

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

IN THE MATTER OF)	NO. MS 07-015
)	
Andrew Joyce,)	
Lic. # 02665)	
)	
and)	
)	
Joyce Funeral Home, Inc.)	CONSENT ORDER
Lic. # 00592 (Emmetsburg))	
)	
and)	
)	
Joyce-Alesch Funeral Home)	
Lic. # 00866 (Graettinger))	
)	
)	
RESPONDENTS.)	

The Iowa Board of Mortuary Science (Board), Andrew Joyce, Joyce Funeral Home, Inc., and Joyce-Alesch Funeral Home (Respondents) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code sections 17A.10(1) and 272C.3(4) (2007), and 645 Iowa Admin. Code 12.1:

1. The Board has jurisdiction of this matter pursuant to Iowa Code section 147.14(16) and Iowa Code chapters 17A, 156, and 272C (2005, 2007).
2. Respondent Andrew Joyce (Joyce) was issued Iowa license 02665 on December 10, 1997. Respondent's license was not timely renewed and it expired on August 15, 2005. Respondent did not reactivate his license to active status until September 11, 2007. Respondent's license is now current and will next expire on August 15, 2009. Respondent's address as reported to the Board is 2302 23rd Street, Emmetsburg, IA 50536.

3. During the period in which Respondent's license was lapsed and inactive, he continued to practice mortuary science in the state of Iowa.

4. Respondents Joyce Funeral Home and Joyce-Alesch Funeral Home are the names used by Joyce for funeral homes in two locations.

5. License No. 00592 for Emmetsburg, Iowa 50536 was issued on October 27, 2000. The Emmetsburg license expired on June 30, 2006, and was not reinstated until September 11, 2007. During the period in which the Emmetsburg license was inactive and lapsed, the establishment was used for performing mortuary science services.

6. License No. 00866 for Graettinger, IA 50536 was issued on September 11, 2007, but the Graettinger location had been used for the performance of mortuary science services for several months prior to the date of licensure.

7. The Board charged Respondents as follows:

a. Respondent Joyce engaged in a practice harmful or detrimental to the public by repeatedly practicing mortuary science on a lapsed and inactive 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) (2005, 2007), and 645 Iowa Admin. Code 101.15(2), 101.16(1) (2005, 2006), and 645 Iowa Admin. Code 101.10(7) (7/5/06 to current).

b. Respondent Joyce is charged with practicing mortuary science services in one establishment with a lapsed and inactive license and in a second establishment prior to the date of initial licensure, in violation of Iowa Code section 156.4(1) (2005, 2007).

c. Respondent Joyce is charged with operating two funeral establishments in which mortuary science services were performed without proper licensure, in violation of Iowa Code sections 156.14 and 156.15 (2005, 2007).

d. Respondents Joyce Funeral Home and Joyce-Alesch Funeral Home are charged with allowing a funeral director to perform mortuary science services while the funeral director's license was lapsed and inactive, and have otherwise operated as funeral establishments without proper licensure in violation of Iowa Code sections 156.14 and 156.15, and specifically 156.15.2(b) and (c) (2005, 2007).

8. Respondents have a right to a hearing on the charges, but waive their right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order is the final agency order in the contested case.

9. Respondents agree the State's counsel may present this Order to the Board and may have ex parte communications with the Board solely for the purpose of presenting the Order.

10. This Order shall be part of the permanent record of Respondents and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

11. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2007).

12. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2007). However, no action may be taken against Respondents for violations of these provisions without an opportunity for hearing, or waiver of hearing.

13. This Order is subject to approval of the Board. If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall fully dispose of all issues in this case.

14. This Order shall not preclude additional charges as to any new complaints received

by the Board that are unrelated to the charges at issue in the Order.

IT IS THEREFORE ORDERED:

A. Reprimand

1. Respondent Andrew Joyce is reprimanded for repeatedly practicing mortuary science on a lapsed license and operating multiple funeral establishments which were either unlicensed or operating on lapsed licenses.

2. Respondent Joyce Funeral Home is reprimanded for operating a funeral home holding a lapsed funeral establishment license, and for repeatedly allowing a funeral director to perform mortuary science services while holding a lapsed license.

3. Respondent Joyce-Alesch Funeral Home is reprimanded for operating without proper licensure, and once licensed, for allowing a funeral director to perform mortuary science services while holding a lapsed license.

B. Civil Penalties

1. Andrew Joyce, Joyce Funeral Home, and Joyce-Alesch Funeral Home are each jointly and severally assessed a total penalty of \$2,000.

2. The penalty shall be paid to the Board within 30 days of the date this Order is signed by all parties.

C. Probation

1. Andrew Joyce 's funeral director's license shall be placed on probation for a period of one year from the date of this Order.

2. During the term of the probation:

a. Joyce shall comply with all relevant statutes and administrative rules in the course of his practice as a funeral director.

b. Joyce shall file monthly reports with the Board on the tenth day of each month covering the preceding calendar month. Each report shall contain, on forms provided by the Board, information including, but not limited to, the following:

i. the dates on which Respondent has performed mortuary science services by contract, direct employment, or other basis (including the name and date of death of each decedent, and such additional details regarding each decedent as the Board deems necessary to monitor compliance), and,

ii. the funeral home establishments for which Respondent has performed such services, including the full name, license number and date of license expiration for each.

3. Failure to file timely, complete and accurate reports shall be a violation of this Order. The Board may randomly audit the reports to verify compliance.

4. Upon full compliance with all terms and conditions of Respondent's probation, Respondent's license to practice as a funeral director in the State of Iowa shall be restored to its full privileges free and clear of all probationary restrictions. In the event Respondent fails to comply with the terms of probation, he shall be subject to additional disciplinary action which may result in the revocation of his funeral director's license.

D. Future Compliance

1. Respondents shall in the future adhere to all relevant statutes and administrative rules governing the practice of mortuary science in Iowa.

2. Respondents shall in particular strictly abide by all licensure requirements pertaining both to individual funeral director licenses and licensure requirements for funeral establishments.

Wherefore, the terms and conditions of this Settlement Agreement and Consent Order are agreed to and accepted by the Iowa Board of Mortuary Science and the Respondents.

This consent order is approved by the board on December 13, 2007.