

West Virginia Board of Funeral Service Examiners
October 6, 2015

The meeting was called to order at 1:00 p.m. by Ira Handley, President. Members in attendance were Bill Davis, Robert Fields, Connie Grisell, Keith Kimble, Sarah Lobban and John Taylor. Non members present were Regina Foster, Executive Director, Amanda Legg, Administrative Assistant and Constance Sloan. Rob Kimes was present for the open meeting only.

On motion of Keith Kimble, seconded by Bill Davis, the Board went into Executive Session pursuant to WV Code §6-9A-4(b)(A). Robert Fields and Amanda Legg were excused from the room for the latter part of Executive Session. The Board then returned to public session.

The Board then took up **Complaint 2015-03**. It is Noted that Mr. Fields was not present for discussion in Executive Session or for the vote in public session on this complaint.

The complainant, Cherea Moore, alleges that she arranged with Brown Funeral Home for a direct cremation for her deceased mother and that the price for the same was to include transportation to the cemetery. A review of the GPL does not state that such a service is included, and, in fact is not customarily included unless the funeral home is performing a memorial service at the cemetery, which is another separate charge in most instances.

The problem that arose in this case was the selection of the cemetery to be used. The deceased was eligible for burial in a National Cemetery, however, one cemetery was full, the other required residency in Maryland which finally was established but then required proof that her name had been changed by marriage. It appears that the complainant and her mother were not close as she could provide no information on her mother's marriage or her places of residency. The funeral director made attempts by searching adjoining states for a marriage license, as well as this state, and none could be found.

Ms. Moore called Garrison Forest Cemetery to see if there were any alternatives for burial of her mother's ashes. The cemetery told her the funeral director could get marriage information from Social Security, however, only a relative can obtain that information. The cemetery advised her that her mother could be buried at a national cemetery in Catonsville, MD without proof of address.

The funeral director called the cemetery and arranged for the burial and military honors. The complainant was to pick up the ashes and the flag and take them to the cemetery for the ceremony which was scheduled for June 11, 2015 at 11 am in Baltimore National Cemetery; however, she never picked up the ashes and canceled the ceremony and on June 2, 2015 filed her complaint with this office.

Since that date, she has contacted the funeral home and demanded that they transport, in person, the ashes to her home in Baltimore, a 3-hour round trip for the funeral home. She also refuses to pay the fee to have the ashes mailed to her.

The Complaint Committee found that the funeral director made concerted efforts to identify the residency of the deceased and to find a marriage license. In fact, it appears he went above and beyond what would normally be required of him. Customarily, transportation of the remains to a cemetery is not included in a direct cremation.

The Complaint Committee recommends that the complaint be dismissed as there is no violation of the Funeral Service Examiners Act.

On motion of Bill Davis, seconded by Sarah Lobban, the Board voted unanimously to accept the recommendation of the Complaint Committee and dismissed the Complaint.

PERSONNEL:

On Motion of Keith Kimble, seconded by Bill Davis, the Board voted unanimously to reaffirm that the duties of staff as designated at the October 7, 2014 meeting.

Regina Foster is primarily to work on the OASIS program in order to be able to pay bills, make deposits, process travel and any other functions which are integral to the operation of the office. She is to gradually phase in Amanda to this system so that eventually the office will have two persons who can conduct the finances of the office.

Amanda Legg will do data entry of all continuing education hours, apprentice reports and inspection reports. She will process new applications for establishments or individual licenses. She will help with filing and eventually the reorganization of the files with Connie.

Connie Sloan is to be the Office Manager and will oversee the workflow of the office, which means designation of tasks, she will coordinate vacation schedules and will keep time records, handle complaints, and assist with Budget preparation.

At this time, Mr. Fields, Rob Kimes and Ms. Legg returned to the meeting.

COMPLAINT 2014-02:

Complainant, Nikki Elswick, alleged she could not get itemized statement or accounting for monies received on her mother's funeral from Elk Funeral Home. This funeral home has had problems in the past with preneed funds and has lost its ability to sell preneed. The records at the funeral home are a mess, to be blunt, and it has taken quite some time to reconstruct the records.

Elk Funeral Home was finally able to reconstruct their records and provide a Statement of

Goods and Services and copies of deposit slips which indicated the amounts paid on the funeral bill. There is an insurance policy, however, several signatures are needed from children of the beneficiary in order that it can be assigned to the funeral home and we have advised the complainant that she must get those signatures and take them to the funeral home so that they can process the payment from the insurance company.

The Complaint Committee finds there is nothing that remains to be done in this matter and recommends that the complaint be dismissed as having been resolved.

COMPLAINT 2014-06

The Complaint Committee recommends that this complaint should be removed from the Complaint List in order that we can be compliant with the Legislative Auditor's instructions. It was initially placed there as we thought the matter would be resolved by a Consent Agreement, however, the funeral director, Joel McGuire, fled the state after embezzling preneed monies and his whereabouts were only recently discovered.

There is a criminal investigation taking place through the State Insurance Commission and an indictment is expected in Monroe County, West Virginia. We will follow up with the Monroe County Prosecuting Attorney and act accordingly.

