

OKLAHOMA FUNERAL BOARD
3700 North Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118

NOTICE OF REGULAR MEETING

MEETING PLACE: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street
Conference Room 1st Floor Oklahoma City, OK 73105.

DATE & TIME: June 13, 2024 10:00AM

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on June 11, 2024 at 9:00AM. A copy of this agenda is available on the Funeral Board website at www.oklahoma.gov/funeral

If you plan to attend a Board meeting for Continuing Education credit and would like a rough estimate of the length of time Board staff estimates the meeting might last, please email your request to info@funeral.ok.gov.

ORDER OF BUSINESS: The Board may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or decide not to discuss any item on the agenda.

1. Roll Call
2. Approval of the May 9, 2024 Regular Board meeting minutes
3. Oklahoma Funeral Director's Association Update from a Representative of OKFDA, with possible discussion
4. Oklahoma Insurance Department Update from a Representative of OID, with possible discussion
5. Review complaints with possible vote for probable cause or other action

23-35 Failure to Notify Board of Change of Owner

24-33 Not Returning Cremated Remains

24-35 FTC Issues/Selection Room Issues

24-38 Material Misrepresentation

24-39 Next of Kin Issues

24-41 Non-Payment of Vendor

24-42 Death Certificate Issues

24-43 Non-Payment of Vendor

24-47 Non-Payment of Vendor

6. Matters for consideration: Administrative Hearing, Consent Order, or Scheduling Order

At the conclusion of the parties' presentation and any questions or public discussion by the Board, the Board may in each complaint case:

- i. consider and vote on motion(s) to conduct executive session(s) pursuant to 25 O.S.2011, Section 307(B)(8) to engage in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;
- ii. if an executive session is held, designate a person to keep written minutes of the executive session;
- iii. consider and vote on motion(s) to exit executive session and return to open meeting; and
- iv. consider and vote on motion(s) regarding possible action to be taken regarding matter discussed in executive session.

6A. Complaint 23-75 Fairview Funeral Home, Fairview, Fairview Funeral Home Inc, Owner, Chanin Hoehn, FDIC. Member Corbett needs to recuse.

6B. Complaint 24-09 Michael's Funeral Home, Drumright, Michael's Funeral Home Inc, Owner, Michael Davis, FDIC. Member Corbett needs to recuse.

7. Vote to affirm or disaffirm the issuance of the following licenses, registrations, certificates, dissolution or other action

A. Apprenticeship (Original)

1. Amber Morton, Sperry, Moore FH, Tulsa
2. Makenzie Bales, Sapulpa, Matthew's FH, Edmond
3. Sophia Winkler, Claremore, MMS Payne, Claremore
4. Olivia Bryan, Follett, TX, Laverne FH, Laverne
5. Teresa Harrelson, Yukon, Baggerley FH, Edmond
6. Kylee Carr, MWC, Bill Eisenhower FH, OKC
7. Michale Jerry, OKC, Temple & Sons FH, OKC

B. Apprenticeship (1st Extension)

1. Grayson Axsom, Atoka, Brown's FS, Atoka
2. Ainsley Butterfield, Plano, TX, Smith & Kernke, OKC
3. Hannah Ryden, Owasso, Moore FH, Tulsa
4. Chelsea Evans, Broken Arrow, Floral Haven, Broken Arrow

C. Apprenticeship (2nd Extension)

1. Shaylee Murphree, Durant, Brown's FS, Durant
2. Amy Ary, McLoud, Bill Eisenhower FH, OKC

D. Funeral Director and/or Embalmer (Reciprocal)

1. Brad Pingel, Texas (FD Only)
2. Renee Torres (FD Only)
3. Vanessa Walker (EM Only)

E. Funeral Director and/or Embalmer (Original)

1. Chad Kaminski, Ada
2. Jessica Ramirez, Purcell (EM Only)

3. Carson Garrett, Fort Gibson
4. Jonathan Riley, Enid
5. Robert Bethany, Catoosa
6. Shawn Duke, Tulsa (FD Only)
7. Taylor Harris, Edmond
8. Michael Turner, Blair (FD Only)
9. Jamie Rochelle Covington, Yukon (FD Only)
10. Melissa Bates, Locust Grove (FD Only)

