OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

**ATTORNEY GENERAL OPINION
2017-710A**

Chris Ferguson, Executive Director   September 29, 2017
Oklahoma Funeral Board
3700 N. Classen Blvd., Suite 175
Oklahoma City, OK 73118

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 18-06. The Board seeks to dismiss the complaint and issue a letter of concern. The complaints arose from the conduct of the establishment and the funeral director in charge in failing to maintain an embalming log detailing the names of the human remains received by the funeral establishment and the disposition made of those remains. Board staff filed the complaint. After being provided with notice of the complaint, the licensees belatedly complied and produced an embalming log.

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[.]" 59 O.S.Supp.2016, § 396.12c(8). The Board's rules specifically require the maintenance of an embalming log. *See* OAC 235:10-3-2(5)(A)(vii). 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 for funeral establishments to identify and account for the bodies in their possession and the services provided. 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.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL