

**Minnesota Department of Health
ADMINISTRATIVE PENALTY ORDER**

Maple Oaks Funeral Home
Mr. David J. Thorsell and Mr. E. P. Vasey
7761 Excelsior Road
Maplewood, Minnesota 55119

I. Authority

The Minnesota Department of Health is authorized, pursuant to Minn. Stat. §149A.06, to order corrections and assess administrative penalties in an amount up to \$10,000.00 per violation for violations of Minnesota Statutes, Chapter 149A.

II. Findings of Fact

1. On October 1, 2014, the Minnesota Department of Health (“MDH”), Mortuary Science Section received a complaint regarding Maple Oaks Funeral Home (“Maple Oaks”), located at 7761 Excelsior Road, Maplewood, Minnesota. Maple Oaks is owned and operated by David J. Thorsell and E.P. Vasey.
2. On February 25, 2015, an MDH investigator made a site visit to Maple Oaks to investigate the complaint.
3. During the investigation, the investigator discovered that Maple Oaks is not completing preparation and embalming records for the preparations and embalmings completed on the Maple Oaks premises.
4. The investigator also discovered that Maple Oaks is not completing a certificate of removal for every dead human body that Maple Oaks removes at the time that the removal takes place.
5. During the investigation, the investigator was able to view the preparation and embalming room. The preparation room was not maintained in a clean and sanitary condition. Non-sanitary conditions included, but were not limited to, decomposing human remains could be smelled outside of the preparation room while the doors remained closed; preparation tables, dressing tables, and floors appeared not to have been cleaned after embalming; garbage and contaminated items that had been used during the embalming process were left out on tables, counters, and carts; decedents’ personal effects were strewn about the room; - items, such as garbage bags and clothing were laying on top of human remains; there were stains on the floors, tables, and walls and cobwebs; and the trash cans

were overflowing.

III. Statutory Requirements

Minn. Stat. § 149A.90, Subd. 4 states:

No dead human body shall be removed from the place of death by a mortician or funeral director or by a noncompensated person with the right to control the dead human body without the completion of a certificate of removal and, where possible, presentation of a copy of that certificate to the person or a representative of the legal entity with physical or legal custody of the body at the death site. The certificate of removal shall be in the format provided by the commissioner that contains, at least, the following information:

- (1) the name of the deceased, if known;
- (2) the date and time of removal;
- (3) a brief listing of the type and condition of any personal property removed with the body;
- (4) the location to which the body is being taken;
- (5) the name, business address, and license number of the individual making the removal; and
- (6) the signatures of the individual making the removal and, where possible, the individual or representative of the legal entity with physical or legal custody of the body at the death site.

Minn. Stat. § 149A.91, Subd. 10 states:

Every funeral establishment that causes a dead human body to be embalmed shall create and maintain on its premises or other business location in Minnesota an accurate record of every embalming performed. The record shall include all of the following information for each embalming:

- (1) the name of the decedent and the date of death;
- (2) the date the funeral establishment took physical custody of the body and, if applicable, the name of the person releasing the body to the custody of the funeral establishment;
- (3) the reason for embalming the body;
- (4) the name, address, and relationship to the decedent of the person who authorized the embalming of the body;
- (5) the date the body was embalmed, including the time begun and the time of completion;
- (6) the name, license number, and signature of the mortician who performed or personally supervised the intern or student who performed the embalming;
- (7) the name, permit number, if applicable, and signature of any intern or practicum student or clinical student that participates in the embalming of a body, whether the intern or practicum student or clinical student performs part or all of the embalming; and

- (8) the original written authorization to embalm and any other supporting documentation that establishes the legal right of the funeral establishment to physical custody of the body and to embalm the body.

Minn. Stat. § 149A.92, Subd. 8 states:

The preparation and embalming room and all fixtures, equipment, instruments, receptacles, clothing, and other appliances or supplies stored or used in the room must be maintained in a clean and sanitary condition at all times. A preparation and embalming room shall not be used for any other purposes.

IV. Conclusions

1. By failing to complete and maintain certificates of removal for every dead human body that Maple Oaks removes at the time of removal of the body, Maple Oaks is violating Minn. Stat. § 149A.90, subd. 4.
2. By failing to complete and maintain preparation and embalming records, Maple Oaks is violating Minn. Stat. § 149A.91, subd. 10.
3. By failing to maintain its embalming room in a clean and sanitary condition at all times, Maple Oaks is violating Minn. Stat. § 149A.92, subd. 8.

