

STATE OF IOWA
BEFORE THE BOARD OF MORTUARY SCIENCE EXAMINERS

_____)	
IN THE MATTER OF)	
)	NO: MS-01-0015
KEVIN SEELY, F.D.)	
License No. 104-02269)	
)	AMENDED STATEMENT
RESPONDENT)	OF CHARGES
_____)	

TO THE ABOVE NAMED RESPONDENT:

1. On or about November 2, 1983, the Board issued funeral director license number 104-02269 to the Respondent. Respondent's license to practice mortuary science is current until February 2, 2002. Respondent's last known address was 2707 Stanton Avenue, Des Moines, Iowa, 50321.

2. During calendar years 2000 and 2001, Respondent was employed as a funeral director at funeral and cremation establishments located in Ankeny, Iowa.

3. Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

4. The penalties authorized under Iowa law which the Board may impose against any licensed funeral director found to have engaged in prohibited conduct include imposition of a civil money penalty up to \$1,000 and/or revocation of the licensee's funeral director license. See Iowa Code §§ 156.9, 272C(3) (2001), 645 Iowa Admin. Code §§ 13.1, 101.8(1).

5. Pursuant to Iowa Code Chapters 17A, 156, and 272C (2001) the Iowa Board of Mortuary Science Examiners (Board) has jurisdiction of this matter.

COUNT I

Respondent is charged with engaging in practices harmful or detrimental to the public by knowingly permitting or otherwise facilitating the unlawful practice of mortuary science in violation of the Iowa Code and rules promulgated pursuant to the Board's statutory authority. See Iowa Code §§ 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 101.8(1)c & 101.8(7)a.

CIRCUMSTANCES

6. Respondent was the funeral director responsible for making funeral arrangements for "S", date of death June 20, 2001.

7. Respondent knowingly allowed an unlicensed co-worker to conduct a funeral arrangement conference with the family of "S" on June 21, 2001.

8. The practice of mortuary science includes making funeral arrangements and providing funeral services in connection with the sale of caskets, vaults, or other burial receptacles. Iowa Code § 156.1(7) (2001). Mortuary science may only be practiced in the State of Iowa by a licensed funeral director. Iowa Code § 156.4(2) (2001).

9. Funeral director licenses issued by the Board are subject to discipline if the licensees have knowingly aided or allowed someone to unlawfully practice mortuary science. See Iowa Code §§ 156.9(2)(c) & (d); 645 Iowa Admin. Code §§ 101.8(1)h & 101.8(7)a.

10. A licensee is subject to discipline by the Board for engaging in practices that are harmful or detrimental to the public regardless of whether actual injury occurred. See Iowa Code §§ 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code § 101.8(1)c. Permitting or otherwise facilitating the illegal practice of mortuary science is a practice potentially detrimental or harmful to the public.

11. Respondent has permitted an unlicensed person to engage in practices requiring licensure under Iowa law.

12. The Respondent has engaged in conduct that violates the laws and rules governing the practice of mortuary science in the State of Iowa and the Board has jurisdiction to initiate a disciplinary proceeding in this case.

COUNT II

Respondent is charged with failing to maintain true and accurate records as required by the Iowa Code and the rules promulgated pursuant to the Board's statutory authority. Iowa Code § 156.9(d); 645 Iowa Admin. Code §§ 101.8(1)h & 101.8(2).

CIRCUMSTANCES

13. Respondent was the funeral director responsible for making funeral arrangements for “H”, date of death December 2, 2000. An undated funeral purchase contract was prepared for “H” on or about December 3, 2000. The funeral purchase contract was not signed by the authorized representative of “H” as required by Board rules. See 645 Iowa Admin. Code § 100.6(2).

14. Respondent was the funeral director responsible for making funeral arrangements for “B”, date of death February 20, 2001. A funeral purchase contract dated February 23, 2001 was prepared for “B”. The funeral purchase contract was not signed by the authorized representative of “B” as required by Board rules. See 645 Iowa Admin. Code § 100.6(2).

