

**BEFORE THE BOARD OF MORTUARY SCIENCE EXAMINERS
OF THE STATE OF IOWA**

IN THE MATTER OF:)	
)	Case Nos. MS-05-002
John Bolin, F.D.)	
Lic. # 104-01884,)	
)	STATEMENT OF CHARGES
and)	
)	
Bolin Funeral Service)	
Lic. # 151-00400,)	
)	
Respondents.)	

COMES NOW the Complainant, Ella Mae Baird, and states:

1. The Complainant is the Administrator of the Iowa Board of Mortuary Science Examiners (Board) and files these charges on behalf of the Board solely in her official capacity.
2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 156, and 272C (2003, 2005).
3. Respondent John Bolin (Bolin) was first licensed as a funeral director in Iowa on October 30, 1970. Bolin was issued license number 104-01884. His license lapsed on December 15, 2003, and was not reinstated until August 30, 2005. His license is currently in good standing and scheduled to expire on December 15, 2005.
4. Respondent Bolin Funeral Service was first issued a funeral establishment license on July 21, 1997, license number 151-00400. Bolin Funeral Service's establishment license is currently in good standing and scheduled to expire on June 30, 2006.
5. Respondents were first brought to the Board's attention in February 2005, when the Board received a complaint concerning the funeral services and merchandise provided to the family of a deceased. In the course of investigating the complaint, the Board discovered that John Bolin had allowed his funeral director's license to lapse on December 15, 2003. Mr. Bolin continued to practice mortuary science at Bolin Funeral Service on a lapsed license, until he reinstated his license on August 30, 2005.

6. Additionally, the Board received evidence that Bolin and Bolin Funeral Service use an invoice format to provide consumers a listing of services performed and merchandise delivered. This invoice form (a) does not provide a means for Bolin and the consumer to sign a formal Statement of Goods and Services, as required by 645 Iowa Administrative Code 100.7(2); and (b) does not provide the information and disclosures required by the Federal Trade Commission Funeral Rule, in particular, 16 C.F.R. §453.2(b)(5).

7. Pursuant to Iowa Code section 156.4(2) persons shall not engage in the practice of mortuary science unless licensed. Pursuant to 641 Iowa Admin. Code sections 101.10(7) and 103.3(5)(a) funeral directors are prohibited from practicing mortuary science on a lapsed license, and are subject to discipline if they do perform acts requiring licensure after a license lapses and prior to reinstatement.

8. Pursuant to Iowa Code section 156.15(2)(b) and (c), the funeral establishment license Bolin Funeral Service can be disciplined based on Bolin's violation of the law, and its own actions in aiding and abetting Bolin's unlicensed practice of mortuary science.

9. At its meeting on September 8, 2005, the Board found probable cause to charge the respondents, as follows:

Count I

Respondent John Bolin has engaged in a practice harmful or detrimental to the public by repeatedly practicing mortuary science on a lapsed license, in violation of Iowa Code sections 147.55(3) and (8), 156.4(2), 156.9(1) and (2)(d), and 272C.10(3) and (8) (2003, 2005), and 645 Iowa Admin. Code 101.10(7), 102.6, and 103.3(5)(a).

Count II

Respondent Bolin Funeral Service has repeatedly allowed a funeral director to perform mortuary science services while holding a lapsed license, in violation of Iowa Code section 156.15(2)(b) and (c) (2003, 2005), and 645 Iowa Admin. Code 103.4(2) and 103.4(3).

Count III

Respondents have engaged in a practice harmful or detrimental to the public by failing to use a statement of goods and services which provides for signatures by the purchaser and funeral director, and which complies with the FTC Funeral Rule, in violation of Iowa Code sections 272C.10(3) and 156.9(2)(d), and 645 Iowa Admin. Code 100.7(2) and 103.3(8)(b); and prior to May 18, 2005, 645 Iowa Admin. Code 103.2(1)(c) and 103.2(7)(16).

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.

FINDING OF PROBABLE CAUSE

On September 8, 2005, the Iowa Board of Mortuary Science Examiners found probable cause to file this Statement of Charges and to order a hearing be set in this case.

This statement of charges is approved by the board on December 8, 2005.