



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-349A

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

August 30, 2018

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 consent orders with regard to complaints 18-57 and 18-59. Each complaint alleges that an unlicensed person performed the functions of a licensed funeral director. In each case, the Board proposes to require payment of \$7,500 in administrative penalties and \$1,250 in costs, impose a two-year probation, and require the licensee to complete 12 additional hours of continuing education.

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.2017, § 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 or embalmers pursuant to the provisions of the [Act] unless the person has obtained the license specified by [the Board] rules . . . and has otherwise complied with the provisions of the [Act].” 59 O.S.2011, § 396.6(A). Board rules provide that “[m]aking, negotiating, or completing the financial arrangements for a funeral service on an at-need basis” may only be “performed . . . by a licensed funeral director.” OAC 235:10-11-1(b)(1)-(5). The funeral director in charge is responsible for the legal and ethical operation of the funeral establishment. 59 O.S.Supp.2017, § 396.2(12). The Board may reasonably believe that the proposed actions are 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.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



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