

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

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<b>IN THE MATTER OF:</b>	)	
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	)	<b>Case Nos. 03-14, 03-16</b>
<b>Richard Vogel, F.D.</b>	)	
<b>Lic. No. 104-02227</b>	)	<b>COMBINED STATEMENT OF CHARGES</b>
	)	<b>AND CONSENT ORDER</b>
<b>Pursel-Davis Funeral Home</b>	)	
<b>Lic. No. 151-00364</b>	)	
	)	
<b>Boyd-Davis Funeral Home</b>	)	
<b>Lic. No. 151-00363</b>	)	
	)	
<b>Ryan-Davis Funeral Home</b>	)	
<b>Lic. No. 151-00366</b>	)	
	)	
<b>Biersborn Funeral Home</b>	)	
<b>Lic. No. 151-00655</b>	)	
	)	
<b>Respondents.</b>	)	

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**A. Statement of Charges**

1. The Iowa Board of Mortuary Science Examiners (“Board”) has jurisdiction of this disciplinary matter pursuant to Iowa Code section 147.14(16) (2003, 2005), and Iowa Code chapters 17A, 156, and 272C (2003, 2005).

2. Respondent Richard Vogel (“Vogel”) is a licensed funeral director. He was issued License No. 104-02227 on the 2nd day of November, 1981. Vogel’s license lapsed on September 15, 2003, and was not reinstated until May 18, 2004. While his license was lapsed, Vogel performed mortuary science services on two occasions.

3. Respondents Pursel-Davis Funeral Home, Lic. No.151-00364, Boyd-Davis Funeral Home, Lic. No. 151-00363, Ryan-Davis Funeral Home, Lic. No. 151-00366, and Biersborn Funeral Home, Lic. No. 151-00655 (Collectively, “Vogel Funeral Homes”), are funeral homes owned by Vogel. Each funeral home allowed one or more funeral directors to perform mortuary science services while the license of each funeral director had lapsed.

4. Respondent Vogel practiced mortuary science on a lapsed license, in violation of Iowa Code sections 147.55(3) and (8), 156.4(2), 156.9(1) and (2)(d), and 272C.10(3) and (8) (2003), and 645 Iowa Admin. Code 101.13(2) and 102.6 (2003).

5. Respondent Vogel allowed unlicensed employees under his supervision to perform activities requiring a license, in violation of 156.9(2)(c), (2003).

6. Respondent Vogel Funeral Homes allowed one or more funeral directors to perform mortuary science services while holding a lapsed license, in violation of Iowa Code section 156.15(2)(b) and (c) (2003).

7. The Board and Respondents have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing. While Vogel asserts that he and Vogel Funeral Homes were unaware that mortuary science services were performed under lapsed licenses, both accept responsibility to assure proper licensure and have elected to settle the Board's charges to resolve disputed claims.

### **B. Settlement Agreement and Consent Order**

8. Respondents have a right to a hearing on the charges, but waive their 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 constitutes discipline against the Respondents, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10.

9. Respondents agree the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

10. This Order shall be part of the permanent record of Respondents and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

11. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2005).

12. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2005). However, no action may be taken against Respondents for violations of these provisions without a hearing, or waiver of hearing.

13. This Order is subject to approval of the Board:

(a) 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.

(b) If the Board approves this Order, it shall fully dispose of all issues in this case.

**IT IS THEREFORE ORDERED:**

**A. Reprimand**

1. Respondent Vogel is reprimanded for practicing mortuary science on a lapsed license on two occasions.

2. Respondent Vogel Funeral Homes is reprimanded for allowing one or more funeral directors to perform mortuary science services while holding a lapsed license.

**B. Civil Penalties**

1. Respondent Vogel shall pay a civil penalty of \$750.00 to the Board office no later than July 15, 2006.

2. Respondent Vogel Homes is assessed a civil penalty of \$1,000 (jointly and severally against all 4 funeral homes), which is due to the Board office no later than July 15, 2006.

**C. Future Compliance**

Respondents shall in the future adhere to all relevant statutes and administrative rules. Without limitation, Respondents agree in particular to strictly abide by all licensure requirements in Iowa Code chapter 156 and associated rules.

**This combined statement of charges and consent order is approved by the board on June 8, 2006.**