



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-2A

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

January 7, 2016

Dear Executive Director Ferguson:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Funeral Board intends to take. The proposed action is to—pursuant to a consent agreement—impose \$3,000 in fines and \$1,807.50 in costs, require twelve additional hours of continuing education including six units of ethics, and place the licensee on probation for one year with monthly reports on the location of licensee's permanent residence.

The Funeral Services Licensing Act, 59 O.S.2011 & Supp.2015, §§ 395.1–396.33, requires that every funeral home “be operated by a funeral director in charge,” 59 O.S.2011, § 396.12(C). Funeral directors in charge must be “responsible for the legal and ethical operation of the establishment and [be] accountable to the Board.” 59 O.S.Supp.2015, § 396.2(12). In order to ensure that funeral directors in charge actually are responsible for the operations of funeral homes, the Board's administrative rules impose restrictions on the number of funeral homes that a funeral director in charge may oversee. OAC 235:10-3-2(9)(C). The rules also require that the funeral director in charge have a “permanent residence within 60 miles of” the funeral home. OAC 235:10-3-2(9)(D). The 60-mile rule seeks to ensure that funeral directors in charge may actually exercise their responsibility to oversee the operations of a funeral home. This action enforces the 60-mile rule. The Board may reasonably believe that, in the context of this case, a fine with additional education and monthly reporting will adequately 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 this action advances the State of Oklahoma's policy to protect the public health and welfare.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA