

**STATE OF MINNESOTA
COMMISSIONER OF HEALTH**

In the Matter of Morris Nilsen Funeral Chapel,
a licensed funeral establishment,
located in Richfield, Minnesota

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Morris N. Nilsen, licensed mortician and owner, on behalf of Morris Nilsen Funeral Chapel (“Nilsen Chapel”), a licensed funeral establishment, and the Minnesota Department of Health (“Department”):

1. The Department is charged with enforcement of Minnesota Statutes, Chapter 149A, (“Chapter 149A”), which governs the practice of mortuary science. The Department is authorized by Minnesota Statutes §§ 149A.06, subd. 1, and 149A.60 to assess monetary penalties and enter into compliance agreements with persons whose conduct is subject to regulation under Chapter 149A; and to impose disciplinary action against such persons for failure to comply with any provision of Chapter 149A or laws and rules governing the removal, preparation, transportation, arrangements for final disposition of dead human bodies, or for the regulation of the practice of mortuary science.

2. The purpose of this Stipulation and Consent Order (“Stipulation”) is to resolve the violations alleged in paragraphs 8, 9, and 10 below.

3. Pursuant to Minnesota Statutes § 149A.70, subd. 4, “no licensee shall directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business or for obtaining the authority to dispose of any dead human body. For the purposes of this subdivision, licensee includes a registered intern or any agent, representative, employee, or person acting on behalf of the licensee.”

4. Pursuant to Minnesota Statutes § 149A.70, subd. 7(7), “no licensee or intern shall engage in or permit others under the licensee’s or intern’s supervision or employment to engage

in unprofessional conduct. Unprofessional conduct includes but is not limited to: (7) Knowingly making a false statement in the procuring, preparation, or filing of any required permit or document.”

5. Pursuant to Minnesota Statutes § 149A.93, subd. 5, “when a death occurs outside of the state and the body travels into or through this state, the body must be accompanied by a permit for burial, removal, or other disposition issued in accordance with the laws and rules of the state where the death occurred.”

6. Morris N. Nilsen is a licensed mortician and owner of Morris Nilsen Funeral Chapel. The Department has issued a funeral establishment license (#0116) to “Morris Nilsen Funeral Chapel” located at 6527 Portland Avenue South, Richfield, Minnesota 55423.

7. Barth A. Humlie is a Minnesota licensed mortician and is employed at Morris Nilsen Funeral Chapel. Barth A. Humlie also holds a license to practice mortuary science in the state of Wisconsin.

8. On November 6, 2015, the Department received a complaint alleging that Reilly D. Dougherty of Thomson-Dougherty Funeral Home located in Minneapolis took possession and removed a decedent’s dead human body from their place of death in the state of Wisconsin and transported the decedent into the state of Minnesota without holding a valid Wisconsin License to practice mortuary science in that state. In addition, the complaint alleged Reilly D. Dougherty did not properly complete required documentation for the release and transportation of human remains from Wisconsin.

9. The Department, through its investigation, determined that Reilly D. Dougherty, after completing the transfer of the decedent from Wisconsin, contacted Barth A. Humlie at Morris Nilsen Funeral Chapel to ask if he would provide his signature and Wisconsin license number on the state of Wisconsin’s documentation. Barth A. Humlie agreed and provided Reilly D. Dougherty direction to forge his name and license number on the Wisconsin documentation.

10. Also, the Department through its investigation determined that Barth A. Humlie suggested a specific sum of money for the forgery of his signature and Wisconsin license number which Reilly D. Dougherty agreed to pay him. Barth A. Humlie accepted the payment despite funeral industry practices.

11. On September 23, 2016, the Department contacted Morris N. Nilsen, owner of Nilsen Chapel the establishment employing Barth A. Humlie, and informed him of Barth A. Humlie's actions, and the Department's conclusion that Barth A. Humlie had violated Chapter 149A. Morris N. Nilsen understands and acknowledges that, on October 26, 2015, Reilly D. Dougherty, staff mortician at "Thomson-Dougherty" traveled into the state of Wisconsin with the intention to practice mortuary science without holding a license to practice in that state and took possession of the decedent at their place of death, then transported the decedent back into the state of Minnesota; once returning into the state of Minnesota with the decedent, Reilly D. Dougherty contacted Barth A. Humlie, who is licensed in both Minnesota and Wisconsin, to ask if he would provide his signature and Wisconsin License number on the release and transportation document required by Wisconsin; Barth A. Humlie agreed and gave permission and direction to Reilly D. Dougherty to forge his signature and Wisconsin license number on the Wisconsin documentation.

