



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2019-18A

Chris Ferguson, Executive Director
Oklahoma Funeral Board
3700 N. Classen Blvd., Suite 175
Oklahoma City, OK 73118

January 8, 2019

Dear Executive Director Ferguson:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Funeral Board intends to take pursuant to a consent order in complaint 18-61. The complaint alleges that an unlicensed person performed the functions of a licensed funeral director and misrepresented to a decedent's family material facts related to the custody, care, or disposal of remains. The respondent was previously disciplined by the Board for unlicensed practice. The Board proposes to require the respondent to pay a \$7,500 fine and \$750 in costs and, if the respondent should ever become licensed by the Board, impose a five year probationary period.

The Funeral Services Licensing Act authorizes the Funeral Board to “[e]stablish and levy administrative penalties against any person or entity who violates any of the provisions of the [Act] or any [Board rule]” and “[i]nitiate disciplinary, prosecution and injunctive proceedings against any person or entity who violates any of the provisions of the [Act] or any [Board rule].” 59 O.S.Supp.2018, § 396.2a(9), (11). The Act specifically provides that “[n]o person shall . . . perform any of the functions, duties, or powers prescribed for funeral directors . . . unless the person has obtained [a] license[.]” 59 O.S.2011, § 396.6(A). Further, Board rules prohibit “[m]aterial misrepresentation to the public . . . pertaining directly to the custody, care, or disposal of dead human remains.” OAC 235:10-7-2(1). The Board may reasonably believe that the proposed action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Funeral Board has adequate support for the conclusion that the proposed actions advance the State's policy to protect the public health, welfare and safety and to ensure that certain duties are performed only by funeral directors and that the public is fully informed.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



AMANDA OTIS
ASSISTANT ATTORNEY GENERAL