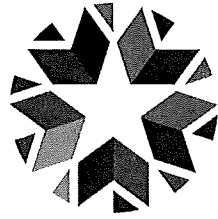
F. Establishments

1. Laurel FH, Healdton, request to close establishment
 2. Lee Hometown Funeral Home, Clinton, New Establishment, Buzz-Lee LLC, Owner, Brandon Lee, FDIC
8. **New Business.** Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda. 25 O.S. Section 311.9.
9. **Strategic Planning: Discussion and possible action regarding change of Board Statutes or Board Rules:**
- A. Committee report, committee discussion, and Board discussion for Updating Cremation Statutes and Rules
10. Discussion and possible action on the Board's directive to the Executive Director regarding legal questions.
11. **Executive Director's Report**
- A. Agency Financial Update
 - B. 2024 Legislative Session Bills- HB2959, SB2038
 - C. Board Staff Update

12. Special recognition, presentation, and possible discussion of Joe Highberger's Service to the State of Oklahoma
13. Adjournment

Tyler Stiles, MBA
Executive Director

The next regular meeting of the Oklahoma Funeral Board will be held: July 11, 2024. Office of Chief Medical Examiner –OKC 921 N.E. 23rd Street Conference Room – 1st Floor Oklahoma City, OK 73105.



OKLAHOMA Funeral Board

MINUTES OF A REGULAR MEETING

OKLAHOMA FUNERAL BOARD
3700 N. Classen, Suite 175
Oklahoma City, Oklahoma 73118

May 9, 2024

BOARD MEMBERS

Tom Coble
Darin Corbett
Glenn Dunn
John Davenport
Joe Highberger
Brent Matherly
Jim Roberts

STAFF

Rochelle Covington
Tyler Stiles
Kylie Cooper, AAG
Liz Stevens, AAG

MEETING PLACE: MEETING PLACE:

If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on May 7, 2024 at 9:00AM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

President Roberts called the meeting to order at 10AM. Members Corbett, Davenport, Dunn, Highberger, Matherly, and Roberts were present. Member Coble was absent. A quorum was always present.

Motion by Highberger second by Corbett to approve the April 11, 2024 Regular Board meeting minutes. The motion passed unanimously.

Christina Shipman with OKFDA provided the following update: the association has been fighting SB1602 and the bill is now dead but is tracking to see if the language will be in other bills with session almost over. The OKFDA Women's conference will be July 9-11 at the Edmond Convention Center.

Rowena Ehrman with OID provided the following update: OID is available to assist with storms and has various tips on the OID website as well as their consumer assistance division. If you are still looking to convert trusts into insurance, contact Rowena. The process takes around 6-8 weeks, so try to get it done early before the end of the year.

Regarding the matters for consideration: Motion to Enforce Consent Order, Order Regarding Motion to Enforce, or Scheduling Order: Complaints 23-16, 23-72, 24-08, and 24-20 Christopher Harrison, Funeral Director and Embalmer. The prosecution was represented by Kylie Cooper, AAG. Liz Stevens, AAG, was the Board's legal advisor. Members Davenport, Dunn, Highberger, and Matherly heard the case. Member Corbett and Roberts were recused from the case and they left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Matherly to accept the consent order. The consent order consisted of the following: The agreed violations were: failing to provide payment to a vendor within 90 days, failing to provide services or merchandise contracted for, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Administrative Penalty of \$2,000, restitution in the amount of \$500 for Complaint 24-08, Restitution in the amount of \$3,545, 20 hours of additional CE, 3 years of probation, \$1,250 costs. Complaint 23-72 was dismissed. The motion passed unanimously.

Motion by Highberger and second by Matherly to table Complaint 23-16. The motion passed unanimously.

Members Corbett and Roberts reentered the room.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (Original) Faith Ziegler, Stillwater, Baggerley, Edmond; Sherry Gray, Wilson, Alexander Gray, Wilson(EM only); Chia Minn Loo, Edmond, Mercer-Adams, Bethany; Carolyn Randolph, Elk City, Ray & Martha's, Hobart; Faith Alvarez, Edmond, Barnes & Friederich, MWC; Douglas Bevill, Jr., Cleveland, Chapman-Black, Cleveland (FD only). The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (1st extension) Robert Bethany, Catoosa, Rice, Catoosa; Reagan Crenshaw, Edmond, Baggerley, Edmond; Brittany Yeager, Weatherford, Lockstone, Weatherford. The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (2nd Extension). Holland Dugdale, Glenpool, McClendon-Winters, Okmulgee; Nicole Albee, MWC, Corbett, OKC. The motion passed unanimously

Motion by Matherly second by Roberts to table the following: Funeral Director and/or Embalmer (Reciprocal), Brad Pingel, Texas (FD Only). The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Funeral Director and/or Embalmer (Original), Thomas Applegate, Wagoner; Dena Cassell, Chattanooga. The motion passed unanimously.

Motion by Matherly second by Highberger to table the following: Funeral Director and/or Embalmer (Original), Chad Kaminski, Ada; Jessica Ramirez, Purcell (EM only). The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Funeral Director and/or Embalmer (Original), Jackson Williams, Tulsa (EM only). The motion passed unanimously.

Motion by Matherly second by Roberts to approve the following: Establishments, Kiesau-Lee FH, Clinton request to change FDIC from Brandon Lee to Troy Lee; DeArman's FH, Sulphur request to close establishment; DeArman's FH, Sulphur, New Establishment, DeArman Properties, Inc, Owner, Joe DeArman, FDIC, request for temporary location and exemptions per 59-396.2a(19). The motion passed unanimously.

There was no new business

Agency Financial update- Mr. Stiles reported gross receipts for April 2024 to be \$9,790.00 with \$979.00 going to the State of Oklahoma general fund. The expenses for the same timeframe totaled \$34,083.19 and net income after expenses totaled -\$25,272.19.

2024 Legislative Session Bills- HB2959, this is the bill to extend the sunset of the Funeral Board for 3 years and it passed the Senate Committee and now waiting for it to be placed on the Senate Floor agenda

SB707, extends the time to file a death certificate from 3 days to 10 days. The Funeral Director was given 24 hrs to start the record and provide it to the medical certifier, 5 days for the medical certifier to complete the cause of death, and 4 additional days for the funeral director to review the information and submit the record for filing.

SB1602, this is the funeral service merchandise bill that allows anyone to sell a casket without a license if they are not selling any other funeral services and is now dead.

SB2038, requires the funeral director to notify the person providing personal data that is a felony to knowingly provide false data. Board staff will update if there is any movement on this Bill.

Strategic Planning: Discussion and possible action regarding change of Board Statutes or Board Rules: Board discussion for Updating Cremation Statutes and Rules. Darin Corbett and John Davenport would like to continue discussions, build more of a framework, and is still looking at various cremation statutes and rules and compiling a list.

Motion by Highberger second by Matherly to adjourn the meeting at 10:18AM. The motion passed unanimously.

Jim Roberts
Oklahoma Funeral Board President

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

FAIRVIEW FUNERAL HOME
A Licensed Funeral Establishment,
Establishment License # 1102ES
221 North Main St
Fairview, OK 73707

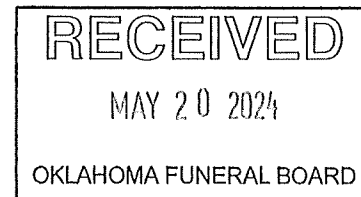
owned by:
FAIRVIEW FUNERAL HOME INC
221 North Main St
Fairview, OK 73707

CHANIN HOEHN
Licenses: 2847FD & 3232EM
Address: 221 North Main St
Fairview, OK 73707
A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

FAIRVIEW FUNERAL HOME INC,

Respondents.

Complaint No. 23-75



COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board (“Board”), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that the Respondents, FAIRVIEW FUNERAL HOME, FAIRVIEW FUNERAL HOME INC., and CHANIN HOEHN, have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the “Act”), and Rules of the Board, Oklahoma Administrative Code (“O.A.C.”) Section 235:10-1-1 *et seq.* (the “Rules”), in the manner set forth below:

JURISDICTION

1. Respondent FAIRVIEW FUNERAL HOME (“Funeral Home”) is licensed by the Board, establishment license number 1102ES, and is located at 221 North Main St, Fairview, OK 73707.

2. Respondent CHANIN HOEHN (“Funeral Director in Charge” or “FDIC”) is licensed by the Board as a funeral director and embalmer, license numbers 2847FD and 3232EM, and at all relevant times was the Funeral Director in Charge at Funeral Home.

3. Respondent FAIRVIEW FUNERAL HOME INC. (“Owner”) is, and at all relevant times was, the owner of record for Funeral Home. Upon information and belief, Respondent CHANIN HOEHN is the owner and registered agent for Respondent FAIRVIEW FUNERAL HOME INC.

4. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11).
See also 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

5. On or about June 26, 2023, Board staff conducted an inspection of the Funeral Home and determined that the Body Intake Log (the “Log”) was deficient, because it had not been updated in 12 months and no FDIC was listed on the Log.

6. Further, Board staff determined a violation of the requirements regarding Displayed Caskets, because there was not an inventory of at least five (5) adult caskets.

7. On June 29, 2023, Board staff filed a complaint with the Board, alleging that Respondents had a deficient Log in violation of O.A.C. 235:10-3-2(5)(vii). Further, Board staff alleged a violation of O.A.C. 235: 10-3-2(6)(B), which provides, “each funeral establishment shall maintain an inventory of not less than five adult caskets at the location, or five quarter panel or end cut display units,” provided by a commercial casket manufacturer. Board staff also alleged a violation of 36 O.S. §6127, which states, “Any organization or person offering for sale caskets or other

articles of merchandise incidental to burial or funeral services shall prominently display thereon the retail price of said caskets, or other articles of merchandise.” The Board provided Respondents with the Notice of Complaint via certified letter, which was mailed on the date the complaint was filed.

8. On July 18, 2023, Respondents filed their response to Complaint 23-75 with the Board. Respondents stated that they previously only used embalming reports and now that they are aware, they will begin using a Body Intake Log and that they have added the FDIC to the log. They also stated that they only had one casket on the floor due to renovations that they were unable to proceed with.

9. By public vote during the meeting on August 10, 2023, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

10. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

11. Respondents violated O.A.C. 235:10-3-2(5)(vii) by failing to have a complete and up-to-date Log. The relevant Rule, O.A.C. 235:10-3-2(5)(vii), with emphasis added, provides:

Body Intake Log. Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. **The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s).** If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

12. Further, Respondents violated O.A.C. 235:10-3-2(6)(B) by failing to have an inventory of five adult caskets on location. The relevant Rule, O.A.C. 235:10-3-2(6)(B), provides:

(B) Caskets. Each funeral establishment shall maintain an inventory of not less than five adult caskets at the location, or five quarter panel or end cut display units provided by a commercial casket manufacturer. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for the number of caskets In inventory will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

13. Additionally, Respondents violated 36 O.S. §6127 by not having displayed prices for the caskets offered for sale. The statute provides, “Any organization or person offering for sale caskets or other articles of merchandise incidental to burial or funeral services shall prominently display thereon the retail price of said caskets, or other articles of merchandise.”

14. FDIC is “responsible for the legal and ethical operation of the [Funeral Home] and is accountable to the Board.” 59 O.S. § 396.2(12). Therefore, Respondent CHANIN HOEHN, as the Funeral Director in Charge of the Funeral Home is also liable for the above violations.

