

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

STATE BOARD OF EMBALMERS)
AND FUNERAL DIRECTORS)
3605 Missouri Boulevard)
P.O. Box 1062)
Jefferson City, MO 65102)

Petitioner,)

v.)

No. _____

WARREN FUNERAL CHAPEL, INC.,)
a Missouri corporation,)
Serve: Harold Warren, Jr.)
12 West Ash Street)
Columbia, Missouri 65203,)

HAROLD WARREN, SR.)
12 East Ash Street)
Columbia, MO 65203,)

HAROLD WARREN, JR.)
12 East Ash Street)
Columbia, Missouri 65203, and)

HELEN R. WARREN)
3312 Sherwood Dr.)
Columbia, Missouri 65202,)

Respondents.)

COMPLAINT

Petitioner, the State Board of Embalmers and Funeral Directors (“Board”), by and through its counsel, the Missouri Attorney General, states for its cause of action:

1. Petitioner, the State Board of Embalmers and Funeral Directors (“Board”), is an agency of the State of Missouri, established and existing pursuant to § 333.151, RSMo¹, for the purpose of administering and enforcing Chapter 333 and portions of Chapter 436, RSMo, and the regulations adopted thereunder.

2. Warren Funeral Chapel, Inc. is a Missouri corporation doing business in Boone County and Callaway County, Missouri.

3. Harold Warren, Sr. (Warren Sr.), is licensed by the Board as an embalmer, license no. 7012, and as a funeral director, license no. 5568. As of the filing of this Complaint and at all relevant times herein, both licenses are and were current and active.

4. Harold Warren, Jr. (Warren Jr.), is licensed by the Board as an embalmer, license no. 7013, and as a funeral director, license no. 5569. As of the filing of this Complaint and at all relevant times herein, both licenses are and were current and active.

5. Helen Warren, is licensed by the Board as a funeral director, license no. 5570. As of the filing of this Complaint and at all relevant times herein, Helen Warren’s license is and was current and active. Helen Warren’s funeral director license is registered with the Board as being affiliated with Warren Funeral Chapel.

6. At all relevant times alleged herein, Warren Sr., was President, Warren Jr. was Vice-President and Treasurer, and Helen Warren was Secretary of Warren Funeral Chapel, Inc.

¹ All references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

7. Warren Funeral Chapel, Inc., Warren Sr., Warren Jr., and Helen Warren do business and operate under the fictitious name of Warren Funeral Chapel.

8. Warren Funeral Chapel, Inc., Warren Sr., Warren Jr., and/or Helen Warren, have a current and active license, no. 2001029782, to operate Warren Funeral Chapel in Columbia, Boone County, Missouri. The Columbia facility is a Function A and Function C funeral establishment as such are defined in 20 CSR 2120-2.070(2).

9. Warren Funeral Chapel, Inc., Warren Sr., Warren Jr., and/or Helen Warren, have a current and active license, no. 002230, to operate Warren Funeral Chapel in Fulton, Callaway County, Missouri. The Fulton facility is a Function C funeral establishment as such is defined in 20 CSR 2120-2.070(2).

10. During the times relevant to this Petition, Warren Sr. was the funeral director-in-charge, as such is defined in 20 CSR 2120-1.040, until February 28, 2008.

11. During the times relevant to this Petition, Warren Jr. was the funeral director-in-charge, as such is defined in 20 CSR 2120-1.040, since February 28, 2008.

12. As the funeral directors in charge of Warren Funeral Chapel, Warren Sr. and Warren Jr. were responsible for ensuring that Warren Funeral Chapel complied with all applicable statutes and regulations.

13. Warren Sr., Warren Jr., and Helen Warren were responsible to assure that Warren Funeral Chapel, Inc. conducted its business in compliance with all local, state and federal laws as officers of Warren Funeral Chapel, Inc.

14. Allegations hereafter referring to the Warrens shall apply equally to Warren Funeral Chapel, Inc., Warren Sr., Warren Jr., and Helen Warren.

15. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 333.121.2, RSMo.

