

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS J. BUSHA, JOSEPH P. BUSHA, AND
GAFFNEY-BUSHA FUNERAL HOME INC.,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER
:
:
:

ORDER 0007571

Division of Legal Services and Compliance Case No. 18 FDR 001

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

Thomas J. Busha
Eagle River, WI 54521

Joseph P. Busha
Eagle River, WI 54521

Gaffney-Busha Funeral Home Inc.
Eagle River, WI 54521

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 Thomas J. Busha (Birth Year 1949) is licensed by the State of Wisconsin as a funeral director, having license number 4027-77, first issued on January 22, 1974 and current through December 14, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Eagle River, Wisconsin 54521.

2. Respondent Joseph P. Busha (Birth Year 1973) is licensed by the State of Wisconsin as a funeral director, having license number 5391-77, first issued on July 20, 2000 and current through December 14, 2021. Respondent's most recent address on file with the Department is in Eagle River, Wisconsin 54521.

3. Respondent Gaffney-Busha Funeral Home Inc. is permitted by the State of Wisconsin as a funeral establishment, having permit number 2071-78, first issued on November 1, 1995 and current through May 31, 2023. Respondent's most recent address on file with the Department is in Eagle River, Wisconsin 54521.

4. Respondent Thomas J. Busha is identified in Department records as the responsible licensee in charge of Respondent Gaffney-Busha Funeral Home Inc.

5. On February 16, 2018, the Department received a complaint alleging that Respondents had performed improper cremations. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 18 FDR 001 for investigation.

6. On August 14, 2019, the Department performed an inspection of Respondent Gaffney-Busha Funeral Home Inc.

7. On August 15, 2019, the Department mailed a letter to Respondents containing a Notice of Compliance Form, an Inspection Report, and an explanation of the following violations that were revealed during the inspection:

- a. the ceiling tiles in the embalming room needed to be replaced;
- b. the wood that held the embalming tools appeared to have mold, stains, dirt, or debris on the wood;
- c. a trocar and drain tube were in a bucket on the floor with a squeegee used to push body fluid to the floor drain;
- d. the sink vanity had a decorative piece of wood with lines and holes in it so bodily fluid could get through the wood piece and possibly contaminate items stored under the sink;
- e. protocols for safe handling of bodies with radioisotopes were not available when requested; and
- f. decedent clothing would be returned to family if requested, clothing is not disinfected or sanitized prior to returning to family even if it was soiled.

8. On August 26, 2019, the Department received a response to its August 15, 2019 letter. The response included a signed Notice of Compliance form, a signed Inspection Form, and photos showing that the violations had been corrected.

9. In resolution of this matter, Respondents consent 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. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § FD 2.10(1) by failing to keep all preparation rooms, equipment, instruments and supplies in funeral establishments in a clean and sanitary condition.
3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § FD 2.10(2) by failing to keep all preparation rooms, equipment, instruments and supplies in compliance with the terms and conditions set forth by OSHA.
4. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § FD 3.02(2) by violating any of the standards of practice set forth in ch. FD 2.
5. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § FD 3.02(6) by performing embalming in a manner which falls below the minimal standards established by statute, rule or practice in the profession pursuant to Wis. Admin. Code § DHS 136.04(2).
6. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. §§ 445.13(1) and 445.105(4).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Thomas J. Busha is REPRIMANDED.
3. Respondent Joseph P. Busha is REPRIMANDED.
4. Respondent Gaffney-Busha Funeral Home Inc. is REPRIMANDED.
5. Respondent Thomas J. Busha's funeral director license (no. 4027-77) is LIMITED as follows:
 - a. Within sixty (60) days of the date of this Order, Respondent shall successfully complete education on the topic of proper preparation room procedures from a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam(s) offered for the course(s).
 - b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
 - c. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements with the Board.

6. Respondent Joseph P. Busha's funeral director license (no. 5391-77) is LIMITED as follows:

- a. Within sixty (60) days of the date of this Order, Respondent shall successfully complete education on the topic of proper preparation room procedures from a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam(s) offered for the course(s).
- b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- c. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements with the Board.

7. Within ninety (90) days from the date of this Order, Respondent Thomas J. Busha shall pay one-third of the COSTS of this matter in the amount of \$1,087.

8. Within ninety (90) days from the date of this Order, Respondent Joseph P. Busha shall pay one-third of the COSTS of this matter in the amount of \$1,087.

9. Within ninety (90) days from the date of this Order, Respondent Gaffney-Busha Funeral Home Inc. shall pay one-third of the COSTS of this matter in the amount of \$1,087.

10. Requests for pre-approval, proof of successful course completion, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondents 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

You may also submit this information online via DSPS' Monitoring Case Management System at: <https://dspsmonitoring.wi.gov/>

11. In the event Respondents violate any term of this Order, Respondents' credentials (numbers 4027-77, 5391-77, and 2071-78), or Respondents' right to renew their credentials, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

by: Maureen A. Gervase
A Member of the Board

8/31/2021
Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS J. BUSHA, JOSEPH P. BUSHA, AND
GAFFNEY-BUSHA FUNERAL HOME INC.,
RESPONDENTS.

STIPULATION

ORDER 0007571

Division of Legal Services and Compliance Case No. 18 FDR 001

Respondents Thomas J. Busha, Joseph P. Busha, and Gaffney-Busha Funeral Home Inc. and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

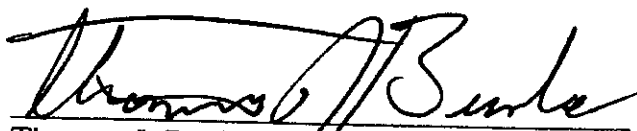
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:
 - the right to a hearing on the allegations against Respondents, 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 Respondents;
 - the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
 - the right to testify on Respondents' 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 Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondents are represented by attorney Michael Sharkey.
4. Respondents agree 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. Respondents waive 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 Respondents, 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.

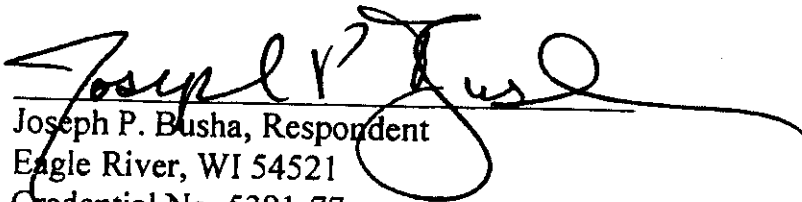
7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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



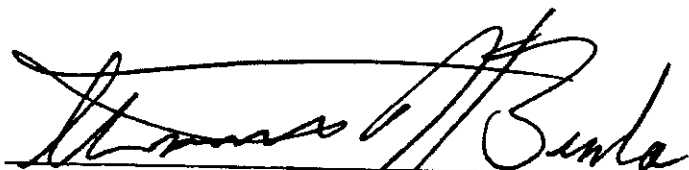
Thomas J. Busha, Respondent
Eagle River, WI 54521
Credential No. 4027-77

7-2-21
Date



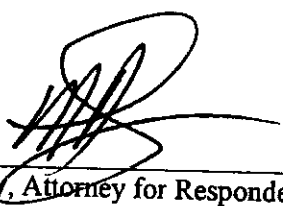
Joseph P. Busha, Respondent
Eagle River, WI 54521
Credential No. 5391-77

7/2/2021
Date



Gaffney-Busha Funeral Home Inc., Respondent
By: Thomas J. Busha, Responsible Licensee
Eagle River, WI 54521
Credential No. 2071-78

7-2-21
Date



Michael Sharkey, Attorney for Respondents
12800 Whitewater Dr.
Minneapolis, MN 55343

7/6/21
Date



Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/7/2021
Date