15. Due to the above violations, Respondents are subject to disciplinary action by the Board. See 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

16. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

17. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

18. In lieu of prosecution, Respondents “may elect to surrender the license.” *Id.* at § 396.12e(D). However, should Respondents surrender their licenses, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **JUNE 13, 2024, at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

A handwritten signature in black ink that reads "Kylie Cooper". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Kylie Cooper, OBA # 23758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov

Attorney for Oklahoma Funeral Board

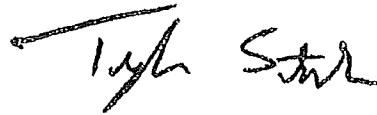
CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May, 2024, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

FAIRVIEW FUNERAL HOME, INC.
221 North Main St
Fairview, OK 73707

CHANIN HOEHN
221 North Main St
Fairview, OK 73707



Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

MICHAEL'S FUNERAL HOME

A Licensed Funeral Establishment,
Establishment License # 1080ES
PO Box 688
Drumright, OK 74030

owned by:

MICHAEL'S FUNERAL HOME INC.

PO Box 688
Drumright, OK 74030

MICHAEL DAVIS

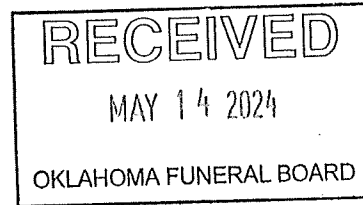
Licenses: 2321FD & 2468EM
Address: PO Box 688
Drumright, OK 74030

A Licensed Funeral Director
and the Funeral Director in Charge at

MICHAEL'S FUNERAL HOME,

Respondents.

Complaint No. 24-09



COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that the Respondents, MICHAEL'S FUNERAL HOME, MICHAEL'S FUNERAL HOME INC., and MICHAEL DAVIS, have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("O.A.C.") Section 235:10-1-1 *et seq.* (the "Rules"), in the manner set forth below:

JURISDICTION

1. Respondent MICHAEL'S FUNERAL HOME ("Funeral Home") is licensed by the Board, establishment license number 1080ES, and is located at 501 W Broadway, Drumright, OK 74030.

2. Respondent MICHAEL DAVIS ("Funeral Director in Charge" or "FDIC") is licensed by the Board as a funeral director and embalmer, license numbers 2321FD and 2468EM and at all relevant times was the Funeral Director in Charge at Funeral Home.

3. Respondent MICHAEL'S FUNERAL HOME, INC. ("Owner") is, and at all relevant times was, the owner of record for Funeral Home. Upon information and belief, Respondent MICHAEL DAVIS is the owner and registered agent for Respondent MICHAEL'S FUNERAL HOME, INC.

4. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

5. On or about July 27, 2023, Board staff received a Conditional Administrative Order in State of Oklahoma, ex re. Glen Mulready v. Michael's Funeral Home Inc., Case No. 23-0248-DIS (State's Exhibit "A"). This Order alleged that Michael's Funeral Home failed to include certain necessary forms in their 2021 annual report, in violation of 36 O.S. § 6128. The forms missing included a signed PF -3, a Schedule 3 form, and a Schedule 6 form.

6. On August 23, 2023, Board staff processed a complaint with the Board, alleging that Respondents were in violation of O.A.C. 235:10-7-2(5) by failing to comply with the requirements of the Oklahoma Statutes and Rules of the State Insurance Commission. The Board provided Respondents with the Notice of Complaint via certified mail.

7. On November 30, 2023, Respondents filed their response to Complaint 24-09 with the Board. Respondents stated that they have no defense as to the contents of the complaint, however

they did state that they were fully cooperating with the Insurance Department in remedying the situation.

8. By public vote during the meeting on February 8, 2024, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

9. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

10. Respondents violated O.A.C. 235:10-7-2(5) by failing to comply with the requirements of the Oklahoma Statutes and Rules of the State Insurance Commission pertaining to pre-need funeral service arrangements.

11. FDIC is “responsible for the legal and ethical operation of the [Funeral Home] and is accountable to the Board.” 59 O.S. § 396.2(12). Therefore, Respondent Michael Davis, as the Funeral Director in Charge of the Funeral Home is also liable for the above violations.

