

IN THE MATTER OF
CONDRAE MCFADDEN

* BEFORE THE MARYLAND
* STATE BOARD OF MORTICIANS
* AND FUNERAL DIRECTORS
*
*

License Numbers M-01280

Board Case Number 13-108B

PRE-CHARGE CONSENT ORDER

BACKGROUND

The Maryland State Board of Morticians and Funeral Directors (the "Board") and Condrae McFadden (the "Respondent") have agreed, in lieu of the Board's filing formal charges, to enter into this Pre-Charge Consent Order ("Order"). The Respondent waives his right to a hearing and agrees to be sanctioned by the Board. The Board has reason to believe that the Respondent violated provisions of the Maryland Morticians and Funeral Directors Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 7-316(a)(26) and 7-410(c) (2009 Repl. Vol.) and Md. Code Ann., Health Gen. ("H.G") § 5-513(a) (2009 Rep. Vol.) by acting in an unprofessional manner when he concluded arrangements with an unauthorized person for final disposition of the Decedent.¹

FINDINGS OF FACT

1. At all times relevant, the Respondent was and is a Maryland licensed mortician in the employ of Evans Funeral Chapel and Cremation Service.

2. On February 2, 2013, the Respondent met with a group of the Decedent's family members, including his five children, and the Decedent's girlfriend, (the "Girlfriend")², for the purpose of making funeral arrangements for the Decedent, who had passed away suddenly on February 1, 2013 from multiple injuries suffered in a work related automobile accident. The

¹ The identity of the Decedent is maintained among the Board's records.

² The identity of the Girlfriend is maintained among the Board's records.

Decedent's daughter asked the Respondent to see her father who had been autopsied and transported to the funeral home. Another funeral director [the embalmer] told her that her father was not ready to be viewed as they were still working on him and that he would be presentable on Monday [the 4th]. The daughter was asked if she would like her father to be dressed. The daughter replied that she just needed to see his face. She was told that his face was fine, that he had a bruise on his forehead and an abrasion on his nose.

3. In attendance on February 2nd were other family members as well as the Girlfriend's children. At the time of his death, the Decedent had lived with the Girlfriend for at least twenty years.

4. As the arrangements discussion moved on to the obituary and place of burial, the Respondent ignored the Decedent's children and deferred to the Girlfriend and her family.

5. The Respondent listed the Girlfriend as the Decedent's wife on the Certificate of Death and in the obituary; this in spite of protests from the Decedent's family who collectively told him that she was not his wife and that he was not married.³

6. Upon asking where burial was to take place, the Girlfriend's daughter told the Respondent that the Decedent was to be buried next to her mother. The Decedent's son spoke up and said that he is to be buried in a paid for burial site next to the Decedent's mother and father at a cemetery on German Hill Road in Dundalk. The Respondent ignored the family's wishes.

7. At approximately 4:00 p.m. on February 4, 2013, the Decedent's children arrived at the funeral home to drop off pictures and to see their father who was not yet dressed or cosmetized. The Respondent told them that they could see their father when he, the Respondent, gets permission from the Decedent's "wife" [Girlfriend] or her children. Again the

³ Due to the families persistence the Certificate of Death was later corrected.

Respondent was told the Girlfriend was not his wife. In response he indicated that since she signed the bill she had to give permission.⁴

8. The Decedent's children were told by another staff member that since the girlfriend signed the contract, she could decide who gets to see the Decedent. When inquiring about the need to correct the certificate of death, another staff member asked how long the Decedent and the Girlfriend lived together. She was told that they lived in the same house for at least [twenty] years. The staff member incorrectly told the children that the Girlfriend is considered the Decedent's common law wife since they lived together for more than seven years.⁵

9. The Decedent's daughter called the Girlfriend later in the day on February 4th and learned that the Respondent had sought and gotten the permission from the Girlfriend at around 1:00 p.m. that day, prior to the daughters' arrival at the funeral home.⁶

10. The Decedent's daughter, on February 5th, confronted the Respondent with the knowledge that she had learned that they had gotten permission from the Girlfriend on February 4th. He then scheduled the children to visit their father the next day, five days after he died.

