

West Virginia Board of Funeral Service Examiners
BOARD MEETING
Charleston, West Virginia
February 19,2013

The meeting was called to order at 1:10 p.m. by President Chad Hutson. Members present: Chad Hutson, John Stump, Keith Kimble, Ira Handley, John Fahey and Chad Harding. Sarah Lobban attended but was late arriving due to adverse weather conditions. Non members present, Constance Sloan, Administrative Assistant and Regina Foster, Administrative Assistant.

Chad Harding moved to go into Executive Session pursuant to WV Code 6-9-4(4), seconded by Keith Kimble. The motion carried unanimously.

On motion of Keith Kimble, seconded by John Fahey, the Board voted to return to public session

The Board then moved to the recommendations of the Complaint Committee as follows:

COMPLAINT 2012-05

Smith Funeral Home alleged that Markwood Funeral Home had illegally charged for embalming. The complaining funeral home held a preneed funeral contract which was purchased by the deceased's guardian and the family of the deceased was unaware of the preneed. Markwood furnished the Board a copy of a letter from the deceased's son stating that he had inadvertently failed to advise Smith that he had authorized his father's embalming. The Director communicated with Smith that this letter should resolve the matter and that Markwood should be paid.

Smith then revised their funeral contract, subtracting the amount of the embalming fee which was a covered expense under the preneed but did not refund the amount of the embalming to the family. Instead, the family was advised that the funeral home was making no charge for embalming and that the family should pay the other funeral home for that charge.

The matter was then referred to the Preneed Division of the Attorney General's Office and it was determined that the family was entitled to a refund of the embalming fees as those had been purchased in the preneed contract.

The Complaint Committee recommends that the complaint against Markwood be dismissed as there was no violation of the Funeral Service Examiners Act. The Committee further recommends that Smith Funeral Home be advised not only of the dismissal but that his actions in attempting to prevent the respondent funeral home from being paid and to have the consumers pay for services already purchased in the preneed are unethical and that future such acts will result in disciplinary action against him and his funeral home.

COMPLAINT 2013-01

This complaint was originally received March 21, 2012 from Mr. Burkhammer but did not have enough substance that would enable the Board to adequately know what was being complained of. A letter was sent to the complainant requesting specific information but no response was ever received. In December the complainant called asking about his complaint and denied getting a letter from this Board, however, the address he gave at this time was the address to which the letter had been sent.

The respondent funeral home, Hardman-Paletti Funeral Home, was contacted and asked to respond in writing as required by law. Originally, the funeral director contacted, Anthony Paletti, stated that he did not make the arrangements, his father (who is unlicensed) had met with the family and made the arrangements. He stated he would talk with his father and call back. When he called back he put his father on speaker phone and all the questions were answered by his father.

On January 28, 2013 Hardman-Paletti Funeral Home filed an answer through their attorney at which time Anthony Paletti stated he had made the funeral arrangements. It is apparent both from conversations with the complainant and the response of the funeral home, that Mr. Burkhammer wanted nothing to do with his father's funeral arrangements, especially if it included paying for the funeral. Complainant's sister, who although a minor was represented by her legal guardian, wished a viewing and the guardian signed the embalming authorization. Mr. Burkhammer met with John Paletti and signed the authorization for the cremation. The funeral home states that the Complainant was never billed for any services.

Mr. Burkhammer's allegation that he never dealt with a "licensed funeral director" appears, contrary to the written response of the funeral home, to be true based on the conversations with Anthony Paletti and this office on two different occasions.

The Complaint Committee recommends the Complaint be dismissed insofar as the authorization for the embalming is concerned and the fact that a third party was involved in the funeral arrangements. The sister of the complainant was represented by her guardian and therefore there is no violation of the Funeral Service Act. The Committee recommends the Licensee in Charge and Anthony Paletti are to be advised that with the exception of **making Pre-need Contracts**, the owner of the funeral home may not, under any circumstance, meet with families for the purpose of making funeral arrangements or performing any other activities which are the sole responsibility of a licensed funeral director and that their licenses are subject to disciplinary action if Mr. Paletti continues to operate outside the scope of what is permitted under the Funeral Service Act.

COMPLAINT 2012-13

The complaint alleges that her father's funeral arrangements were handled by Melton Mortuary and his body was cremated by Sever Funeral Service. She believes the ashes she received are not those of her father. The cremation authorization was signed by all family

members and the funeral home was to receive the ashes and hold for a burial at the grave of the deceased's wife. There was no specific person authorized to pick up the ashes.

The cremation of the deceased took place in February, 2012. The ashes remained at Melton Mortuary until September 25, 2012 when the complainant made a rip to the funeral home to retrieve them. Upon arriving at the funeral home and asking for the cremains, purportedly an employee of the funeral home told her that there was a balance due on the account which had to be paid before the cremains could be released. That balance was paid by the complainant by credit card. At first the employee refused to release the cremains because the complaint had not made the arrangements but instructed another employee to bring the cremains to her. When complainant received the box she noted that the taped seal had been cut and inquired as to why. She was told so they could compare the numbers on the outside with the tag on the inside.

When complaint returned to her home in Ohio she had a Deputy Sheriff come to her office on October 11, 2012 to confirm that the numbers on the outside of the box matched the tag on the inside. There was no metal tag in the cremains. On October 19, 2012, the officer had the cremains scanned through a metal x-ray machine. The x-ray did not reveal a metal tag but did reveal a large mass of small metal particles.

