

**STATE OF IOWA
BEFORE THE BOARD OF MORTUARY SCIENCE**

IN THE MATTER OF:

**James Fullerton,
F.D., Lic. No. 02146**

)
) **CASE NO. MS 16-0349**
)
) **STATEMENT OF CHARGES,**
) **SETTLEMENT AGREEMENT,**
) **AND FINAL ORDER**
)

COMES NOW the Iowa Board of Mortuary Science (Board) and James Fullerton (Respondent), and hereby enter into this Statement of Charges, Settlement Agreement, and Final Order, pursuant to Iowa Code sections 17A.10(2), 272C.3(4) (2017), and Iowa Administrative Code rule 645—12.1.

STATEMENT OF CHARGES

1. The Board has jurisdiction under Iowa Code chapters 17A, 156, and 272C.
2. Respondent James Fullerton is an Iowa licensed funeral director. He was issued license no. 02146 in 1978. The license is currently active and will next expire on February 15, 2020.
3. Respondent is the owner of Fullerton Funeral Home, which has Iowa locations in Mason City, Charles City, Rockwell, and Rockford.
4. In late 2015, Respondent began suffering from health complications.
5. During this time and in response to a Board investigation, Respondent admitted that at times, he had unlicensed employees assume custody and make removals.
6. Additionally, the unlicensed employees did not first secure a burial-transit permit before removing and transferring the human remains.

COUNT I

7. Respondent is charged with allowing an unlicensed person to remove human remains in violation of Iowa Administrative Code rules 645—100.2(1)(a) and 645—100.4(1)(b).

COUNT II

8. Respondent is charged with allowing an unlicensed employee to make removals and transfers without first securing a burial transit permit, from him or another authorized individual, in violation of Iowa Administrative Code rules 641—97.12 and 645—100.5.

SETTLEMENT AGREEMENT AND CONSENT ORDER

9. Execution of this Combined Statement of Charges, Settlement Agreement, and Final Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case and shall have the force and effect of a disciplinary order entered following a contested case hearing.

10. Respondent is freely and voluntarily entering into this Agreement. Respondent agrees that the State's counsel may present this Agreement to the Board and may have *ex parte* communications with the Board while presenting it.

11. Respondent's Iowa funeral director's license shall be placed on **PROBATION** for six (6) months subject to the following terms and conditions:

a. Respondent agrees to pay a **CIVIL PENALTY** in the amount of five hundred dollars (\$500). The civil penalty shall be made payable to the Treasurer of Iowa and paid within sixty (60) days of the Board's approval of this Order. All civil penalty payments shall be

deposited into the State of Iowa general fund. The civil penalty should be mailed to the Iowa Board of Mortuary Science, Attn: Susan Reynolds, Bureau of Professional Licensure, Iowa Department of Public Health, Lucas State Office Building—5th Floor, 321 East 12th St., Des Moines, IA 50319..

b. Respondent shall document ten removals verifying removal by a licensed professional and pursuant to Iowa Administrative Code rules 641—97.11, 97.12 and 645—100.4, 100.5, and provide proof of these removals, in the form of case reports, to the Board.

12. This Agreement shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

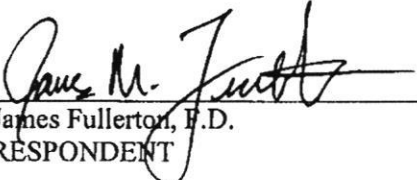
13. In the event Respondent violates or fails to comply with any of the terms of this Agreement, the Board may impose additional discipline as provided in Iowa Code section 272C.3(2)(a).

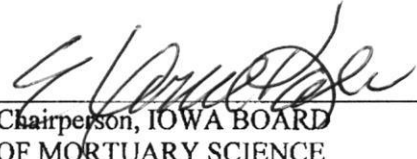
14. This Agreement is subject to approval by the Board. If the Board does not approve this Agreement, it shall be of no force or effect on either party, and shall not be admissible for any purpose in further proceedings in this matter.

15. This Agreement is a public record. This Agreement shall not be binding as to any new complaints received by the Board. Respondent acknowledges that he has the right to be represented by counsel on this matter and have had an opportunity to do so.

Wherefore, the terms and conditions of this Statement of Charges, Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Mortuary Science and the Respondent.

AGREED AND ACCEPTED:


James Fullerton, F.D.
RESPONDENT


Chairperson, IOWA BOARD
OF MORTUARY SCIENCE

Dated this 2nd day of

April, 2018

Dated this 7th day of

JUNE, 2018

Copy to:

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Iowa Attorney General's Office
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Des Moines, IA 50319
ATTORNEY FOR THE STATE