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

Petteway Funeral Home, LLC
Certificate No. 000614

Petition No. 2011-644

MEMORANDUM OF DECISION

Procedural Background

On September 27, 2011, 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") and a Motion for Summary Suspension ("the Motion") brought against funeral home inspection certificate number 000614 of Petteway Funeral Home, LLC ("respondent"). The Motion requested the Board to summarily suspend respondent's inspection certificate based on the Charges, Affidavits, and the Department's information and belief that respondent's continued practice as a funeral home presented a clear and immediate danger to the public health and safety. Bd. Exh. 1.

After considering the Motion and the supporting materials, the Board summarily suspended respondent's inspection certificate on September 27, 2011, and scheduled a hearing for October 11, 2011. Respondent appeared on that date, represented by its owner, Mr. Clifton Petteway. During the hearing, respondent, through its owner, filed an Answer to the Charges. Bd. Exh. 2. At the beginning of the hearing, counsel for the Board informed Mr. Petteway that, as a corporation, respondent required legal representation. Mr. Petteway therefore requested a continuance on behalf of respondent to enable respondent's counsel, who was trying another case that day, to attend the hearing. In response to this request, the Department, through its counsel Attorney Diane Wilan, objected, citing the fact that the family members of the deceased who was the subject of the Charges were present and ready to testify, having taken time off from work. Overruling the objection, the Board granted the request. Tr. 10/11/11, pp.,4 5, 7.

On October 26, 2011, the Department filed a Motion to Consolidate this hearing with the hearing on the Statement of Charges against the license of Stanley Petteway, embalmer, in Petition No. 2011-643, on the grounds that the allegations in both cases arose from the same operative facts. Bd. Exh. 1. On November 2, 2011, the Board granted the Motion to Consolidate, set November 15, 2011, as the next hearing date, and sent a notice of the new

hearing date along with the second set of Charges to respondent by certified mail, return receipt requested, and first class mail. Bd. Exh. 1, Petition No. 2011-643.

The Board held the second day of hearing on November 15, 2011, as scheduled. At the hearing, respondent was present and was represented by its owner, Clifton Petteway, and Attorney Mark Matasavage; Attorney Diane Wilan represented the Department.

The Board conducted the hearing in accordance with Chapter 54 of the General Statutes ("the Statutes") and § 19a-9a-1 *et seq*. of the Regulations of Connecticut State Agencies ("the Regulations") 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 paragraphs 1 and 7 of the Charges, the Department alleges that respondent of Waterbury, is, and has been at all times referenced in the Charges, the holder of Connecticut funeral home inspection certificate number 000614.

Count One

2. In paragraph 2 of the Charges, the Department alleges that at all relevant times, Stanley Petteway was the licensed embalmer/manager for respondent.

3. In paragraph 3 of the Charges, the Department alleges that all relevant times, Clifton Petteway was an unlicensed owner of respondent.

4. In paragraph 4 of the Charges, the Department alleges that during approximately March and April 2011, Clifton Petteway:
    a. made funeral arrangements and discussed pricing with the decedent's wife at respondent's place of business;
    b. directed part-time embalmer Walter Makarewicz to make the removal of the deceased D.C.D. on behalf of respondent;
    c. went to the home of D.C.D.'s family and discussed funeral arrangements and pricing with family members on behalf of respondent;
    d. told D.C.D.'s family that D.C.D. had already been embalmed, when in fact he had not, and that the family would be responsible for the cost of the removal and embalming although they had not signed a contract with respondent;
    e. told D.C.D.'s family that they would have to pay respondent $1800.00 for services rendered if the family decided to use another funeral home for D.C. D.'s funeral services; and/or
    f. called D.C.D.'s family home twice after the funeral, to inquire about the funeral services that were ultimately provided by Chapel Funeral Home.

5. In paragraph 5 of the Charges, the Department alleges that respondent stored the deceased, D.C.D., on a stretcher for approximately 72 hours without washing, disinfecting or embalming the body.

6. In paragraph 6 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the Statutes, including but not limited to:

   a. §20-227 (4); and/or
   b. §20-227 (7).

Count Two

8. In paragraph 8 of the Charges, the Department alleges that during approximately May 2011, respondent failed to provide customers with an Outer Burial and Casket Price List.

9. In paragraph 9 of the Charges, the Department alleges that during approximately 2010 and 2011, respondent failed to maintain files for all the funeral services provided by respondent.

