

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

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| <b>IN THE MATTER OF:</b>               | ) |                              |
|                                        | ) | <b>CASE NO. MS 10-006</b>    |
| <b>Grau Funeral Home</b>               | ) |                              |
| <b>Elgin, Iowa, License No. 000907</b> | ) | <b>STATEMENT OF CHARGES,</b> |
| <b>Joshua Cooper Grau, F.D.,</b>       | ) | <b>SETTLEMENT AGREEMENT,</b> |
| <b>Lic. No. 02782</b>                  | ) | <b>AND CONSENT ORDER</b>     |
|                                        | ) |                              |

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COMES NOW the Iowa Board of Mortuary Science (Board), Grau Funeral Home, and Joshua Cooper Grau (Respondents), 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 Grau Funeral Home is an Iowa licensed funeral establishment, License No. 000907. The license was first issued in 2008, is currently active, and will expire June 30, 2012.
3. Respondent Joshua Cooper Grau is an Iowa licensed funeral director. He was issued license no. 02782 in 2000. The license is active and will expire on March 15, 2011.
4. In 2008 with respect to decedent CD, Respondent Joshua Cooper Grau failed to secure written authorization from the correct authorized person (surviving spouse) prior to embalming and cremation while associated with Leonard Funeral Home, Lic. No. 00242, a funeral establishment that is no longer licensed by the Board.

5. Respondents withheld CD's cremated remains based on nonpayment until 2010.

6. Respondents were unprofessional with CD's family and did not release the cremated remains until after they were contacted in the course of the Board's investigation.

### **COUNT I**

7. Respondent Joshua Cooper Grau is charged with failure to secure proper written authorization from embalming from the correct authorized person in violation of Iowa Code sections 147.55(2) and (3) and 272C.10(2) and (3), and 645 IAC 100.4(1)(d) and 103.3(4)(g).

### **COUNT II**

8. Respondent Joshua Cooper Grau is charged with failure to secure proper written authorization from the correct authorized person in advance of cremation in violation of Iowa Code sections 147.55(2) and (3) and 272C.10(2) and (3), and 645 IAC 10(4)(a)(1).

### **COUNT III**

9. Respondents are charged with withholding of cremated remains pending payment, which constitutes a practice harmful or detrimental to the public, an unethical act, professional incompetence, and negligence, in violation of Iowa Code sections 147.55(2), (3), and (9), 156.15(2)(b), and 272C.10(2) and (3); and 645 IAC 103.3(2), 103.3(7)(a), and 103.4(2).

### **SETTLEMENT AGREEMENT AND CONSENT ORDER**

10. This Consent Order constitutes the resolution of a disciplinary contested case proceeding. Respondents deny the allegations of the charges but agree to the Consent Order as the resolution of a disputed matter.

11. By entering into this Consent Order, Respondents voluntarily waive any rights to a contested case hearing on the allegations contained in the Consent Order, and voluntarily waive any

objections to the terms of the Consent Order, including the right to appeal.

12. This Consent Order is voluntarily submitted by Respondents to the Board for consideration.

13. Respondents acknowledge their right to be represented by counsel in this matter.

14. Respondents agree that counsel for the State may present this Consent Order to the Board.

15. 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.

16. This Consent Order shall be part of the Respondents' 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.

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

18. 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.

19. 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 Joshua Cooper Grau is reprimanded for failing to secure written authorization from the correct authorized person in advance of embalming and cremation. Respondents are reprimanded for withholding cremated remains based on nonpayment.

**B. Future Action.** Respondents shall in the future abide by all laws and rules applicable to the practice of mortuary science.

**C. Civil Penalty.** Respondents are jointly and severally assessed a civil penalty of \$1,000 which shall be paid to the Board within 30 days of the date this Consent Order is signed by all parties.

**D. Education.** Respondent Joshua Cooper Grau shall complete a college course of at least one semester hour or equivalent in current Iowa law and rules on the practice of mortuary science, as provided in 645 IAC 101.3(1)(c), no later than June 30, 2011. The law and rules course at Des Moines Area Community College is approved for this purpose.

**E. Probation.** Respondents' funeral establishment and director's licenses shall be placed in probationary status for one year from the date this Consent Order is signed by all parties. During the term of probation:

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

(a) the dates on which any of the Respondents has contracted for, provided, and/or invoiced any funeral services or merchandise to any purchaser; and,

(b) the dates on which any of the Respondents has executed any Statement of Funeral Goods and Services, the date of the decedent's death, the decedent's name, the parties to the purchase contract, whether the decedent was cremated, and such additional information as will identify the transaction to the Board.

(2) Respondents shall attach to the first monthly report a true copy of the General Price List and form for Statement of Funeral Goods and Services, and shall thereafter provide the Board with any changes to either form.

(3) Respondents shall attach to each monthly report a copy of all Statements of Funeral Goods and Services listed in each report, reflecting all signatures obtained, as well as all written authorizations for embalming or cremation and such information as is required to verify that the person authorizing such services is the correct authorized person.

(4) Respondents shall supply the Board within 10 days of written request such additional

documents as the Board reasonably requests to monitor compliance.

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

(6) Upon full compliance with all terms of probation and this Consent Order, Respondents' licenses shall be restored to full privileges free and clear of all probationary restrictions.

(7) Until five years after this Consent Order has been fully complied with and probation released, Respondent Joshua Cooper Grau shall not act as a preceptor, and no student shall complete a practicum nor an intern an internship with Respondent Grau Funeral Home.

**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 Respondents on this 9<sup>th</sup> day of December 2010.