15. Respondent was the funeral director responsible for making funeral arrangements for “P”, date of death December 21, 2000. A funeral arrangement conference was held with members of the family of “P” on or about December 21, 2000. No written funeral purchase contract was prepared for the signature of the authorized representative of “P” or the Respondent as required by Board rules. See 645 Iowa Admin. Code § 100.6(2).

16. A licensee is subject to discipline by the Board for willful or repeated violations of the rules promulgated by the Board. See Iowa Code § 156.9(2)(c) (2001); 645 Iowa Admin. Code § 101.8(2). The Respondent on repeated occasions failed to

prepare and/or obtain all necessary signatures on funeral purchase agreements as mandated by Board rules. See 645 Iowa Admin. Code § 100.6(2).

17. The Respondent has engaged in conduct that violates the laws and rules governing the practice of mortuary science in the State of Iowa and the Board has jurisdiction to initiate a disciplinary proceeding in this case.

COUNT III

Respondent is charged with knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science and/or falsifying business records. See Iowa Code ' ' 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 101.8(1)c & 101.8(8)c.

CIRCUMSTANCES

18. Board rules require that a written authorization for cremation be executed by the authorizing person prior to cremation. See 645 Iowa Admin. Code § 100.11(4). Respondent signed the cremation authorization form for “S” falsely attesting to the validity of the signature of the authorized person.

19. Respondent did not witness the signing of the cremation authorization for “S” as Respondent was not present when written consent for cremation was given by the authorized person for “S”.

20. On a case report form submitted to the Board for its review, Respondent attested that he had conducted the funeral arrangements for “S” on June 20, 2001.

21. Funeral arrangements for “S” were actually made by an unlicensed co-worker of the Respondent on June 21, 2001. The Respondent had no contact with the family of “S” prior to the cremation of the remains of “S”.

22. On a case report form submitted to the Board for its review, Respondent attested that he was the only person who had performed services and duties constituting the practice of mortuary science in relation to the disposition of the remains of “B”.

23. A second undisclosed licensed funeral director also performed professional services comprising the practice of mortuary science in relation to the disposition of the remains of “B”.

24. A licensee is subject to discipline by the Board for knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science. See Iowa Code ' ' 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 101.8(1)c. A licensee is also subject to discipline by the Board for engaging in unethical business practices such as falsifying business records. See Iowa Code § 156.9 (2001); 645 Iowa Admin. Code §§ 101.8(8)c.

25. The Respondent has engaged in conduct that violates the laws and rules governing the practice of mortuary science in the State of Iowa and the Board has jurisdiction to initiate a disciplinary proceeding in this case.

COUNT IV

Respondent is charged with engaging in unethical conduct or practices that are harmful or detrimental to the public by negligently conducting his practice as a licensed funeral director. See Iowa Code §§ 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 101.8(1)c & 101.8(6).

CIRCUMSTANCES

26. On June 21, 2001, Respondent knowingly permitted an unlicensed co-worker to practice mortuary science by conducting funeral arrangements for “S”, date of death June 20, 2001. Respondent’s co-worker finalized arrangements and conducted a private viewing for the family of “S” on June 21, 2001.

27. Respondent’s co-worker’s actions in arranging and conducting the private viewing for the family of “S” was contrary to accepted professional standards within the funeral and cremation industries.

28. Respondent’s delegation of duties to and supervision of the unlicensed co-worker was negligent. See 645 Iowa Admin. Code § 101.8(6).

29. A licensee is subject to discipline by the Board for engaging in practices that are unethical or harmful or detrimental to the public regardless of whether actual injury occurred. See Iowa Code §§ 147.55, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 101.8(1)c & 101.8(6). The negligent delegation and supervision of tasks within an individual’s practice of mortuary science is a practice that is unethical and potentially detrimental or harmful to the public.

30. The Respondent has engaged in conduct that violates the laws and rules governing the practice of mortuary science in the State of Iowa and the Board has jurisdiction to initiate a disciplinary proceeding in this case.

FINDING OF PROBABLE CAUSE

On September 13, 2001, the Iowa Board of Mortuary Science Examiners found probable cause to file this Statement of Charges and to order a hearing set in this case.

This Statement of charges was approved by the Board on November 5, 2001.