10. In paragraph 10 of the Charges, the Department alleges that during approximately 2011, respondent presented applications to the Connecticut Department of Social Services ("DSS") for burial assistance payments, but improperly failed to include cemetery charges in order to avoid exceeding the eligibility limit for the following funerals:
    a. Funeral of E.S. - omitted $1930.00 Calvary Cemetery charges;
    b. Funeral of J.L.W. - omitted $1850.00 Pine Grove Cemetery charges;
    c. Funeral of A.B.S. - omitted $2000.00 Calvary Cemetery charges;
    d. Funeral of M.M. - omitted cost of grave $825.00.

11. In paragraph 11 of the Charges, the Department alleges that on or about February 15, 2011, respondent overcharged the family of M.P. $400.00 for a cardboard cremation container.

12. In paragraph 12 of the Charges, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes, including, but not limited to:

    a. §20-227(2);
    b. §20-227(4);
    c. §20-227(5);
    d. §20-222(g)(1);
    e. §20-230a; and/or
    f. §20-230b.

Findings of Fact

1. Respondent of Waterbury, is, and has been at all times referenced in the Charges, the holder of Connecticut funeral home inspection certificate number 000614. Bd. Exh. 2.

Count One

2. At all relevant times, Stanley Petteway was the licensed embalmer/manager for respondent. Bd. Exh. 2.

3. At all relevant times, Clifton Petteway was an unlicensed owner of respondent. Bd. Exh. 2; Tr. 11/15/11, pp. 54-55.

4. During approximately March and April 2011, Clifton Petteway:
   a. made funeral arrangements and discussed pricing with the wife of decedent D.C.D. at respondent's place of business;
   b. directed, on behalf of respondent, part-time embalmer Walter Makarewicz to remove the remains of the deceased D.C.D. from Waterbury Hospital to respondent's place of business;
   c. went to the home of D.C.D.'s family and discussed funeral arrangements and pricing with family members on behalf of respondent;
   d. told D.C.D.'s family that D.C.D. had already been embalmed, when in fact he had not, and that the family would be responsible for the cost of the removal and embalming although they had not signed a contract with respondent; and
   e. called D.C.D.'s family home twice after the funeral, to inquire about the funeral services, although Chapel Funeral Home had provided the services after the decedent's widow transferred her business from respondent to Chapel Funeral Home.

   Dept. Exhs. 1, 2, 4, 5, 7, 9, 10; Tr. 11/15/11, pp. 16-19, 21- 22, 25-26, 28-33, 35-37, 43-44, 127-131, 133-144.

5. The evidence is insufficient to establish that Clifton Petteway told D.C.D.'s family that they would have to pay respondent $1800.00 for services rendered if the family decided to use another funeral home for D.C.D.'s funeral services. Dept. Exh. 1, pp. 3, 6; Dept. Exh. 5; Tr. 11/15/11, pp. 40, 42.

6. During March 2011, respondent stored decedent D.C.D.'s remains on a stretcher without washing, disinfecting or embalming the body, for approximately 48 hours, not 72 hours as the Department alleges. Tr. 11/15/11, pp. 41-43, 45-49, 92-93.

Count Two

7. During May 2011, respondent failed to provide customers with an Outer Burial and Casket Price List. Tr. 11/15/11, pp. 58-60.

8. During 2010 and 2011, respondent failed to maintain files for all the funeral services provided by respondent. Tr. pp. 58- 59.

9. In 2011, respondent sought payment for several funerals from DSS under the burial assistance program. The program pays up to $1800.00 per eligible funeral, provided the total cost of the funeral including all expenses does not exceed $4600.00, the balance being paid by family members. In other words, for a funeral home to be eligible to receive the maximum payment under the program, the funeral for which it seeks payment must not cost more than $4600.00. Stanley Petteway, respondent embalmer, manager and funeral director of record, certified on the penalty of false statement, on respondent's behalf, that the total cost of each funeral for which respondent sought payment did not exceed $4600.00. Although he thus attested that the total cost indicated on the application form that respondent filed included all the funeral and burial expenses, respondent did not include the cemetery charges on the forms, an omission which Stanley Petteway testified that respondent routinely made. The amounts respondent excluded from the 2011 applications were $1930.00 in Calvary Cemetery charges for the burial of E.S; $1850.00 in Pine Grove Cemetery charges for the burial of J.L.W.; $2000.00 in Calvary Cemetery charges for the burial of A.B.S.; and, $825.00 as the cost of M.M.'s grave. Dept. Exh. 6, pp. 9, 19-20, 23, 27, 31, 37; Dept. Exh. 9, pp. 4-9; Tr. 11/15/11, pp. 61-65, 71-78. By omitting these amounts while certifying that they were included, respondent knowingly underreported the true costs of the funerals concerned, making the total costs of the funerals appear to be within the $4600.00 eligibility limit and, thus misleading DSS into believing that they were reimbursable up to the program's maximum reimbursement amount of $1800.00 when they were not. Respondent, therefore, improperly failed to include cemetery charges to avoid exceeding the eligibility limit as the Department alleges.

