



Minnesota
Department
of Health

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

**Minnesota Department of Health
ADMINISTRATIVE PENALTY ORDER**

Reilly D. Dougherty
2535 Park Avenue South
Minneapolis, Minnesota 55404

I. Authority

The Minnesota Department of Health (MDH) is authorized, pursuant to Minnesota Statutes Section §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. Reilly D. Dougherty (hereinafter "Licensee") is a Minnesota licensed mortician (M-4072) employed by Thomson Dougherty Funeral Home.
2. Licensee is not now and never has been licensed as a mortician in Wisconsin
3. On November 6, 2015, MDH received a complaint against Thomson-Dougherty Funeral Home in Minneapolis, Minnesota. The complaint alleged that Licensee was performing unlicensed activity in the state of Wisconsin.
4. On October 26, 2015, Licensee drove to Wisconsin where he took possession of human remains and transported them from the place of death.
5. On October 26, 2015 when Licensee took possession of the human remains and removed them from the place of death, he failed to complete a certificate of removal and he failed to provide the family with a completed and signed copy for their records.
6. Licensee forged the signature and license number of a Wisconsin licensed mortician in order to complete the required paperwork for the state of Wisconsin.
7. Licensee paid the licensed Wisconsin mortician a sum of money for the use of their name and license number.

III. Violation Reference

Minnesota Statutes Section 149A.70, subd.7 (6) and (7) 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:

- (6) intentionally misleading or deceiving any customer in the sale of any goods or services provided by the licensee;
- (7) Knowingly making a false statement in the procuring, preparation, or filing of any required permit or document.

Minnesota Statutes Section 149A.90, subd.4. Certificate of Removal states:

No dead human body shall be removed from the place of death by a mortician or funeral director or by a non-compensated person with the right to control the dead human body without the completion of a certificate of removal and, where possible, presentation of a copy of that certificate to the person or representative of the legal entity with physical or legal custody of the body at the death site. The certificate of removal shall be in the format provided by the commissioner that contains at least, the following information:

1. The name of the deceased, if known;
2. The date and time of removal;
3. A brief listing of the type and condition of any personal property removed with the body;
4. The location to which the body is taken;
5. The name, business address, the license number of the individual making the removal; and
6. The signature of the individual making the removal and, where possible, the individual or representative of the legal entity with physical or legal custody of the body at the death site.

Minnesota Statutes Section 149A.90, subd.5. Retention of Certificate of Removal states:

Retention of Certificate of removal- A copy of the certificate of removal shall be given, where possible, to the person or representative of the legal entity having physical or legal custody of the body at the death site.

Minnesota Statutes Section 149A.93, subd.2. Transportation of Dead Human Bodies states:

Certificate of Removal. A certificate of removal is required when:

1. Legal and physical custody of the body is transferred;
2. A body is transported by public transportation; or
3. A body is removed from the state.

Minnesota Statutes Section 149A.70, subd.4 Solicitation of Business states:

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.

Minnesota Statutes Section 149A.93, subd.5. Death Outside State; Disposition Permit states:

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.

IV. Conclusions

Licensee violated Minnesota Statutes Section 149A.70, subd. 7 (6) when he represented himself to the family of the deceased as being authorized to take possession of the human remains and transport them. Licensee violated Minnesota Statutes Sections 149A.90, subds. 4 and 5 and 149A.93, subd. 2 when he failed to complete a certificate of removal and give it back to the family prior to assuming custody of the deceased human body, transporting it, and removing it from the state. Licensee violated Minnesota Statutes Sections 149A.70, subd. 7 (7) when he forged the signature and license number of a Wisconsin licensed mortician. Licensee violated Minnesota Statutes Sections 149A.70, subd. 4 when he paid the Wisconsin licensee for use of his name and license number.

V. Corrective Order

The following actions are required by this order:

On or before the 30th day after Licensee receives this order, Licensee must demonstrate, IN WRITING and to the satisfaction of the Health Regulation Division, that the corrective actions specified below have been taken, or that appropriate steps toward correcting the violations have been taken. Appropriate steps may include the development of a plan for correction.

Corrective actions. On or before August 15, 2016, Licensee must attend a continuing education course on the proper protocol for taking possession and transferring human remains from another state, obtaining proper authorization(s), properly completing documentation including valid signatures for a death that occurs outside of Minnesota, and completing a separate course on the laws regarding forgery, as follows:

1. The continuing education course(s) must be conducted by a provider that is approved by the Minnesota Department of Health, Mortuary Science Section. Licensee must identify an upcoming continuing education course 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 content and objectives; an overall number of continuing education units allowed for this course; 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).
2. In the event that Licensee (1) is, by August 15, 2016, after reasonable inquiry, unable to identify a continuing education course that meets the above requirements; or (2) there is no continuing

education course that meets the above requirements which is offered on or before August 15, 2016, he shall submit to the Minnesota Department of Health, Mortuary Science Section, a written request for an extension of time.

3. 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, the name of the continuing education course(s), the number of continuing education units received, and the date and time that the course was held.

VI. Penalty Assessment

Forgivable Penalty Assessment

Licensee is assessed a FORGIVABLE administrative penalty of \$500 for the violations described in Section IV of this order.

This penalty will be forgiven if, within 30 days of receiving this order, Licensee demonstrates to the satisfaction of the Health Regulation Division and IN WRITING that the corrective actions have been taken or that appropriate steps toward correcting the violations have been taken. Appropriate steps shall include the development of a plan for correction.

If Licensee fails to demonstrate in writing to the Health regulation Division that the corrective actions have been taken or that appropriate steps toward correcting the violations have been taken, the assessed penalty becomes DUE AND PAYABLE on the 31st day after he received this order.

The Licensee shall develop a plan to correct the violations within the 30-day period after receipt of this order. The plan must be approved by the Health Regulation Division. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

Non-forgivable Penalty Assessment

Licensee is also assessed a NONFORGIVABLE penalty of \$2,500.00 for the violations described in Section IV of this order.

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, Mortuary Science Section within 30 days of the date of receipt of this order.

1. Licensee may pay the \$2,500.00 civil penalty in monthly installments over a period of six months after the effective date of this action. If 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. Licensee must send this information to: Investigation and Enforcement Unit, Mortuary Science Program, MDH, PO Box 64882, Saint Paul, MN 55164-0882.
2. Each payment must be made by check or money order payable to "Treasurer, State of Minnesota" and mailed to; Investigation and Enforcement Unit, Mortuary Science Section, MDH, PO Box 64882,

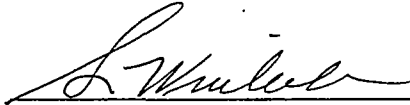
Saint Paul, MN 55164-0882. Each payment is due by the last day of each month; however, Licensee may prepay at any time.

3. The penalty may be referred to the Minnesota Department of Revenue (MDOR), or any other source of collection, if the debt is 14 days past the established due date. When this determination for a penalty becomes public and Minnesota Department of Health 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.

VII. Request For Hearing

Licensee 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 at the Office of Administrative Hearings within 30 days of receiving a request for a hearing.

SO ORDERED this 18th day of July 2016



Susan Winkelmann, Assistant 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: Anne Kukowski, Manager of the Mortuary Science Section, Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882.