

**STATE OF MINNESOTA
COMMISSIONER OF HEALTH**

In the Matter of Roger A. Carlson,
Licensed Mortician, and
Peterson-Grimsmo Funeral Chapel,
a licensed funeral establishment
located in Monticello, Minnesota

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Roger A. Carlson, licensed mortician, on behalf of himself and Peterson-Grimsmo Funeral Chapel (“Peterson-Grimsmo”), a licensed funeral establishment, and the Minnesota Department of Health (“Department”):

1. The Department is charged with enforcement of Minn. Stat. ch. 149A, (“Chapter 149A”), which governs the practice of mortuary science. The Department is authorized by Minn. Stat. §§ 149A.06, subd. 1 and 149A.60 to assess monetary penalties and enter into compliance agreements with persons whose conduct is subject to regulation under Chapter 149A; and to impose disciplinary action against such persons for failure to comply with any provision of Chapter 149A or laws and rules governing the removal, preparation, transportation, arrangements for final disposition of dead human bodies, and the practice of mortuary science. The purpose of this Stipulation and Consent Order (“Stipulation”) is to resolve the violations alleged in paragraphs 5, 6 and 7 below.

2. Roger A. Carlson is a licensed mortician (#M-2878). The Department has issued a funeral establishment license (#0171) to “Peterson-Grimsmo Funeral Chapel” located at 250 East Broadway, Monticello, Minnesota 55362. Carlson owns Peterson-Grimsmo.

3. Pursuant to Minn. Stat. § 149A.70, subd. 7, “no licensee or intern shall engage in or permit others under the licensee’s or intern’s supervision or employment to engage in unprofessional conduct. Unprofessional conduct includes but is not limited to: (3) failure to treat with dignity and respect the body of the deceased, any member of the family or relatives of the deceased, any employee, or any other person encountered while within the scope of practice, employment, or business.”

4. Pursuant to Minn. Stat. § 149A.71, subd. 2(f), “funeral providers must give an itemized written statement, for retention, to each consumer who arranges an at-need funeral or other disposition of human remains at the conclusion of the discussion of the arrangements. The itemized written statement must be signed by the consumer selecting the goods and services as required in section 149A.80.”

5. On April 18, 2015, the Department received a complaint alleging that Roger A. Carlson delayed the burial of a decedent despite the family’s wishes that the decedent be buried the same day as the funeral. Subsequent investigation revealed that, against the family’s wishes, Mr. Carlson delayed the burial of the decedent for 13 days following the date of death of the decedent and unnecessarily held the human remains for an extended period of time.

6. Roger A. Carlson admits and acknowledges that, on December 24, 2014, he met with the decedent’s family to make funeral arrangements and to determine the final disposition of the decedent’s human remains. The family expressed a desire that the decedent’s remains be buried by the day of the funeral service. Mr. Carlson admits that, at the completion of the arrangements, he incorrectly stated to the family that he would not be able to schedule burial at Fort Snelling National Cemetery to occur on the date of the

funeral, which was initially discussed for December 27, 2014 and then was scheduled for December 29, 2014 because of the upcoming federal holidays. In fact, the Department's investigation revealed that Fort Snelling could have accommodated the burial as early as December 29, 2014. Mr. Carlson waited until December 31, 2014 to contact Fort Snelling National Cemetery about burial of the decedent's remains—seven days after the death occurred and the funeral arrangements were made, and two days after the funeral service had taken place. The burial did not occur until January 6, 2015. Because of this delay, the timing of the burial did not comply with the family's wishes.

7. Mr. Carlson also admits that he discussed arrangements for final disposition of the decedent's human remains on December 24, 2014 without providing the family members who requested the arrangements with a signed written itemized statement of funeral goods and services at the conclusion of the discussion.

8. In order to resolve this matter and avoid the expense and uncertainty of enforcement proceedings under Chapter 149A, Roger A. Carlson agrees on behalf of himself and Peterson-Grimsmo to the following administrative penalties and corrective actions:

A. **Administrative Penalties.** Roger A. Carlson and Peterson-Grimsmo are hereby assessed a civil penalty of \$3,000 as follows:

i. **Stayed Penalty.** \$1,500.00 of the civil penalty shall be stayed so long as Mr. Carlson and Peterson-Grimsmo are in compliance with the Corrective Action requirements set forth in paragraph 8(B) below. If the Department determines that Roger A. Carlson or Peterson-Grimsmo have failed to

comply with the Corrective Action requirements of paragraph 8(B) below or have violated Minn. Stat. §§ 149A.70, subd. 7(3) or 149A.71, subd. 2 (f) within three years of the effective date of this Stipulation, the \$1,500 stayed penalty will become due and owing as set forth in paragraph 8(C) below.

- ii. **Penalty Due Now.** Payment of the remaining penalty amount of \$1,500.00 shall be made by check or money order payable to “Treasurer, State of Minnesota.” The payment is due within 30 days of the effective date of this Stipulation and Consent Order and shall be sent to the Minnesota Department of Health, Mortuary Science Section.