10. On or about February 15, 2011, respondent overcharged the family of M.P. $400.00 for a cardboard cremation container. Dept. Exh. 1, pp. 5-6; Dept. Exh. 6; pp. 39-40; Tr. 11/15/11, p. 65.

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); *Goldstar Medical Services, Inc., et al. v. Department of Social Services,* 288 Conn. 790 (2008); *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 Board relied on the training and experience of its members in making its findings of facts and conclusions of law. *Pet v. Department of Health Services,* 228 Conn. 651, 667 (1994).

The Department alleges that respondent's funeral home inspection certificate is subject to disciplinary action pursuant to §20-227 of the Statutes which provides, in pertinent part:

> [t]he . . . board may take any 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: . . . (2) violation of the statutes or regulations of said department relative to the business of embalming or funeral directing in this state; . . . (4) incompetency, negligence or misconduct in the carrying on or such business or profession; (5) violation of or noncompliance with the provisions of this chapter or the rules established hereunder; . . . (7) aiding or abetting the practice of embalming or funeral directing by an unlicensed person; . . .

The Department met its burden of proof with regard to all of the allegations contained in the Charges, except with respect to the allegation contained in paragraph 4e of the Charges, and with respect to the number of hours in which respondent stored decedent D.C.D. on a stretcher.

Specifically, respondent admits that, at all times referenced in the Charges, it is, and has been, the holder of Connecticut funeral home inspection certificate number 000614; that Stanley Petteway was the licensed embalmer/manager for respondent; and, that Clifton Petteway was an unlicensed owner of respondent.

Count One

With respect to the allegations in paragraph 4 of the Charges, the Department established by a preponderance of the evidence that during March and April 2011, Clifton Petteway made funeral arrangements and discussed pricing with the decedent's wife at respondent's place of business; directed part-time embalmer Walter Makarewicz to remove the deceased D.C.D.'s remains on behalf of respondent; went to the home of D.C.D.'s family and discussed funeral arrangements and pricing with family members on behalf of respondent; told D.C.D.'s family that D.C.D. had already been embalmed, when he had not, and that the family would be responsible for the cost of the removal and embalming although they had not signed a contract with respondent; and, called D.C.D.'s family home twice after the funeral, to inquire about the funeral services that were ultimately provided by Chapel Funeral Home.

Licensed embalmer/manager Stanley Petteway testified that on or about March 27, 2011,[1] he received a call from his brother, Clifton Petteway, concerning a request the Dunbar family had made regarding the removal of the body of the deceased, D.C.D., who died on March 27,

[1] The record establishes that respondent received the call from his brother, Clifton Petteway, on March 28, 2011, not on March 27, 2011. Dept. Exh. 3

2011, from Waterbury Hospital. A preponderance of the evidence establishes that Clifton Petteway informed Stanley Petteway that, on March 28, 2011, Mrs. Wanda Dunbar and a family friend, walked into respondent's place of business and met with Clifton Petteway and requested the removal. Since Stanley Petteway was not available to handle the removal, Clifton Petteway arranged for Walter Makarewicz, respondent's trade associate, to make the removal. On March 29, 2011, Mr. Makarewicz removed the body from Waterbury Hospital and transported the body to respondent.

Also, during that initial meeting, Clifton Petteway gave Mrs. Dunbar a general price list of funeral services and told her that when she was ready to make funeral arrangements for her husband, she would meet with Stanley Petteway. Mrs. Dunbar testified that during that initial meeting with Clifton Petteway, he gave her an oral quote of $8,000.00 as the cost of the funeral, which she wrote on the general price list brochure (Dept. Exh. 7) he gave her. Mrs. Dunbar further testified that Clifton Petteway asked her if she had considered cremating her husband. She cried at the suggestion and became very upset. He assured Mrs. Dunbar that her husband's body would be picked up from Waterbury Hospital and that his body would be embalmed. Mrs. Dunbar did not sign a contract or any release forms with respondent. Tr. 11/15/11, pp. 17-19; Dept. Exhs. 2, 5.

A preponderance of the evidence further establishes that on March 29, 2011, Clifton Petteway stopped by the Dunbar residence to discuss funeral arrangements with the family. Present at this meeting was Mrs. Dunbar, her daughter, Onnika Dunbar, and her son, Jason Dunbar. Dept. Exhs. 2, 4, 10. Although Clifton Petteway testified that he only met with the Dunbar family on March 29, 2011 to pick up D.C.D.'s photograph for a death notice to be published in the local newspaper, and that no funeral arrangements were discussed, the Board does not find him credible. Both Mrs. Dunbar and her daughter, Onnika Dunbar, credibly testified that Clifton Petteway came to their house on March 29, 2011 to discuss funeral arrangements and costs. Tr. 11/15/11, pp.19-20. Mrs. Dunbar also testified that Clifton Petteway told her daughter twice that the decedent's body had been embalmed. Ms. Onnika Dunbar also testified that Clifton Petteway reassured her at least twice that her father had been embalmed. Tr. 11/15/11, pp. 20-22.

Jason Dunbar attests in his affidavit (Dept. Exh. 10), that when they informed Clifton Petteway that $8,000.00 was more than the family could afford to pay for the funeral, Clifton

Petteway again suggested that cremation was their "best and only option." Since they rejected cremation as a less expensive alternative and they could not afford the amount Clifton Petteway quoted to them, they decided to seek the services of another funeral home. Tr. 11/15/11, pp. 20-21.

On March 31, 2011, the family made arrangements with Mr. Lillard Lewis, licensed embalmer, to have the decedent moved to Chapel Funeral Home. The record shows that when Mr. Lewis picked up the decedent's body from respondent, Mr. Lewis paid respondent $200 for picking up the body from the hospital. Tr. 11/15/112, pp. 20-21.

Both witnesses testified that during all of their conversations and meetings with Clifton Petteway, they believed that he was the funeral director. They never met with or had any contact with Stanley Petteway. Tr. 11/15/11, pp. 24, 29, 31, 43-44.

Moreover, Stanley Petteway's testimony corroborated the family members' testimonies when he gave a confusing and conflicting account of why he waited on the family to contact him to give him further instructions regarding whether or not to embalm the body. He claims that for the next couple of days, he continued to ask his brother, Clifton, if he had heard anything from the family. Tr. 11/15/11, pp. 91-93, 103-105, 108-114. Ultimately, Stanley Petteway admitted that he "did not talk with any family member." Tr. 11/15/11, p. 107. It is incredible that, during this timeframe, respondent never made any concerted effort to contact any of the Dunbar family members, the remains of whose loved one was lying on its stretcher unpreserved, although their contact information was readily available to Clifton Petteway.

The Department also established by a preponderance of the evidence that on or about April 17 and 18, 2011, Clifton Petteway called the Dunbar family to inquire about the funeral service that Chapel Funeral Home officiated for the deceased and to ask how the family was doing. On April 17, 2011, none of the family members would talk to him. However, when Clifton Petteway called again on April 18, 2011, Onnika Dunbar confronted him about the misrepresentations he had made to the family about the embalming of the deceased and the costs of the funeral. Dept. Exhs. 1, 4, 9; Tr. 11/15/11, pp. 21-22, 33-34.

With respect to the allegations contained in paragraph 5 of the Charges, the Department proved the substance of the allegations, which is that respondent failed to take steps to prepare or preserve the decedent's corpse from decay. The record establishes that the decedent died on March 27, 2011 and was transferred from the hospital to the funeral home on March 29, 2011.

On March 31, 2011, Mr. Lewis transferred the decedent from the funeral home to the Chapel Funeral Home. Stanley Petteway testified that he did not embalm the body during the 48 hour period that the decedent was in the funeral home's custody because he did not have the family's written permission to do so. However, he claims that he instead lowered decedent's feet, to prevent blood from rushing to the head and that he disinfected and washed the body. Tr. 11/15/11, p. 93.