12. Morris N. Nilsen was also made aware that staff mortician Barth A. Humlie was paid a sum of money by Reilly D. Dougherty for the use of Barth A. Humlie's signature and Wisconsin license number.

13. Based on the Department's findings, Morris N. Nilsen understands and acknowledges that Barth A. Humlie violated Chapter 149A.

14. In order to resolve this matter and avoid the expense and uncertainty of enforcement proceedings under Chapter 149A, Morris N. Nilsen agrees on behalf of Barth A. Humlie and Nilsen Chapel to the following administrative penalties and corrective actions:

A. **Administrative Penalties.** Nilsen Chapel and Morris N. Nilsen as owner of Nilsen Chapel are hereby assessed a civil penalty of \$8,000 as follows:

- i. **Stayed Penalty.** \$2,000.00 of the civil penalty shall be stayed so long as Morris N. Nilsen and Nilsen Chapel are in compliance with the Corrective Action requirements set forth in paragraph 14(B) below. An additional \$3,000.00 of the civil penalty will be stayed if Morris N. Nilsen agrees to and assures the Department that Barth A. Humlie will complete the Corrective Action requirements set forth in paragraph (14)B below. If the Department determines that Morris N. Nilsen, staff morticians, or Nilsen Chapel have failed to comply with the Corrective Action requirements of paragraph 14(B) below or have violated Minnesota Statutes § 149A.70, subd. 4, Minnesota Statutes § 149A.70, subd. 7(7), or Minnesota Statutes § 149A.93, subd. 5 within five years of the effective date of this Stipulation, the \$5,000.00 stayed penalty will become due and owing as set forth in paragraph 14(C) below.
- ii. **Penalty Due Now.** Payment of the remaining penalty amount of \$3,000.00 shall be made by check or money order payable to "Treasurer, State of Minnesota." The payment is due within 30 days of the effective date of this Stipulation and Consent Order and shall be sent to the Minnesota Department of Health, Mortuary Science Section.

B. **Corrective Actions** Morris N. Nilsen, Barth A. Humlie and Nilsen Chapel shall take the following corrective actions:

- i. Morris N. Nilsen must ensure that whenever Barth A. Humlie or any other licensed mortician in the employ of Nilsen Chapel provides their signature or license number on removal documentation for the transfer of dead human remains from their initial place of death, that they take physical possession of the human remains that are being removed from their place of death. In addition, Nilsen Chapel shall ensure that a certificate of removal is completed and signed only for removals Nilsen Chapel staff actually perform and that a properly completed copy is provided to the legal entity or representative at the time of removal at the death site. Nilsen Chapel shall ensure that its staff do not fraudulently authorize the use of their signatures and license numbers for other licensee's and that they do not accept compensation from another licensee for the use and forgery of their name and license number.
- ii. On or before March 15, 2017 Barth A. Humlie is required to:
 - (1). Complete an extensive review of Chapter 149A and Wisconsin Laws and provide the Department with a written essay of how the laws in each state apply to the practice of Mortuary Science in each area of violation.
 - (2). Complete 10 CEU credits that relate to the areas of violation(s) of Chapter 149A and Wisconsin Law. Nilsen Chapel shall ensure that Barth A. Humlie complies with the written requirements and completes each action. If Barth A. Humlie chooses to leave employment at Nilsen Chapel, Barth A. Humlie will be required to complete all requirements set forth in action plan in

paragraph 14 (B) above despite any changes in his employment status.

iii. Nilsen Chapel shall also create and implement a written policy for taking possession of human remains and for transporting human remains from other states in which staff are licensed to practice. The policy shall ensure that when a funeral establishment calls on and arranges for Nilsen Chapel to complete a removal from the place of death, a licensee holding a valid license to enter that state where the death occurred physically removes the decedent from that state on behalf of the funeral home contracting Nilsen Chapel to make removal and properly completes all necessary documentation.

