

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR
RENEWAL OF A FUNERAL DIRECTOR
APPRENTICE CREDENTIAL

MAXWELL BUDNIK,
APPLICANT.

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ORDER GRANTING
LIMITED LICENSE

ORDER 0008865

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

Maxwell Budnik
Port Washington, WI 53074

Funeral Directors Examining Board
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the resolution of this renewal application. The Funeral Directors Examining Board (Board) adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Maxwell Budnik (DOB 11-23-2000) (Applicant) filed a timely application to renew his Funeral Director Apprentice credential (#5595-700).

2. Information on file establishes:

A. On or about December 20, 2021 – Applicant pled guilty to an Operating While Intoxicated – 1st Offense, an ordinance, in Ozaukee County, Wisconsin case 21 TR 3344.

i. According to reports from the Ozaukee County Sheriff's office, on or about December 18, 2021 at 4:50 PM, a citizen witness observed Applicant driving "all over the road" and called police. Police located Applicant's vehicle and observed further erratic driving, including deviating from the lane of travel, crossing the fog line, and swerving near the centerline near oncoming cars. Officers performed a traffic stop. Applicant moved slowly and his speech was slurred. Applicant denied drinking or drug use. Applicant told officers "multiple times" that he was coming from his job at the funeral home. Applicant failed

sobriety tests and blew a preliminary breath test (PBT) of .161. A subsequent blood draw revealed a blood alcohol concentration (BAC) of .179.

- ii. According to documentation from Applicant's employer/funeral home, Applicant worked there on December 18, 2021 from 9:30 AM until 3:00 PM.
 - iii. According to Applicant's personal statement, on December 18, 2021, he went home after work and drank heavily. Applicant states that he then decided to drive to his parents' house to see their new dog, and this is when he was pulled over.
 - iv. According to the Judgment of Conviction for 21 TR 3344, Applicant was sentenced to a fine, court costs, a seven (7) month driver's license revocation, a twelve (12) month ignition interlock requirement, and an alcohol assessment.
- B. On or about May 10, 2022 – Applicant pled guilty to a Possession of THC, a misdemeanor, in Ozaukee County, Wisconsin case 21 CF 427.
- i. According to the Criminal Complaint, on December 18, 2021, during the traffic stop for the OWI-1st, officers observed a large amount of cash in Applicant's wallet. Officers searched Applicant's vehicle and found an additional large amount of cash in the center console, three separate packages of marijuana totaling seventy-six (76) grams, marijuana in rock form totaling one (1) gram, and a digital scale.
 - ii. According to the Judgment of Conviction for 21 CF 427, Applicant was sentenced to one (1) year of probation with one hundred twenty (120) days of stayed jail, community service, court costs, and participation in drug/alcohol counseling as directed by probation. Expungement was ordered upon successful completion of probation.
- C. According to the Order for Assessment and Driver Safety Plan Report from the Wisconsin Department of Transportation (DOT), Applicant had an AODA assessment on January 6, 2022. The assessment found alcohol dependency and controlled substance dependency, and recommended outpatient treatment per provider, one (1) to twelve (12) months.
- D. According to treatment documents provided by Applicant, Applicant attended an AODA Intensive Outpatient Program (IOP) beginning on January 3, 2022. Applicant attended all eighteen (18) sessions of the six (6) week program and successfully completed the program.
- E. According to documentation from Applicant's probation agent dated March 8, 2023, Applicant has completed all requirements of his supervision, reported as scheduled, and has had no known violations. Applicant is scheduled to discharge from probation on May 10, 2023.

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

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 440.08(4)(a) and is authorized to enter the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 440.08(4)(a), the Section may summarily deny an application for renewal if it is necessary to protect the public health, safety or welfare.

3. At this time, due to the recency and circumstances of Applicant's OWI 1st ordinance and Possession of THC conviction, Applicant's diagnosis of alcohol dependency and controlled substance dependency, and Applicant's continuing probation sentence, Applicant has failed to show competent evidence of sufficient rehabilitation and fitness to practice as a Funeral Director Apprentice without limitations.

4. Applicant, by his conduct, is subject to limitations against his credential, pursuant to Wis. Stat. § 440.08(4)(a).

ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Funeral Director Apprentice credential are necessary to ensure that he is fit and competent to safely practice as a Funeral Director Apprentice.

3. Applicant's ability to practice as a Funeral Director Apprentice is granted subject to the following LIMITATIONS:

A. For a period of one (1) year from the date of this Order:

- i. Applicant shall provide a copy of this Order to his current and any future probation agent(s). Applicant shall follow through with and successfully complete all terms and conditions of the sentence in Ozaukee County case 21 CF 427. Applicant shall arrange for his probation agent to provide proof of successful completion of probation to the Department Monitor.
- ii. Applicant shall maintain absolute sobriety from drugs or alcohol.
- iii. Applicant shall, at all times, practice as a Funeral Director Apprentice under the supervision of a Wisconsin licensed Funeral Director pre-approved by the Board. Pre-approval of any future funeral director-supervisor shall be obtained through correspondence with the Department Monitor.

- iv. Applicant shall provide a copy of this Order to his current and any future pre-approved supervising Funeral Director. Applicant shall arrange for written reports from his pre-approved Funeral Director to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Applicant's work performance and describe the circumstances of his employment, including the nature and extent of the Applicant's funeral director apprentice activities and whether he has practiced in compliance with all laws governing the practice of a funeral director apprentice.
- v. Applicant shall commit no new violations of law, including DWI/OWI and municipal/ordinance violations and shall report all law enforcement contacts to the Department Monitor within forty-eight (48) hours of any such event, including any convictions resulting from pending charges.
- vi. Applicant shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of change.

4. After one (1) year of successful compliance with this Order, Applicant may petition the Board for full, unrestricted license. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

5. The Board reserves the right to revise these limitations or deny the application for full licensure if Applicant is revoked from probation in Ozaukee County case 21 CF 427.

6. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

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

This information may also be submitted online via DSPS' Monitoring Case Management System at: <https://dspsmonitoring.wi.gov>

7. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing. The Board or its designee may terminate the suspension if provided with sufficient information that Applicant is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee. 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.

8. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, supervision, and any other expenses associated with compliance with the terms of this Order.

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

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

By: *Aziz Al-Sager /TLT*
A Member of the Board

04/07/2023

Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR
RENEWAL OF A FUNERAL DIRECTOR
APPRENTICE CREDENTIAL

MAXWELL BUDNIK,
APPLICANT.

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STIPULATION

ORDER 0008865

It is stipulated between Applicant and the Funeral Directors Examining Board (Board) as follows:

1. Applicant filed an application to renew a Funeral Director Apprentice credential #5595-700.
2. Information received by the Board reflects a basis for denial of the renewal application.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting a limited Funeral Director Apprentice credential, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application;
 - the right to confront and cross-examine the witnesses against Applicant;
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant'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 Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.

7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.



Maxwell Budnik
Port Washington, WI 53074
License No. 5595-700

4/5/23
Date

Aziz Al-Sager /TLT

A Member of the Wisconsin Funeral Directors
Examining Board
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

04/07/2023
Date