

IN THE MATTER OF

DOROTA W. MARSHALL

LICENSE NUMBER: M01484

DOROTA W. MARSHALL, P.A.
T/A MARYLAND CREMATION SERVICES

LICENSE NUMBER: E00452

MARYLAND CREMATION SERVICES
BY DOROTA W. MARSHALL, P.A.

LICENSE NUMBER: E00490

RESPONDENTS

* BEFORE THE STATE
* BOARD OF MORTICIANS
* AND FUNERAL DIRECTORS
* CASE NUMBER: 13-033

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ORDER LIFTING SUMMARY SUSPENSION AND PRE-CHARGE CONSENT ORDER

Procedural Background

On November 9, 2012, the State Board of Morticians and Funeral Directors (the "Board") issued an Order Summarily Suspending the license of Dorota W. Marshall, License Number M01484 (D.O.B. 06/23/1976), to practice mortuary science in the State of Maryland. In addition, on November 9, 2012, the Board also issued Orders summarily suspending the licenses of Dorota W. Marshall, P.A. T/A Maryland Cremations Service, License Number E00452, and Maryland Cremations Services by Dorota W. Marshall, P.A., License Number E00490, hereinafter, the "Respondents."

The Board took such action pursuant to its authority under Md. State Gov't Code Ann. ("S.G.") § 10-226(c) (2009 Repl. Vol. and 2012 Supp.) concluding that the public health, safety or welfare imperatively required emergency action. The Board scheduled

a show cause hearing for November 14, 2012 to permit the Respondents an opportunity to be heard.

On November 14, 2012, the Board heard oral argument from the Respondents and the State. The Respondents denied the facts in the Investigative Findings. In addition, on November 14, 2012, the Respondents were informed that the Board intended to issue disciplinary charges against the Respondents under Health Occ. § 7-316(a) & (b) of the Maryland Morticians and Funeral Directors Act (the "Act") under the same facts as contained in the Investigative Findings in the Orders of Summary Suspension.

As a result of negotiations between the parties and with the Board, the parties and the Board agree to resolve the outstanding Orders for Summary Suspension and the pending disciplinary charges under the same facts, as follows.

FINDINGS OF FACT

Based on the information received by, and made known to the Board, and the investigatory information obtained by, and available to the Board, including the instances described below, the Board makes the following findings of fact:

I. Background

1. One of the Respondents, Dorota Marshall, was initially licensed to practice mortuary science in the State of Maryland under license number M01484 on September 10, 2008. The Respondent last renewed her license on March 26, 2012, which will expire on April 30, 2014.

2. On September 10, 2008, the Respondent also obtained a restricted funeral establishment license in the name of Dorota W. Marshall, P.A. T/A Maryland

Cremation Services (license number E00452), which will expire on November 30, 2012. This restricted practice is located at Funeral Establishment A in Baltimore, Maryland. Under a written agreement of August 8, 2008 with Funeral Establishment A, the Respondent may use the facility for cremation identification and storage.

3. On July 13, 2011, the Respondent obtained a second restricted funeral establishment license in the name of Maryland Cremation Services by Dorota W. Marshall, P.A. (license number E00490), which will expire on November 30, 2012. This restricted funeral establishment license is located at 408 Headquarters Drive, Suite 10, Millersville, Maryland (Funeral Establishment B). The Respondent may use the facility for all mortuary services except that she may not embalm since the facility does not have a "prep" room. The Respondent does not have refrigeration at Funeral Establishment B.