12. Due to the above violations, Respondents are subject to disciplinary action by the Board. *See* 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

13. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related

violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

14. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

15. In lieu of prosecution, Respondents “may elect to surrender the license.” *Id.* at § 396.12e(D). However, should Respondents surrender their licenses, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **JUNE 13, 2024 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Kylie Cooper, OBA # 23758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
(405) 522-2894
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

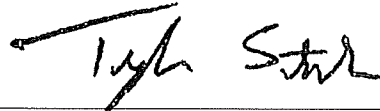
I hereby certify that on the 14th day of May, 2024, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

MICHAEL DAVIS
PO Box 688
Drumright, OK 74030

MICHAEL'S FUNERAL HOME INC.
PO Box 688
Drumright, OK 74030

MICHAEL'S FUNERAL HOME
501 W Broadway
Drumright, Ok 74030



Tyler Stiles, MBA
Executive Director

Liz Stevens

From: Tyler Stiles
Sent: Friday, May 17, 2024 3:52 PM
To: Liz Stevens
Cc: Rochelle Covington
Subject: RE: Police First Calls and Removals

And I think the response should come from you including your name. That way if it is an incorrect response, there is tracking showing who provided that advice. Or I can say that the response is coming from the AG's office.

I will have this on the Agenda for open meeting so the public can be made aware that all questions will go to the AG's office and they will need to wait for the response.

Thank you,

Tyler Stiles, MBA

From: Liz Stevens <liz.stevens@oag.ok.gov>
Sent: Friday, May 17, 2024 3:38 PM
To: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Tyler,

I did not ask you to reword my response. I wrote the response that you should send word for word (and in red) so that you could simply paste it as a email reply. Further, I did not advise the Board to not let you perform your job duties and there is absolutely nothing unethical about me advising you on how to respond to legal inquiries from licensees. The Board directed me to provide you with legal advice on how to respond to legal inquiries from licensees. As my previous emails indicate, my advice is that we should **not** answer legal questions or interpret statutes or rules for licensees because of the potential conflict that would create for the Board. The Attorney General's office is not answering the legal questions of licensees. I, as the Board's contracted attorney, am advising Board staff on how to properly respond when such requests are received. Therefore, the response needs to come from Board staff *after conferring with Board counsel*.

I have discussed this issue with the Board Chair and came to the consensus that since you seem to be unclear about my role as Board counsel and what the Board directed you to do when you receive legal questions from licensees, this issue needs to be on the next agenda in order to provide further clarification.

In the meantime, this is what I recommend and advise you send to the licensee:

The board is not able to provide you with legal advice. Below are the relevant statutes and rules that pertain to your situation. If you have further legal questions you will need to ask your own legal counsel.

OAC 235:10-7-2(13) Prohibited Acts. Charging. For service or merchandise not contracted for or failing to provide the services or merchandise contracted for or making substitution for services or merchandise contracted for without the authorization of the customer.

Liz

From: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Sent: Friday, May 17, 2024 12:24 PM
To: Liz Stevens <liz.stevens@oag.ok.gov>
Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Again, I will send you the questions that we get and then forward your response to the person emailing. I will not reword your responses. That defeats the purpose of contacting the AG's office and could get misinterpreted if it is reworded. Me being instructed to do this is so there is a trail of who is providing the answer. You, as Board advisor, advised the Board to not allow me to perform my job duties and to direct all inquiries to you. I find it unethical for the AG's office to provide any type of advice to inquiries from funeral homes, but since I was instructed to do so and you agreed to do it and advised the Board, I will keep the paper trail and instruct the rest of staff to do the same.

Thank you,

Tyler Stiles, MBA

From: Liz Stevens <liz.stevens@oag.ok.gov>
Sent: Friday, May 17, 2024 11:42 AM
To: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Let's put a pin in this until we can get some clarification from the Board. My understanding is that the Board wanted you to respond to the questions, but run it by legal first. I'll reach out to the chair and see if he has any guidance.

From: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Sent: Friday, May 17, 2024 10:38 AM
To: Liz Stevens <liz.stevens@oag.ok.gov>
Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

As you know, I was directed by the Board to send you all legal questions in writing. I will continue to do so, until told otherwise by the Board. If the AG's office does not wish to answer the questions that we get, that should be discussed with the Board.

If we are responding to licensee legal questions on the AG's behalf, the response should come from the AG's office and not reworded by Board staff, in the event that there is a complaint and for documentation as discussed at the meeting. I find this request unethical, however, you agreed to doing so at the Board meeting in order to prevent Board staff from performing their job duties.

Thank you,

Tyler Stiles, MBA

From: Liz Stevens <liz.stevens@oag.ok.gov>
Sent: Friday, May 17, 2024 10:24 AM
To: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>

Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Hi Tyler,

My standard response for these licensee legal questions will be that we can't give them legal advice. Below is the response that I think the Board should give. Additionally, I think it should come from Board staff and not from me, so please do not forward my response.

Liz

The board is not able to provide you with legal advice. Below are the relevant statues and rules that pertain to your situation. If you have further legal questions you will need to ask your own legal counsel.

OAC 235:10-7-2(13) Prohibited Acts. Charging. For service or merchandise not contracted for or failing to provide the services or merchandise contracted for or making substitution for services or merchandise contracted for without the authorization of the customer.

From: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Sent: Friday, May 17, 2024 9:29 AM
To: Liz Stevens <liz.stevens@oag.ok.gov>
Cc: Rochelle Covington <Rochelle.Covington@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Please send us the provision in the rules so we can forward that response from the AG's office to the funeral home.

Thank you,

Tyler Stiles, MBA

From: Liz Stevens <liz.stevens@oag.ok.gov>
Sent: Friday, May 17, 2024 9:24 AM
To: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Subject: RE: Police First Calls and Removals

Hi Tyler,

We can't give legal advice, but my reading of the rules is that if the family didn't contract for it, they can't charge the family. You might send them that provision in he rules.

If you disagree, please let me know.

Liz

From: Tyler Stiles <Tyler.Stiles@funeral.ok.gov>
Sent: Wednesday, May 15, 2024 11:33 AM
To: Liz Stevens <liz.stevens@oag.ok.gov>
Subject: FW: Police First Calls and Removals

As instructed by the Board, please see the email below.

Thank you,

Tyler Stiles, MBA

From: Ashley Armstrong <AArmstrong@legacyfuneralgroup.com>
Sent: Wednesday, May 15, 2024 11:16 AM
To: Funeral Board Info <info@funeral.ok.gov>
Cc: Kylee Vaughan <kvaughan@robertsreedculverfuneraldirectors.com>
Subject: [EXTERNAL] Police First Calls and Removals

Good Morning!!

My name is Ashley Armstrong and I am a Funeral Director/Embalmer in Stilwell, Oklahoma. I have had an issue arise that I am puzzled on the correct literature on protocol is. I have utilized my Statutory Law and Funeral Trade Commission resources to come up with a black and white understanding of the absolute way to handle the following situation when it should arise.

A first call comes in from a law enforcement agency with a DOA (dead on arrival) it is our turn for the call as the law enforcement agency's use a rotation schedule with all local funeral homes so that favoritism is not a complaint. We make the removal and medical examiner waives jurisdiction. We bring the decedent into our care and start the process of contacting the next of kin. The NOK chooses a different funeral than us. The family calls us to let us know they would like us to release the body to the selected funeral home of thier choice. You tell the family the removal and storage fee that has incurred since thier loved one has come into our care. The family states we didnt select you the law enforcement agency selected you and our funeral home states we are not to pay anything as we can not charge.

So my question is: Can the funeral home charge the removal fee and the storage fee to the consumer even though they didnt initially contact us to pick up their loved one? The literature is very gray in regards to this direct question.

Could you please educate me on the Oklahoma requirements on this situation. I truly appreciate any and all advice.

Thank You

Ashley Armstrong

Ashley Armstrong
Funeral Director/Embalmer

Roberts-Reed Culver Funeral Home
801 W. Locust Ave. Stilwell, OK 74960
PH: 918-696-2136

"Let the beauty of what you love be what you do."