16. Section 333.121.2, RSMo, authorizes the Board to file a complaint with the Administrative Hearing Commission and states, in part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

....

(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;

(18) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(20) Willfully and through undue influence selling a funeral;

(21) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

COUNT I: PUBLIC HEALTH, SAFETY, AND WELFARE VIOLATIONS

17. The Board incorporates by reference, as if fully set forth herein, paragraphs 1 through 16 of its Complaint.

Improper Care and Storage of Human Remains

July 11, 2008 Inspection

18. On July 11, 2008, inspectors for the Board inspected Warren Funeral Chapel.

19. Upon entering Warren Funeral Chapel, the inspectors noted a strong odor throughout the facilities.

20. During its inspection of Warren Funeral Chapel, the Board inspectors found the body of J. H. in an advanced stage of decay stored in the Electrical Room of Warren Funeral Chapel.

21. J. H. died on September 9, 2007. Her cause of death was Hepatitis B, Hepatitis C, and Alcoholic Hepatitis.

22. The body of J. H. was delivered to Warren Funeral Chapel on September 9, 2007.

23. J. H.'s remains were never embalmed and were stored in a double body bag. Warren Sr. opened the body bag to reveal the remains with his bare hands.

24. J. H.'s remains were stored at Warren Funeral Chapel without refrigeration or embalming from September 9, 2007 until July 15, 2008, in violation of 20 CSR 2120-2.070(21), which states:

(21) According to section 333.121.2(17), RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed.

25. On July 11, 2008, the inspectors found a casket that had a strong odor. Upon opening the casket, a cockroach ran off and body fluids were in the foot end of the casket along with powder formaldehyde.

26. On July 11, 2008, the inspectors found the body of W. B. lying on a cot in the basement. W. B. died on July 10, 2008.

27. During the inspection, Warren Sr. stated that the body of W. B. had not been embalmed.

28. While talking with the inspectors, Warren Sr. unzipped the body bag in which W. B. was stored and starting positioning the facial features with his bare hands.

July 15, 2008 Inspection

29. On July 15, 2008, inspectors for the Board inspected Warren Funeral Chapel.

30. During this inspection, the Medical Examiner for Boone County took custody of the body of J. H. which was still at Warren Funeral Chapel.

31. On July 15, 2008, W. B.'s body was still present, but Warren Sr. said it had been embalmed. The Statement of Goods and Services for W. B. indicated that he was to be cremated and not embalmed.

32. On July 15, 2008, the body of R. K. was in the embalming preparation room. R. K. died on July 13, 2008 at University Hospital. The body of R. K. was picked up by Warren Funeral Chapel from University Hospital on July 15, 2008, at approximately 11:00 a.m.

33. As of the time of the inspection, the body of R. K. was not embalmed and was to be cremated.

34. At the time of the inspection, the Warrens did not have an authorization to embalm R. K., as required by § 333.121.2(17), RSMo, and 20 CSR 2120-2.070(21), cited above, and such services were not included in the Statement of Goods and Services, as required by § 333.145.1, RSMo, which provides:

1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

(1) The price of the service that the person or persons have selected and what is included therein;

(2) The price of each of the supplemental items of service or merchandise requested;

(3) The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;

(4) The method of payment.

July 16, 2008 Inspection

35. On July 16, 2008, inspectors for the Board inspected Warren Funeral Chapel.

36. The body of R. K. was still at Warren Funeral Chapel and had not been embalmed.

37. The body of L. F. was also in the basement. L. F. died just after midnight on July 15, 2008. The Warrens picked up the body of L. F. from Boone County Hospital in the morning of July 15, 2008. The body of L. F. was to be cremated and not embalmed.

38. More than 24 hours had passed since the bodies of R. K. and L. F. were received by Warren Funeral Chapel.

39. The storing of the bodies of R. K. and L. F. without refrigeration or embalming for more than 24 hours was in violation of 20 CSR 2120-2.070(21), cited above.

40. In the casket with the body of L. F. was a black garbage bag which contained human organs. These were not L. F.'s organs because no autopsy had been performed on the body of L. F. The bag contained organs from more than one body.