On October 24, 2012 Melton Mortuary responded and stated that there was never any indication that the release of the cremains was dependent upon payment of the account balance and that it was poor timing on the part of the employee who advised the complainant that there was a balance due. That aspect of the complaint has been addressed with staff so that in the future there will be no misunderstandings on this issue. Melton stated that because the other sister was the only local contact and the person who made the contract, they felt obligated to check with her prior to releasing the remains. Melton states that their instructions up to that point were to retain the ashes until burial arrangements had been made. Melton states they should have made the telephone call to the other sister in front of the complainant with everyone on speaker phone so all parties would be involved in the conversation. The funeral home has also met with staff to ensure that in the future this will not happen.

The complainant received a portion of the remains in the original temporary urn with the Certificate of Cremation attached. The identification tag was retained with the portion of the remains going to the sister.

The funeral home states that the metal fragments found in the ashes likely are the result of the deceased's open heart surgery at which time titanium wires were used to repair the procedure. Sever Funeral Service also responded stating that there was no wrong doing and that the cremation was done properly. The letter contained some derogatory remarks about the complainant and her family.

The Complaint Committee recommends this complaint be dismissed as there is no evidence of any wrong doing on the part of the crematory. Because there could be metal fragments in the cremains from shipping containers or various types of surgeries, the Board is confident that the cremains the complainant received are those of her deceased father. The Committee further recommends that the Director send a letter to the crematory advising them that the remarks

contained in their response to the complaint regarding the family of the deceased are inappropriate. Further, the funeral home should implement procedures to ensure that in the future the situation as existed here with releasing the cremains does not happen; that unless there is a designated person to receive the cremains, the appropriate next of kin shall all be present or consent to the release of cremains to a person or persons.

John Stump moved that the Board accept the recommendations of the Committee with regard to all complaints; the motion was seconded by John Fahey and carried unanimously.

The Minutes of the Meetings held October 24, 2012 and December 3, 2012 were unanimously approved on motion of Chad Harding, seconded by Keith Kimble.

The Financial Reports for September, October, November and December 2012 were unanimously approved on motion of Chad Harding, seconded by Keith Kimble.

On motion of Chad Harding, seconded by Keith Kimble, the Purchase Card reports for September, October, November and December 2012 were unanimously approved.

The Board then considered the Consent Agreement signed by Junora Walton of Walton's Chapel of Faith Funeral Home (Complaint 2012-08) wherein she agreed to be Reprimanded for her failure to keep current her State, City and Board licenses, and to also be placed on probation for a period of one year and also considered the Consent Agreement signed by Billy Ray Surratt of Elk Funeral Home (Complaint 2012-06) wherein he agreed to complete correctly and timely all death certificated and to be placed on probation for a period of six months. The Board voted unanimously to accept the Consent Agreements.

The Board then reviewed the letter from the Boone County Prosecuting Attorney updating this office regarding criminal prosecution of Thomas Stevens for embezzlement of preneed funeral funds. The Director will continue to monitor the matter.

The Board next discussed the monthly inspections and although the inspector is doing a good job the Board would like the Director to ask that he make telephone calls the day prior to his inspections so that the funeral homes can make sure someone is present when he arrives. The only time telephone calls will not be made in advance is there is some problem with the funeral establish that leads the Director to believe the inspection should be unannounced.

The Board then discussed the position of Executive Director and based upon the performance of Ms. Foster the past two and a half months, in addition to her training for the past eighteen months, John Stump moved, seconded by Sarah Lobban, that Regina Foster be promoted to the position of Executive Director. The motion carried unanimously.

On Motion of Chad Harding, seconded by John Fahey, the Board voted unanimously to raise Ms. Foster's salary to \$45,000 a year effective March 1, 2013.

The Board next discussed the renewal of the lease for its office space and on motion of Chad Harding, seconded by Keith Kimble, the Board unanimously approved the renewal of the

lease for the current office space. The lease will be for a minimum of one year, however, if the landlord is agreeable to extending the lease beyond that period with no raise in rent, the Director is authorized to sign the lease.

The Board then moved to election of the position of the unexpired term of Secretary due to the death of Mr. Tomassene. On motion of Ira Handley, seconded by Sarah Lobban, John Stump was unanimously elected as Secretary of the Board for the remainder of the term ending June 30, 2013.

Licenses were signed for the following:

Funeral Directors

Jessica L. Longanacre
Brian S. Duda
Jordan M. Mullins
Jay S. Ford

Apprentice:

Brandon M. Whetsell
Calvin R. Stump, III
Cathrine L. Pettry
Stephen E. McIntire
Curtis E. McKinney

Funeral Homes:

Ceredo-Kenova Funeral Home
(Change of Ownership)

Courtesy Card Holder:

Christopher M. Wilson

Crematory Operator:

Guy Bailey
Angela J. Melton
Elbert Varney
Harry Dale Smith, Jr.
Kevin E. Hostletler
Timothy rice
Ryan Logan Summerfield
Elizabeth T. Summerfield
Jamey P. Kissell

Crematories:

Randolph Funeral and Cremation

The next meeting of the Board will be at Glade Springs Resort on June 3, 2013 at 1:00 pm with the Complaint Committee meeting at 10:00 am. that day.

There being no other business to be considered, the meeting was adjourned.

Chad A. Hutson, President

Regina J. Foster, Executive Director