

**STATE OF CONNECTICUT
CONNECTICUT BOARD OF EXAMINERS FOR EMBALMERS AND
FUNERAL DIRECTORS**

Edward Zigas
15 Wightman Road
New Britain, CT 06052

Petition No. 2001-0327-030-014

MEMORANDUM OF DECISION

Procedural Background

On June 25, 2002, the Department of Public Health ("the Department") presented the Connecticut Board of Examiners for Embalmers and Funeral Directors ("the Board") with a Statement of Charges ("the Charges") and a Notice of Hearing against Edward Zigas ("respondent"), who holds Connecticut embalmer license number 001557. Dept. Exh. 1.

The Charges and Notice of Hearing were mailed to 15 Wightman Road, New Britain, Connecticut, 06052 via certified mail return receipt requested and first class mail. The certified receipt was signed by respondent on July 11, 2002 and received by the hearing office on July 12, 2002. Dept. Exh. 1. The Notice of Hearing informed respondent of his obligations to file an Answer to the Charges.

Respondent did not file an Answer to the Charges.

The hearing was conducted on September 10, 2002. Ellen Shanley, Esq. represented the Department; respondent did not appear, nor was he represented. The Department moved to deem the allegations admitted in accordance with § 19a-9-20 of the Regulations of Connecticut State Agencies. The Board granted the motion.

All Board members involved in this decision attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record.

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 001557.

2. In paragraph 2 of the Charges, the Department alleges that on September 11, 2001, the Board issued a Memorandum of Decision in Petition Number 990414-030-005 (hereinafter "the Decision") that suspended respondent's license for a period of ninety (90) days, and placed respondent's embalmer license on probation for a period of one year. Such disciplinary action was based upon respondent's failure to properly provide decedent's family with the appropriate documentation of funeral arrangements and failure to properly attend to the financial aspects of the funeral arrangements.
3. In paragraph 3 of the Charges, the Department alleges that said Decision specifically provided that respondent:
 - a. forward all three originals of his license as embalmer to the Department within ten days of the effective date of the Decision;
 - b. pay a civil penalty of \$2,500.00 to the Department within thirty days of the effective date of the Decision; and
 - c. obtain the services of a licensed embalmer, pre-approved by the Department, to serve as a practice monitor and conduct monthly reviews of his records, and to submit monthly reports to the Department during the one year license probation.
4. In paragraph 4 of the Charges, the Department alleges that respondent failed to comply with the Decision.
5. In paragraph 5 of the Charges, the Department alleges that respondent's conduct, as described above, constitutes violations of the terms of discipline as set forth in the Decision, and subjects respondent's license to revocation or other disciplinary action authorized by the General Statutes of Connecticut, §§19a-17 and 20-227.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 001557 within the meaning of Conn. Gen. Stat. § 19a-14a.
2. The Department provided respondent with reasonable and adequate written notice of the allegations contained in the Charges and the Notice of Hearing which included notification to respondent that he was required to file an Answer to the Charges within fourteen (14) days from the date of the Notice. Dept. Exh. A.
3. Respondent received the Notice of Hearing and the Department's Motion to Deem Allegations Admitted. Dept. Exh. 2.
4. Respondent did not file an Answer within fourteen days of the Notice of Hearing and did not establish good cause for his failure to do so. Dept. Exh. 2.

5. The allegations contained in paragraphs 1 through 4, inclusive of the Charges as set forth above, are deemed admitted and true. Dept, Exh. 2; Tr. 9/10/02 p. 9.
6. The Board finds that paragraph 5 of the charges is also true.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); as cited in *Bridgeport Ambulance Service, Inc., v. Connecticut Dept. of Health Services*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

As the motion to deem allegations admitted was granted by the Board in this case, the Board finds that respondent violated §20-227 of the Connecticut General Statutes, which provides:

. . . the board may take any of the actions set forth in section 19a-17 against a licensee . . . if it finds the existence of any of the following grounds: . . . (4) . . . misconduct in the carrying on of such business or profession. . .

In this matter, respondent's failure to comply with the conditions set forth in the September 11, 2001 Memorandum of Decision constitutes "misconduct" in violation of § 20-227(4) of the Connecticut General Statutes. Thus, in accordance with Conn. Gen. Stat. § 20-227, and based on the foregoing findings of fact and conclusions of law, respondent's license is subject to disciplinary action.

Pursuant to §19a-17 of the Connecticut General Statutes the Board, "may take any of the following actions, singly or in combination. . . (1) Revoke a practitioner's license or permit; . . .(2) Assess a civil penalty of up to ten thousand dollars." The Board finds there is sufficient basis to issue the following order in this matter.

Order

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stat. §§ 19a-17 and 20-227, the Board orders the following in the case of Edward Zigas, embalmer license number 001557, Petition number 2002-0327-030-014:

1. Respondent's license number 001557 to practice as an embalmer in the State of Connecticut is revoked.
2. Respondent shall pay a civil penalty of two thousand five hundred dollars (\$2,500). Such payment shall be made by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.
3. All correspondence and the civil penalty payment are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

Connecticut Board of Examiners for
Embalmers and Funeral Directors

02-06-03

Date

Celia Pinzi

By: Celia Pinzi, Chairperson