

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

John Colbert,
Embalmer and Funeral Director
License No. 002156

Petition No. 990217-030-003

MEMORANDUM OF DECISION

Procedural Background

On August 21, 2000, 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”) brought against license number 002156 of John Colbert (“respondent”). Bd. Exh. 1. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail, on September 21, 2000. Bd. Exh. 1.

On December 16, 2000, the Notice of Hearing and the Charges were served on respondent by deputy sheriff. Bd. Exh. 1.

On February 1, 2001, a hearing was held regarding the allegations contained in the Charges. Respondent did not appear and was not represented by counsel. David Tilles, Esq., represented the Department. Tr., pp. 2-3. At the hearing the Department made a Motion to Deem the Allegations Admitted, because of respondent’s failure to file an Answer, and the Board granted the motion. Tr., p. 12.

The Board conducted the hearing in accordance with *Conn. Gen. Stat.* Chapter 54 and the Regulations of Connecticut State Agencies (“the Regulations”) §19a-9a-1 *et seq.* All Board members involved in this decision received copies of the entire record and attest that they have heard the case or read the record in its entirety. This decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

Allegations

1. In paragraph 1 of the Charges, the Department alleges that John Colbert of New Hartford, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer and funeral director license number 002156.
2. In paragraph 2 of the Charges, the Department alleges that on or about August 19, 1996, respondent had a quantity of heroin in his car, for which he was arrested. He was subsequently charged with possession of a narcotic with intent to sell. As a result, on or about November 17, 1997, respondent pleaded guilty to possession of narcotics, in violation of *Conn. Gen. Stat.* §21a-279(a).
3. In paragraph 3 of the Charges, the Department alleges that the above described facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §20a-227, including, but not limited to:
 - a. §20-227(8); and/or
 - b. §20-227(9).

Findings of Fact

1. The Department provided adequate, reasonable, and actual notice of the hearing in this matter. Bd. Exh 1; Tr., 3.
2. Respondent did not file an Answer to the allegations contained in the Charges.
3. The factual allegations contained in paragraphs 1 and 2 of the Charges are deemed admitted and 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); *Swiller v. Comm'r of Public Health*, No. CV970573367, Superior Court, J.D. Hartford/New Britain at Hartford, February 19, 1998.

Section 19a-10 of the Connecticut General Statutes provides in pertinent part: "Any board . . . , may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health."

The General Statutes of Connecticut §20-227 provides in relevant part:

The Department of Public Health 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 license, registrant or holder of an inspection certificate if it finds the existence of any of the following grounds: . . . (8) physical or mental illness, emotional disorder or loss of motor skills, including but not limited to, deterioration through the aging process; or (9) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 1 and 2 of the charges is proven by a preponderance of the evidence presented.

With regard to the allegations in paragraph 3a that respondent suffered from an emotional disorder or mental illness, the Board concludes that the Department did not present sufficient evidence to prove this charge. Therefore, paragraph 3a of the Charges is dismissed.

The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-277(9), as alleged in paragraph 3b of the Charges. Therefore, respondent's embalmer and funeral director license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

Order

Pursuant to the authority vested in it by *Conn. Gen. Stat.* §§19a-17 and 20-227, the Board orders the following: respondent's embalmer and funeral director license number 002156 is hereby revoked effective the date this Memorandum of Decision is signed by the Connecticut Board of Examiners for Embalmers, Funeral Directors.

Connecticut Board of Examiners for Embalmers,
Funeral Directors

May 22, 2001

Date

Celia Pinzi, chairperson

By: Celia Pinzi, Chairperson
Connecticut of Examiners for Embalmers,
Funeral Directors