

IN THE MATTER OF
CHARLES EVANS, JR.

License Number M-00192
Board Case Number 13-108

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

PRE-CHARGE CONSENT ORDER OF REPRIMAND

BACKGROUND

The Maryland State Board of Morticians and Funeral Directors (the "Board") and Charles Evans, Jr. (the "Respondent"), license number M00192, have agreed, in lieu of the Board's filing formal charges, to enter into to this Pre-Charge Consent Order of Reprimand (the "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.) based upon the actions of his employee mortician who 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 the Supervising Mortician² for Evans Funeral Chapel and Cremation Service, establishment license number E00102, and the employer of Condrea McFadden ("McFadden"), license number M01280.
2. On February 2, 2013, McFadden met with a group of the Decedent's family members,

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

² COMAR 10.29.03.03 – "Supervising Mortician" means a mortician who is responsible to the Board for compliance with the Maryland Morticians [and Funeral Directors] Act for all operations of a funeral establishment including, but not limited to, the administration of pre-need accounts.

including his five children, and the Decedent's girlfriend, (the "Girlfriend")³ 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 Decedent's daughter asked McFadden 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, McFadden ignored the Decedent's children and deferred to the Girlfriend and her family.

5. McFadden 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.⁴

6. Upon asking where burial was to take place, the Girlfriend's daughter told McFadden 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. McFadden 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 had not yet been dressed or

³ The identity of Ms. P is maintained among the Board's records.

cosmetized. McFadden told them that they could see their father when he, the Respondent, gets permission from the Decedent's "wife" [Girlfriend] or her children. Again McFadden was told the Girlfriend was not his wife. In response he indicated that since she signed the bill she had to give permission.⁵

8. The Decedents 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.⁶

9. The Decedent's daughter called the Girlfriend later in the day on February 4th and learned that McFadden had sought and gotten the permission from the Girlfriend prior to the daughters' arrival at the funeral home.⁷

10. When on February 5th the Decedent's daughter confronted McFadden with the aforementioned knowledge 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")⁸ filed a complaint with the Board on behalf of her siblings.

DISCUSSION

McFadden erroneously prevented the decedent's adult children from visiting their

⁴ Due to the families persistence the Certificate of Death was later corrected.

⁵ Funeral expenses were paid by the Decedent's employer.

⁶ Maryland does recognize a "Common Law" marriage in this State if created in a state that recognizes such marriages.

⁷ The daughter does not acknowledge that she needed permission to see her father.

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 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, as supervising mortician, violated H.O. § 7-316(a)(26) in failing to properly supervise his employee who concluded the Deceased's arrangements with an unauthorized person causing the Decedent to be interred in cemetery not of his family's choosing.

ORDER

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

ORDERED that the Respondent shall be and is **REPRIMANDED**; and it is further

ORDERED that the Respondent shall serve a six (6) month period of probation beginning

⁶ The identity of the Complainant is maintained among the Board's records.

with the effective date of this Order⁹; and it is further

ORDERED that the Respondent shall bear the cost limited to the actual cost of disinterring the Deceased's remains and the re-interment in his families designated plot; and it is further

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

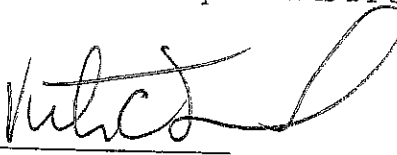
ORDERED that, after the probationary period has expired, the Respondent may submit a written petition to the Board requesting termination of probation. The Board will grant the request if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions, including 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

⁹ The effective date is the date of Board acceptance.

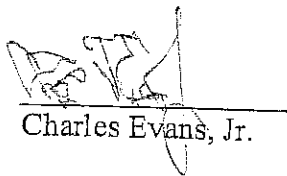
CONSENT

I, Charles Evans, Jr., License Number M00192, by signing this Consent agree to the Reprimand ordered by the foregoing Pre-Charge Consent Order of Reprimand 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 of Reprimand 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 of Reprimand with my attorney and sign it voluntarily, understanding its terms, meaning and effect.

May 20 14
Date



Charles Evans, Jr.

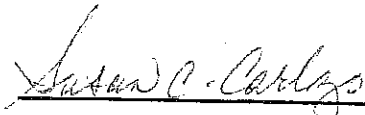
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF HARFORD

I HEREBY CERTIFY that on this 24~~th~~ day of MAY, 2014, before me, a Notary Public of the State of Maryland and the City/County aforesaid, personally appeared Charles Evans, Jr. 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.



Notary Public

My Commission Expires: 5/23/17