

IN THE MATTER OF	*	BEFORE THE
JEFFREY S. HARTZLER	*	STATE BOARD OF
Respondent	*	MORTICIANS AND
License Number: M00816	*	FUNERAL DIRECTORS
	*	Case No. 14-053

CONSENT ORDER

On June 15, 2015, the State Board of Morticians and Funeral Directors (the "Board"), charged Jeffrey S. Hartzler (the "Respondent"), License Number M00816, with violation of certain provisions of the Maryland Morticians and Funeral Directors Act (the "Act"), Md. Code Ann., Health Occ. § 7-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Board charged Respondent with violation of the following provisions of § 7-316(a) of the Act:

Subject to the hearing provisions of § 7-319 of this subtitle, and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

- (15) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;
- (26) Commits an act of unprofessional conduct in the practice of mortuary science;
- (32) Fails to comply with § 5-513 of the Health -- General Article[.]

The Board charged Respondent with violating the Board's regulation pertaining to the disposal of materials and wastes relevant to the preparation of a dead human body under Md. Code Regs. 10.29.03.03, which states in pertinent part:

H. The funeral establishment:

(7) Shall either:

(a) Ensure that medical waste is picked up by a licensed medical waste disposer not less often than every 60 days from the date generated; or...

Md. Ann. Code, Health-Gen. § 5-513 states in pertinent part:

(a) On taking custody of the body of a decedent in accordance with all authorizations required by law, a funeral establishment or crematory shall maintain the body in a manner that provides for complete coverage of the body and prevents leakage or spillage except during:

(1) Identification, embalming, or preparation of an unembalmed body for final disposition;

(2) Restoration and dressing of a body in preparation for final disposition; and

(3) Viewing during a visitation or funeral service.

On September 1, 2015, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of the Case Resolution Conference, the Board and Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. Background

1. At all times relevant to the charges, Respondent was and is licensed to practice mortuary science in the State of Maryland. Respondent was originally licensed to practice mortuary science in Maryland on or about November 1, 1988, being issued license number M00816. Respondent last renewed his license on or about April 12, 2015, which will be valid until April 30, 2017.

2. At all times relevant to the charges, Respondent was and is a partial owner of four funeral homes, all named "Hartzler Funeral Home, P.A.," located in New Windsor, Libertytown, Woodsboro, and Union Bridge, Maryland.

3. At all times relevant to the charges, the New Windsor funeral home was, and is, the only location of the four Hartzler Funeral Homes where embalming is permitted.

II. Complaint

4. In or about early February 2014, Board staff received a telephone call from a Lieutenant (the "Complainant") for the Maryland Natural Resources Police ("NRP") concerning Respondent. Board staff instructed the Complainant to describe his concerns in writing.

5. On or about February 13, 2014, the Board received a written complaint from the Complainant stating that on or about February 4, 2014, the Complainant became aware that Respondent had collected blood and body fluids in containers and froze them for the NRP to utilize as cadaver dog training aids.

III. Investigation

6. On or about March 26, 2014, the Board requested that Respondent submit a response to the Complaint.

7. On April 7, 2014, Respondent submitted to the Board his response, stating:

In September of 2013 I was contacted by telephone by [a sergeant] of Maryland Department Of (sic) Natural Resources. She advised that she trained cadaver dogs and wanted to know if I could supply her with human blood for training. In mid-September 2013 I received several freezer containers with strips of towels. See attached letter from [the sergeant.] On one occasion I collected some blood while performing and (sic) embalming & froze it and then called [the sergeant] to pick it up, which she did....

8. The letter from the sergeant, dated September 14, 2014, which Respondent attached to his response, acknowledged Respondent's assistance with her request for human blood. The sergeant stated that she had "picked up heavier weight freezer containers so they should hold up a little better." She said that the containers are lined with white towels cut in strips because they are "more absorbent." She instructed Respondent to call her when Respondent had the containers ready to be picked up or if he needed more supplies.

9. On April 28, 2014, Respondent was interviewed under oath by a Board investigator and admitted the following:

- a) A friend of Respondent referred the sergeant from NRP to Respondent;
- b) Sometime in August or September 2013, the sergeant called Respondent to request human blood for use in training cadaver dogs;
- c) Respondent received in the mail a letter and a container (or containers), from the sergeant, which he described as "like a Glad plastic freezer container" with strips of towels inside;
- d) Respondent was instructed by the sergeant to put the towels in the bottom of the container and cover the towels with blood;

- e) While performing an embalming at Respondent's funeral home in New Windsor, Respondent put the container in a bucket that is on the table and "captured some blood to cover that towel."
- f) Respondent collected approximately a half quart of blood;
- g) Respondent took the container in a "regular garbage bag" to his residence and placed it in his home freezer;
- h) Respondent notified the sergeant that he had a sample of blood for her;
- i) Respondent brought the container back to Respondent's funeral home in New Windsor and put it in the refrigerator where he stores bodies;
- j) An employee¹ of Respondent's funeral home, gave the sergeant, or a representative of the sergeant, the container with the blood-soaked towels;
- k) The decedent² from whom Respondent obtained the blood was an elderly female from a nursing home;
- l) Respondent was unable to state the cause of death of the decedent;
- m) Respondent did not ask the decedent's family to give consent to collect the decedent's blood, store it in a plastic container, transport it to his residence, return it to his funeral home, and give it to the NRP for the purpose of training canines;
- n) To date, the decedent's family is not aware that the decedent's blood has been used as described in paragraph m above; and
- o) Respondent's practice is to place items that are contaminated with body fluids in a "hazardous material red bag" which is collected monthly by an outside medical waste disposal company.

¹ Respondent was unable to identify which employee gave the container to the sergeant or the representative of the sergeant.

² To protect confidentiality, decedents' names are omitted from the consent order but are listed in a separate confidential decedent identification list. In this case, however, Respondent was unable to provide the name of the decedent.

10. On July 7, 2014, the sergeant was interviewed under oath by a Board investigator and acknowledged the following:

- a) An employee from the NRP picked up the container and its contents from Respondent's funeral home and transported it to Western Maryland;
- b) The Sergeant obtained the container from the employee; and
- c) The Sergeant took the container to her residence in Delaware and placed it in her home freezer.

IV. Summary of Findings

11. Respondent's conduct as described above is evidence of failure to comply with the Board's regulations regarding the handling, custody, care, or transportation of dead human bodies or disposal of wastes relevant to preparation of a dead body for final disposition in violation of § 7-316(a)(15) in that Respondent:

- a) Failed to ensure that the plastic container with the blood-soaked towel was picked up by a licensed medical disposer;
- b) Transported the blood-soaked towel to and from his residence in an ordinary plastic container;
- c) Stored the blood-soaked towel in his freezer at his private residence; and
- d) Surrendered control of the blood-soaked towel to another person or persons, who he could not identify, such that he could not assure that the blood-soaked towel would be properly handled and disposed of pursuant to State requirements.

12. Respondent's conduct as described above is evidence of unprofessional conduct in the practice of mortuary science in violation of § 7-316(a)(26) in that Respondent:

- a) Failed to ensure that the plastic container with the blood-soaked towel was picked up by a licensed medical disposer;

- b) Diverted, transported, stored, and donated blood from a decedent's body without the family's knowledge and/or consent;
- c) Transported the decedent's blood to and from his residence in an ordinary plastic container;
- d) Stored the decedent's blood in his freezer at his private residence; and
- e) Surrendered control of the decedent's blood to another person or persons, who he could not identify, such that he could not assure that the blood would be properly handled and disposed of pursuant to State and requirements.

