

IN THE MATTER OF
DOROTA W. MARSHALL, P.A.
T/A MARYLAND CREMATION SERVICES

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

LICENSE NUMBER: E00452
Respondent

* CASE NUMBER: 13-033

* * * * *

ORDER FOR SUMMARY SUSPENSION

The State Board of Morticians and Funeral Directors (the "Board") hereby **SUMMARILY SUSPENDS** the license of **DOROTA W. MARSHALL, P.A. T/A MARYLAND CREMATION SERVICES** (the "Respondent"), License Number **E00452**, to operate a funeral establishment in the State of Maryland. The Board takes 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 requires emergency action.

INVESTIGATIVE FINDINGS¹

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 has reason to believe that the following facts are true:

I. **Background**

1. On September 10, 2008, the Respondent was initially licensed as a funeral establishment with restrictions in the State of Maryland under license number

¹ The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

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.

2. The owner of the establishment is Dorota W. Marshall who is a licensed mortician under license M01484. Dorota W. Marshall last renewed her mortuary science license on March 26, 2012, which will expire on April 30, 2014.

3. On July 13, 2011, Dorota W. Marshall 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. The funeral establishment may provide all mortuary services except that it may not embalm since the facility does not have a "prep" room.

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 Respondent 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 Respondent and then received a number of forms from the Respondent by electronic mail to be signed and returned, which he did. Decedent A's son had several telephone conversations with the Respondent. After the cremation of his mother, the

Respondent 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 Respondent 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 who stated that on September 21, 2012, he contacted Maryland Cremation Services. Later, on the same date, Decedent A's son received forms from Maryland Cremation Services by electronic mail. Decedent A's son stated that on September 22, 2012, he sent several forms by facsimile and mailed a check to Maryland Cremation Services. Decedent A's son received confirmation of the receipt of the forms and was advised that "they would take care of it." Decedent A's son further stated that on September 26, 2012, he received an electronic mail which stated they needed him to "ID (identify) a picture." Decedent A's son stated that he signed the form which identified the person in the picture and returned it on September 27, 2012. Decedent A's son stated further that on October 3, 2012, he received an "email" stating that they could not send him his mother's ashes without a "consent to send images." Decedent A's son complained that "Three times by phone, I was told that the Death

Certificates and ashes would be sent the next day. I'm still waiting!" Decedent A's son attached to his Complaint the documents which he received from the Respondent.

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

III. Investigation

8. On October 11, 2012, the Board issued a subpoena to the Respondent requiring her 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 Respondent. The Respondent refused to provide the Investigator with the cremains.

14. On October 18, 2012, the Respondent 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. The "Certificate of Death," which is signed by the Respondent, states that Decedent A was cremated at Crematory A on September 25, 2012.

16. To date, the Respondent has not filed an amended Certificate of Death to correct the date of cremation to September 26, 2012, to be consistent with the date of cremation that was provided by Crematory A.

17. 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

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

19. 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.

20. On September 21, 2012, Decedent A's son received a number of forms from Maryland Cremation Services by electronic mail.

21. 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 not signed.

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

23. The Respondent signed the Authorization for Cremation as the "Funeral Director." The Respondent's signature was undated.

24. 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.

25. 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.

26. 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.

27. Decedent A's son signed and returned an "F.T.C. Disclosure/Disclaimer Form" acknowledging that Maryland Cremation Services complied with FTC requirements.

28. 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."

29. 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.

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

31. On September 27, 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." The form contained a black and white, dark, shadowy, grainy photograph of the head of a person.

32. 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 on September 27, 2012.

33. 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.

34. 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!

35. 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.

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

37. 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

38. The public health, safety, and welfare imperatively requires emergency action in that the Respondent:

- a. Arranged for and ordered 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 and ordered 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 by sending the son by electronic mail a black and white, dark, shadowy, grainy photograph of the head of what appears to be a human being;
- d. Arranged for Decedent A, an unembalmed body, to be sheltered and stored 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 imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 9 day of Nov 2012, by a majority of the Board:

ORDERED that the license issued to the Respondent to operate as a funeral establishment in the State of Maryland under license number E00452 is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent is prohibited from operating as a funeral establishment in the State of Maryland; and it is further

ORDERED that a post-deprivation hearing on the Summary Suspension has been scheduled for **Wednesday, November 14, 2012 at 9:15 a.m.** at the State Board of Morticians and Funeral Directors, 4201 Patterson Avenue, Baltimore, Maryland 21215; and be it further

ORDERED that the Respondent shall immediately return all funeral establishment licenses to the Board; and it is further

ORDERED that this **ORDER FOR SUMMARY SUSPENSION** is a **PUBLIC DOCUMENT** as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

Date

11/9/12



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