

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES 1/
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

George A. Sabrowski, Embalmer
License No. 001949
144 South Main Street
Colchester, CT 06415

Petition No. 911016-30-006

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND:

The Department of Health Services ("Department") presented the Connecticut Board of Examiners for Embalmers and Funeral Directors ("Board") with a Statement of Charges brought against George A. Sabrowski, Embalmer ("Mr. Sabrowski" or "Respondent") dated December 1, 1992. (Department Exhibit 1). The Statement of Charges alleged in one count that the Respondent violated Connecticut General Statutes §20-227 because the embalming services for which he was responsible did not meet the standard of care.

Prior to the initiation of the instant charges, the Department offered the Respondent the opportunity to attend a compliance conference scheduled on June 4, 1992 to demonstrate compliance with all lawful requirements for the retention of his license. (Department Exhibit 3).

1/ At the time of this hearing, this agency was known as the Department of Health Services. Effective July 1, 1993, the Department of Health Services merged with the Connecticut Alcohol and Drug Abuse Commission to form the new Department of Public Health and Addiction Services. Public Act No. 93-381.

The Department served the Notice of Hearing and Statement of Charges on Mr. Sabrowski by certified mail, return receipt requested. (Department Exhibit 1). The Respondent filed a response to the Statement of Charges in an Answer dated April 1, 1993. (Department Exhibit 2).

On May 6, 1993, the Board held an administrative hearing to adjudicate the Respondent's case. The Respondent appeared with his attorney, James St. Clair, Esq.; Antoria Howard, Esq. represented the Department. Both the Department and the Respondent presented evidence and conducted cross-examination of witnesses.

All members of the Board involved in this decision attest that they have either heard the case or read the record in its entirety. The decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

FINDINGS OF FACT:

1. The Respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut Embalmer License No. 001949. (Department Exhibits 1 and 2).
2. During September, 1991 Mr. Sabrowski provided services to Mr. Arnold Colin, who died on September 11, 1991. (Department Exhibits 1 and 2).

3. On September 12, 1991, Mr. Sabrowski contracted with Joyce Colin, Mr. Colin's widow, to perform funeral services for her husband. (Department Exhibit 4; Transcript 5/6/93 pp. 74-78).
4. Mr. Sabrowski authorized Peter Woyasz, another licensed embalmer, to remove Mr. Colin's body and perform his embalming. (Transcript 5/6/93 pp. 74, 77-78).
5. With Regard to the First Count:
In the First Count, the Department alleged that Mr. Sabrowski violated Connecticut General Statutes §20-227 because the embalming services for which he was responsible did not meet the standard of care in one or both of the following ways:
 6. In Paragraph 3a of the Statement of Charges, the Department alleged that the embalming fluid was placed in the body at too high a pressure, causing it to leak from the orifices of the body. Ms. Colin testified that when she and other family members viewed Mr. Colin's body at a private viewing at 2:00 p.m. on September 14, 1991, embalming fluid was leaking from every visible orifice of his body. (Transcript 5/6/93 p. 13). The Board finds that the Department failed to provide sufficient credible evidence to establish that this leakage was caused by excessive embalming fluid pressure.

7. In Paragraph 3b of the Statement of Charges, the Department alleged that the body was allowed to be viewed with wet and sticky hair and/or soiled clothing. Ms. Colin testified that at the 2:00 p.m. private viewing, Mr. Colin's hair was "all sticky and stuck together" with embalming fluid. Ms. Colin also testified that Mr. Colin's shirt collar was stained with serous fluid that was draining out of his ear. In addition, the pillow under Mr. Colin's head had a spot at least four inches in diameter of blood-tinged embalming fluid. (Transcript 5/6/93 pp. 13-14, 30-31).

8. Ms. Colin testified that Mr. Colin's navy blue suit was covered with pancake makeup that smeared when attempts were made to dust it off. Ms. Colin testified that her husband's body was grossly distorted and swollen, so that his wedding ring would not fit past the base of the fingernail on any finger. (Transcript 5/6/93 pp. 12-14).