41. Warren Sr. represented that the human organs were from another person, D. T., who was buried on July 15, 2008. Warren Sr. said that he had forgotten to bury them with D. T. on July 15, 2008, and that he was intending to cremate them with the body of L. F.

42. The cremation of L. F. with the other human organs would have resulted in a violation of 20 CSR 2120-2.071(18) for cremating the remains of more than one body without proper authorization.

43. Regulation 20 CSR 2120-2.071(18), provides:

(18) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

44. The Board is informed and believes that none of the human organs contained in the trash bag belonged to the body of D. T.

45. The inspectors noted incisions on the body of L. F. indicative of embalming. The Warrens had embalmed or started to embalm the body of L. F. on July 15, 2008 without written authorization in violation of 20 CSR 2120-2.070(21), cited above, and § 333.121.2(17), RSMo.

August 1, 2008 Inspection

46. On or about August 1, 2008, inspectors for the Board inspected Warren Funeral Chapel.

47. At the August 1, 2008 inspection, five bodies were found in the garage area of the funeral home (M. A., S. H., T. L., M. M., and J. T.); the bodies were not in the garage area on previous inspections by the Board.

48. One other body (C. L.) was found in a casket in a room on the main floor of the funeral home; the casket was empty during a prior Board investigation.

49. Warren Sr. claimed that all six bodies had been embalmed.

M. A.

50. The statement of funeral goods for M. A. listed the death date as May 13, 2008 and included charges for cremation, which were paid for in full.

51. The death certificate for M. A. indicated that the final disposition was cremation and that M. A.'s remains are in Heartland Crematory, Columbia, Missouri.

S. H.

52. The statement of funeral goods for S. H. listed the death date as September 7, 2007 and included charges for cremation and embalming.

53. The embalming log indicated that S. H. was embalmed on September 7, 2007 and September 8, 2007.

54. There was no authorization in the file for the embalming of S. H.

55. Due to the amount of decay, it is questionable if S. H. was embalmed.

56. The death certificate for S. H. indicated that S. H. was buried in Columbia, Missouri, but did not provide a burial place or date.

C. L.

57. The statement of funeral goods for C. L. included charges for cremation and embalming.

58. There is no entry in the embalming log for C. L.

59. There was no authorization in the file for the embalming or cremation of C. L.

T. L.

60. The statement of funeral goods for T. L. listed the death date as May 23, 2008 and included charges for cremation and embalming.

61. The authorization for cremation indicated that T. L.'s remains were delivered to the individual who signed the authorization.

62. The embalming log indicated that T. L. was embalmed on May 23, 2008.

63. Due to the amount of decay, it is questionable if S. H. was embalmed. The death certificate for S. H. indicated that S. H. was buried in Columbia, Missouri, but did not provide a burial place or date.

64. Inside the box with T. L. were three bags of organs. It is not clear who the organs belong to.

M. M.

65. Warren Sr. was unable to find the file for M. M. at the time of the August 1, 2008 inspection.

66. The embalming log indicated that M. M. was embalmed on May 8, 2008.

67. Due to the amount of decay, it is questionable if M. M. was embalmed.

J. T.

68. The statement of funeral goods for J. T. listed the death date as October 26, 2007 and included charges for cremation.

69. The authorization for cremation indicated that the remains of J. T. were delivered to the individual who signed the authorization.

70. The embalming log indicated that J. T. was embalmed on October 26, 2007. There was no authorization for embalming in the file.

Cremated Remains on Site

71. During the August 1, 2008 inspection, the Board investigator also found at least eighteen boxes of cremated remains, fifteen with identification numbers, and three without. All of the boxes had corresponding names of the deceased persons. It is unclear if these remains were allegedly delivered to their respective families.

Other Unsanitary Conditions and Violations

72. As of July 11, 2008, the embalming log for Warren Funeral Chapel ended with a record of a body being embalmed on June 18, 2008.

