



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2019-157A

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

April 1, 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 with regard to complaint 18-49. The complaint alleges that a funeral establishment, a Funeral Director in Charge, and funeral director of the establishment allowed an unlicensed person to perform the functions that are required to be completed by a licensed individual. Additionally, the respondents misrepresented material facts to the family of a decedent regarding the custody, care, or disposal of the decedent's remains. The unlicensed person was disciplined regarding the unlicensed practice in a separate complaint. (*See* A.G. Opin. 2019-18A). The Board proposes to require the respondents to jointly pay \$7,500 in restitution to the decedent's mother and \$2,500 in costs, complete an additional 12 hours of continuing education, place each license on probation for two years, and prohibit the establishment from employing the unlicensed employee until a license is obtained.

The Funeral Services Licensing Act authorizes the Funeral Board to take enforcement action against licensees for failure to comply with the Act or Board rules promulgated thereunder. 59 O.S.Supp.2018, § 396.12c(5), (8). The Act prohibits a person from performing certain actions unless licensed as a funeral director. *Id.* § 396.6(A). The Board's rules further prohibit "[m]aterial misrepresentation to the public of facts, requirements of Oklahoma Statutes, State Board Rules, or any rule or regulation 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 ensure that certain duties are performed only by licensed individuals and that the public is properly informed.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



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