B. **Corrective Actions.** Roger A. Carlson and Peterson-Grimsmo shall take the following corrective actions:

- i. Peterson-Grimsmo must ensure that whenever Carlson or any other licensed mortician in its employ agrees to make arrangements for final disposition of dead human bodies the mortician will, at the conclusion of the discussion of the arrangements, provide a signed written itemized statement of funeral goods and services to the consumer who requested the arrangements. In addition, Peterson-Grimsmo shall ensure that when arranging for burial services Mr. Carlson or any other licensed mortician in its employ follows the

wishes of the family and does not delay or detain final disposition.

- ii. Peterson-Grimsmo shall create and implement a written procedure for scheduling and handling burials. The written procedure must include a requirement that the funeral home will, to the best of its ability, honor requests for a prompt and dignified burial made by individuals with the right to control the disposition of the decedent's human remains and will not unnecessarily delay the burial.
- iii. Peterson-Grimsmo shall also create and implement a written policy for communicating with individuals and family members who have the right to control the disposition of the decedent's body. The policy shall ensure that these individuals are well informed and have been given accurate information regarding their options for disposition of the decedent's body so they are able to make informed decisions.
- iv. Within 30 days of the effective date of this Stipulation, Roger A. Carlson on behalf of himself and Peterson-Grimsmo shall provide to the Department a written "Action Plan" outlining the specific processes to be followed to ensure that itemized written statements of funeral goods and services are provided at the conclusion of the discussion of

all funeral arrangements, that proper procedures are in place for arranging and scheduling burials, and that procedures are in place governing communications with individuals or family members who have the right to control the disposition of a decedent's human remains. Upon receipt of the Department's approval of the plan, Mr. Carlson shall immediately implement the plan at Peterson-Grimsmo or any other funeral establishment where he is employed.

- C. **Violation of this Stipulation.** If the Department determines that Roger A. Carlson or Peterson-Grimsmo has violated Minn. Stat. § 149A.70, subd. 7(3) or Minn. Stat. § 149A.71, subd. 2(f) within three years of the effective date of this Stipulation, the Department shall give Mr. Carlson and/or Peterson-Grimsmo written notice by certified mail specifying the violating actions. Unless Mr. Carlson and/or Peterson-Grimsmo initiates dispute resolution pursuant to paragraph 8(D) below within 30 calendar days after receiving the written notice from the Department, the \$1,500 stayed penalty will become due and owing.
- D. **Dispute Resolution.** If a dispute arises regarding the Department's determination pursuant to paragraph 8(C) above that Mr. Carlson and/or Peterson-Grimsmo have failed to comply with Minn. Stat. § 149A.70, subd. 7(3) or Minn. Stat. § 149A.71, subd. 2 (f), Mr.

Carlson, on behalf of himself and/or Peterson-Grimsmo, may engage in dispute resolution as follows:

- i. Mr. Carlson may initiate the dispute resolution process by providing the Department with a written statement setting forth the matter in dispute, his position, and the information he is relying on to support his position. Dispute resolution shall be initiated within thirty (30) calendar days after receipt of written notice from the Department concerning violation(s) of Minn. Stat. § 149A.70, subd. 7(3) or Minn. Stat. § 149A.71, subd. 2(f).
- ii. The Department will have fourteen (14) calendar days after receipt of the request for dispute resolution to provide a written statement of its position and supporting information to Mr. Carlson.
- iii. If the Department and Mr. Carlson are unable within twenty-one (21) calendar days after the Department's reply is sent to reach a resolution of the dispute and reduce such resolution to writing in a form agreed upon by the parties, the Commissioner shall issue a written decision to the parties resolving the dispute.
- iv. Unless Mr. Carlson commences an action in the Minnesota Court of Appeals to seek judicial review of the Commissioner's decision within sixty (60) calendar days of

the date of receipt of the decision, the Commissioner's decision shall become an integral and enforceable part of this Stipulation. For purposes of judicial review, the Commissioner's decision shall be considered a final decision of the Department.

9. This Stipulation shall not in any way limit or affect the Commissioner's authority to proceed against Roger A. Carlson or Peterson-Grimsmo to initiate enforcement action for any alleged violation of Chapter 149A by Mr. Carlson or Peterson-Grimsmo that is not the subject of this Stipulation.

10. Roger A. Carlson hereby acknowledges, on behalf of himself and Peterson-Grimsmo, that he has read, understood, and agreed to this Stipulation and has freely and voluntarily signed it.

11. The terms of this Stipulation shall be legally enforceable by either party in a court of appropriate jurisdiction.

12. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, that varies the terms of the Stipulation.

13. This Stipulation shall be binding upon Roger A. Carlson and his successors and assignees, Peterson-Grimsmo and its successors and assignees, and the Minnesota Department of Health and its successors and assignees.

14. This Stipulation may not be modified or amended except in writing and any modifications or amendments must be signed by all the parties.

15. This Stipulation is effective on the date it is signed on behalf of the Minnesota Department of Health.

Dated: 8 May 2015



Roger A. Carlson, Owner
Peterson-Grimsmo Funeral Chapel
250 East Broadway
Monticello, Minnesota 55362

Dated: 5/29/15



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