73. As of July 11, 2008, the embalming room and utensils were dirty and had not been cleaned after Warren Funeral Chapel's last embalming, in violation of 20 CSR 2120-2.090(9), which states:

(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

.

(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table[.]

74. As of July 11, 2008, the embalming table was not covered, in violation of 20 CSR 2120-2.090(9)(E), which states:

(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. . . . The

following minimum standards shall apply:

.

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

75. On July 15, 2008, the embalming room was in disarray. The embalming table was covered with blood and not covered, the trash can was running over, the instruments had not been cleaned and disinfected, in violation of 20 CSR 2120-2.090(9), cited above.

76. On July 15, 2008, the body of G. E. was found on the floor in a box. It appeared that the body of G. E. was embalmed. He was to be cremated.

77. As of July 15, 2008, the embalming log still ended with the June 18, 2008 embalming and did not show that W. B., G. E., or D. T. had been embalmed, in violation of 20 CSR 2120-2.070(24), which states:

(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log.

78. In the alternative, if the body of W. B. was not embalmed as of July 15, 2008, then such would have been stored at Warren Funeral Chapel for more than 24 hours without embalming or refrigeration in violation of 20 CSR 2120-2.070(21), cited above.

79. The Warren's failure to maintain the premises in a clean and orderly condition violates 20 CSR 2120-2.070(14) and (15), which states:

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be kept free and clean of litter,

dirt, debris and clutter or other objects or conditions which present a potential or actual hazard to the health, safety or welfare of the public.

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety or welfare of the public.

80. The conduct of the Warrens, as alleged in Count I, constitutes incompetence, misconduct, gross negligence, fraud, deception and/or misrepresentation.

81. The conduct of the Warrens, as alleged in Count I, constitutes a violation of the professional trust and confidence they own to their clients and the public.

82. Based on the errors and/or omissions of the Warrens, as alleged in this Count, cause exists to discipline the licenses of Warren Funeral Chapel, Warren Sr., Warren Jr., and Helen Warren under § 333.121.2(4), (5), (6), (13), (17), and (19), RSMo, as cited above.

COUNT TWO: FAILURE TO ISSUE DEATH CERTIFICATES

83. The Board incorporates by reference, as if fully set forth herein, paragraphs 1 through 82 of its Complaint.

84. Section 193.145, RSMo, states, in pertinent part:

1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section.

.....

4. The funeral director or person acting as such in charge of final disposition of the dead body shall file the certificate of death. The funeral director shall obtain:

(1) The personal data from the next of kin or the best qualified person or source available; and

(2) The medical certification from the person responsible for such certification.

5. The medical certification shall be completed, signed, and returned to the funeral director or person acting as such within seventy-two hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death. In the absence of the physician or with the physician's approval the certificate may be completed and signed by the physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death and death is due to natural causes. The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

85. Section 193.175, RSMo, states, in pertinent part:

1. The funeral director or person acting as such in charge of final disposition of a dead body shall file a completed notification of death with the local registrar where the death occurred. Such notification of death shall be on a form or in a format prescribed and furnished by the state registrar and shall be filed or postmarked prior to the date of final disposition of the body. Such notification of death shall authorize final disposition except as otherwise stated in this section or in section 193.145. If the body is to be cremated, a completed death certificate shall be filed with the local registrar prior to cremation and shall authorize cremation except as stated in section 193.145.

86. In or around January 2008, a Board investigator met with the Warrens and representatives from the Department of Health and Senior Services regarding the filing of notifications of deaths and death certificates from Warren Funeral Chapel.