V. Corrective Order

It is ordered that Maple Oaks, must demonstrate, IN WRITING, to the satisfaction of the Director of MDH's Health Regulation Division that the corrective actions specified below have been completed or that appropriate steps toward correcting the violation(s) have been taken. Maple Oaks must send a written letter to MDH's Health Regulation Division, at the address below, demonstrating that it has complied with this Corrective Order or, if Maple Oaks has not yet complied with the Corrective Order, Maple Oaks must detail its plans for complying with this Order. Maple Oaks must send this letter within 30 days of the date this order is signed.

If, within the 30-day period, Maple Oaks fails to demonstrate to the satisfaction of the Director that the corrective actions specified below have been taken or that it has taken appropriate steps toward correction of the violations specified above, the forgivable penalty assessed will become due and payable as described in section VI. A plan to correct the violations shall be developed within the 30-day period for corrective action. The plan must be approved by the Director. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

The following corrective actions are required by this order:

1. Maple Oaks must put in place and maintain a routine detailed weekly and monthly cleaning schedule for its preparation and embalming room. Maple Oaks shall maintain a record indicating the dates that the room has been cleaned. Beginning within ten days of the signed order Maple Oaks shall submit a copy of

the schedule for the upcoming month and the record of cleaning dates and duties for the previous month to MDH within the first five days of each month for six months.

2. Within 60 of days of the signing of this order, David J. Thorsell, and E.P. Vasey, and any other owners of or morticians employed by Maple Oaks must attend a training on the requirements of Minnesota Statutes 149A.90 and 149A.91. Within ten days of the completion of the training, Maple Oaks must provide to the Department a copy of the training materials, the name and credentials of the trainer, the date the training was held, and a list including the name, license number, and signature of each person who attended the training.
3. Maple Oaks must create a written procedure for completing a certificate of removal of dead human bodies while at the place of death that complies with Minn. Stat. § 149A.90. If Maple Oaks already has such a procedure, it must review the procedure and revise it as necessary to ensure compliance with Minn. Stat. § 149A.90. Within 10 days of the signed order, Maple Oaks must submit the procedure for review and approval by the MDH. Maple Oaks must send the Department a copy of its procedure for review and approval or a letter verifying that it has created or revised its procedure.
4. Maple Oaks must develop an embalming report form for use when completing embalming reports for use when completing embalming reports as well as a written procedure for the completion of embalming reports. Within 10 days of the signed order, Maple Oaks must submit the form and the written procedure to the Department for review and approval.

VI. PENALTY ASSESSMENT

Forgivable Penalty Assessment

You are assessed a FORGIVABLE administrative penalty of \$5,000 for the violations described in Sections II, III, and IV.

If you demonstrate to the satisfaction of the Director of the Health Regulation Division, IN WRITING, within 30 days that the corrective actions listed above have been completed or that appropriate steps have been taken toward correcting the violations, which may include the development of a plan for correction, this penalty will be forgiven.

If you fail to demonstrate to the satisfaction of the Director that the corrective actions and/or appropriate steps toward correcting the violations have been taken, the assessed penalty becomes DUE AND PAYABLE on the 31st day after this order was signed. A plan to correct the violation shall be developed within the 30-day time period for corrective action. The plan must be approved by the director. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

Non-forgivable Penalty Assessment

You are also assessed a NONFORGIVABLE penalty of \$15,000 for the violations described in Sections II, III, and IV.

The penalty shall be paid by certified check or money order payable to "Treasurer, State of Minnesota." The payment must be submitted to the Minnesota Department of Health at the address listed below within 30 days of the date of receipt of this Order.

VII. REQUEST FOR HEARING

You may appeal this order by requesting a hearing. The hearing request must be made IN WRITING and must be delivered to the Department of Health at the address listed below by certified mail within 20 days of the date of this order. The request must state the specific reasons for seeking a review of the order. The Minnesota Department of Health will initiate the hearing process within 30 days of receiving a request for a hearing.

SO ORDERED this 19th day of March, 2015



Darcy Miner, Director
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place
P.O. Box 64900
St. Paul, Minnesota 55164-0900

Direct required correspondence and any appeals to:

Gilbert Acevedo, Manager of the Mortuary Science Section,
Minnesota Department of Health,
P.O. Box 64882,
St. Paul, MN 55164-0882