Mr. Lewis credibly testified that there was no evidence that anything had been done to the decedent's body to prepare the body for viewing and/or burial when he collected the decedent's remains from respondent's funeral home. Tr. 11/15/11, p. 42. Mr. Lewis also credibly testified that when he picked decedent's body up on March 31, 2011, the decedent was still in his hospital Johnny with bandages and IVs in his arms, and the body still unwashed. Tr. 11/15/11, p., 46. Mr. Lewis testified that because the funeral home lacked refrigeration, and the decedent's body was not embalmed, there was puffiness in the areas of the eyes, ears, and hands, and the body was visibly swollen, complicated by the fact that the decedent suffered from chronic obstructive pulmonary disease which causes the body to retain extra fluid. Tr. 11/15/11, p. 42. Mr. Lewis also testified that he forewarned the family that due to respondent's delay in embalming the decedent's body, he could not guarantee that the decedent's appearance would resemble his appearance before his death. Tr. 11/15/11, pp. 41-43, 45-49. Therefore, the Department sustained its burden of proof with respect to respondent's failure to wash, disinfect or embalm the decedent's body and that respondent stored the deceased on a stretcher for approximately 48 hours, not for 72 hours as the Department alleged.

Count Two

With respect to the allegations contained in paragraphs 8 and 9 of the Charges, the Department sustained its burden of proof. Specifically, in May 2011, respondent failed to provide customers with an Outer Burial and Casket Price List; and, during 2010 and 2011, respondent failed to maintain files for all the funeral services provided by the funeral home. During the Department's annual licensure inspection of the funeral home in May 2011, Stanley Petteway admitted that he did not provide customers with an Outer Burial and Casket Price List and that only a copy of it was kept in a three ring binder, and that he or his brother only provided

the customers with respondent's General Price List, in violation of §§20-230a [2] and 20-230b [3] of the Statutes. Tr. 11/15/11, pp. 58-60.

According to Mr. Bergin's inspection of respondent's records, the funeral home provided services for 70 funerals in 2010 and 30 funerals as of May 31, 2011. On May 9, and May 31, 2011, there were only four and 12 "at need" files maintained at the funeral home, respectively, in violation of §20-222(g)(1) of the Statutes that requires that "*all* records relating to funeral services, . . . [provided by the funeral home] shall be maintained at the address of record [as identified on the inspection certificate] for not less than *six* years after the death of the individual for whom [such] services were provided." Emphasis added. Mr. Bergin testified that when he requested the funeral files for 2010 and 2011, Clifton Petteway told him that the records were not available because the records were stored on the funeral home's computer which had been stolen and they were trying to reconstruct the files by obtaining such information from their accountant's files. Tr. 11/15/11, pp. 58-60. Given that respondent's records were not available for the Department's licensure inspection and the Statutes require that all funeral files be maintained at the funeral home and be available for inspection for at least six years from the decedents' deaths, the Department sustained its burden of proof with respect to these allegations.

With respect to the allegations contained in paragraph 10 of the Charges, the Department met its burden of proof that during 2011, respondent presented applications to DSS for burial assistance payments, but improperly failed to include cemetery charges in order to avoid exceeding the eligibility limit for burial assistance funds under the State Administered General

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[2] This section provides:

> No licensed funeral director or licensed embalmer shall offer to sell services to arrange for or conduct funerals or offer to sell any merchandise used in connection with a funeral without first providing the purchaser of such services or merchandise with an itemized price list of all available services and merchandise and every such purchaser shall also be informed by such funeral director or embalmer, prior to entering into any sales agreement, of the right to select only such services or merchandise which the purchaser so desires.

[3] This section provides:

> No person engaged in the business of funeral directing and no licensed funeral director or licensed embalmer shall fail to provide the person making funeral arrangements or arranging for disposition of a dead human body, at the time funeral arrangements are completed and prior to the time of rendering service or providing merchandise, a written statement indicating to the extent then known: (1) [t]he price of the service that the person has selected and what is included therein; (2) the price of each supplemental item of service or merchandise requested; (3) the amount involved for each of the items for which the funeral firm will advance money as an accommodation to the family of the deceased; and (4) the methods of payment. No person engaged in the business of funeral directing and no licensed funeral director or licensed embalmer shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral firm is the same as is billed by the funeral firm.

