

STATE OF IOWA
BEFORE THE BOARD OF MORTUARY SCIENCE EXAMINERS

_____)	
IN THE MATTER OF)	
)	NO: MS-02-014
KEVIN SEELY, F.D.)	
License No. 104-02269)	
)	STATEMENT OF CHARGES
RESPONDENT)	
_____)	

TO THE ABOVE NAMED RESPONDENT:

1. On or about November 2, 1983, the Board of Mortuary Science Examiners (Board) issued funeral director license number 104-02269 to Kevin Michael Seely (Respondent). Respondent's license to practice mortuary science is current until February 15, 2004. Respondent's last known address was 1440 Oak Brook Drive, Urbandale, Iowa, 50323.

2. Pursuant to an order issued June 13, 2002, the Board imposed probationary terms upon the Respondent's funeral director license until August 20, 2003. See Attached Exhibit 1 (June 13, 2002 "Findings of Fact, Conclusions of Law, Decision and Order").

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, 103.2(1).

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

COUNT I

Respondent is charged with willfully and/or repeatedly conducting the practice of mortuary science from an unlicensed funeral establishment in violation of the Iowa Code and rules promulgated pursuant to the Board's statutory authority. See Iowa Code §§ 156.4, 156.9 (2001); 645 Iowa Admin. Code § 103.2(1)h.

COUNT II

Respondent is charged with engaging in practices harmful or detrimental to the public by conducting the practice of mortuary science from an unlicensed funeral establishment. See Iowa Code §§ 147.55, 156.4, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 103.2(1)c and 103.2(1)h.

CIRCUMSTANCES

6. In the time period between July 1, 1996 and December 11, 2002, Respondent on multiple occasions performed services comprising the practice of mortuary science from a funeral establishment located at 3500 6th Avenue, Des Moines, Iowa.

7. The funeral establishment located at 3500 6th Avenue, Des Moines, Iowa, first obtained a funeral establishment license from the Board on December 12, 2002.

8. Iowa law required that after July 1, 1996, that the practice of mortuary science only be conducted from a licensed funeral establishment. See Iowa Code §§ 156.4(1), 156.14(1), 156.15(1) (2001); see also 1996 Iowa Acts ch. 1148.

9. A licensee is subject to discipline by the Board for engaging in any practice that is 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 § 103.2(1)c. Conducting the practice of mortuary science from an unlicensed funeral establishment is a practice potentially harmful or detrimental to the public.

COUNT III

Respondent is charged with violating the terms of probation imposed upon the Respondent's funeral director license by a duly issued order of the Board. See Iowa Code § 272C.2(a); Exhibit 1.

CIRCUMSTANCES

10. The allegations stated in paragraphs 6-9 are hereby incorporated by reference.

11. The terms of probation imposed upon the Respondent by the June 13, 2002, order of the Board mandated that the Respondent "shall comply with all relevant state and federal statutes and administrative rules, including all record keeping requirements, applicable to the practice of mortuary science in the State of Iowa." Exhibit 1 at p. 23.

12. Respondent performed services comprising the practice of mortuary science

from the unlicensed funeral establishment located at 3500 6th Avenue, Des Moines, Iowa, after the commencement date of the probationary terms imposed upon him pursuant to the June 13, 2002, order of the Board.

13. By conducting the practice of mortuary science from an unlicensed funeral establishment, the Respondent engaged in conduct that violated the laws and rules governing the practice of mortuary science in the State of Iowa in violation of the Board's June 13, 2002, order. See Iowa Code §§ 147.55, 156.4, 156.9, 272C.10 (2001); 645 Iowa Admin. Code §§ 103.2(1)c and 103.2(1)h; Exhibit 1 at p. 23.

14. Licenses issued by the Board are subject to discipline if the licensees violate the terms of probation imposed upon their licenses by an order of the Board. See Iowa Code § 272C.3(2)(a) (2001); Exhibit 1 at p. 24.

FINDING OF PROBABLE CAUSE

On December 12, 2002, 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 December 26, 2002.