II. Complaint

4. On or about October 4, 2012, the Board received a telephone complaint regarding Maryland Cremation Services from the son of a decedent ("Decedent A"). Decedent A's son, who resides in North Carolina, spoke with the Investigator for the Board and stated that several days prior to his mother's death, he contacted the Respondents to make final arrangements for his mother whose death was imminent. Decedent A's son stated that his mother died on September 21, 2012. Thereafter he notified the Respondents and then received a number of forms from the Respondents by electronic mail to be signed and returned, which he did. Decedent A's son had several telephone conversations with the Respondents. After the cremation of his mother, the Respondents requested Decedent A's son to sign an additional form which

would authorize identification of a deceased person by use of a photograph. Decedent A's son stated that he refused to sign this additional form because the cremation had already occurred. Decedent A's son understood that the Respondents would not send his mother's cremains until the form was signed. Decedent A's son had already paid in full for the cremation services. Decedent A's son expressed concern to the Investigator that he was never going to receive his mother's cremains or that the cremains would be destroyed.

5. The Investigator advised Decedent A's son to submit a written complaint to the Board with supporting documentation.

6. On October 4, 2012, the Board received by facsimile a written complaint from Decedent A's son confirming the information he had provided verbally and attaching a number of forms that he received from the Respondents.

7. Subsequently, the Board initiated an investigation of the Complaint.

III. Investigation

8. On October 11, 2012, the Board issued a subpoena to the Respondents requiring them to produce "the cremains of [Decedent A] date of death 09/21/12, cremation certificate for [Decedent A], and original certified death certificate for [Decedent A]."

9. On October 11, 2012, the Board issued a subpoena to Crematory A for "all records to include the original cremation authorization relating to [Decedent A], date of death 09/21/12. In addition, the Board required a copy of the retort log for the cremation of [Decedent A]."

10. On or about October 21, 2012, Crematory A provided the Investigator a

"Cremation Activity Report" (the "Report"). According to the Report, the cremation of Decedent A, a female, started on September 26, 2012 at 6:30 am, ended at 10:14 am. The processing and disposition date and time was September 26, 2012 at 12 noon.

11. Crematory A also provided a retort log. A handwritten comment on the log stated that Decedent A's remains were dropped off at [Crematory A] on September 22, 2012 at 9:30 pm, by a removal service.

12. Decedent A's remains was sheltered at Crematory A from September 22, 2012, 9:30 pm until September 26, 2012, 6:30 am, when the cremation began.

13. On October 17, 2012, the Investigator personally served the Board's subpoena on the Respondents. The Respondents refused to provide the Investigator with the cremains.

14. On October 18, 2012, the Respondents hand-delivered Decedent A's cremains to the Board in a copper colored urn with identifying information on the bottom, certified death certificates of Decedent A, and the cremation certificate from Crematory A, pursuant to the Board's subpoena.

15. On or about October 18, 2012, the Board mailed Decedent A's cremains and the certified death certificates to Decedent's A's son.

IV. Specific Findings

16. On September 21, 2012, at 8:10 am, Decedent A, died in an inpatient unit in a hospital in southern Maryland.

17. On September 21, 2012, the adult son of Decedent A, who resides in North Carolina, contacted Maryland Cremation Services, owned by the Respondent, to arrange for cremation of Decedent A, his mother. The son had a previous telephone

conversation with the Respondents regarding arrangements for cremation, prior to the death of his mother.

18. On September 21, 2012, Decedent A's son received forms from Maryland Cremation Services by electronic mail, which he subsequently returned to the Respondents on September 22, 2012.

19. One of the forms, an "Authorization for Cremation," contains an "Identification After Death" section, attesting that the decedent had been properly identified in accordance with applicable law. This section was returned, unsigned.

20. The "Cremation Authorization" section was signed by Decedent A's son, dated September 21, 2012.

21. Dorota Marshall signed the Authorization for Cremation as the "Funeral Director." Dorota Marshall's signature was undated.

22. Decedent A's son completed and returned a "Death Certificate Information" form, which included the selection of a bronze sealed urn. The form requested information about "next of kin." Decedent A's son listed, in addition to himself, a son who lives in La Plata, Maryland, a son who lives in Belmar, New Jersey, and a daughter. Decedent A's son did not provide an address for the daughter but did provide a telephone number.

23. Decedent A's son completed, signed and returned an "Authorization for Removal of Remains From Place of Death" permitting Maryland Cremation Services to remove the body of Decedent A from the hospital.

