

**Administrative Penalty Order
In the matter of Steven P. Washa M-3382**

Authority:

1. Pursuant to Minn. Stat. §149A.04, provisions of this chapter and all laws, now in force or later enacted, rules, orders, stipulation agreements, settlements, compliance agreements, licenses and permits adopted or issued for the regulation of the removal, preparation, transportation, arrangements for disposition, or final disposition of dead human bodies or for the regulation of the practice of mortuary science may be enforced under this section.
2. Pursuant to Minn. Stat. §149A.04, subd.5, data relating to any disciplinary measures or actions anticipated or taken by the regulatory agency are classified as follows: (2) data on individuals are licensing data under section 13.41.
3. Pursuant to Minn. Stat. §149A.05, the regulatory agency may issue correction orders that require a person subject to regulation under this chapter to correct violations of this chapter or rules, orders, stipulation agreements, settlements, compliance agreements, licenses, and permits adopted or issued by the regulatory agency.
4. Pursuant to Minn. Stat. §149.06, to order corrections and assess administrative penalties in an amount up to \$10,000.00 per violations of Minnesota Statutes, Chapter 149A.

Findings of Fact:

1. On September 7, 2018 the Minnesota Department of Health, Mortuary Science Section (hereafter, "department") received a complaint alleging staff at Washburn McReavy Funeral Chapel (NE Chapel), located at 2901 Johnson Street NE, Minneapolis, Minnesota of mishandling the funeral arrangements, the preparation of the decedent, and for lacking transparency regarding the condition of the decedent's human remains.
2. On October 8, 2018, the Department opened an investigation into the allegations against Washburn McReavy NE Chapel and individual licensee Steven P. Washa, license number M-3382 (hereafter, "licensee").
3. On December 13, 2018, the Department obtained and reviewed records from the funeral home. After review, the department determined that on June 3, 2017 verbal permission to embalm the decedent was obtained from the family by funeral home staff.
4. On June 5, 2017, the family met with licensee to make funeral arrangements for the decedent. The family arranged for a visitation and service followed by burial. The licensee charged the family an embalming fee of \$590.00 dollars on the Statement of Funeral Goods and Services and disclosed on the statement the reason for embalming was for public viewing.
5. On December 18, 2018, the department interviewed preparation room staff from Washburn McReavy Funeral Chapel. Washburn McReavy Funeral Chapel staff was not able to provide the department with an embalming record. Staff stated they were certain the decedent was not embalmed due to the condition of the remains.

Washburn McReavy's preparation sheet indicated embalming. Staff was not able to confirm or deny an embalming took place based on their documentation.

6. On March 25, 2019, the department interviewed the licensee. During the interview, the licensee stated that he arranged for embalming and thought the remains of the decedent were embalmed. Further review of documentation revealed that the licensee charged for embalming but never obtained written authorization to embalm the decedent.
7. On April 26, 2019, the department contacted the medical examiner's office to verify if an autopsy was performed on the decedent. The medical examiner's office confirmed that a full autopsy was completed. The funeral home's records indicate the decedent was dressed and casketed. Despite a full autopsy, there were no other preparation records provided to the department by the funeral home staff to show any preparation work was completed on decedent for final disposition.
8. The Statement of Funeral Goods and Services completed by the licensee was not signed by the consumer making the funeral arrangements.

Violation Reference:

Minn. Stat. § 149A.06, subd.5 states in relative part: Amount of Penalty Considerations

- (a) The maximum amount of administrative penalty orders is \$10,000 for each specific violation identified in an inspection, investigation, or compliance review.
- (b) In determining the amount of the administrative penalty, the regulatory agency shall consider the following:
 - (1) the gravity of the violation;
 - (2) the number of violations;
 - (3) the economic benefit gained by the person allowing or committing the violation.

Minn. Stat. § 149A.70 Business Practices subd.7 (6) Unprofessional Conduct states:

Intentionally misleading or deceiving any customer in the sale of any goods or services provided by the licensee.

Minn. Stat. § 149A.71, subd.2 (14) (f) Funeral Industry Practices; Price Disclosures states:

Funeral providers must give an itemized written statement, for retention, to each consumer who arranges an at-need funeral or other disposition of human remains at the conclusion of the discussion of the arrangements. The itemized written statement, must be signed by the consumer selecting the goods and services as required in section 149A.80.

Minn. Stat. § 149A.91, subd.4 Authorization to Embalm states:

No dead human body shall be embalmed without written authorization. Written authorization to embalm a dead

human body must be obtained from the individual lawfully entitled to custody of the body or the individual's legal designee as soon as practicable following the death.

