



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-708A

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

September 29, 2017

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 with regard to complaint 18-01. The Board seeks to dismiss the complaint and issue a letter of concern. The consumer complaint arose from conduct of the establishment and funeral director in charge in failing to provide a written contract detailing funeral purchases and the cost for each item. The decedent's father thought an outer burial container was being purchased, but was neither provided nor included in the purchase price. After notice to and response by the licensees, an investigation by the Board's investigator determined that although the licensees had not provided the family with the required detailed written contract, the total price charged was about \$1,300 less than it would have been if the merchandise and services had been detailed individually as required rather than bundled together as a "package."

The Funeral Services Licensing Act, 59 O.S.2011 & Supp.2016, §§ 395.1 – 396.33, authorizes the Funeral Board to take enforcement action against licensees for "[v]iolat[ing] . . . any rules of the Board in administering the purposes of the . . . Act" and/or "failing to comply with the Funeral Rules of the Federal Trade Commission[.]" 59 O.S.Supp.2016, § 396.12c(8), (14). The Board's rules require that consumers be provided "an itemized written statement" detailing the purchased funeral merchandise and services. OAC 235:10-7-2(4). The Funeral Industry Practice Rules of the Federal Trade Commission also require such "an itemized written statement." 16 C.F.R. § 453.2(b)(5). Further, the funeral director in charge is responsible for the legal and ethical operation of the funeral establishment. *See* 59 O.S.2011 & Supp.2016, §§ 396.2(12), 396.12(C). The proposed action seeks to enforce the Board's requirements that funeral establishments and funeral directors in charge maintain accurate and up to date price lists. The Board may reasonably believe a letter of concern 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, welfare and safety and to ensure an informed public.

A handwritten signature in black ink, appearing to read "Mike Hunter".

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Ryan Chaffin".

RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL