

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
CHERYL L. SHILTS, :
RESPONDENT. :

ORDER 0007091

Division of Legal Services and Compliance Case Nos. 16 FDR 020, 19 FDR 010,
and 19 FDR 014

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Cheryl L. Shilts
Milwaukee, WI 53212

Wisconsin Funeral Directors Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Funeral Directors Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Cheryl L. Shilts (Birth Year 1961) is licensed by the State of Wisconsin as a funeral director, having license number 5256-77, first issued on February 2, 1998 and expired as of December 15, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Milwaukee, Wisconsin 53212.

2. Respondent Cheryl L. Shilts was identified as the responsible licensee at JD Davis Funeral Home from February 22, 2016 through April 12, 2018.

Case No. 16 FDR 020

3. On September 8, 2016, the Department received a complaint alleging that Respondent had performed an inadequate embalming. Division of Legal Services and Compliance (DLSC) Case Number 16 FDR 020 was subsequently opened for investigation.

4. On August 22, 2016, Complainant's son passed away.

5. On August 25, 2016, Respondent allowed the unlicensed funeral home owner to make funeral arrangements.

6. On August 26, 2016, Respondent picked up the body of the deceased from the medical examiner's office.

7. On August 30, 2016, Respondent's funeral home held a viewing of the deceased for Complainant and held the funeral for the deceased later the same day.

8. Complainant stated that the building where the viewing and funeral were held was extremely hot, that there was a bad smell and flies near the body, that there was netting in place over the body to keep the flies away, that the deceased's arm was sticking up and not resting properly on the body, that fluid was leaking from the deceased's eye, and that the body was so bloated that it was unrecognizable to family and friends.

9. Respondent stated that the deceased was difficult to embalm due to the cause of death and the number of people at the funeral exceeded the estimated amount.

10. On November 21, 2016, Department investigators performed an investigation of Respondent's preparation room. The investigation found dried blood on the preparation room table, and found a Styrofoam head block, scalpel, and folding blade on the floor near the basin.

11. On December 18, 2017, the owner of the funeral home, JD Davis, signed and returned the Notice of Compliance, listing Respondent as the only licensed funeral director.

12. Between January and June 2017, a Department investigator contacted 16 witnesses who had attended the deceased's funeral. Of those witnesses, 13 recalled smelling an unidentifiable odor at the viewing of the deceased's body. All 16 witnesses stated it was hot in the funeral home and felt like the air conditioning was not on. Six witnesses remembered seeing fluids coming out of the deceased's eyes, six saw bugs near the casket, and 14 stated the body was extremely swollen and did not look like the deceased. Eight witnesses remembered seeing someone from Respondent's employer at the viewing, but only one witness remembered seeing someone resembling Respondent at the service. Eight witnesses do not remember any representatives from Respondent's employer at the viewing.

Case No. 19 FDR 010

13. During the investigation of a separate matter, DLSC became aware of an allegation that Respondent had performed an inadequate embalming. DLSC Case Number 19 FDR 010 was subsequently opened for investigation.

14. On November 29, 2016, Respondent performed embalming services on the deceased's body.

15. On December 14, 2016, the deceased's body was transferred to another funeral home (K.F.H.) where funeral services were to be performed.

16. The responsible licensee for K.F.H. stated that the deceased's body was purging blood from the eyes, nose, ears, and mouth; had a swollen face and eye, indicating too much pressure when arterially embalming the head; the body was flaccid; there was a bandage on the ankle and foot soaked in blood; the body appeared to have dirt on its feet; and failure to treat edema. The responsible licensee for K.F.H. stated that the deceased's body "was not in accordance to normal embalming standards," and that the staff was unable to properly "combat the edema, preserve the body or properly disinfect" the deceased's body.

17. On October 16, 2019, the Department sent a letter to Respondent's last address on file with the Department. Respondent did not reply.

Case No. 19 FDR 014

18. On July 17, 2019, the Department received a self-reported complaint from Respondent disclosing that Respondent had been convicted of false imprisonment, party to a crime (PTAC). DLSC Case Number 19 FDR 014 was subsequently opened for investigation.

