



*Protecting, maintaining and improving the health of all Minnesotans*

**Minnesota Department of Health  
ADMINISTRATIVE PENALTY ORDER**

Washburn-McReavy Funeral Corp.  
Mr. William L. McReavy  
2301 Dupont Avenue South  
Minneapolis, Minnesota 55405

*I. Authority*

The Minnesota Department of Health is authorized, pursuant to Minn. Stat. §149A.06, to order corrections and assess administrative penalties in an amount up to \$10,000.00 per violation for violations of Minnesota Statutes, Chapter 149A.

*II. Findings of Fact*

1. The Minnesota Department of Health, Mortuary Science Section investigated an incident involving the misidentification and mishandling of human remains by Washburn-McReavy Funeral Corp. ("Washburn-McReavy"). The incident occurred in April of 2014 at the Washburn-McReavy Funeral Chapel in Edina, Minnesota.
2. Washburn-McReavy staff failed to properly identify and track the human remains of a decedent. As a result, the funeral staff mishandled the decedent's remains by dressing, casketing, and publicly displaying the remains for a visitation and funeral service intended for another deceased person.
3. Washburn-McReavy failed to follow the wishes of the decedent as expressed in the written pre-paid funeral arrangements she made with Washburn-McReavy in May 1986 and as expressed verbally to Washburn-McReavy staff. Washburn-McReavy staff knew that the decedent did not wish to have a viewing as part of the final disposition of her body.
4. Washburn-McReavy failed to follow the lawful written directions of the decedent's family members who had the legal right to control the final disposition of the decedent's remains. The family members declined a public and private viewing for the decedent. The family members paid for and instructed Washburn-McReavy to provide a graveside service, followed by a memorial service after the interment was complete.
5. After this incident occurred, Washburn-McReavy staff failed to notify the decedent's family members to make them aware of the incident. On September 29, 2014, the Minnesota Department of Health, Mortuary Science Section contacted the family to notify them of the incident.

*III. Violation Reference*

**Minn. Stat. § 149A.70, Subd. 7(3) states:**

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:

- (3) Failure to treat with dignity and respect the body of the deceased, any member of the family or relatives of the

deceased, any employee, or any other person encountered while within the scope of practice, employment, or business.

**Minn. Stat. §149A.80, Subd. 1 states:**

A person may direct the preparation for, type, or place of that person's final disposition, as well as the type of conveyance to be used to transport the body to the place of final disposition by written instructions, arrangements made in advance of need must be in writing and dated, signed, and witnessed. The person or persons otherwise entitled to control the final disposition under this chapter shall faithfully carry out the reasonable and otherwise lawful directions of the decedent to the extent that the decedent has provided resources for the purpose of carrying out the directions. This subdivision shall be administered and construed so that the reasonable and lawful instructions of the decedent or the person entitled to control the final disposition shall be faithfully and promptly performed.

**Minn. Stat. §149A.80, Subd. 2(3) states:**

The right to control the dead human body, including the location and conditions of final disposition, unless other directions have been given by the decedent pursuant to subdivision 1, vests in, and the duty of final disposition of the body devolves upon, the following in the order of priority listed:

(3) The adult child or the majority of the adult children of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children.

#### *IV. Corrective Order*

It is ordered that the Washburn-McReavy Corp. must demonstrate, IN WRITING, to the satisfaction of the Director of the Compliance Monitoring Division that the corrective actions specified and that appropriate steps toward correcting the violation have been taken. The Minnesota Department of Health must receive a written letter demonstrating your plans to comply with this Corrective Order before the 31<sup>st</sup> day after you receive this order.

If Washburn-McReavy Corp. fails to demonstrate to the satisfaction of the Director that the corrective actions specified below and appropriate steps toward correction of the violation specified above have been taken, within the 30-day period, the forgivable penalty assessed will become due and payable as described in section V. A plan to correct the violation shall be developed within the 30-day period for corrective action. The plan must be approved by the Director. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

**The following corrective actions are required by this order:**

1. Create, train, and implement a written policy and procedures for Washburn-McReavy staff that addresses notifying a family of a decedent if an unforeseen event should occur that results in the mishandling of human remains. Washburn-McReavy must disclose the details of the incident with the family of the decedent in a timely manner. Washburn-McReavy must implement a written incident policy and procedures that provide for full disclosure of how the incident occurred, what happened, whom it affected, who was involved, and when and where the situation occurred. The written policy and procedures must be submitted to the Minnesota Department of Health, Mortuary Science Section before December 15, 2014.
2. Maintain a record of the new training for all employees of Washburn-McReavy Corp. on the new policy and procedures referenced in this corrective order. Maintain records, including a sign-in log, of the employees who attended the training. Such records must include, at a minimum, the topic, date and time of the training, printed names and the signatures of employees who attended the training. A copy of the record of new training for all employees must be submitted to the Minnesota Department of Health, Mortuary Science Section before January 5, 2014.

## V. PENALTY ASSESSMENT

### Forgivable Penalty Assessment

You are assessed a FORGIVABLE administrative penalty of \$10,000 for the violation described in Sections II and III.

If you demonstrate to the Director of the Compliance Monitoring Division, IN WRITING, within 30 days that the corrective actions and appropriate steps have been taken toward correcting the violation, which may include the development of a plan for correction, to the satisfaction of the Director, this penalty will be forgiven.

If you fail to demonstrate that the corrective actions and appropriate steps have been taken toward correcting the violation, to the satisfaction of the Director, the assessed penalty becomes DUE AND PAYABLE on the 31st day after this order was received. A plan to correct the violation shall be developed within the 30-day time period for corrective action. The plan must be approved by the director. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

### Non-forgivable Penalty Assessment

You are also assessed a NONFORGIVABLE penalty of \$10,000 for the violation described in Sections II and III.

The penalty shall be paid by certified check or money order payable to "Treasurer, State of Minnesota." The payment must be submitted to the Minnesota Department of Health within 30 days after you receive this order.

## VI. 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 after you receive 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.

SO ORDERED this 7<sup>th</sup> of November, 2014.



Darcy Miner, Director  
Compliance Monitoring Division  
Minnesota Department of Health  
85 East Seventh Place  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900

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