STATE OF CONNECTICUT BOARD OF EXAMINERS
OF EMBALMERS AND FUNERAL DIRECTORS

IN THE MATTER OF:

Mr. Edward J. Toohey, Embalmers
License No. 2032
92 Howe Ave.
Shelton, Connecticut 06484

MEMORANDUM OF DECISION

The Department of Health Services (hereinafter "Department") presented the Connecticut Board of Examiners of Embalmers and Funeral Directors (hereinafter) "Board") with a Statement of Charges, dated February 24, 1986 brought against Edward J. Toohey, Embalmer, (hereinafter "Respondent"). The Charges alleged violations of Conn. Gen. Stat. 20-227.

A Notice of Hearing dated February 28, 1986 was issued to the Respondent by the Board. The hearing was held April 24, 1986, at 150 Washington Street, Hartford, Connecticut.

The Respondent, as a matter of personal choice, was not present to present evidence and/or cross examine witnesses. As the transcript reads. Mr. James Toohey did not consider the charges serious enough to be represented by counsel and Edward J. Toohey was "too busy" to attend but could be contacted.

Prior to the initiation of the instant charges, the Respondent was given the opportunity to show compliance with all lawful requirements for the retention of his license pursuant to Conn. Gen. Stat., Sec. 4-183 (c)

All members of the Board involved in this decision attest that the decision is based entirely on the record presented and on the specialized professional knowledge of the Board Members in evaluating such evidence.

FINDING OF FACTS

(1) Respondent, Edward J. Toohey, is and has been at all times reference in this complaint, the holder of Connecticut embalmer's license number 2032.

(2) Edward J. Toohey is, and has been at all times referenced in this complaint an embalmer/funeral director at Edward J. Toohey & Son Funeral Home in Shelton, Connecticut.

(3) On or about 12 November 1985 Florence F. Lurker died. Funeral arrangements for Florence F. Lurker had been previously made with James T. Toohey & Son Funeral Home. Florence F. Lurker was to be cremated.

(4) On or about 12 November 1985, Edward J. Toohey contacted Dr. Nicholas Bertini's office seeking the services of a duly authorized medical examiner.

(5) On or about 12 November 1985 Dr. Nicholas A. Bertini, who is not a duly authorized medical examiner, examined the body of Florence F. Lurker and signed the cremation certificate.

(6) On or about 14 November 1985 said cremation certificate was filed with the Town Clerk of Shelton.

(7) On or about 14 November 1985 the body of Florence F. Lurker was cremated.

(8) Edward J. Toohey knew or should have known that Dr. Bertini was not a duly, authorized medical examiner.

(9) The conduct or omissions set forth in paragraphs 4. through 7. violate Connecticut General Statutes 20-227, including but not limited to:

a. 20-227 (2)
b. 20-227 (4) or
c. 20-227 (5).

DISCUSSION AND CONCLUSION

Introduction

Count one of this one count statement of charges alleges that Respondent violated Connecticut General Statute 20-227. This provision is part of Chapter 385 of the General Statutes entitled Embalmers and Funeral Directors. The Connecticut Board of Examiners of Embalmers and Funeral Directors decision is predicated on Connecticut General Statute 20-227, 20-227 (2). 20-227 (4) or 20-227 (5).

First Count

The Respondent is charged with allowing a person other than a legally appointed Assistant Medical Examiner to sign a cremation permit without first verifying that the person was in fact an authorized person to sign such certificate, filing said certificate with the Town Clerk of Shelton and finally using an illegal permit for cremation in violation of Chapter 385 - Sec. 20-227 of the Conn. Gen. Stat.

The Board concludes, after reviewing all the evidence that this claim as alleged has been proven. Thus there is a violation of Sec. 20-227.

Footnote

Sec. 20-227. Disciplinary action, grounds; appeals. The Department of Health Services may refuse to grant a licence or the board may take any of the actions set forth in section 19a-17 if it finds the existence of any of the following grounds; --- incompetency, negligence or misconduct in the carrying on of such business or profession.

ORDER

Pursuant to its authority under Conn. Gen. Stat. 19a - 17, the Board hereby orders the following:

(1) That a letter of reprimand be written and placed in Respondent's file at the Department of Health Services.

(2) That such letter state the Respondent was guilty of negligence and misconduct and that he violated Conn. Gen. Stat. 20-227 (4).

(3) That such letter be considered if Respondent is brought before the Board in any further disciplinary activities.

(4) The a fine of $200.00 be levied against the Respondent.

Please make check payable to:
Treasurer, State of Connecticut

Please mail check to:
Ms. Celia R. Bumstead
Paralegal/Research Specialist
Department of Health Services
150 Washington Street
Hartford, Connecticut 06106

Connecticut Board of Examiners
of Embalmers and Funeral Directors

BY: Paul E. Driscoll

Date

Chairman

STATE OF CONNECTICUT

DEPARTMENT OF HEALTH SERVICES

Letter of Reprimand

Mr. Edward J. Toohey
License No. 2032
92 Howe Ave.
Shelton, Connecticut 06484

RE: EDWARD J. TOOHEY

Dear Mr. Toohey,

This is to advise you that the Connecticut Board of Examiners of Emblamers and Funeral Directors in the enclosed Memorandum of Decision unanimously ordered that you be fined $200.00 and that this Letter of Reprimand be written and placed in your file at the Department of Health Services.

This reprimand was ordered as a result of the April 24, 1986 hearing alleging that you violated Connecticut General Statute 20-227 that you permitted Dr. Nicholas A. Bertini to sign a cremation certificate when you knew or should have known that Dr. Bertini was not an authorized Assistant Medical Examiner. Further when you filed said cremation certificate that you did not inquire of the Town Clerk whether his signature was acceptable. In its finding and conclusion the board determined that the allegations have been proven. So that this does not recur, in the future you are to be more attentive to the obtaining of permits and be certain that all signatures required are official. This will further advise you that this Letter of Reprimand will be considered if you are brought before this board in any further disciplinary proceedings.

CONNECTICUT BOARD OF EXAMINERS OF
EMBALMERS AND FUNERAL DIRECTORS

June 14, 1986
Date

By: [signature]
(Chairman)