COMPLAINT 2014-10

This complaint involves the purchase of a cemetery marker from the apprentice at Shanklin Funeral Home, who thinks he is a funeral director especially since he was grandfathered in under the old law. The funeral home, its licensee in charge, nor the owner ever responded. However, the complainant has notified this office that the marker was installed.

As a side note the Attorney General did file suit against the funeral home and the apprentice relating to various cemetery items sold. We have been advised that matter is now being resolved and as soon as the final order and agreement are entered we will see if there are other matters to be addressed by the Board.

The Committee recommends the complaint be dismissed as resolved and that a letter be directed to the Licensee in Charge directing him to be vigilant about the items being sold through his funeral home and reminding him that the actions of his apprentice are his responsibility and subject his license to disciplinary action. He should also be told that when contacted by the Board regarding complaints, he is to respond in writing as requested.

COMPLAINT 2014-13

The complainant, Millie Honaker, is the mother of the deceased, Paula Legg. The relationship between the deceased and her sister with their mother was estranged and neither sister had contact for at least 15 years prior to the death of Ms. Legg. Paula Legg was gay and that caused the demise of the mother daughter relationship.

Paula Legg and her sister, Lisa McRae, decided at the time of their father's death, that each would take care of the other's funeral arrangements. Both decided on cremation. Both the deceased and her sister made Living Wills naming the other as the person to carry out her wishes. Paula had told her half sister, Charlotte Sheppard, that if anything happened to her that Lisa would be the person to take care of her final arrangements. She was adamant that her mother not be near her in life or death. Both Lisa McRae and Charlotte Sheppard provided the Committee with statements to this effect.

West Virginia law allows a person who has been designated by the deceased, who has expressed their wishes regarding the disposal of their remains, to act as the designated representative of that person. Based on the information given to the funeral director and the statements received from the sister and half sister, the Complaint Committee found that the funeral director acted in good faith in carrying out the wishes of the deceased and recommended that the complaint be dismissed.

COMPLAINT 2015-04

The complainant in this case alleges that when she attempted to arrange for a direct cremation for her deceased husband, the funeral director told her, that she would need the signatures of his children from a prior marriage or he and the crematory could be sued. The children refused to sign the cremation authorization. The funeral director responded and acknowledges that he foresaw a disagreement between the children and the present wife and asked her if she would consider letting the children see their father to which she agreed.

The complainant is upset that she was forced to have a funeral/visitation against her wishes and those of her deceased husband.

On September 28, 2015, the funeral director faxed another letter of response to the Board office.

On the first page of the letter in paragraph 2, he states that "I did, however, tell her if those children did not get to say goodbye to their Father, they would sue us from here and back."

In the next paragraph he states "My intentions from the beginning of the call in reference to Mr. Schoonover's death, and having been told that it would be a direct cremation, I informed Mrs. Schoonover it would be less money to have him cremated in Morgantown."

“Having grown up with the girls, and knowing their Mother, I wanted a time out, and I ask her if I could call her right back. After gathering my thoughts to keep a firestorm from happening, **I thought it best to bring Mr. Schoonover back, dress him and let the children say their goodbye.**” (The mother he refers to is the ex-wife of the deceased.)

The funeral director admits to receiving a phone call from the ex-wife and then he called the current wife and asked her if it would be ok if the children had a short time with their Dad to say goodbye. “Her response was, do I have to? And I said no, you don’t have to, but nobody could ever say anything bad about you if you did let them.” After more conversation with the wife, he again told her “that if the children got to say a last goodbye to their Dad, nobody could ever say anything bad about her for that.”

It is clear that the funeral director was not listening to the wife of the deceased and, in fact, acted to steer her to have a service that neither she nor her deceased husband wanted in order to appease the ex-wife and family, and more importantly trying to avoid any type of possible litigation.

Based on the statements contained in the letter of September 18, 2015 (received September 28, 2015 by fax), the recommendation is that the Complaint Committee be allowed to enter into a Consent Agreement with the funeral director wherein he is reprimanded for his conduct in this matter.

COMPLAINT 2015-05:

This complaint was filed by Deborah Petty, one of the siblings of the deceased, and Robert Petty, Jr., the nephew of Deborah Petty, who purportedly has worked at funeral homes for many years and who questioned the way the funeral was conducted.

Ms. Petty was not present at the time the funeral arrangements were made by her three other siblings and arrived at the funeral home just prior to the time of the service. She complains about how the cars were parked; that she and her nephew were told to go to a room and be seated but that she and her nephew disregarded that instruction; that the family was made to go out a back door before the casket was closed and put into the hearse and that she never got a flower at the cemetery.

One of the three other siblings who made the arrangements advised this office in a conversation that the arrangements were that the family was to be seated together off the side of the chapel and to go into the chapel together; that no family car was to be used; that the casket was to be left open during the service and at the conclusion the family would exit a side door and the casket would then be closed and removed from the chapel. The funeral director states that she did hand out flowers but that she did not slight the complainant and apologizes if she thought so. The arrangements made by the three siblings were confirmed by fax to this office stating that everything was done as the funeral director had been instructed.