24. Decedent A's son completed, signed, and returned an "Authorization for Identification for the Purpose of Cremation" which is to be signed "in case the closest

next of kin is not present at the nursing home/home/hospice when Maryland Cremation Services picks up the decedent." Decedent A's son signed the form on September 21, 2012, authorizing the staff of the hospital to make positive identification of the body. However, the form is not signed by a witness; and there is no positive in-person identification of Decedent A by a member of the hospital staff.

25. Decedent A's son received from Maryland Cremation Services a "Statement of Funeral Goods and Service Selected" (the Statement"), which listed \$875.00 for the "Direct Cremation Package." The "grand total" under the contract is for \$951.00 but there are no additional services or merchandise which are itemized on the Statement. The Statement does not contain the name of the "purchaser" or the name of the "licensed mortician."

26. On September 22, 2012, Decedent A's son sent the above listed forms by facsimile to Maryland Cremation Services. On the same date, Decedent's son sent a check to Maryland Cremation Services, which was subsequently cashed.

27. On September 22, 2012, the Respondents arranged for Decedent A's body to be transported to Crematory A.

28. On September 26, 2012, between 6:30 am and 10:14 am, Decedent A's body was cremated at Crematory A.

29. On September 26, 2012, Decedent A's son received an electronic mail from Maryland Cremation Services which stated they needed him to "ID a picture." Attached to the electronic mail was a form "concerning the authority to identify the decedent."

30. On September 27, 2012, Decedent A's son signed the form stating that he

"had no doubt or reservation that the remains identified are those of [Decedent A." Decedent A's son returned the form to the Respondent by facsimile on September 27, 2012.

31. On October 3, 2012, Decedent A's son received an electronic mail from the Respondent stating:

To follow up on our yesterday's conversation, we are missing the Authorization to Transfer Images. Please fax the missing form, as we are ready to mail the ashes today.

32. On October 3, 2012, Decedent A's son sent a response by electronic mail stating:

You have already told me several times that you had all the documents you needed and keep adding more after the fact! Please stop this non-sense and mail the certificates and ashes as you said you were three times thus far!! Why do you need permissions (sic) for things you have already done? I'm tired of going out to find fax machines and re-experiencing this over and over again!

33. On October 3, 2012, the Respondent responded to Decedent A's son, stating:

I am very sorry for the inconvenience our paperwork has caused you. The document was emailed to you as apart (sic) of identification packet. As you faxed us the identification we assumed that you faxed both documents.

I am sure you understand that we are not only required by law to have all documents properly executed but also, we need to protect the integrity of the process.

Please kindly sign the required document and kindly email or fax back to us as soon as possible.

34. Decedent A's son did not sign the Authorization to Transfer Images form.

35. On October 4, 2012, Decedent A's son contacted the Board, spoke with the Investigator, and filed the written Complaint.

V. Summary of Investigative Findings

36. The public health, safety, and welfare imperatively required emergency action in that the Respondents:

- a. Arranged for the cremation of a dead human being, who may have been Decedent A, prior to Decedent A being identified by the next of kin or by a person who is authorized to arrange for final disposition of the body, in violation of Health-General Article § 5-502;
- b. Arranged for the cremation of Decedent A without the confirmation in writing that all of the other adult children of Decedent A have been notified, in violation of Health-General Article § 5-509(d);
- c. Requested Decedent A's son, after the cremation of Decedent A, to identify Decedent A for purposes of cremation;
- d. Arranged for Decedent A, an unembalmed body, to be sheltered and stored at Crematory A for more than 48 hours without refrigeration;
- e. Refused to surrender custody of the cremains of Decedent A to Decedent A's son until 22 days after cremation; and
- f. Refused to provide Decedent A's son with certified death certificates for nearly four weeks after the death of Decedent A.

