

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

Hebron Funeral Home
27 Main Street
Hebron, CT 06248

Petition No.: 941018-56-003

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND:

The Department of Public Health ("Department") presented the Connecticut Board Of Examiners Of Embalmers And Funeral Directors with a Statement of Charges brought against the Hebron Funeral Home, through it's principal, James Kaldy, ("Respondent"), dated November 1, 1994. The Statement of Charges alleged that the Respondent violated Connecticut General Statutes Section 20-227(4). (Department Exhibit A 3-4).

Notice of a Compliance Conference dated January 3, 1995, regarding the Hebron Funeral Home was sent certified mail, but was returned unclaimed. (Department Exhibits L 1-2)

The Department served Notice of Hearing for a companion case, Petition No. 930921-30-012, In re James Kaldy, embalmer, dated December 8, 1994 by certified mail, the notice and statement of charges bearing the entry "return receipt requested No. Z712 654 532" which was unclaimed by the Respondent. (Department Exhibit H). A Notice of Hearing for this petition (Petition No. 941018-56-003) was dated December 8, 1994 and mailed December 13, 1994 by certified mail return receipt requested No. Z712 654 531. In the mailing of the respective notices of hearing, the return address portions of the Domestic Return Receipts were inadvertently misnumbered so that the Notice of Hearing and Statement of Charges pertaining to Respondent in his personal capacity as an embalmer bearing the return receipt number Z712 654 532 on the Notice and Statement of Charges, were mailed to the respondent in an envelope bearing a receipt number Z712 654 531.

Similarly, the Notice of Hearing and the Statement of Charges pertaining to the Hebron Funeral Home itself, numbered Z 712 654 531 were mailed with a return receipt numbered Z 712 654 532. (Department Exhibits A 1-4; B; G 1-4; H). Both mailings were unclaimed by the Respondent. (Department Exhibits B, H) .

The Department verified the address of the Respondent from United States Postal Service and the Connecticut Department of Motor Vehicles. (Department Exhibit D 1 and D 2).

On January 24, 1995, Mary Beth Mendes, Department investigator, personally handed to the Respondent's principal a true and attested copy of the original Notice of Hearing and Statement of Charges regarding James Kaldy, Petition No. 930921-30-012, and a true and attested copy of the original Notice of Hearing and Statement of Charges regarding Hebron Funeral Home, Petition No. 94108-56-003. (Department Exhibit R)

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 and the Regulations of Connecticut State Agencies Section 19-2a-1, et seq. The Department moved for Joinder Proceedings of Petitions 930921-30-012 and 951018-56-003 to enable hearing both at the same time. The Board granted the motion. (Transcript pp. 2-4)

The Board considered whether the conduct of the Respondent, as a funeral home, constituted a violation of the standard of care for funeral homes in violation of Connecticut General Statutes Section 20-227. This decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

The Respondent was represented pro se by it's principal, James Kaldy. The Department was represented by Attorney Roberta Swofford. Both the Respondent and the Department presented evidence and were given the opportunity to cross examine witnesses.

FINDINGS OF FACT:

1. The Respondent has been at all relevant times referenced in the Statement of Charges the holder of Connecticut Funeral Home Permit no. 000442. The permit was current from date of issue on October 28, 1986 until it lapsed on June 30, 1994. (Department Exhibit C)
2. The Board finds that at all times referenced in this Statement of Charges, James Kaldy, was the principal of the Respondent and held Connecticut Embalmer License no. 001868.
3. The Respondent was personally served through it's principal, James Kaldy, on January 24, 1995, with a true and attested copy of the original Notice of Hearing and Statement of Charges for this Petition No. 941018-56-003 as well as companion case, Petition No. 930921-30-012.
4. On or about September 5, 1989, Respondent and Mrs. Gwendolyn H. Haines entered into a contract for a prepaid burial plan for the benefit of her mother, Mrs. Helen Hastings. (Department Exhibit O 1), (Transcript p.72)
5. The Board finds that Mrs. Haines did call the Respondent on numerous occasions, including August 12 and 13, 1993, to inform him of her mother's imminent and actual death which were unanswered. (Transcript pp. 34-37,57,64,65)
6. Mrs. Hastings died on August 13, 1994. (Department Exhibit P)
7. Marlborough Health Care Center in accordance with an understanding with Mrs. Haines, attempted without success to notify the Respondent by telephone of

the death of Mrs. Hastings, the plan's beneficiary. (Transcript pp. 37-38, 51)

8. The Board finds that the Respondent did not provide reasonable coverage for the obligations of a funeral home.
9. The Board finds that the Respondent did not call or otherwise contact Mrs. Haines until approximately one month following the death of her mother. (Transcript pp. 39-40)
10. The Board finds that the Respondent failed to provide the prepaid burial plan services which he had contracted to perform notwithstanding his professed excuses for being unaware of the beneficiary's death in a timely fashion. (Transcript pp. 27-28, 56-57, 64-65).
11. Mrs. Haines secured the services of another funeral home out of necessity paying it directly. (Transcript p. 38)
12. Respondent ultimately refunded the purchase price of the prepaid burial plan to Mrs. Haines. (Transcript pp. 40, 44)
13. The Board found Mrs. Haines to be a credible witness.

DISCUSSION AND CONCLUSIONS OF LAW:

1. The Respondent held a valid Inspection Certificate in the State of Connecticut at all times referenced in the Statement of Charges.
2. Connecticut General Statutes Section 20-227 provides in pertinent 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 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....

3. The Board finds that the Respondent's conduct as it pertains to the prepaid burial plan for Mrs. Helen Hastings constituted misconduct in violation of Connecticut General Statutes Section 20-227(4).

ORDER

Pursuant to the authority vested in it by Connecticut General Statutes Sections 19a-17 and 20-227, the Board orders the following in the case of the Hebron Funeral Home, Petition No. 941018-56-003:

1. That the Respondent is hereby reprimanded by the Connecticut Board of Examiners of Embalmers and Funeral Directors, and that this Memorandum of Decision be considered a reprimand;
2. This order becomes effective upon the signature of the Board Chairperson

CONNECTICUT BOARD OF EXAMINERS FOR
EMBALMERS AND FUNERAL DIRECTORS

2-22-96
DATE

Celia Pinzi
by: Celia Pinzi, Chairperson

JCG
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