9. Helen Colin, Lisa Colin, Jon Anderson, Terri-Ann Colin Anderson, and Dale Brenneman all submitted written statements that detailed their direct observations of Mr. Colin's sticky hair and soiled clothing. (Department Exhibits 6, 7, 8, and 9).

10. On behalf of herself and other family members, Ms. Colin complained to Mr. Sabrowski at the 2:00 p.m. private viewing regarding the appearance of Mr. Colin's body. (Transcript 5/6/93 p. 21).

11. The Respondent admitted that Mr. Colin's hair was wet at the time of viewing. (Department Exhibit 2). Mr. Sabrowski testified that there was a leakage from Mr. Colin's body onto the right hand side of the pillow, and that he told Ms. Colin he would correct this. (Transcript 5/6/93 p. 78).

12. Ms. Colin testified that her husband's body was in absolutely the same condition at the 6:00 p.m. calling hours on September 14, 1991 as it had been at the 2:00 p.m. viewing. After realizing this, she asked to see Mr. Sabrowski, but was told that he was not available. Ms. Colin did not see the Respondent at all that evening. (Transcript 5/6/93 pp. 22-23, 33-35).

13. Mr. Sabrowski testified that there was nothing much he could have done to correct the leaking and swelling he observed in Mr. Colin's body that afternoon, other than to change the pillow. (Transcript 5/6/93 p. 92).

DISCUSSION AND CONCLUSIONS OF LAW:

Connecticut General Statutes §20-227 provides in pertinent part:

The department of health services may refuse to grant a license or inspection certificate or the board may take any of the actions set forth in section 19a-17 against a licensee, registrant or holder of an inspection certificate if it finds the existence of any of the following grounds:
... (4) incompetency, negligence or misconduct in the carrying on of such business or profession [of embalming or funeral directing in this state]....

The Department did not sustain its burden of proof with respect to paragraph 3a of the Statement of Charges. The evidence was insufficient to establish that the leakage which occurred was due to inappropriate embalming pressure.

The Department did sustain its burden of proof with respect to paragraphs 3b and 4 of the Statement of Charges. The evidence was clear that Mr. Sabrowski allowed Mr. Colin's body to be viewed with wet, sticky hair and soiled clothing. Mr. Sabrowski was aware of this situation in the afternoon. He had several hours between the afternoon and evening viewings during which he should have attempted to rectify the problems. Mr. Sabrowski knew Mr. Colin's family was upset; as the funeral director, he had a duty to try and address their concerns.

Mr. Sabrowski testified that he did not know how to correct the problem with leakage and swelling. (Transcript 5/6/93 p. 92). The Board finds that Mr. Sabrowski's conduct was incompetent and negligent in the carrying on of embalming or funeral directing. Accordingly, the Board finds that the Respondent violated Connecticut General Statutes §20-227(4).

ORDER:

Pursuant to the authority vested in it by Connecticut General Statutes §19a-17, the Board orders the following in this case against George A. Sabrowski, Embalmer, Petition No.

911016-30-006, Embalmer License No. 001949:

1. Mr. Sabrowski shall be assessed a civil penalty of five hundred dollars (\$500.00). The five hundred dollar (\$500.00) penalty shall be paid by certified check, payable to Treasurer, State of Connecticut, sent to the Public Health Hearing Office, State of Connecticut Department of Public Health and Addiction Services, 150 Washington Street, Hartford, CT 06106, and due within thirty (30) days of the effective date of this Order. The certified check shall include the Department petition number on its face for identification purposes.

2. This Memorandum of Decision shall serve as a letter of reprimand to Mr. Sabrowski from the Board.

3. This Order becomes effective upon the signature of the Board Chairperson.

Connecticut Board of Examiners for
Embalmers and Funeral Directors

1/18/93

Date

Morton L. Weinstein

by: Morton L. Weinstein, Chairperson

8291Q