



Minnesota
Department
of Health

PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

**Minnesota Department of Health
ADMINISTRATIVE PENALTY ORDER**

William H. Bauman
501 Main Street
Tower, Minnesota 55790

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 September 6, 2016 the Minnesota Department of Health received a complaint regarding the inappropriate handling of pre-need arrangement funds.
2. William H. Bauman is a licensed Mortician (M-2762) and majority owner of Vermilion Funeral Home located in Tower, Minnesota.
3. On September 3, 2015 William H. Bauman accepted a six thousand dollar payment on behalf of the consumer for the consumer's pre-need arrangements. William H. Bauman failed to establish an irrevocable assignment at the time the pre-arrangement was signed by the consumer. William H. Baumann cashed the consumer's payment on September 8, 2015 and failed to place funds in an account designated in the consumers name for the sole purpose of the consumer's irrevocable insurance assignment.
4. After several failed attempts by the family to obtain a copy of their insurance policy and answers to the whereabouts of their policy, William Bauman drafted a new application and irrevocable assignment dated August 1, 2016 and submitted it to the insurance company for processing. This was done several months after William H. Bauman received and cashed consumers check.
5. William H. Bauman falsified the policy paperwork and fraudulently provided the policyholder's signature on the August 1, 2016 application and the irrevocable insurance assignment contract prior to submitting it to the insurance company. William H. Bauman did not consult with the consumer prior to taking these actions.

III. Violation Reference

Minn. Stat. § 149A.70, subd.7 (7). Unprofessional Conduct states:

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:

- (6) intentionally misleading or deceiving any customer in the sale any goods or services provided by the licensee;
- (7) knowingly making a false statement in the procuring, preparation, or filing of any required permit or document.

Minn. Stat. § 149A.97, subd.1. Preneed Arrangements-Purpose and Intent states:

It is the intent of the legislature that this section be construed as a limitation upon the manner in which a funeral provider is permitted to accept funds in prepayment of funeral services or burial site services to be performed in the future or in prepayment of funeral or burial goods to be used in connection with the final disposition of human remains. It is further intended to allow members of the public to arrange and pay for funeral goods, funeral services, burial site goods, or burial site services for themselves and their families in advance of need while at the same time providing all possible safeguards so that the prepaid funds cannot be dissipated, whether intentionally or not, so as to be available for the payment of the services and goods selected.

Minn. Stat. § 149A.97, subd.2. Scope and Requirements states:

When prior to the death of any person, that person or another, on behalf of that person, enters into any transaction, makes a contract, or any series or combination of transactions or contracts with a funeral provider lawfully doing business in Minnesota, other than an insurance company licensed to do business in Minnesota selling approved insurance or annuity products, by the terms of which, goods or services related to the final disposition of that person will be furnished at-need, then the total of all money paid by the terms of the transaction, contract, or series or combination of transactions or contracts shall be held in trust for the purpose for which it has been paid.

IV. Conclusions

1. William H. Bauman violated Minn. Stat. §149A.70, subd.7 (7) by leading the consumer into believing he had submitted all the consumers necessary paperwork and the consumers payment to the insurance company on September 3, 2015.
2. William H. Bauman violated Minn. Stat. §149A.97, subd.1 by accepting and cashing a six thousand dollar payment from the consumer without submitting consumers paperwork and payment in a timely manner to insurance company for the proper protection of the consumers funds.
3. William H. Bauman violated Minn. Stat. §149A.97, subd.2. by not placing funds in an insurance policy for its intended use.

V. Corrective Order

It is ordered that William H. Bauman must demonstrate, IN WRITING, that the corrective actions specified herein have been taken or that appropriate steps toward correcting the violation have been taken. The Minnesota Department of Health must receive a written letter demonstrating William H. Bauman's plans to comply with this Corrective Order before the 31st day after you receive this order.

If, William H. Bauman fails to demonstrate that the corrective actions specified below have been taken or appropriate steps toward correction of the violation specified above have been taken, within the 30-day period, the forgivable penalty assessed will become due and payable as described in section VI.

