

STATE OF IOWA
BEFORE THE BOARD OF MORTUARY SCIENCE EXAMINERS

IN THE MATTER OF:)	CASE NOS. MS 03-008,
)	MS 04-009
)	DIA NO. 04DPHMS002
CRAIG WATTS, F.D.)	
License No. 104 02115)	
And)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
WATTS FUNERAL HOME, INC.)	
)	
Respondents.)	

On July 26, 2004, the Iowa Board of Mortuary Science Examiners (Board) found probable cause to file a Statement of Charges against Craig Watts, F.D., and Watts Funeral Home, Inc. (Respondents). A Notice of Hearing was issued on July 28, 2004. The Respondent filed an Answer on August 25, 2004.

The hearing was held on September 9, 2004 at 11:00 a.m. in the fifth floor conference room, Lucas State Office Building, Des Moines, Iowa. The following members of the Board were present for the hearing: Craig Fratzke, F.D., Chairperson; Ruth Ohde, F.D.; Marcus Vigen, F.D.; Eugene Siegert, F.D.; and Karen Thomsen and Paul Johnson, public members. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing. Assistant Attorney General Pamela Griebel appeared for the state. Attorney Thomas Levis represented the Respondents. The testimony was recorded by a certified court reporter. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2003).

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2003) to deliberate its decision. The administrative law judge was directed to draft the Board's decision, in conformance with their deliberations.

- c. He has paid a civil penalty of \$1,000.

The Board's Order further provided terms of probation to be imposed following reinstatement of Watts' suspended license. (State Exhibits 3, 4)

4. Although he did not reinstate his lapsed and suspended license, Craig Watts continued to repeatedly and willfully practice mortuary science at the Watts Funeral Home in Montezuma, Iowa after the Board issued its Order on March 11, 2004. From March 1, 2004 until June 23, 2004, Craig Watts handled nineteen (19) funerals and/or arrangements as the funeral director for Watts Funeral Home. (State Exhibit 11; Testimony of Craig Watts)

Craig Watts admitted that he read the Board's Order, including the section that suspended his license. Craig Watts attempted to explain his actions by stating that he told his attorney at the time (who is now deceased) that he had to continue operating his funeral home business because he was the only funeral director on staff. Mr. Watts' attorney told him that he had to complete his continuing education and other conditions of reinstatement as soon as possible. Based on his attorney's statements, Craig Watts concluded that he could continue to act as a funeral director so long as he was working on the continuing education requirements to reinstate his license. (Testimony of Respondent)

The Board does not accept the Respondent's explanation for his decision to continue to practice as a funeral director despite the suspension of his license. The Board's Order, which was a negotiated settlement, clearly and plainly stated that the Respondent's license was suspended until he had taken all steps required to reinstate a lapsed license and complied with 645 IAC 11.31. The Respondent is an intelligent person capable of understanding the Board's Order. This is not the first time that the Respondent has practiced mortuary science without a valid license. The Board believes that Craig Watts willfully chose to practice mortuary science despite the suspension of his license.

5. Craig Watts did not complete the continuing education credits necessary to reinstate his lapsed/suspended license until May or June 2004. He successfully completed the State Rules and Law examination in August 2004. He

issued on March 11, 2004, when he continued to practice as a funeral director even though his license, which had been lapsed, was suspended by the Board. The Respondent repeatedly and willfully practiced mortuary science on a suspended license from March 11, 2004 through June 15, 2004, in violation of state law and in violation of the Board's Order. Prior to March 11, 2004, the Respondent had been practicing mortuary science on a lapsed license.

COUNT II [Watts Funeral Home, Inc.]

Iowa Code section 156.15(2)(b) and (c)(2003) provide, in relevant part:

156.15 Funeral establishments and cremation establishments-license required-discipline, violations, and penalties.

...

2. ...The board may refuse to issue or renew a license or may impose a penalty, not to exceed ten thousand dollars, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

...

b. Violated this chapter or any rule adopted under this chapter or that any owner or employee of the establishment has violated this chapter or any rule adopted under this chapter.

c. Knowingly aided, * assisted, procured, advised, or allowed a person to unlawfully practice mortuary science.

The preponderance of the evidence established that Watts Funeral Home, Inc. violated Iowa Code section 156.15(2)(b) when its owner, Craig Watts, practiced mortuary science with a lapsed and suspended license. Watts Funeral Home, Inc. also violated Iowa Code section 156.15(2)(c) when it knowingly allowed Craig Watts to unlawfully practice mortuary science with a lapsed and suspended license.

2) The Respondent shall comply with all relevant state and federal statutes and administrative rules in the course of his practice as a funeral director in the state of Iowa.

3) The Respondent shall continue treatment for depression with his physician and/or counselor until his physician and/or counselor recommends his discharge. The Respondent shall sign all necessary releases to allow his physician and/or counselor to file quarterly reports with the Board concerning his progress in treatment.

4) The Respondent shall file monthly case reports with the Board on the tenth (10th) day of each month covering the preceding calendar month. Each report shall be on a form provided by the Board and shall at a minimum contain the following information:

a. the dates on which Respondent has performed mortuary science services by contract, direct employment, or on any other basis;

b. the name of the decedent and place and time of death;

c. date, time, and place of removal, embalming, and copy of the signed permission to embalm form;

d. date, time, and place of making funeral arrangements;

e. type of service performed (traditional funeral service, memorial service, immediate burial, cremation, graveside service only, etc.) and other preparation of the deceased, such as cosmetics application, dressing and casketing;

f. name, license number, and license expiration date for person who made the removal, made funeral arrangements, embalmed, dressed and casketed the body, conducted the funeral, memorial or graveside service, burial or cremation, along with the name, license number and license expiration date for the establishment where services were performed;

1) The Respondent Watts Funeral Home and its employees shall comply with all relevant state and federal statutes and administrative rules, including Iowa's business corporations act and all record keeping requirements, in the course of operating its funeral establishment in the state of Iowa.

2) The Respondent Watts Funeral Home shall only permit a licensed funeral director to perform those activities for which licensure as a funeral director is required.

3) The Respondent Watts Funeral Home shall file monthly case reports with the Board on the tenth (10th) day of each month covering the preceding calendar month. Each report shall be on a form provided by the Board and shall at a minimum contain the following information:

a. the dates on which Respondent Watts Funeral Home has performed mortuary science services by contract, direct employment, or on any other basis;

b. the name of the decedent and place and time of death;

c. date, time, and place of removal, embalming, and copy of the signed permission to embalm form;

d. date, time, and place of making funeral arrangements;

e. type of service performed (traditional funeral service, memorial service, immediate burial, cremation, graveside service only, etc.) and other preparation of the deceased, such as cosmetics application, dressing and casketing;

f. name, license number, and license expiration date for person who made the removal, made funeral arrangements, embalmed, dressed and casketed the body, conducted the funeral, memorial or graveside service, burial or cremation, along with the name, license number

from disciplinary action of the board shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court. If an appeal is filed in district court, any costs incurred for the transcription of the record shall be paid by the Respondents. 645 IAC 11.23.

This findings of fact, conclusions of law, decision and order is approved by the board on October 6, 2004.