

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

IN THE MATTER OF:)	
)	CASE NO. MS 09-024
Joseph Thomas Simon, F.D.)	
Lic. No. 02413)	STATEMENT OF CHARGES,
)	SETTLEMENT AGREEMENT,
)	AND CONSENT ORDER
)	

COMES NOW the Iowa Board of Mortuary Science (Board) and Joseph Thomas Simon (Respondent), and hereby enter into this Statement of Charges, Settlement Agreement, and Consent Order (Consent and Order) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

STATEMENT OF CHARGES

1. The Board has jurisdiction under Iowa Code chapters 17A, 156, and 272C.
2. Respondent is a licensed funeral director. He was issued license number 02413 in 1989. His license is currently active and will expire November 15, 2011.
3. In 2009 Respondent embalmed decedent EM without authorization from an authorized person under conditions where he was placed on notice that embalming was not authorized at Respondent's funeral establishment or otherwise allowed under Board rules.

COUNT I

4. Respondent is charged with embalming without proper authorization in violation of Iowa Code sections 147.55(2), (3), and (9), and 272C.10(2) and (3); and 645 IAC 100.4(1)(d) (2009)¹, and 103.3(4)(g).

¹ The rule requiring authorization for embalming is now found at 645 IAC 100.6(1)(a).

SETTLEMENT AGREEMENT AND CONSENT ORDER

5. This Consent Order constitutes the resolution of a disciplinary contested case proceeding. Respondent denies the allegations of the charges but agrees to the Consent Order as the resolution of a disputed matter.

6. By entering into this Consent Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Consent Order, and voluntarily waives any objections to the terms of the Consent Order, including the right to appeal.

7. This Consent Order is voluntarily submitted by Respondent to the Board for consideration.

8. Respondent acknowledges his right to be represented by counsel in this matter.

9. Respondent agrees that counsel for the State may present this Consent Order to the Board.

10. This Consent Order is subject to approval of the Board. If the Board fails to approve this Consent Order it shall be of no force or effect to either party.

11. This Consent Order shall be part of the Respondent's permanent record 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 violation.

12. In the event Respondents violates or fails to comply with any of the terms of this Consent Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

13. This Consent Order is a public record available for inspection and copying upon execution of the Consent Order in accordance with the requirements of Iowa Code chapters 22 and 272C.

14. The Board's approval of this Consent Order shall constitute the FINAL ORDER of the Board in a disciplinary contested case.

IT IS THEREFORE ORDERED:

A. Reprimand. Respondent is reprimanded for embalming without proper authorization.

B. Future Action. Respondent shall in the future abide by all laws and rules applicable to the practice of mortuary science, including 645 Iowa Administrative Code 100.6(1)(a).

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

This Statement of Charges, Settlement Agreement, and Consent Order is approved by the Board September 9, 2011.