

IN THE MATTER OF	*	BEFORE THE
KEVIN AVON PARKER, SR.	*	STATE BOARD OF
RESPONDENT	*	MORTICIANS AND FUNERAL
	*	DIRECTORS
LICENSE NUMBER: M00978	*	CASE NUMBER: 12-037

CONSENT ORDER

On July 18, 2012, the State Board of Morticians and Funeral Directors (the "Board") charged Kevin Avon Parker, Sr., License Number M00978 (the "Respondent"), with violation of the Maryland Morticians and Funeral Directors Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 7-101 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

Specifically, the Board charged the 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:

- (26) Commits an act of unprofessional conduct in the practice of mortuary science[.]

The Board's regulations define "supervising mortician" as follows:

"Supervising mortician" means a mortician who is responsible to the Board for compliance with the Maryland Morticians Act for all operations of a funeral establishment including, but not limited to, the administration of preneed accounts.

Code Md. Regs. 10.29.03.02.B.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. At all times relevant to the charges, the Respondent was and is licensed to practice mortuary science in the State of Maryland. The Respondent was originally licensed to practice mortuary science in Maryland on or about June 9, 1993, being issued license number M00978. The Respondent last renewed his license on or about April 30, 2012, which will expire on April 30, 2013.

2. At all times relevant to the charges, the Respondent owned and operated Parker Funeral Home, P.A. (the "Funeral Home"), 3512 Frederick Avenue, Baltimore, Maryland 21229.

3. At all times relevant to the charges, the Respondent was the supervising mortician of record for the Funeral Home. On November 23, 2010, In his renewal application for the Funeral Home, the Respondent certified that he:

shall be the supervising mortician of said establishment and shall, therefore, be responsible for all transactions conducted within the establishment and throughout its entire scope of services, including responsibilities for all advertisements made in connection with said establishment.

II. COMPLAINTS

4. On or about December 9, 2011, the Board received a complaint from the manager of an apartment building (the "Manager") in Baltimore City alleging that a transporter for a funeral home removed a decedent¹ from an apartment, causing damage to the building. The Manager noticed that blood and body fluids leaked from the body during removal and stained multiple areas of the building. The Manager stated

¹ The Respondent is aware of the identity of the decedent.

that the transporter told her that the transporter worked for Mortician A.²

5. On or about December 9, 2011, the Board received a telephone complaint from Mortician A in regard to a telephone call he received from the Manager.

6. On or about December 15, 2011, the Board received a written complaint from Mortician A, who stated that the Manager contacted him to clean up the "mess" left by the transporter. Mortician A stated that he informed the Manager that he did not remove any bodies from the apartment building.

III. INVESTIGATION

7. The Board opened the case for investigation.

8. On or about December 9, 2011, the Director, based on her knowledge of licensed morticians in the City of Baltimore, called the Respondent to ask if he had sent a transport service to pick up a body at the apartment building. The Respondent advised that he had sent someone to the apartment building to pick up a body. The Director asked Respondent about his plans to clean up the biohazard that was created by the removal of the body by the transporter. The Respondent replied, "Bodies drip, it's not my problem." The Respondent informed the Director that the decomposition odor was so strong that the Respondent sent the body to the Medical Examiner's ("ME") office to be placed in refrigeration.³

9. The Director telephoned the ME's office and was informed that they did not have a record of the decedent being received in the ME's office.

²The names of other licensees named in the Consent Order are confidential, but are available to the Respondent upon request of the Administrative Prosecutor.

³ The Funeral Home does not have refrigeration.

10. The Director telephoned the Respondent who acknowledged that he had not "logged in" the decedent at the ME's office.

11. The Director telephoned the ME's office and explained that the decedent was at the ME's office but that the body had not been "logged in."

12. The ME's office "logged in" the decedent and performed an autopsy on the body.

13. On or about December 10, 2011, the Board's investigator met with the Manager of the apartment building, who stated:

- a. On or about December 8, 2011, Baltimore City Police found a body in an apartment after receiving a complaint about a strong odor emanating from the apartment. The Baltimore City Police Department released the body to the Funeral Home.
- b. A transporter for the Funeral Home came to the apartment building to remove the body from the apartment. The transporter used an inadequate pouch to attempt to contain the body. While leaving the apartment, the body leaked and dripped in the hallways, elevator, and foyer of the apartment building. The Manager was concerned that the leaked body fluids caused damage to the premises and created a health problem.
- c. The Manager, after seeing the damage, asked the transporter for whom she worked. The transporter responded with the name of Mortician A.
- d. The Manager called Mortician A who told her that he had not made any "pick ups" at the apartment building and that he was unable to help her; however, Mortician A gave the Manager the name of the Respondent.
- e. On or about December 9, 2011, the Manager contacted the Respondent to ask if he had picked up a body at the apartment building. The Respondent stated, "What's it to you?" The Manager informed the Respondent about the damage done to the apartment building and asked the Respondent to have someone clean it up or pay for the cleaning. The Respondent stated, "I'm not paying for nothing" and hung up the telephone.