87. As of the January 2008 meeting, the Warrens had not filed death certificates for many deceased persons, including, but not limited to the following:

Initials of deceased	Approximate Date of death
G. W.	12/31/2002
J. W.	1/14/2004
B. S.	2/19/2004
V. C.	3/25/2004
C. R.	4/9/2004
D. T.	5/25/2004
R. B.	7/15/2004
J. B.	7/26/2004
A. T.	8/31/2004
B. S.	8/8/2004
N. E.	9/4/2004
M. L.	9/30/2004
A. T.	11/11/2004
L. H.	12/26/2004
B. B.	1/26/2005
W. W.	2/17/2005
M. V.	2/22/2005
M. G.	3/26/2005
R. G.	3/29/2005
I. T.	5/5/2005
J. C.	5/29/2005
M. B.	8/5/2005
V. B.	9/29/2005
C. L.	10/23/2005
C. T.	11/13/2005
T. S.	12/13/2005
D. T.	1/16/2006
O. L.	3/10/2006

B. H.	3/11/2006
I. J.	10/20/2006
J. K.	12/4/2006

88. Since the January 2008 meeting, the Warrens have failed to timely file, or file at all, other death certificates, including, but not limited to, death certificates for the following deceased persons:

Initials of deceased	Approximate Date of death
A. W.	1/6/2007
M. R.	1/9/2007
S. R.	1/16/2007
D. R.	1/22/2007
V. P.	1/24/2007
S. M.	1/25/2007
O. H.	1/30/2007
L. T.	2/3/2007
M. W.	2/4/2007
C. M.	2/7/2007
B. J.	2/8/2007
T. R.	2/16/2007
W. J.	2/23/2007
F. C.	3/6/2007
G. K.	3/8/2007
A. J.	3/10/2007
J. T.	3/10/2007
W. V.	3/10/2007
L. W.	3/13/2007
F. R.	3/14/2007
M.A.	3/19/2007
N. S.	3/19/2007
V. P.	3/13/2007
J. H.	3/27/2007
E. H.	4/3/2007
S. B.	4/8/2007
T. R.	4/18/2007
C. C.	4/26/2007

H. N.	5/11/2007
D. J.	5/17/2007
D. M.	5/24/2007
G. R.	5/24/2007
C. T.	5/27/2007
E. W.	6/3/2007
T. S.	6/8/2007
A. W.	6/11/2007
D. D.	6/18/2007
S. S.	6/25/2007
Z. H.	6/25/2007
R. H.	6/28/2007
E. W.	7/10/2007
K. G.	7/24/2007
K. G.	7/29/2007
J. J.	7/30/2007
E. T.	7/31/2007
D. S.	8/2/2007
F. B.	8/9/2007
D. V.	8/10/2007
D. E.	8/18/2007
R. M.	8/22/2007
M. W.	8/26/2007
J. C.	9/2/2007
M. W.	9/2/2007
D. G.	9/4/2007
S. H.	9/7/2007
T. W.	9/7/2007
H. T.	9/19/2007
A. W.	9/30/2007
L. B.	9/30/2007
D. L.	10/1/2007
C. C.	10/6/2007
I. B.	10/11/2007
P. B.	10/20/2007
M. W.	10/21/2007
D. J.	10/23/2007
H. W.	10/23/2007
J. T.	10/26/2007

G. P.	10/29/2007
M. T.	10/31/2007
D. S.	11/2/2007
D. Y.	11/9/2007
M. S.	11/15/2007
R. D.	11/16/2007
P. T.	11/17/2007
M. B.	11/18/2007
Q. C.	11/23/2007
E. T.	12/2/2007
P. M.	12/5/2007
L. C.	12/9/2007
C. M.	12/11/2007
P. T.	12/17/2007
E. M.	12/18/2007
M. W.	12/20/2007
G. T.	12/25/2007
M. M.	12/25/2007
H. B.	12/27/2007
E. W.	1/4/2008
C. D.	1/9/2008
A. L.	1/24/2008
R. M.	1/25/2008
G. S.	2/26/2008
M. M.	5/9/2008
R. B.	6/1/2008
G. E.	6/29/2008
R. K.	7/13/2008
L. F.	7/15/2008

89. The conduct of the Warrens, as alleged in Count II, constitutes incompetence, misconduct, and/or gross negligence.

90. The conduct of the Warrens, as alleged in Count II, constitutes a violation of the professional trust and confidence they own to their clients and the public.