Conclusion:

1. The licensee failed to be transparent with the family regarding the condition of the decedent's remains during the arrangement process making it difficult for the family to make informed decisions regarding their options for services. Lack of communication between the licensee and funeral home staff regarding the condition of the decedent impacted the type of services provided and resulted in additional fees.
2. Licensee wrote on the Statement of Funeral Goods and Services the reason for embalming was for a public visitation. Family was not able to hold a public visitation due to the condition of the decedent.
3. Licensee did not obtain written authorization to embalm decedent by legal next of kin during arrangements.
4. Licensee charged the family \$590.00 for embalming. There was no record of embalming or conclusive documentary evidence from staff that an embalming was completed on the decedent.
5. The licensee did not obtain a signature from the consumer on the Statement of Funeral Goods and Services at the conclusion of the arrangements.

Corrective Order:

It is ordered that, before the 31st day after Mr. Washa receives this order, he must demonstrate, IN WRITING, that the corrective actions specified herein have been taken or that he has taken appropriate steps towards correcting the violation and that he has a plan for full compliance. On or before February 15, 2020, licensee must submit to the department a written action plan that provides a clear and precise outline as to how he will address the violations set forth in this Administrative Penalty Order. The written plan shall be submitted to the department for approval.

1. The Action plan shall include a written process that assures the department the licensee is tracking the work completed in the preparation room relating to the families licensee is serving, process for communicating with staff and families on the condition of human remains, and creates a process for tracking fees charged and services provided.
2. Within 30 days of receiving this order, the licensee shall provide to the department a form of written verification either a receipt or copy of check confirming the appropriate reimbursement of the embalming fee.
3. On or before February 15, 2020 Licensee must attend and complete six CEU credits in the areas of funeral regulation and ethics in Mortuary Science as follows:

The continuing education course(s) must be conducted by a provider that is approved by the Minnesota Department of Health, Mortuary Science Section on or before February 15, 2020. Mr. Washa must identify an upcoming continuing education course(s) that would satisfy the above requirement and must submit to the Minnesota Department of Health, Mortuary Science Section, for the department's approval, a written outline of the course(s) that includes the course(s) content and objectives; an overall number of continued education units allowed for the course(s); and the name and title of the instructor with contact information. After approval of the proposed

continuing education course(s) by the Department, licensee must attend the continuing education course(s).

4. In the event that the licensee (1) is, by February 15, 2020, after reasonable inquiry, unable to identify a continuing education course(s) that meets the above requirements; or (2) there are no continuing education course(s) that meet the above requirements which is offered on or before February 15, 2020 he shall submit to the Minnesota Department of Health, Mortuary Science Section, a written request for an extension of time.
5. Within five working days after attending the approved course(s), licensee must submit to the Minnesota Department of Health, Mortuary Science Section a copy of the completion certificate(s), the name of the continuing education course(s), the number of the continuing education units received, and the date and time that the course(s) were held.

Licensee is assessed a non-forgivable penalty of \$1,500.00 for the violations described in this Administrative Penalty Order.

- a. The licensee may pay the \$1,500.00 civil penalty in monthly installments of up to six months after the effective date of this action. If the licensee chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over which time period. Within 30 days of receipt of this document, licensee must send this information to:

Investigation and Enforcement Unit
Mortuary Science Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

- b. Each payment must be made by check or money order to "State of Minnesota, Treasurer," and mailed to Mortuary Science Program, PO Box 64882, Saint Paul, MN 55164-0882, or any other address specified by MDH. Each payment is due by the last day of each month; however, licensee may prepay at any time.

The penalty may be referred to the Minnesota Department of Revenue, or any other source for collection, if Practitioner misses a monthly payment by 14 calendar days after the established due date. When this determination for a penalty becomes public and MDH refers the matter to MDOR, MDOR is authorized by Minnesota Statutes, section 16D.17 to obtain a judgement against licensee without further notice or proceeding.

Request for Hearing:

You may appeal this order by requesting a hearing. The hearing request must be in writing and delivered to the Department of Health by certified mail within 20 days from the date of this order. The request must state the specific reasons for seeking a review of the order. The Minnesota Department of Health will initiate a hearing within 30 days of receiving a request for a hearing in accordance with Minnesota Statutes, Chapter 14, Administrative Procedures Act.

SO ORDERED this 6th day of December, 2019.

A handwritten signature in black ink, appearing to read "Michelle Larson", written over a horizontal line.

Michelle Larson, Division Director
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place
P.O. Box 64900
St. Paul, Minnesota 55164-0900

Direct correspondence and any appeals to: Catherine Lloyd, Manager of the Mortuary Science Section,
Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882.