13. Respondent's conduct as described above is evidence of failure to comply with Md. Code, Health-Gen. § 5-513(a) in violation of § 7-316(a)(32), in that Respondent:

- a) Diverted the leakage and spillage of blood during embalming of decedent's body into a plastic container with a towel;
- b) Transported the blood-soaked towel to and from his residence in an ordinary plastic container that could have resulted in leakage and spillage;
- c) Stored the blood-soaked towel in his freezer at his private residence;
- d) Permitted individuals who are not licensed medical waste disposers to remove the plastic container with the blood-soaked towel from his funeral home; and
- e) Surrendered control of the plastic container with the blood-soaked towel to another person or persons who he could not identify such that he could not assure that the blood-soaked towel would be properly handled and disposed of pursuant to State and Federal requirements.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated a State, municipal, or county law, rule, or regulation on

the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition, in violation of Health Occ. § 7-316(a)(15); committed an act of unprofessional conduct in the practice of mortuary science, in violation of Health Occ. § 7-316(a)(26); failed to comply with § 5-513 of the Health-General Article in violation of Health Occ. § 7-316(a)(32); and failed to ensure that medical waste was picked up by a licensed medical waste disposer in violation of Md. Code Regs, 10.29.03.03H(7).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of September, 2015, by an affirmative vote of a majority of the full authorized membership of the Board:

ORDERED that Respondent is REPRIMANDED, and it is further

ORDERED that effective the date of this Consent Order, Respondent is required to fulfill the following terms and conditions:

1. Within one hundred twenty (120) days of the date of the Consent Order, Respondent shall successfully complete a Board-approved course in the "Human Dignity Act;"
2. Within one hundred twenty (120) days of the date of the Consent Order, Respondent shall successfully complete a Board-approved course in bloodborne pathogens;
3. Within one hundred twenty (120) days of the date of the Consent Order, Respondent shall successfully complete a Board-approved course in Federal and Maryland occupational safety and health requirements;
4. Within one hundred twenty (120) days of the date of the Consent Order, Respondent shall successfully complete a Board-approved course in professional ethics for funeral professionals;

5. The above courses shall be in addition to any continuing education requirements mandated for continuing licensure. The hours of these educational courses shall not count toward fulfilling other continuing education requirements that Respondent must fulfill in order to renew his license;
6. Within ninety (90) days of the date of the Consent Order, Respondent shall pay to the Board for deposit in the General Fund, a monetary penalty of \$2,500.00 by money order or certified check; and
7. Respondent shall comply with the Maryland Morticians and Funeral Directors Act and all laws, statutes and regulations pertaining to the practice of mortuary science; and it is further

ORDERED that any violation of the terms and conditions of this Consent Order shall be deemed unprofessional conduct in the practice of mortuary science; and it is further

ORDERED that if Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before a quorum of the Board if there is a genuine dispute as to the underlying material facts, or after an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed in this case under §§ 7-316 & 7-317 of the Act, including a reprimand, probation, suspension, revocation and/or a monetary fine; and it is further

ORDERED that Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Gen Prov § 4-101 *et seq.*



Victor C. March, Sr., President
State Board of Morticians and
Funeral Directors

CONSENT

I, Jeffrey S. Hartzler, acknowledge that I am represented by counsel and have reviewed this Consent Order with my attorney, James J. Doyle, Esquire, before signing this document.

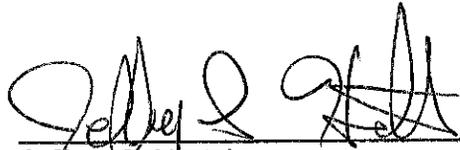
I am aware that I am entitled to a formal evidentiary hearing before a quorum of the Board of Morticians and Funeral Directors. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

I voluntarily enter into and agree to abide by the foregoing Findings of Fact, Conclusions of Law, and Order and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law and I waive my right to a full evidentiary hearing as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

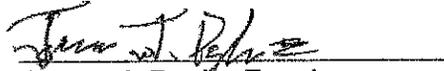
I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice mortuary science.

I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order, consisting of eleven (11) pages.

9-6-15
Date


Jeffrey S. Hartzler
Respondent

9/4/15
Date


James J. Doyle, Esquire
Respondent's counsel

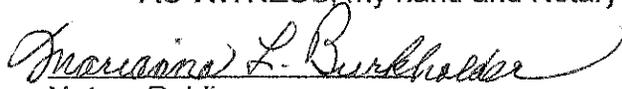
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF *Anne Arundel* :

I HEREBY CERTIFY that on this 6th day of September, 2015, before me, a Notary Public of the State and County aforesaid, personally appeared Jeffrey S. Hartzler, License No. M00816, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My commission expires: January 2017