



Protecting, maintaining and improving the health of all Minnesotans

**Minnesota Department of Health
ADMINISTRATIVE PENALTY ORDER**

Sunrise Memorial Park Funeral Home
4798 Miller Trunk Hwy
Hermantown, Minnesota 55811

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 March 6, 2017 the Minnesota Department of Health received a complaint alleging the falsification of death records filed through MR&C, the states electronic death registration system.
2. Barton M. Porter is the owner of Sunrise Memorial Park Funeral Home located at 4798 Miller Trunk Highway, Hermantown, MN 55811. Barton M. Porter does not hold a mortician's license to practice in Minnesota however, as owner of Sunrise Memorial Park Funeral Home he manages the day to day operations of the business. Sunrise Memorial Park Funeral Home staff including owner Mr. Barton M. Porter used the name and license number of a MN licensed mortician and former employee of Sunrise Memorial Park Funeral Home to access the MR&C electronic death filing system.
3. In addition to accessing the MR&C electronic death registration system under a false identification, staff continued to use the name and license number of the licensed mortician and former employee to inaccurately register and file death records.
4. These actions occurred between December 2014 and May 2016 and included filing 145 death records and 38 amendments to death records.

III. Violation Reference

Minn. Stat. § 149A.70, subd.7 (3) 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:

(3) Knowingly making a false statement in the procuring, preparation, or filing of any required permit or document.

IV. Conclusion

1. Under the ownership and management of Barton M. Porter, Sunrise Memorial Park Funeral Home staff accessed and falsified death records on the MR&C electronic death registry system by using a former employee's authorized user password, name, and license number.
2. Barton M. Porter despite his efforts to manage and oversee the operations of the funeral establishment business, failed to manage both his actions and the actions of his staff in the use of the MR&C electronic death registration system. Barton M. Porter and staff falsified 145 death records in the state's death registration system, including an additional 42 amended death records under a former employee's name and license number.

V. Corrective Order

It is ordered that, before the 31st day after Barton M. Porter receives this order, he must demonstrate, IN WRITING, that the corrective actions specified herein have been taken or that he has taken appropriate steps toward correcting the violation and that he has a plan for full compliance.

If Barton M. Porter 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.

Barton M. Porter 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 January 15, 2018, Barton M. Porter must complete an extensive review of the internal operations at Sunrise Memorial Park Funeral Home. Barton M. Porter must submit to the Minnesota Department of Health a written action plan that provides a clear and precise outline as to how Sunrise Memorial Park Funeral Home will complete death records filed through the MR&C Electronic Death Registration System.

1. Barton M. Porter must contact the Office of Vital Records and arrange training for all staff on the use and operation of the MR&C for filing death records. Each administrative user of the MR&C electronic death registration system at Sunrise Memorial Park Funeral Home must obtain training through the Office of Vital Records. On or before January 15, 2018 Bart M. Porter and Sunrise Memorial Park Funeral Home must provide to the Minnesota Department of Health, Mortuary Science Section the names of each staff member, dates of training, and information on training provided by the Office of Vital Records.
2. Barton M. Porter must create, train, and implement staff on an internal written policy for filing death records through the MR&C electronic death registration system.

3. Barton M. Porter must maintain records, including a sign- in log of the employees who attended the training on the new policy and procedures for using the MR&C electronic death registration system. Such records must include, at a minimum, the topic, date and time of training, and the printed names and signatures of employees who attended the training. A copy of the record of training on Sunrise Memorial Park Funeral Homes new policies must be submitted to the Minnesota Department of Health, Mortuary Science Section on or before January 15, 2018.

VI. PENALTY ASSESSMENT

Forgivable Penalty Assessment

Barton M. Porter is assessed a FORGIVABLE administrative penalty of \$2,000.00 for the violation described in Sections II and III.

If Barton M. Porter demonstrates, IN WRITING, within 30 days of receipt of this order, 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 Barton M. Porter 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

Barton M. Porter is also assessed a NONFORGIVABLE penalty of \$4,500.00 for the violations 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 \$4,500.00 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.

VII. REQUEST FOR HEARING

You may appeal this order 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 5th day of December 2017



Susan Winkelmann
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Health Regulation Division
Minnesota Department of Health
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Direct correspondence and any appeals to: Catherine Lloyd, Manager of the Mortuary Science Section, Minnesota Department of Health, P.O. Box 64882, St. Paul, MN 55164-0882.