William H. Bauman shall develop a plan to correct the violation within the 30-day period. The plan must be approved by the Department. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

The following corrective actions are required by this order:

On or before March 15, 2017, William H. Bauman must attend continuing education course(s) and complete a total of 10 CEU's on pre-need insurance requirements. The course(s) should include the proper protocol for writing and processing irrevocable insurance assignments, obtaining proper signatures on all contracts, how to properly handle and safeguard the consumers money, ethics of handling pre-need arrangements, properly securing business, liabilities of mishandling funds as follows:

1. The continuing education course(s) must be conducted by a provider approved by the Minnesota Department of Health, Mortuary Science Section. William H. Bauman must identify upcoming continuing education course(s) that would satisfy the above requirement and must submit to the Minnesota Department of Health, Mortuary Science Section, for the Department's approval, a written outline of the course that includes the course content and objectives; an overall number of continued education units allowed for this course; and the name and title of the instructor with contact information. After approval of the proposed continuing education course by the Department, William H. Bauman must attend the continuing education course(s).
2. In the event that William H. Bauman is, by March 15, 2017, after reasonable inquiry, unable to identify a continuing education course that meet the above requirements; or no continuing education course meeting the above requirements is offered on or before March 15, 2017, William H. Bauman shall submit to the Minnesota Department of Health, Mortuary Science Section, a written request for an extension of time.
3. Within five working days after attending the approved course(s), William H. Bauman must submit to the Minnesota Department of Health, Mortuary Science Section a copy of the completion certificate, the name of the continuing education courses, the number of continuing education units received, and the date and time that the courses were held.
4. In addition, William H. Bauman shall review MN Chapter 149A and provide to the Minnesota Department of Health a detailed outline of the Minnesota laws that pertain to pre-need and how the laws apply to writing pre-need assignments on or before March 15, 2017.
5. Finally, William H. Bauman shall provide the Minnesota Department of Health an action plan specific to his funeral home outlining new policies and procedures for managing pre-need contracts.

VI. PENALTY ASSESSMENT

Forgivable Penalty Assessment

William H. Bauman is assessed a FORGIVABLE administrative penalty of \$1,000 for the violation described in Sections II and III.

If William H. Bauman demonstrates IN WRITING, within 30 days that the corrective actions have been taken, or that appropriate steps have been taken toward correcting the violation, which may include the development of a plan for correction, this penalty will be forgiven.

If William H. Bauman fails to demonstrate that the corrective actions have been taken, or that appropriate steps have been taken toward correcting the violation, the assessed penalty becomes DUE AND PAYABLE on the 31st day after this order was received. A plan to correct the violation may be developed within the 30-day time period for corrective action. The plan must be approved by the Department. Failure to comply with the approved plan shall be cause for subsequent enforcement action.

Non-forgivable Penalty Assessment

William H. Bauman is also assessed a NONFORGIVABLE penalty of \$3,500.00 for the violation described in Sections II and III.

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, Mortuary Science Section within 30 days of the date of receipt of this order.

1. Licensee may pay the \$3,500.00 civil penalty in monthly installments of up to six months after the effective date of this action. If licensee chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over which time period. Licensee must send this information to: Investigation and Enforcement Unit, Mortuary Science Program, MDH, PO Box 64882, Saint Paul, MN 55164-0882.
2. Each payment must be made by check or money order payable to "Treasurer, State of Minnesota" and mailed to; Investigation and Enforcement Unit, Mortuary Science Section, MDH, PO Box 64882, Saint Paul, MN 55164-0882. Each payment is due by the last day of each month; however, licensee may prepay at any time.
3. The penalty may be referred to the Minnesota Department of Revenue (MDOR), or any other source of collection, if the debt is 14 days past the established due date. When this determination for a penalty becomes public and MDH refers the matter to MDOR, MDOR is authorized by Minnesota Statutes, section 16D.17 to obtain a judgement against licensee without further notice or proceeding.

VI. REQUEST FOR HEARING

This order may be appealed by requesting a hearing. The hearing request must be in writing and delivered to the Department of Health by certified mail within 20 days after you receive this order. The request must state the specific reasons for seeking a review of the order. The Minnesota Department of Health will initiate a hearing within 30 days of receiving a request for a hearing.

SO ORDERED this 20th day of January, 2017.



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

Direct correspondence and any appeals to: Anne Kukowski, Manager of the Mortuary Science Section,
Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882.