, January 18, 2022 – to follow regular meeting**
- b) Tuesday, March 14, 2022**

13. Comments and Announcements

Adjournment

Meeting adjourned at 1:11 PM.