Assistance ("SAGA") Program. According to Mr. Bergin's testimony, in order for a family to be eligible for maximum burial assistance funds under the Burial Assistance Program, the total cost of a funeral cannot exceed $4600.00, of which the decedent's family may contribute up to a maximum of $2800.00 while the Burial Assistance Program pays the remaining $1800.00. However, if the total cost of the funeral exceeds $4600.00, the funeral home will only be eligible to receive the amount left, if any, after subtracting the amount by which the total funeral cost exceeds the $4,600.00 eligibility limit from the $1800.00 maximum assistance payment. Tr. 11/15/11, pp. 61-65. The evidence in the record demonstrates that on at least ten occasions, respondent omitted, on the application forms, any funeral expenses which would result in the total cost exceeding the $4600.00 limit, making it eligible for the $1800.00 maximum payment. Dept. Exh. 6, pp. 9, 19-20, 23, 27, 31, 37, Dept. Exh. 9, pp. 4-9; Tr. 11/15/11, pp. 67-68, 71-72, 75-78.

When respondent was asked to explain why these expenses were omitted from the SAGA application, Stanley Petteway testified that other funeral directors told him that if such expenses were a "gift in kind," *i.e.,* a donation from a family member, then he did not have to include those expenses on the application. As a result, he claims he followed the funeral directors' advice and did not include these "gifts in kind" on the application. Tr. 11/15/11, pp. 86-87. Even if this were true, based on the number of SAGA applications in which such omissions were made, the Board does not find respondent's explanation to be credible. Thus, the Department sustained its burden of proof with respect to these allegations.

With regard to the allegations contained in paragraph 11 of the Charges, the Department sustained its burden of proof that on or about February 15, 2011, respondent overcharged the family of M.P. $400.00 for a cardboard cremation container. Respondent's General Price List and bill for services indicates that a cardboard cremation container costing $200.00 was substituted for an unfinished wood box for cremation, which costs $600.00. The total funeral home charges should have been $1400.00 instead of $1800.00, resulting in an overcharge of $400.00. Thus, the Department sustained its burden of proof with respect to these allegations.

The Board concludes that respondent's conduct constitutes grounds for discipline pursuant to §20-227 of the Statutes in conjunction with §§ 20-222(g)(1), 230a and 230b of the Statutes. Therefore, respondent's funeral home inspection certificate is subject to disciplinary action pursuant to §19a-17 of the Statutes.

Order

Pursuant to the authority vested in it by §§19a-17 and 20-227 of the Statutes, the Board finds that the misconduct alleged and proven is severable and warrants the following disciplinary action imposed in the case of Petteway Funeral Home, LLC, the holder of Connecticut funeral home inspection certificate number 000614, Petition No. 2011-644:

1. Based on the conduct alleged and proven in Count One, respondent shall pay a civil penalty of five thousand dollars ($5,000.00) 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 within sixty days of the effective date of this Decision. Failure to pay this civil penalty as ordered shall result in respondent's funeral home inspection certificate remaining suspended as ordered below until the civil penalty is paid.
2. Based on the conduct alleged and proven in Count Two, respondent shall pay a civil penalty of five hundred dollars ($500.00) 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 within sixty days of the effective date of this Decision. Failure to pay this civil penalty as ordered shall result in respondent's funeral home inspection certificate remaining suspended as ordered below until the civil penalty is paid.
3. Respondent's funeral home inspection certificate is hereby reprimanded.
4. Respondent's funeral home inspection certificate is suspended for a period of one year, except that if at the expiration of the one year period respondent has not paid any of the civil penalty imposed in this order, the suspension shall continue until respondent pays the penalty.
5. Following the suspension, respondent's funeral home inspection certificate shall be placed on probation for a period of one year under the following terms and conditions:
    a. Respondent shall obtain at its own expense, the services of an embalmer, pre-approved by the Department (hereinafter, "supervisor"), to conduct a random review of respondent's business records.

b. The supervisor shall have the right to monitor respondent's practice by any other reasonable means, which he or she deems appropriate. Respondent shall cooperate fully with the supervisor in providing such monitoring.

c. Respondent shall be responsible for providing written supervisor reports directly to the Department monthly for the one year period of the probationary period. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, additional monitoring techniques utilized, and a statement that respondent is practicing with reasonable skill and safety.

6. The civil penalties and all correspondence and reports shall be mailed to:

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

7. This Order shall become effective upon the signature of the Board Chairperson.

Connecticut Board of Examiners for Embalmers,
and Funeral Directors

May 8, 2012
Date

Daniel P. Jowdy
By: Daniel P. Jowdy, Chairperson

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 9th day of May 2012, by certified mail, return receipt requested and via email to:

Mark Matasavage, Esq.
38 Central Avenue
Waterbury, CT 06702

Certified Mail RRR #91 7108 2133 3936 6420 2679

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
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Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
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