

BEFORE THE IOWA BOARD OF MORTUARY SCIENCE

IN THE MATTER OF:)
) **CASE NO. MS 11-010**
HEATHER DAWN YURKA, F.D.)
License No. 02714) **NOTICE OF HEARING**
) **AND STATEMENT OF CHARGES**
Respondent)

The Iowa Board of Mortuary Science files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2011), and 645 Iowa Administrative Code (IAC) 11.6. Heather Dawn Yurka (hereinafter, "Respondent") was issued an Iowa funeral director license no. 02714, which will expire on May 15, 2012.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **September 8, 2011**, before the Iowa Board of Mortuary Science. The hearing shall begin at **11:30 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Professional Licensure Conference Room, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Iowa Board of Cosmetology Arts and Sciences, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Pre-hearing Conference. A prehearing conference will be held by telephone on **August 31, 2011 at 1:30 p.m.**, before an Administrative Law Judge from the Iowa

Department of Inspections and Appeals (“ALJ”). You are responsible for notifying the Board office of the telephone number at which you or your counsel can be reached.

Board rules on pre-hearing conferences may be found at 645 IAC 11.17.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an administrative law judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Pam Griebel, Assistant Attorney General, Iowa Attorney General’s Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact individual board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or

in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 156, and 272C (2011).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 156, and 272C (2011) and 645 IAC chapter 103.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) (2009) and 645 IAC § 11.21.

C. CHARGES

COUNT I – FAILING TO OBTAIN CONTINUING EDUCATION AND MAKING FALSE STATEMENTS ABOUT COMPLIANCE IN RENEWAL APPLICATION

Respondent is charged with failing to comply with continuing education requirements for renewal and making false statements about her compliance in her renewal application, in violation of Iowa Code sections 147.55(3) (practice harmful or detrimental) and (9) (violation of board rule), and 272C.2B (continuing education required to renew), and 645 IAC 4.13(2), (3), and 4, 103.3(3)(e), and 103.3(6)(a).

D. FACTUAL CIRCUMSTANCES

In 2010 Respondent renewed her funeral director's license and asserted in her renewal application that she had completed all continuing education required for renewal. Respondent was selected for audit under 645 IAC 4.11 and in the course of the audit the Board discovered that Respondent had not completed the two hour course on current Iowa law and rules as required by 645 IAC 102.2(1). Respondent was granted a period of time to cure the deficiency and has not produced evidence of compliance.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Pam Griebel, Assistant Attorney General, at 515-281-6403.

F. PROBABLE CAUSE FINDING

On the 9th day of June 2011, the Iowa Board of Mortuary Science found probable cause to file this Notice of Hearing and Statement of Charges.