91. Respondents' conduct in failing to file death certificates for at least the above-listed individuals constitutes a violation of §§ 193.145 and 193.175, RSMo, providing cause to discipline the licenses of Warren Funeral Chapel, Warren Sr., Warren Jr., and Helen Warren under § 333.121.2(5), (6), (13), (15), and (18), RSMo.

COUNT THREE: DOCUMENTATION VIOLATIONS

92. The Board incorporates by reference, as if fully set forth herein, paragraphs 1 through 91 of its Complaint.

93. On or about March 3, 2008, a Board investigator inspected Warren Funeral Chapel and noted the following items:

- a. Some embalming authorizations were not signed;
- b. Some individuals were embalmed without authorization;
- c. The embalming log was not up to date and complete;
- d. The embalming log contained multiple entries for the same person, but with different dates and/or times;
- e. Some entries on the embalming log had a date that pre-dated the corresponding contract dates;
- f. Some clients were charged for embalming when there was no authorization for the embalming;
- g. Some documents were not retained at the Warren Funeral Chapel, such as at-will contracts, fulfilled or cancelled pre-need contracts, authorizations for embalming, and authorizations for cremation;

h. Some at-need services were provided without the existence of an at-need contract, although pre-need contracts existed; and

i. Some statements of charges were not signed by the family and/or funeral director.

94. Section 333.061.2(4), RSMo, provides:

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book[.]

95. Section 333.145.1, RSMo, provides:

1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

(1) The price of the service that the person or persons have selected and what is included therein;

(2) The price of each of the supplemental items of service or merchandise requested;

(3) The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;

(4) The method of payment.

96. State regulation 2120-1.040(21), provides:

(21) Register log—a written record or log kept in the preparation/embalming room of a Missouri licensed funeral establishment available at all times in full view for a board inspector, which shall include the following:

(A) The name of the deceased;

(B) The date and time the dead human body arrived at the funeral establishment;

(C) The date and time the embalming took place, if applicable;

(D) The name and signature of the Missouri licensed embalmer, if applicable;

(E) The name and signature of the Missouri registered apprentice embalmer, if any;

(F) The Missouri licensed embalmer's license number, if applicable;

(G) The Missouri apprentice embalmer registration number, if any; and

(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

97. State regulation 2120-2.070(21), provides, in pertinent part:

(21) According to section 333.121.2(17), RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. . . . If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give

written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;

(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;

(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (21)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

98. State regulation 2120-2.070(23), provides:

(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:

(A) General price list;

(B) Preneed contracts which have been cancelled or fulfilled;

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.

99. State regulation 2120-2.080(2), provides, in pertinent part:

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise. At a minimum, the written statement of charges shall contain the following:

(A) The name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;

(B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;

(C) The name, address and signature of the person making the at-need arrangements;

- (D) The date of the signatures;
- (E) The name of the deceased;
- (F) The date of death;
- (G) The price of the service(s) selected and the price of the supplemental (additional) items;
- (H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
- (I) The amount and description of all cash advance items;
and
- (J) The method of payment.

(3) A preneed contract shall not be substituted for the written statement of charges required by this rule.

(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

100. Based on the findings by the Board investigator on or about March 3, 2008, the Warrens violated § 333.061.4, RSMo; § 333.145, RSMo; 2120-1.040(9); 2120-2.070(21); 2120-2.070(23); and 2120-2.080(2), as cited above.

101. The conduct of the Warrens, as alleged in Count III, constitutes incompetence, misconduct, and/or gross negligence.

102. The conduct of the Warrens, as alleged in Count III, constitutes a violation of the professional trust and confidence they own to their clients and the public.

103. Due to Respondents' conduct and violations, as described above in Count III, cause exists to discipline the licenses issued to Warren Funeral Chapel, Inc., Warren Sr., Warren Jr., and Helen Warren under § 333.121.2(4), (5), (6), (13), (15), and (17), RSMo, as cited above.

WHEREFORE, the Board respectfully requests this Commission to conduct a hearing pursuant to Chapter 621, RSMo, and thereafter to issue its findings of fact and conclusions of law determining that the Board may take disciplinary action against Respondents' licenses for violations of Chapter 333, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

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