19. On April 18, 2017, Respondent entered another person's residence and took items from the residence while an accomplice held up the residence's owners with a BB gun.

20. On August 8, 2018, Respondent was convicted of False Imprisonment – PTAC, as a Party to a Crime, a class H felony. Respondent was sentenced to a house of corrections for 12 months with Huber release for treatment.

21. On August 20, 2019, the Department mailed a letter to Respondent at her address of record with the Department to request additional information regarding the complaint. The Department did not receive a response.

22. On September 11, 2019, the Department mailed a letter to Respondent at her address of record with the Department to request additional information regarding the complaint. The Department did not receive a response.

23. On February 5, 2020, a Department investigator spoke to Respondent by phone and obtained her current mailing address.

24. On February 6, 2020, the Department mailed a letter to Respondent at the address Respondent had provided to request additional information regarding the complaint. The Department did not receive a response.

25. On February 24, 2020, the Department mailed a certified letter to Respondent at the address Respondent had provided to request additional information regarding the complaint. The Department did not receive a response.

26. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 445.13, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 440.08(3), Respondent Cheryl L. Shilts retains the right to renew her funeral director license until December 14, 2024.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § FD 2.10(1) by failing to maintain the preparation room, equipment, instruments and supplies in a funeral establishment in a clean and sanitary condition in violation of Wis. Admin. Code § FD 3.02(2).

4. By the conduct described in the Findings of Fact, Respondent has demonstrated unprofessional conduct pursuant to Wis. Admin. Code § FD 3.02(6) by performing the services of embalming in a manner which falls below minimal standards established by statute, rule or practice in the profession.

5. By the conduct described in the Findings of Fact, Respondent has demonstrated unprofessional conduct pursuant to Wis. Admin. Code § FD 3.02(10) by failing to demonstrate respect for the sanctity of human remains or for the feelings of individuals involved in the grieving process.

6. By the conduct described in the Findings of Fact, Respondent has demonstrated unprofessional conduct pursuant to Wis. Admin. Code § FD 3.02(1) by violating or aiding and abetting a violation of a state or federal law substantially related to the practice of funeral directing.

7. By the conduct described in the Findings of Fact, Respondent has demonstrated unprofessional conduct pursuant to Wis. Admin. Code § FD 3.02(5) by refusing to comply with a duly authorized request for information by the board within 30 days of the request.

8. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 4.09(2) by failing to notify the Department of her conviction of a felony or misdemeanor within 48 hours after the entry of the judgment of conviction.

9. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 445.13(1).

ORDER

1. The attached Stipulation is accepted.

2. The VOLUNTARY SURRENDER of the right to renew the funeral director license of Respondent Cheryl L. Shilts (number 5256-77) is hereby ACCEPTED.

3. Respondent may petition the board for reinstatement after a period of two (2) years.

4. In the event Respondent petitions the Funeral Director Examining Board for reinstatement as a funeral director in the future, the Board may enter an order denying such an application without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license shall be in the discretion of the Board.

5. In the event Respondent petitions for reinstatement, Respondent shall pay to the Department of Safety and Professional Services the costs of this proceeding in the amount of \$4,135.00, pursuant to Wis. Stat. § 440.22(2).

6. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Or they may be submitted online via the Department's Monitoring Case Management System at

<https://dspsmonitoring.wi.gov/>

7. This Order is effective on the date of its signing.

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

by:

Marc Emmerich / c.a.
A Member of the Board

11/17/2020

Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
CHERYL L. SHILTS, :
RESPONDENT. :

ORDER 0007091

Division of Legal Services and Compliance Case Nos. 16 FDR 020, 19 FDR 010,
and 19 FDR 014

Respondent Cheryl L. Shilts and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:


1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondent;
 - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
 - the right to testify on Respondent's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Funeral Directors Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is

not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

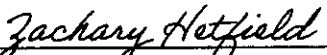
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Cheryl L. Shilts, Respondent
Milwaukee, WI 53212
Credential No. 5256-77

OCT 27 2020
Date



Zachary Hetfield, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

11/2/2020
Date