

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

IN THE MATTER OF:)	
)	
)	Case Nos. 07-001
Michael J. Hanes, F.D.)	
Lic. No. 02707)	COMBINED STATEMENT OF CHARGES
)	AND CONSENT ORDER
Respondent.)	

A. Statement of Charges

1. The Iowa Board of Mortuary Science (“Board”) has jurisdiction of this disciplinary matter pursuant to Iowa Code section 147.14(16) (2007), and Iowa Code chapters 17A, 156, and 272C (2007).

2. Respondent Michael J. Hanes is a licensed funeral director. He was issued License No. 02707 on October 22, 1998. Respondent failed to renew his license when it expired May 15, 2006. He reactivated his license on January 27, 2007. Respondent’s license is currently active and is next scheduled to expire on May 15, 2008. While his license was inactive, Respondent performed mortuary science services.

3. Respondent repeatedly 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) (2007), and 645 Iowa Admin. Code 101.10(7) and 103.3(5)(a).

4. Respondent successfully renewed his license in 2004, while residing and working in a different state, but he did not notify the Board of his new address when he returned to Iowa. As a result, Respondent did not receive his renewal notice and did not otherwise take steps to timely renew his Iowa license. Respondent’s license became inactive on May 15, 2006.

5. Respondent continued to practice mortuary science in Iowa while on inactive status. Respondent discovered his inactive status on his own and self-reported to the Board, immediately taking steps to reinstate his license to active status effective on January 27, 2007.

6. While Respondent violated Iowa law and rules by practicing for several months when his license was on inactive status and he failed to keep the Board apprized of his current address, he has taken full responsibility for his actions and omissions and assures the Board he will in the future renew on time and notify the Board of any address change.

7. When determining an appropriate civil penalty, the Board considered mitigating factors including the following: Respondent does not have a disciplinary history with the Board. While performing services in Iowa he did so as a non-principal at his funeral establishment, primarily performing mortuary science services in conjunction with a duly-licensed funeral

director. The circumstances do not reveal any intent to deceive. There were no impediments to renewal, Respondent simply forgot to do so. Respondent practiced while in inactive status for less than a year before he self-reported to the Board and immediately took steps to reinstate to active status.

8. The Board and Respondents have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

B. Settlement Agreement and Consent Order

9. 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 constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10.

10. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

11. 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 future disciplinary action to be imposed in the event of any future violations.

12. 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 (2007).

13. 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) (2007). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

14. 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: Respondent is reprimanded for repeatedly practicing mortuary science on a lapsed license.

B. Civil Penalties: Respondent shall pay a civil penalty of \$250 to the Board office no later than thirty (30) days following the date this Consent Order is signed by all parties.

C. **Future Compliance:** Respondent shall in the future adhere to all relevant statutes and administrative rules. Without limitation, Respondent agrees 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 December 13, 2007.