

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

IN THE MATTER OF)	CASE NO. MS 08-011
)	
Raymond Ralph Bertrand)	NOTICE OF HEARING
License No. 02600)	AND STATEMENT OF CHARGES
)	
RESPONDENT.)	

COMES NOW the Iowa Board of Mortuary Science (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 02600 on November 22, 1995. Respondent's license is current and will next expire on June 15, 2010. Respondent's address as reported to the Board is 301 N. 2nd St., Knoxville, IA 50138.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **December 10, 2009**, before the Board of Mortuary Science. The hearing shall begin at **11:00 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, 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: Board of Mortuary Science, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

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, to 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.

Pre-hearing Conference. A prehearing conference will be held by telephone on **December 4, 2009, 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.

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, Assistant Attorney General, Iowa Attorney General’s Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact 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 147, 156, and 272C.

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, 157, and 272C 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 Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

Respondent is charged with failing to present a Statement of Funeral Goods and Services in violation of the FTC Funeral Rule, pursuant to 16 C.F.R. § 453.2(a) and (b)(5); Iowa Code sections 147.55(3) and (9), and 272C.10(3) (practice harmful or detrimental to the public); and 645 Iowa Administrative Code 100.7(1) and (2), and 103.3(8)(b).

COUNT II

Respondent is charged with failing to secure a signature on Statement of Funeral Goods and Services in violation of Iowa Code sections 147.55(3) and (9), and 272C.10(3) (practice harmful or detrimental to the public); and 645 Iowa Administrative Code 100.7(2).

COUNT III

Respondent's withholding of cremated remains pending payment 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) and 272C.10(2) and (3); and 645 Iowa Administrative Code 103.3(2) and 103.3(7)(a).

FACTUAL CIRCUMSTANCES

1. Respondent made funeral arrangements in connection with the 2007 death of AE. Respondent failed to present the authorized persons with a Statement of Funeral Goods and Services. He also failed to secure signatures on a Statement of Funeral Goods and Services.
2. Following the services, a dispute arose between Respondent and the purported purchasers regarding the amount Respondent claimed was owed.
3. Respondent has refused to release the cremated remains pending payment in full of the amounts he claims to be due apparently under an oral contract.

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 515-281-3781.

F. PROBABLE CAUSE FINDING

On this 10th day of September, 2009, the Iowa Board of Mortuary Science found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on September 21, 2009.