

STATE OF MINNESOTA
BEFORE THE COMMISSIONER OF HEALTH

In the Matter of Timothy S. Taylor and
Baxter Cremation Center, Inc. d/b/a Lakes Crematory,
a licensed crematory

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED, by Timothy S. Taylor (“Owner”) on behalf of himself and Baxter Cremation Center, Inc., d/b/a Lakes Crematory (“Lakes Crematory”) and the Minnesota Department of Health (“Department”):

1. The Department is charged with the enforcement of Minn. Stat. ch. 149A (“Chapter 149A”), which governs the practice of mortuary science. The Department is authorized by Minn. Stat. § 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 or laws and rules governing the removal, preparation, transportation arrangements for final disposition of dead human bodies, and the practice of mortuary science. The purpose of this Stipulation and Consent Order (“Stipulation”) is to resolve the violations alleged in paragraph 4 below.

2. The Owner Timothy S. Taylor is the Chief Executive Officer of Baxter Cremation Center, Inc., d/b/a Lakes Crematory and is the owner and operator of Lakes Crematory in Baxter, Minnesota. The Department has issued a crematory license (#9058) for “Lakes Crematory” at 7761 Excelsior Road, Baxter, Minnesota.

3. Pursuant to **Minn. Stat. § 149A.95, Subd. 6**, no dead human body shall be accepted for final disposition by cremation unless encased in an appropriate cremation container or wrapped in an impermeable sheet or pouch and placed on a tray rigid enough for handling with ease, accompanied by a disposition permit issued pursuant to section 149A.93, subd. 3, including a photocopy of the completed death record or a signed release authorizing cremation of the body received from the coroner or medical examiner, and accompanied by a cremation authorization that complies with subdivision 4. A crematory shall refuse to accept delivery of a cremation container where there is:

- (1) evidence of leakage of fluids from the cremation container;
- (2) a known dispute concerning cremation of the body delivered;
- (3) a reasonable basis for questioning any of the representations made on the written authorization to cremate; or
- (4) any other lawful reason.

4. On January 14, 2015, the Minnesota Department of Health, Mortuary Science Section (“Department”) investigated a complaint concerning Lakes Crematory. During the investigation, the Department learned that on November 22, 2014, the staff of Lakes Crematory cremated a dead human body that was not accompanied by all the required documents; specifically, there was no signed release authorizing cremation of the body received from the coroner or medical examiner.

5. The Owner acknowledges and admits that the licensed staff funeral director and crematory operator cremated a dead human body without all the proper authorizations required by Minn. Stat. § 149A.95, subd. 6 for cremation.¹

6. In order to resolve this matter and thus avoid the expense and uncertainty of enforcement proceedings under Chapter 149A, the Owner on behalf of himself and Lakes Crematory agrees to the following administrative penalties and corrective actions:

- A. **Administrative Penalties.** The Owner is hereby assessed a civil penalty of \$7,000.00. However, \$3,500.00 of the civil penalty shall be stayed so long as Lakes Crematory is in compliance with the Corrective Action requirements set forth in paragraph 6(C) below. Payment of the penalty amount of \$3,500.00 shall be 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.
- B. If the Department determines that the Owner or Lakes Crematory fails to comply with the Corrective Actions requirements of paragraph 6(C) below, or has violated Minn. Stat. § 149A.95, subd. 6, again within five years of the effective date of this Stipulation, the \$3,500.00 stayed penalty will become due and owing as set forth in paragraph 6(D) below.
- C. **Corrective Actions.** The Owner on behalf of himself and Lakes Crematory shall take the following corrective actions:

¹ In addition to the requirements of Minn. Stat. § 149A.95, subd. 6, Minn. Stat. § 390.152 declares it to be unlawful to perform a cremation without an authorization signed by the coroner or medical examiner.