CONCLUSIONS OF LAW

Based on the foregoing investigative findings, the Board concludes that the public health, safety, and welfare does not imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2), provided the Respondents comply with the conditions as Ordered by the Board.

The Board further concludes that the Respondents violated Health Occ. §§ 7-316(a)(b)(18) (violates any provision of this title or of the laws relating to cremation).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this

14TH day of NOVEMBER 2012, by a majority of the Board:

ORDERED that the **ORDERS OF SUMMARY SUSPENSION** of November 9, 2012, pertaining to the licenses issued to the Respondents to practice mortuary science in the State of Maryland under license number M01484 and the establishment licenses issued to the Respondents under license numbers E00452 and E00490 shall be **LIFTED**; and be it further,

ORDERED that the licenses issued to the Respondents to practice mortuary science in the State of Maryland under license number M01484 and the establishment licenses issued to the Respondents under license numbers E00452 and E00490 are hereby placed on **PROBATION** for a minimum of **ONE (1) YEAR**, effective the date of this Order is signed, subject to the following terms and conditions:

1. Within five (5) days of the date of the Order, the Respondents shall send to the son of Decedent A, without charge, three copies of the corrected death certificate of Decedent A;
2. Within five (5) days of the date of the Order, the Respondents shall send to the son of Decedent A, a check or money order for forty dollars (\$40.00) for reimbursement of the son's payment for shipping of the cremains of Decedent A;
3. Within thirty (30) days of the date of this Order, the Respondents shall make an anonymous donation to the Family Security Trust Fund in the amount of one thousand five hundred dollars (\$1500.00);
4. The Respondents shall store all human bodies for which Dorota Marshall has made funeral arrangements at a funeral establishment where Dorota Marshall is legally authorized to store human bodies;
5. The Respondents shall refrain from transporting any human body to a crematory for cremation prior to obtaining positive identification of the human body according the requirements of the Act and Health-General Article, Subtitle 5;

6. The Respondents 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 any violation of the terms and conditions of the Order shall constitute an act of unprofessional conduct in the practice of mortuary science in violation of Health Occ. § 7-316 (a)(26) and (b)(1), in addition to any other applicable grounds under the Act, and it further


ORDERED that no earlier than **one (1) year** from the effective date of this Order, the Respondents may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board. The Board will grant the termination if the Respondents have fully and satisfactorily complied with all of the probationary terms and conditions and there are no new complaints since the date of this Order; and be it further

ORDERED that this Order fully and completely resolves all issues and charges pending against the Respondents pertaining to Case Number 13-033;

ORDERED that this Order Lifting Summary Suspension and Precharge Consent Order is a PUBLIC DOCUMENT as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

Date

11/28/12


Dr. Hari P. Close, President
Maryland Board of Morticians and Funeral Directors

CONSENT

I, Dorota W. Marshall, License Number M01484, and on behalf of Maryland Cremations Services, License Number E00452 and Maryland Cremation Services by Dorota W. Marshall, P.A., License Number E00490, by signing this Consent, agree to be bound by the terms and conditions of the foregoing Order Lifting Summary Suspensions and Pre-Charge Consent Order.

By signing this Consent, I submit to its terms and conditions of the Order Lifting Summary Suspensions and Pre-charge Consent Order as a resolution to these matters and waive my right to contest the terms and findings herein and all challenges legal or otherwise to the proceedings before the Board.

I acknowledge the validity and enforceability of this Order Lifting Summary Suspensions and Pre-Charge Consent Order as if it were made 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 Order Lifting Summary Suspensions and Pre-Charge Consent Order with an attorney of my choice and sign it voluntarily, understanding its terms, meaning and effect.

11/28/12
Date


Dorota W. Marshall

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this day of November²⁸, 2012, before me, a Notary Public of the State of Maryland and the City/County aforesaid, personally appeared Dorota W. Marshall, license number M01484 and made oath in due form of law that the foregoing Consent was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Keith A. Rosenbaum

Notary

Public My Commission Expires: 11/7/2015

