

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH
HEALTH SERVICES REGULATION
BOARD OF FUNERAL DIRECTORS/EMBALMERS

VS.

FILE NO. FD/EMB C12-712

DAVID POISSON (License No. EMB801130)

CONSENT ORDER

David Poisson (hereinafter "Respondent") is a licensed Funeral Director/Embalmer in Rhode Island pursuant to R.L. Gen. Laws 5-332 *et seq.*, License No. EMB801130. The Department of Health, Health Services Regulation, Board of Funeral Directors/Embalmers (hereinafter the "Board"), received a complaint filed by a family member of a decedent (hereinafter the "Decedent") concerning the professional activities of Respondent. An investigation was undertaken concerning this complaint and, thereafter, the Board made the following:

FINDINGS OF FACT

1. Respondent is a Funeral Director/Embalmer who has been licensed in Rhode Island since May 9, 1997. At all relevant time, he was employed by a Rhode Island licensed Funeral Home (hereinafter the "Funeral Home").
2. In August of 2012, Respondent failed to embalm or refrigerate the body of the Decedent within forty-eight hours of death. As a result, the Decedent's body could not be in the church for his funeral.
3. Respondent acknowledges that R.I.G.L. §5-33.2-12 and Rules and Regulations Pertaining to Embalmers, Funeral Directors and Funeral Service Establishments, Section 13.2 requires that human remains not be held more than forty-eight (48) hours without embalming or refrigerating. Respondent acknowledges that he failed to comply with this provision of the statute and regulation.
4. Respondent's explanation for his failure to comply with the above regulation was that he had post-concussive syndrome resulting from a brutal assault he

suffered in March of 2012. The three individuals who caused his injuries were each convicted of assault.

5. Following the incident involving the Decedent's funeral, Respondent received medical treatment for memory impairment, post-concussive syndrome and post-traumatic headaches and was closely supervised by his employer with certain restrictions. Respondent was subsequently cleared to return to work without supervision or restrictions as of December 3, 2012 by his treating neurologist.
6. No further incidents or complaints have been brought to the Board's attention from the date of the incident to the date hereof.

Based on the foregoing, the parties agree as follows:

1. Respondent admits to all jurisdictional facts.
2. Respondent hereby acknowledges and waives:
 - a. The right to appear personally or by counsel or both before the Administrative Hearing Officer ("AHO");
 - b. The right to produce witnesses and present evidence on his behalf at a hearing;
 - c. The right to cross-examine witnesses;
 - d. The right to have subpoenas issued by the AHO;
 - e. The right to further procedural steps before the AHO except for those specifically contained herein;
 - f. Any and all rights of appeal of this Consent Order;
3. Respondent acknowledges that he failed to comply with R.I.G.L. §5-33.2-12 and Rules and Regulations Pertaining to Embalmers, Funeral Directors and Funeral Service Establishments, Section 13.2.
4. The Board members acknowledge that evidence of mitigating factors was presented to them during the course of the investigation.

5. The Board imposes probation for a two-year period¹.
6. Respondent agrees that if he should again experience cognitive difficulties in the future he will promptly and fully report the same to his employer and to the Board and abide by any restrictions which the Board sees fit to impose in regard thereto. Should Respondent fail to comply with these conditions, he shall be subject to sanction.
7. This Consent Order is enforceable as an order of the Rhode Island Department of Health in accordance with procedures prescribed by law.

Signed this 2nd day of October, 2014



David Poisson

Ratified by the Department of Health, Health Services Regulation, Board of
Funeral Directors/Embalmers on the 14 day of November, 2014.



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¹ Such period of probation is retroactive to September 9, 2012 and is considered complete.