

**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,)	
)	CONSENT ORDER
and)	
)	
Bolin Funeral Service)	
Lic. # 151-00400,)	
)	
Respondents.)	

The Iowa Board of Mortuary Science Examiners (Board) and Respondents enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code sections 17A.10(1) and 272C.3(4) (2005), and 645 Iowa Admin. Code 12.1:

1. The Board has jurisdiction of this matter pursuant to Iowa Code section 147.14(16) (2005), and Iowa Code chapters 17A, 156, and 272C (2005).
2. Respondent John Bolin presently possesses license number 104-01884 to practice as a funeral director in the State of Iowa. His license lapsed on December 15, 2003, and was reinstated on August 30, 2005. Respondent Bolin Funeral Service presently possesses funeral establishment license number 105-00400.
3. Contemporaneously with the filing of this Consent Order, the Board will file a Statement of Charges, charging Respondent in three counts 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).

4. Respondents do not admit the charges, but do agree to settle this case on the terms set forth in this Consent Order. 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.

5. 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.

6. 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.

7. 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 (2005).

8. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2005). However, no action may be taken against Respondents for violations of these provisions without an opportunity for hearing, or waiver of hearing.

9. 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.

IT IS THEREFORE ORDERED:

A. Reprimand

1. Respondent John Bolin is reprimanded for repeatedly practicing mortuary science on a lapsed license.

2. Respondent Bolin Funeral Service is reprimanded for repeatedly allowing John Bolin to practice mortuary science at its funeral establishment without proper licensure.

3. Both Respondents are reprimanded for failing to use a statement of goods and services form that provides for signatures by the purchasers and funeral director, and that does not conform to the information required by the Federal Trade Commission Funeral Rule.

B. Civil Penalty

Respondents are assessed, jointly and severally, a civil penalty in the amount of \$2,000, which shall be paid to the Board by December 1, 2005.

C. Probation

1. Respondent John Bolin's funeral director license and Respondent Bolin Funeral Service's establishment license shall be placed on probation for a period of six months. Respondents shall surrender their licenses to the Board within 10 days of the date this Consent Order is signed by the Board, so they may be reissued as probationary licenses.

2. During the term of the probation:

a. Respondents shall comply with all relevant statutes and administrative rules in the course of Mr. Bolin's practice as a funeral director, and Bolin Funeral Service's operation as a funeral establishment.

b. Respondents 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:

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

(2) the dates on which Respondents have executed any statement of goods and services, the date of the decedent's death, the decedent's name, the parties to the purchase contract, and such additional information as will identify the transaction to the Board.

(3) attached true and accurate copies of all statements of goods and services reflecting all signatures obtained.

3. During the period of probation Respondents shall supply the Board within 10 days of written request such additional documents as the Board reasonably requests to monitor compliance. For example, the Board may request copies of all invoices issued to assure Respondents are no longer using an invoice form that fails to comply with Board and FTC rules on statements of goods and services.

4. 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.

5. Upon full compliance with all terms and conditions of Respondents' probation, Respondents' licenses shall be restored to their full privileges free and clear of all probationary restrictions.

D. Future Compliance Respondents shall in the future adhere to all relevant statutes and administrative rules in the course of Mr. Bolin's practice as a funeral director, and Bolin Funeral Service's operation as a funeral establishment. Without limitation, Respondents agree in particular to strictly adhere to all applicable Federal Trade Commission rules, Board rules on statements of goods and services, and all licensure requirements.

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

This consent order is approved by the board on December 8, 2005.