1. Create and implement written procedures for ensuring and verifying that all authorizations for cremation required by Minnesota Statutes section 149A.95, subdivision 6 are received at Lakes Crematory prior to beginning a cremation. The written procedures must be submitted to the Minnesota Department of Health, Mortuary Science Section for approval on or before April 1, 2015.
2. After receiving approval from the Department for the written procedures, conduct training for Lakes Crematory staff licensed funeral directors, interns, and non-licensed crematory operators on the new written procedures. The training must also include a review of Minnesota Statutes section 149A.95, subdivision 6, to ensure that all staff is knowledgeable of this law. 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 must be submitted to the Minnesota Department of Health, Mortuary Science Section on or before April 30, 2015.

D. **Violation of this Stipulation.** If the Department determines that the Owner and/or any officer, employee, intern, clinical student, contractor or authorized representative of Lakes Crematory has violated Minn. Stat. § 149A.95, subd. 6, within five years of the effective date of this Stipulation, the Department shall give the Owner written notice specifying the violating actions. Unless the Owner initiates dispute resolution pursuant to paragraph 6(E) below within 30

calendar days after receiving the written notice from the Department, the \$3,500.00 stayed penalty will become due and owing.

- E. If a dispute arises regarding the Department's determination that the Owner or Lakes Crematory has failed to comply with Minn. Stat. § 149A.95, subd. 6, the Owner on behalf of himself and Lakes Crematory may initiate dispute resolution by providing the Department with a written statement setting forth the matter in dispute, his position, and the information he is relying on to support his position. Dispute resolution shall be initiated within thirty (30) calendar days after the receipt of written notice from the Department concerning violation of Minn. Stat. § 149A.95. 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 the Owner.
- F. Unless the Department and the Owner are able to reach a resolution of the dispute and to reduce such resolution to writing in a form agreed upon by the parties within twenty-one (21) calendar days after the Department's reply, the Commissioner shall issue a written decision to the parties resolving the dispute.
- G. If the Commissioner's decision is issued pursuant to paragraph 6(F) above, it shall become an integral and enforceable part of this Stipulation, unless the Owner or Lakes Crematory commences an action to challenge the Commissioner's decision within sixty (60) calendar days of the date of their receipt of the decision. For purposes of judicial review, the Commissioner's decision shall be considered a final decision of the Department of Health.

7. This Stipulation shall not in any way limit or affect the authority of the Commissioner to proceed against the Owner or Lakes Crematory to initiate enforcement action for any alleged violation of Chapter 149A by the Owner or Lakes Crematory that is not the subject of this Stipulation.

8. The Owner, on behalf of himself and Lakes Crematory, hereby acknowledges that he has read, understood, and agreed to this Stipulation and has voluntarily signed it.

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

10. 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.

11. This Stipulation shall be binding upon the Owner and his successors and assignees; Lakes Crematory and its successors and assignees; and the Minnesota Department of Health and its successors and assignees.

12. This Stipulation may not be modified or amended except in writing and executed by the parties.

13. The effective date of this Stipulation is the date upon which it is signed on behalf of the Minnesota Department of Health.

**BAXTER CREMATION CENTER,
INC.,
D/B/A LAKES CREMATORY**

Signed: _____

Dated: _____

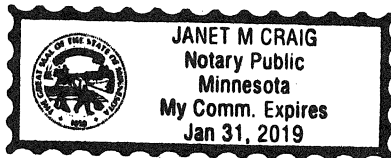
TIMOTHY S. TAYLOR
Chief Executive Officer
Baxter Cremation Center, Inc., d/b/a
Lakes Crematory
7761 Excelsior Road
Baxter, Minnesota 56425

**MINNESOTA DEPARTMENT OF
HEALTH**

Signed: _____

Dated: _____

DARCY MINER, Division Director
Division of Compliance Monitoring,
Minnesota Department of Health
85 East 7th Place
P.O. Box 64882
St. Paul, Minnesota 55164-0882



Janet M. Craig