11. On February 7, 2013 the Decedent was buried in the plot designated by the Girlfriend at Lorraine Park Cemetery in Woodlawn.

12. On or about February 21, 2013 one of the Decedent's daughters (the "Complainant")⁷ filed a complaint with the Board on behalf of her siblings.

DISCUSSION

The Respondent erroneously prevented the Decedent's adult children from visiting their father stating that he needed permission from the Girlfriend or her children to let them see their father; that since she signed the bill, permission had to be gotten from her. No matter who

⁴ Funeral expenses were paid by the Decedent's employer.

⁵ Maryland does recognize a "Common Law" marriage in this State if created in a state that recognizes such marriages.

⁶ The daughter does not acknowledge that she needed permission to see her father.

⁷ The identity of the Complainant is maintained among the Board's records.

pays for the arrangements, in the absence of a will; a decedent's directions; or a pre-need contract; under both the Annotated Code of Maryland, Health General Article Section 5-509(c), and the Act at H.O. Section 7-410(c) the order of priority for arranging for final disposition, including cremation, for a deceased is as follows: (1) the surviving spouse or domestic partner of the decedent; (2) an adult child of the decedent; (3) a parent of the decedent; (4) an adult brother or sister of the decedent; (5) any person acting as a representative of the decedent under a signed authorization of the decedent; (6) the guardian of the person of the decedent at the time of the decedent's death, if one has been appointed; or (7) in the absence of any person under items (1) through (6) any other person willing to assume the responsibility to act as the authorizing agent for the purpose of arranging the final disposition after attesting that a good faith effort has been made to no avail to contact the individuals under items (1) through (6).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that the Respondent, violated H.O. §§ 7-316(a)(26) by acting in an unprofessional manner when over a period of five days, he prevented the Decedent's children from visiting their father; and the Board further finds that the Respondent failed to adhere to the order of priority when making arrangements for the Decedent's final disposition in violation of both H.O. §7-410(c); and H.G. § 5-504(c).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of July 2014, by a majority of a full quorum of the Board, hereby:

ORDERED that the Respondent's license to practice mortuary science in Maryland be and is **SUSPENDED** for a period of five (5) days beginning with the effective date⁸ of this Order; and it is further

⁸ The effective date is the date of the order is accepted by the Board.

ORDERED that upon reinstatement of the Respondent shall be placed on **PROBATION** for a period of six (6) months years subject to the following terms and conditions:

ORDERED If not already done so, within six (6) months of the effective date of the Order, the Respondent shall document to the Board that he has successfully completed a Board-approved course focused on the issue of priority in the making of arrangements for final disposition; and it is further

ORDERED that, after the probationary period has expired, the Respondent may submit a written petition to the Board requesting termination of probation. The Board will grant the request if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions, including the expiration of the entire probationary period and there are no pending complaints against the Respondent; and it is further

ORDERED that Respondent's failure to fully comply with the terms and conditions of this Consent Order shall be deemed a violation of Probation and of this Consent Order and Respondent may be subject to additional charges by the Board; and it is further

ORDERED that the Respondent shall comply with and practice within all statutes and regulations governing the practice of mortuary science and funeral direction in the State of Maryland; and it is further

ORDERED that this Pre-Charge Consent Order of Reprimand is a PUBLIC DOCUMENT.

7/9/14
Date


Victor C. March, Sr.
President

CONSENT

I, Condrea McFadden, License Number M012180, by signing this Consent agree to the

foregoing Pre-Charge Consent Order as resolution to this matter. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity and enforceability of this Pre-Charge Consent Order as if it were after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections to which I am entitled by law. I also recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing and am also waiving any other legal remedies I may have regarding resolution of this matter.

I have had the opportunity to review this Pre-Charge Consent Order with my attorney and sign it voluntarily, understanding its terms, meaning and effect.

5-24-14
Date

Condrea McFadden
Condrea McFadden

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF HARFORD

I HEREBY CERTIFY that on this 24th day of MAY, 2014, before me, a Notary Public of the State of Maryland and the City/County aforesaid, personally appeared Condrea McFadden and made oath in due form of law that the foregoing Consent was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Jonathan C. Carlberg
Notary Public

My Commission Expires: 5/23/17