

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE SYSTEMS BRANCH**

In re: Brian S. Delton, Embalmer

Petition No. 2009-20091357

CONSENT ORDER

WHEREAS, Brian S. Delton of Glastonbury, Connecticut (hereinafter "respondent") has been issued license number 002536 to practice embalming by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. Respondent has a history of substance abuse, including the abuse of alcohol.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-227(9).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Connecticut Board of Examiners of Embalmers and Funeral Directors (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10 and 19a-14 and 20-227 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-227 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.

2. Respondent's license number 002536 to practice as an embalmer in the State of Connecticut shall be placed on probation for a period of four years under the following terms and conditions.
 - a. Respondent shall participate in regularly scheduled therapy at his own expense with a licensed or certified therapist pre-approved by the Department (hereinafter "therapist").
 - (1) Respondent shall provide a copy of this Consent Order to his therapist.
 - (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.
 - (4) The therapist shall submit reports monthly for the first and fourth years of probation; and quarterly for the second and third years of probation. Such reports shall address, but not necessarily be limited to, respondent's ability to practice as an embalmer in an alcohol and substance-free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
 - (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the

public, or if respondent discontinues therapy and/or terminates his or her services.

- b. During the entire four-year probation, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. Respondent shall inform said licensed health care professional of respondent's substance abuse history. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.

- (1) During the first year of the probationary period, respondent at his own expense, shall submit to once weekly, random observed urine screens for alcohol, controlled substances, and legend drugs; in accordance with Department Requirements for Drug and Alcohol Screens with random EtG testing, attached hereto marked as ('Attachment A: Department Requirements for Drug and Alcohol Screens'); during the second, third and fourth year(s), he shall submit to such random screens on a monthly basis. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

- (2) Laboratory reports of random alcohol and drug screens shall be submitted directly to the Board and the Department by the testing laboratory. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
 - (3) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
 - (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
 - (5) Respondent is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter cough or cold medicines or remedies shall not constitute a defense to such a screen.
- c. Respondent shall attend "anonymous" or support group meetings on an average of four times per month, and shall provide quarterly reports to the Department concerning his record of attendance.

d. During the period of probation, respondent shall report to the Department any arrest under the provisions of Connecticut General Statutes. Such report shall occur within fifteen (15) days of such event.

3. All correspondence and reports are to be addressed to:

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

4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.

5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

6. Respondent shall pay all costs necessary to comply with this Consent Order.

7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:

a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.

- d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.
 - e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. If requested to do so by the Department, respondent further agrees to complete the following:
- a. submit to and complete a medical, psychiatric/psychological evaluation and/or skills evaluation by a provider pre-approved by the Department. The results of such evaluation shall be submitted directly to the Department.
 - b. execute releases for any records requested by the Department including, but not limited to, psychiatric/psychological care, employment records, treatment and disability records and monitoring and/or professional assistance program records. For purposes of this document, psychiatric/psychological care includes any substance and/or alcohol abuse treatment.
9. If, during the period of probation, respondent practices as an embalmer outside Connecticut, he shall provide written notice to the Department concerning such employment. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to the practice of embalming in Connecticut, respondent shall provide the Department with thirty (30) days

prior written notice and agrees to comply with all terms and conditions contained in paragraphs 2 and/or 8 above.

10. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
11. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
12. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.
13. Respondent understands this Consent Order shall be deemed as a public document and evidence of the above admitted violations in any proceeding before the Board in which his compliance with this Consent Order or with §20-227 of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank.
14. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as an embalmer, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with

the Department's investigation shall be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

15. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
17. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
18. Respondent permits a representative of the Legal Office of the Healthcare Systems Branch to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted.
19. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
20. Respondent has the right to consult with an attorney prior to signing this document.

The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.

21. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

I, Brian S. Delton, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Brian Delton
Brian S. Delton

Subscribed and sworn to before me this 27 day of May 2010.

THOMAS A. GUZZO
NOTARY PUBLIC
MY COMMISSION EXPIRES 2/28/2012

[Signature]
Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 3rd day of June 2010, it is hereby accepted.

Jennifer Filippone
Jennifer Filippone, Section Chief
Practitioner Licensing and Investigations
Healthcare Systems Branch

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners of Embalmers and Funeral Directors on the _____ day of _____ 2010, it is hereby ordered and accepted.

Lucretia P. Gowdy
Connecticut Board of Examiners of Embalmers and
Funeral Directors