14. The Investigator subsequently contacted the Respondent and learned that:

- a. Previously, on or about December 8, 2011, the Respondent entered into a contract with the decedent's sons to provide funeral arrangements for the decedent, which included cremation of the body.
- b. On or about December 8, 2011, the transporter delivered the body to the Funeral Home.
- c. After the Funeral Home received the body from the ME's office the Funeral Home arranged for final disposition at a crematory.

15. On or about December 15 and 16, 2011, the Manager made arrangements with a cleaning company to clean and repair the damage to the common areas of the apartment building and the decedent's apartment. The carpets were replaced, and the affected areas were cleaned. The total cost of the repairs was \$5094.49.

IV. Summary of Violations

16. The Respondent's failure to provide universal precautions to prevent the spread of contagions, including use of a heavy disaster pouch, gloves, and clean-up equipment, and his failure to secure the body in a sanitary and respectful manner prior to removal from the apartment, constitutes unprofessional conduct in the practice of mortuary science, in violation of Md. Health Occ. Code Ann. § 7-316(a)(26).

17. The Respondent's lack of cooperation with the building manager and the nature of his responses to the building manager and the Director when asked questions regarding the removal of the decedent from the apartment building and the resulting public health hazard and damage, constitute unprofessional conduct in the practice of mortuary science, in violation of Md. Health Occ. Code Ann. § 7-316(a)(26).

18. The Respondent's failure to log the body into the ME's office when sending the body to be placed in refrigeration, constitutes unprofessional conduct in the practice of mortuary science in violation of Md. Health Occ. Code Ann. § 7-316(a)(26).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent committed acts of unprofessional conduct in the practice of mortuary science, in violation of § 7-316(a)(26).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 12th day of September, 2012, by an affirmative vote of a majority of the full authorized membership of the Board:

ORDERED that Respondent's license to practice mortuary science shall be **SUSPENDED** for a minimum of two months (2) months, with all but one (1) month stayed, effective the date of the Consent Order; and it is further

ORDERED that during the suspension Respondent shall:

1. Surrender his "wall" license and his "pocket" license to the Board;
2. Notify the Board in writing that he has removed himself as supervising mortician and provide the name of the supervising mortician for the funeral home;
3. Not engage in the practice of mortuary science in the State of Maryland, including communications with consumers; and
4. Submit documentation to the Board that he has paid five hundred dollars (\$500.00) restitution to the owner of the apartment building for the costs of clean-up of the biohazard damage to the common areas of the apartment building;
5. Submit to the Board a sworn affidavit that he has not practiced mortuary science during the period of suspension; and be it further

ORDERED Respondent may file a written request for reinstatement of his license that the Board will consider after one (1) month of effective suspension; and be it further

ORDERED that if Respondent has complied with the requirements of the suspension, Respondent shall be placed on **PROBATION** for a minimum of six (6) months to commence on the date his license is reinstated, under the following terms and conditions:

1. Shall submit to the Board documentation that he has successfully completed a Board-approved course in professional ethics;
2. Shall submit documentation that he successfully completed a Board-approved course in the requirements of Maryland ("MOSH") and Federal Occupational Safety and Health Administration ("OSHA");
3. The above courses shall be in addition to any continuing education requirements mandated for continuing licensure. The hours of these courses shall not count toward fulfilling other continuing education requirements that Respondent must fulfill in order to renew his license to practice;
4. Shall submit documentation of having performed pro bono professional funeral services equivalent to fifteen hundred dollars (\$1500.00);
5. May only transport human remains in a vehicle which has been inspected and approved by the Board;
6. Shall transport human remains with dignity and in a manner which does not endanger public health; and
7. 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 and 7-317 of the Maryland Morticians and Funeral Directors Act, including a reprimand, probation, suspension, revocation and/or a monetary fine; and it is further

ORDERED that no earlier than six (6) months from the date of reinstatement of his license, and provided that Respondent has complied with the Consent Order terms during Respondent's period of six months and there are no new complaints, Respondent may petition the Board to terminate the conditions of this Consent Order; 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. State Gov't Code Ann. § 10-611 *et seq.*

9/12/12
Date


Dr. Hari P. Close, II, Chair
State Board of Morticians

CONSENT

I, Kevin A. Parker, Sr., acknowledge that I am represented by counsel and have reviewed this Consent Order with my attorney, Lawrence S. Greenberg, 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 ten (10) pages.

8/29/12
Date

Kevin A. Parker, Sr.
Kevin A. Parker, Sr.
Respondent

STATE OF MARYLAND

CITY/COUNTY OF

I HEREBY CERTIFY that on this 29 day of August, 2012, before me, a Notary Public of the State and County aforesaid, personally appeared Kevin A. Parker, Sr., 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.

Lana Greenberg
Notary Public

My commission expires: 12/1/13