The Committee recommended that the complaint be dismissed as there is no violation of the Funeral Service Examiners Act.

COMPLAINT 2015-06:

George Cases, Sr. filed a complaint against Wallace & Wallace Funeral Home alleging that the funeral director filled out a “survey” form and fact that an alternative casket had to be used.

The first issue will be the use of an alternate casket. The casket originally selected was an oversized casket and those are not in ready supply in most instances and are in high demand in this day and time. The colors are also limited. Cardinal Casket originally thought they had one, however, when they went to the warehouse they did not. Matthews Casket was then contacted and they also thought they had a casket that was the same as the one selected by the family, however, they later called and advised that they had an oversized casket but that it was a darker blue shade. This casket was an upgrade but the family was not required to pay extra for it.

The next issue is the survey form or as the complainant called it, a “scam” form. Both the Licensee in Charge and the funeral director involved say there is no such form. The funeral director states that he initially filled out a cemetery contract but that form was discarded. The questions asked to Mr. Cases by the funeral director appear to be routine questions which would be needed to complete a death certificate, for an obituary and to ascertain whether or not an estate would need to be opened for probate.

Mr. Cases also believes that a form letter he received from Phillips & Cohen relating to his son’s estate is connected in some way with the funeral home and that the funeral director would receive a “finders fee” or that he was in some way trying to make Mr. Cases responsible for his son’s past debts. A telephone call from the Board office to that company reveals that no information comes from the funeral home and that the information provided them would have come through public records at the county commission or from a client who had rendered services to the deceased.

It is unfortunate that there was a problem with securing a casket for the deceased, however, oversized caskets are in limited supply. The first company thought they had one but upon a trip to the warehouse found they did not. The second company also thought they had one but also determined the only one they had in stock was of a darker color and a better grade than the one originally selected. It was provided to the family for the same price as the one originally selected.

It is recommended that this complaint be dismissed as there is no evidence of any “scam” paper or survey and the funeral home did everything possible to accommodate the family. There is no evidence of any violation of the Funeral Service Examiners Act.

On motion of Sarah Lobban, seconded by Keith Kimble, the Board voted unanimously to allow the Complaint Committee to enter into a Consent Decree and Order with the funeral director involved in Complaint 2015-04. Should the funeral director not wish to enter into the Agreement, the Board will seek an Administrative Hearing.

On motion of Bill Davis, seconded by Sarah Lobban, the Board voted unanimously to accept the recommendations of the Board on the remaining Complaints and the same are hereby dismissed.

The Board then reviewed the Minutes of the June 8, 2015 and August 31, 2015 and on motion of Keith Kimble, seconded by Connie Grisell, the same were approved unanimously.

The P-Card invoices for May through August 2015 were reviewed and on motion of Keith Kimble, seconded by Connie Grisell, were approved by unanimous vote.

The financial records for the months of May through August 2015 were reviewed and on motion of John Taylor, seconded by Robert Fields, were approved unanimously.

The approval of the membership in the International Conference of Funeral Service Examining Board was discussed. Mr. Fields inquired as to the procedures used in administering the exams. On motion of Bill Davis, seconded by Connie Grisell, the Board voted unanimously to pay the invoice for the membership fees.

Ms. Sloan advised the Board that if they wished to continue the continuing education seminars that she would begin putting together the locations and dates and arranging for instructors.

The Board was also advised that the OASIS training continues and that it requires the full time attention of Regina to utilize that system.

The Board members were advised of the work schedules and holidays for the remainder of the year, as follows:

Board office hours and from 8:00 am to 4:00 pm daily except for holidays. Holidays and office closing for the remainder of the year are as follows:

- October 12 - Holiday (Columbus Day)
- November 11 - Holiday (Veterans Day)
- November 25 - Will close at noon
- November 26-27 - Thanksgiving
- December 24 - Will close at noon
- December 25 - Christmas Day
- December 31 - Will close at noon

Licenses were signed for the following entities and individuals:

Funeral Service Licensees:

C. Patrick Guthrie, Jr.
Erin E. Maser
C. Jason Smith, II (Duplicate)

Apprentice Licenses:

Kriston E. Adkins
Kayla Ann Beatty
Jordan T. Cook
Jesse L. Hall
Dakota J. Parsons

Crematory Operators:

Mary L. Boyce
Don A. Simmons
Lisa S. Sadler

Courtesy Cards:

Richard N. Butcher
Rex Endicott
Sherri L. Fredlock

Funeral Homes:

Arthur H. Wright Funeral Home (new owners)
Bollinger Funeral Home, Inc. (Formerly Wilson Funeral Home)
Randolph Funeral Home and Cremation Service (new ownership)
Summerfield Funeral Home (new ownership)
Callendar Funeral Home (formerly Walton Funeral Home)

Crematory License:

Randolph Funeral Home and Cremation Services (new ownership)

The next meeting for the Board will be held on Tuesday, February 9, 2016.

On motion of Keith Kimble, seconded by Connie Grisell, the Board adjourned.

Ira Handley, President

Regina Foster, Executive Director