OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-200A

Chris Ferguson, Executive Director   December 9, 2015
Oklahoma Funeral Board
3700 N. Classen Blvd., Ste. 175
Oklahoma City, Oklahoma 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 respect to complaint 16-05. The complaint involved a situation where a funeral establishment failed to pay a vendor within 90 days on funeral-related merchandise contracted for by families. The proposed action is to issue a letter of concern after the licensee paid the vendor during the investigation.

The Funeral Services Licensing Act, 59 O.S.2011 & Supp.2015, §§ 395.1–396.33, authorizes the Board to "[p]romulgate rules of conduct governing the practice of licensed funeral directors, embalmers, funeral establishments, and commercial embalming establishments and sale of funeral service merchandise," 59 O.S.2011, § 396.2a(13). The Act authorizes the Board to discipline licensees for violations of such rules, *see* 59 O.S.Supp.2015, § 396.12c(8). Those rules declare it to be a "prohibited act" to "[f]ail[] to pay any vendor or third party obligation, within 90 days, that arises" out of an authorized transaction, OAC 235:10-7-2(9); *see also* OAC 235:10-11-1(d)(1). The action seeks to recognize the possibility that a violation occurred in this case while recognizing that it was remedied upon being brought to the licensee's attention. The Board may reasonably believe that, in the circumstances of this case, 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 and welfare.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA