

Notice of Proposed Denial of Application

State Mortuary and Cemetery Board
State of Oregon

<p>In the Matter of the preneed salesperson registration application of Schawna Tanner,</p> <p style="text-align: center;">Applicant</p>	<p>Notice of Proposed Denial of Preneed Salesperson Registration Application And Opportunity for a Hearing</p> <p style="text-align: center;">Case No. 06-1023</p>
--	---

Pursuant to ORS 97.931, ORS 692.180, and OAR 838-011-0080, the State Mortuary & Cemetery Board proposes to deny your application for a Preneed Salesperson Registration because you violated ORS Chapter 692 and the State Mortuary & Cemetery Board rules as noted below.

1.

Definitions that may be relevant to this notice are contained in: ORS 97.010, OAR 830-011-0000 and ORS 432.005.

2.

- 2a.** At all times mentioned herein, Charlene Cox-Tanner and Jerome Cox-Tanner were the registered owners of Cox & Cox Funeral Chapel (OMCB License No. FE-8443).
- 2b.** At all times mentioned herein, Jerome Cox-Tanner was the assigned manager of Cox & Cox Funeral Chapel, and a licensed funeral service practitioner (OMCB License No. FS-0382).
- 2c.** At all times mentioned herein, Applicant was the spouse of Jerome Cox-Tanner, and Applicant worked at and represented the funeral establishment.
- 2d.** At all times mentioned herein, Applicant was not a licensed funeral service practitioner or funeral service practitioner apprentice.

3.

3a. Oregon public health law ORS 432.307(1) and (2) provides that only a funeral service practitioner or person acting as a funeral service practitioner without payment shall submit the certificate of death to the county registrar or Center for Health Statistics (Vital Records). See ORS 431.110(2).

3b. OAR 830-030-0090(1)(b) provides that compliance with Oregon public health laws is required of every licensee or agent of a licensed facility.

3c. OAR 830-030-0090(2)(c)(C) provides that it is unacceptable conduct to use another's license.

3d. Between May 27, 2005 and June 2, 2006, Applicant signed the name of "Jerome Cox-Tanner" on the following sixty-three (63) Certificates of Death, for decedents identified by the following Oregon State identification numbers, and submitted them to Vital Records:

3e. The Oregon State ID numbers are: 446151; 446152; 446153; 446154; 446155; 446159; 446162; 446166; 446170; 446174; 446175; 446177; 446179; 446180; 446185; 446202; 446203; 446204; 446205; 446206; 446208; 446212; 446214; 446215; 446216; 446217; 446218; 446221; 446222; 446223; 446224; 446225; 446226; 446227; 446228; 446229; 446230; 446231; 446232; 446233; 446235; 446237; 446238; 446239; 446242; 446243; 446245; 446246; 446247; 446248; 446249; 447150; 447154; 447169; 447170; 447171; 447172; 447173; 447174; 447175; 447196; 447197; 447198;

3f. Applicant was acting as an agent for Cox & Cox Funeral Chapel when she signed and submitted these sixty-three (63) certificates of death on behalf of Chapel clients.

3g. The foregoing sixty-three (63) violations of Oregon Public Health Laws, signing and submitting Certificates of Death to Vital Records, are violations of OAR 830-030-0090(1)(b) which are grounds for license denial under ORS 97.931(3), ORS 692.180(1)(g) and OAR 830-011-0080(2).

3h. The foregoing sixty-three (63) instances in which Applicant signed Jerome Cox-Tanner's name as the person submitting Certificates of Death, are violations of OAR 830-030-0090(2)(c)(C), using another's license, which are grounds for license denial under ORS 97.931(3), ORS 692.180(1)(g) and OAR 830-011-0080(2).

4.

4a. Under OAR 830-030-0090(2)(b)(B), it is prohibited conduct for a licensee or agent of a licensed facility to falsify a client's funeral service, cemetery or crematory record by signing someone else's name.

4b. In addition to the sixty-three (63) Certificates of Death mentioned in Section 3 above, Applicant signed Jerome Cox-Tanner's name on approximately 144 additional client service records including Statements of Funeral Goods and Services (contracts); Cremation Authorizations; Embalming Authorizations and Receipts for Cremated Remains. The permanent records which contain these falsified documents are identified by the following decedents' Oregon State identification numbers:

4c. The Oregon State ID numbers are: 446151; 446152; 446153; 446154; 446155; 446159; 446162; 446166; 446170; 446174; 446175; 446177; 446179; 446180; 446185; 446202; 446203; 446204; 446205; 446206; 446208; 446210; 446211; 446212; 446214; 446215; 446216; 446217; 446218; 446220; 446221; 446222; 446223; 446224; 446225; 446226; 446227; 446228; 446229; 446230; 446231; 446232; 446233; 446235; 446237; 446238; 446239; 446242; 446243; 446245; 446246; 446247; 446248; 446249; 447150; 447154; 447157; 447162; 447169; 447170; 447171; 447172; 447173; 447174; 447175; 447176; 447179; 447196; 447197; 447198.

4d. Therefore, by signing Jerome Cox-Tanner's name and not her own name, Applicant falsified approximately 207 clients' records in violation of OAR 830-030-0090(2)(b)(B) which is cause for license denial under ORS 97.931(3), ORS 692.180(1)(g) and OAR 830-011-0080(2).

5.

5a. On April 12, 2005, two OMCB Staff members advised Applicant that her funeral service practitioner apprenticeship certificate would expire on May 16, 2005 and cautioned Applicant that meeting with families to arrange for final disposition, after her certificate expired, may be considered practicing as a funeral service practitioner without a license.

5b. ORS 692.025(1) provides that an individual may not practice as a funeral service practitioner unless the individual is licensed as a funeral service practitioner under ORS 692.045. An individual practices as a funeral service practitioner if the individual, for payment, is engaged directly or indirectly in supervising or otherwise controlling the transportation, care, preparation, processing and handling of dead human bodies before the bodies undergo cremation, entombment or burial, or before the bodies are transported out of the State of Oregon.

5c. Further, OAR 830-030-0004(1) provides that only a funeral service practitioner or funeral service practitioner apprentice shall: (a) Work directly with at need persons to arrange for the disposition of human remains; and (b) Coordinate and direct the various tasks associated with performing funeral services for at need persons including but not limited to: taking all vital information on the deceased for the purpose of filing the death certificate; arranging for transportation of the remains; coordinating the services for final disposition; supervising or otherwise controlling the care, preparation, processing and handling of human remains.

5d. From May 16, 2005 through June 2, 2006 Applicant worked directly with at need persons to arrange for the disposition of at least seven (7) decedents who died in Oregon and one decedent (1) who died in California. Applicant coordinated and directed the various tasks associated with performing funeral services for at need persons, and supervised or otherwise controlled the transportation, care, preparation, processing and handling of the remains before the bodies underwent cremation, entombment or burial for the following eight (8) decedents, as identified by the following name or Oregon State identification numbers:

5e. The Oregon State ID numbers are: 447179, 447175, 447197, 447196; 446232; 446212; and 447173. The California decedent is "Dorothy B."

5f. The foregoing eight (8) specifications where Applicant performed the duties of a licensed funeral service practitioner, without a license, are violations of OAR 830-030-0004(1) and ORS 692.025(1) and cause for license denial under ORS 97.931(3), ORS 692.180(1)(g) or OAR 839-011-0080(2).

Rights and Procedures

Applicant is entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If Applicant wants a hearing, Applicant must file a written request for hearing with the State Mortuary & Cemetery Board (the "Board") within 60 days from the date this notice was mailed. If a request for hearing is not received within this 60-day period, Applicant's right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If Applicant requests a hearing, Applicant will be notified of the time and place of the hearing. Applicant has the right to be represented by legal counsel at a hearing. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed Denial of Application. If Applicant does not request a hearing within 60 days, or if Applicant withdraws a hearing request, notifies the Board or hearing officer that Applicant will not appear or fails to appear at a scheduled hearing, the Board may issue a final order denying Applicant's Preneed Salesperson Registration Application. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of establishing a prima facie case.

DATED this ____ <21st> ____ day of March, 2007

STATE MORTUARY AND CEMETERY BOARD

____ <s> Lynne Nelson _____
Designee: Lynne Nelson, Compliance Manager