iv. Within 30 days of the effective date of this Stipulation, Morris N. Nilsen, and Nilsen Chapel shall provide to the Department a written "Action Plan" outlining the specific processes to be followed to ensure that (1) proper procedures for removing and taking possession of human remains from other states are in place; (2) procedures for properly completing a certificate of removal are in place for every removal that takes place; (3) that a copy of the certificate of removal is given to the legal next of kin at the time of the removal at the place of death; and (4) written policies are in place to address forgery of signatures and license numbers. The action plan should address the illegal practice of compensating an agent for the use of their name and license number. In addition to Barth A. Humlie completing the required review of statutes, written essay, and CEU course(s), Morris N. Nilsen is required to provide training

to all his employees on new policies and procedures regarding the areas of violation. A completed record of the material used for training, content of training, and attendance records should be provided along with the action plan. Upon receipt of the Department's approval of the plan, Morris N. Nilsen, and Nilsen Chapel shall immediately implement the plan at Nilsen Chapel or any other funeral establishment where they are employed.

- C. **Violation of this Stipulation.** If the Department determines that Morris N. Nilsen, or Nilsen Chapel have violated Minnesota Statutes § 149A.70, subd. 4, Minnesota Statutes § 149A.70, subd. 7(7), or Minnesota Statutes § 149A.93, subd. 5, within five years of the effective date of this Stipulation, the Department shall give Morris N. Nilsen, and Nilsen Chapel written notice by certified mail specifying the violating actions. Unless Morris N. Nilsen and Nilsen Chapel initiate dispute resolution pursuant to paragraph 14(D) below within 30 calendar days after receiving the written notice from the Department, the \$5,000 stayed penalty will become due and owing.
- D. **Dispute Resolution.** If a dispute arises regarding the Department's determination, pursuant to paragraph 14(C) above, that Morris N. Nilsen, and Nilsen Chapel have failed to comply with Minnesota Statutes § 149A.70, subd. 4, Minnesota Statutes § 149A.70, subd. 7(7), or Minnesota Statutes § 149A.93, subd. 5, Morris N. Nilsen, on behalf of himself and/or Nilsen Chapel, may engage in dispute resolution as follows:
- i. Morris N. Nilsen may initiate the dispute resolution process by providing the Department with a written statement setting forth the matter in dispute, their position, and the information they are relying

on to support their position. Dispute resolution shall be initiated within thirty (30) calendar days after receipt of written notice from the Department concerning violation(s) of Minnesota Statutes § 149A.70, subd. 4, Minnesota Statutes § 149A.70, subd. 7(7), or Minnesota Statutes § 149A.93, subd. 5.

- ii. The Department will have fourteen (14) calendar days after receipt of the request for dispute resolution to provide a written statement of its position and supporting information to Morris N. Nilsen.
- iii. If the Department and Morris N. Nilsen are unable, within twenty-one (21) calendar days after the Department's reply is sent, to reach a resolution of the dispute and reduce such resolution to writing in a form agreed upon by the parties, the Commissioner shall issue a written decision to the parties resolving the dispute.
- iv. Unless Morris N. Nilsen commences an action in the Minnesota Court of Appeals to seek judicial review of the Commissioner's decision within sixty (60) calendar days of the date of receipt of the decision, the Commissioner's decision shall become an integral and enforceable part of this Stipulation. For purposes of judicial review, the Commissioner's decision shall be considered a final decision of the Department.

15. This Stipulation shall not in any way limit or affect the Commissioner's authority to proceed against Morris N. Nilsen, or Nilsen Chapel to initiate enforcement action for any alleged violation of Chapter 149A by Morris N. Nilsen, or Nilsen Chapel that is not the subject of this Stipulation.

16. Morris N. Nilsen hereby acknowledges, on behalf of himself and Nilsen Chapel, that he has read, understood, and agreed to this Stipulation and has freely and voluntarily signed it.

17. The terms of this Stipulation shall be legally enforceable by either party in a court of appropriate jurisdiction.

18. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, that varies the terms of the Stipulation.

19. This Stipulation shall be binding upon Morris N. Nilsen and his successors and assignees, Nilsen Chapel and its successors and assignees, and the Minnesota Department of Health and its successors and assignees.

20. This Stipulation may not be modified or amended except in writing and any modifications or amendments must be signed by all the parties.

21. This Stipulation is effective on the date it is signed on behalf of the Minnesota Department of Health.

Dated: March 21, 2017

Morris Nilsen

Morris N. Nilsen, Owner
Morris Nilsen Funeral Chapel
6527 Portland Avenue South
Richfield, MN 55423

Dated: 3/28/17

Susan Winkelmann

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