

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

IN THE MATTER OF :)	Case No. MS-02-014
)	
KEVIN SEELY, F.D.)	Settlement Agreement and
License No. 104-02269)	Consent Order
)	
Respondent.)	

The Iowa Board of Mortuary Science Examiners (Board) and Kevin Seely, F.D. (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code sections 17A.10(1) and 272C.3(4) (2001), and 645 Iowa Admin. Code 12.1:

1. The Board has jurisdiction of this matter pursuant to Iowa Code section 147.14(16) (2001), and Iowa Code chapters 17A, 156, and 272C (2001).
2. Respondent presently possesses license number 104-02269 to practice as a funeral director in the State of Iowa. The Board initially issued license number 104-02269 to Respondent on November 2, 1983. Respondent's license to practice mortuary science is current until February 15, 2004.
3. The Board instituted formal disciplinary proceedings against the Respondent by filing a Statement of Charges and issuing a Notice of Hearing on December 26, 2002. Respondent does not admit all charges, but does agree to the terms of this Order.
4. Respondent was charged in three Counts with:
 - a. willfully and/or repeatedly conducting the practice of mortuary science from an unlicensed establishment in violation of Iowa Code sections 156.4 and 156.9 (2001), and 645 Iowa Admin. Code 103.2(1)(h);
 - b. engaging in practices harmful or detrimental to the public by conducting the practice of mortuary science from an unlicensed funeral establishment in violation of Iowa Code sections 147.55, 156.4, 156.9, and 272C.10(3) (2001), and 645 Iowa Admin. Code 103.2(1)(c) and 103.2(1)(h); and,
 - c. violating the terms of probation imposed upon the Respondent's funeral director license by a duly issued order of the Board in violation of Iowa Code section 272C.2(a).
5. Respondent has a right to a hearing on the charges, but waives his 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.

6. Respondent agrees 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.

7. This Order shall be part of the permanent record of Respondent 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.

8. 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 (2001).

9. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2001). However, no action may be taken against Respondent for violations of these provisions without an opportunity for hearing, or waiver of hearing.

10. 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.

11. This Order shall not preclude additional charges as to any new complaints received by the Board.

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for practicing mortuary science in an unlicensed establishment, and violating the terms of his probation.

B. Civil Penalty

Respondent shall pay the Board a civil penalty in the amount of \$750.00 no later than 60 calendar days from the date this Order is accepted by the Board.

C. Probation

1. Modifying Current Probation Respondent's funeral director license is currently on probation stemming from disciplinary action taken in Case No. MS-01-015. Pursuant to Findings of Fact, Conclusions of Law, Decision and Order entered June 13, 2002, Respondent's current probation will end one calendar year following the completion of his suspension and re-examination. Probation will expire during the month of August, 2003. Respondent agrees to modify the information he is currently supplying the Board as a term of probation, by adding the following to each monthly report submitted after the date this Order is accepted by the Board: the name, license number, and date of license expiration of each funeral home establishment for which Respondent has performed any mortuary science services by contract, direct employment, or other basis; and the dates on which such services were performed. In all other respects the probationary terms outlined in the June 13, 2002, Order shall remain in effect.

2. Additional Probation Respondent agrees to extend his probation by one calendar year. All terms of the probation outlined in the June 13, 2002, Order shall remain in effect, provided however, that starting with the report due October 10, 2003 (for the calendar month of September, 2003), the only information Respondent will need to report in his monthly reports, on forms provided by the Board, is the following:

a. the dates on which Respondent has performed mortuary science services by contract, direct employment, or other basis (including the name and date of death of each decedent), and,

b. the funeral home establishments for which Respondent has performed such services, including the full name, license number and date of license expiration for each.

3. Termination of Probation Upon full compliance with all terms and conditions of Respondent's probation, Respondent's license to practice as a funeral director in the State of Iowa shall be restored to its full privileges free and clear of all probationary restrictions.

D. Future Compliance Respondent shall in the future adhere to all relevant statutes and administrative rules in the course of his practice as a funeral director. Without limitation, Respondent agrees in particular to abide by all licensure requirements and shall not perform any mortuary science services for or on behalf of any funeral home establishment which is not properly licensed or which has allowed its license to lapse. If, in the future, Respondent performs any mortuary science services at a funeral establishment that is unlicensed or operating on a lapsed license, Respondent agrees to self-report to the Board and to provide a full and complete written explanation of all pertinent circumstances within thirty calendar days of the events at issue.

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 Settlement Agreement and Consent Order was approved by the board on March 13, 2003.