

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

SCI CT Funeral Service d/b/a
Newkirk & Whitney Funeral Home

Petition No.: 2005-1209-056-020

CONSENT ORDER

WHEREAS, SCI CT Funeral Service d/b/a Newkirk & Whitney Funeral Home of East Hartford (hereinafter "respondent NW" or "respondent") has been issued license number 000312 to operate as a funeral home by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the General Statutes of Connecticut, as amended; and,

WHEREAS, SCI is the corporate owner of respondent and other licensed funeral homes in Connecticut;

WHEREAS, respondent admits that:

1. On or about May 22, 2005, Westside Care Center in Manchester erroneously authorized respondent NW to remove the deceased H.G.
2. Respondent NW removed the deceased H.G. from the Westside Care Center to the funeral home without authorization from the family of the deceased or a legally authorized person.
3. Respondent NW did not prepare the deceased H.G.'s human remains as required by the Connecticut Public Health Code.
4. Respondent NW failed to make a reasonable effort to obtain the information necessary for the final disposition of H.G.'s human remains.
5. Respondent NW provided refrigeration and removal of H.G.'s human remains without authorization from the family of H.G. or a legally authorized person, and charged

another funeral home for said services.

6. As a result of respondent NW's inability to obtain the necessary information regarding the final disposition of H.G, the Death Certificate for H.G. was not filed within the time period required.
7. Respondent NW did not obtain a Removal Burial Transit Permit within the time period required.
8. The above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, including, but not limited to:
 - a. §20-227(2);
 - b. §20-227(4);
 - c. §20-227(5);
 - d. §7-62b;
 - e. §7-64;
 - f. §7-65; and/or

the Regulations of Connecticut State Agencies, including, but not limited to, §19a-36-A39.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agree that for purposes of this or any future proceedings before the 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, 19a-14 and 20-227 of the General Statutes of Connecticut.

Whereas, SCI has revised its policies and procedures regarding the above-cited issues and has provided in-service education for all its personnel, as further described in Exhibit A attached hereto;

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 waive its rights to a hearing on the merits of this matter.
2. Respondent's license is hereby reprimanded.
3. Respondent shall pay a civil penalty of two thousand five hundred dollars (\$2500.00) 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 at the time respondent submits the executed Consent Order to the Department.
4. Respondent agrees that each of its embalmers and funeral directors shall at all times be current in meeting the statutory requirements for continuing education credits, and shall maintain evidence of such coursework for all licensed personnel at the funeral home facility.
5. Respondent shall notify the Department in any situation in which it is unable to file a death certificate for a deceased within the required five-day time period.
6. Respondent shall comply with all state and federal statutes and regulations applicable to its licensure.
7. Respondent shall pay all costs necessary to comply with this Consent Order.
8. 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 8.a. above to demonstrate to the satisfaction of the Department that it has complied with the terms of this Consent Order or, in the alternative, that it 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, it 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.

11. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from operating as a funeral home 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. 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 constitute an admission that its conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).

12. 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 its license before the Board.
13. Legal notice shall be sufficient if sent to respondent's last known address of record reported to Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
14. 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.
15. Respondent understands this Consent Order may be considered as a public document and evidence of the above-admitted violations in any proceeding before the Board in which its compliance with this Consent Order or with §20-227 of the General Statutes of Connecticut, as amended, is at issue.
16. 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.
17. 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 it may have under the laws of the State of Connecticut or of the United States.
18. 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.

19. 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.

20. Respondent has the right to consult with an attorney prior to signing this document.

21. 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.

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I, Jeanette Rosiek, affirm that I am fully authorized and empowered to bind the above-referenced respondent. I 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.

Jeanette Rosiek

Subscribed and sworn to before me this 4th day of January 2007.

ROBERT J. LACHANCE, JR.
NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 2008

Robert J. Lachance, Jr.
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 10th day of January 2007, 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 Board of Examiners of Embalmers and Funeral Directors on the 11 day of January 2007, it is hereby ordered and accepted.

Celia Piny
Board of Examiners of Embalmers and Funeral Directors