

Notice of Proposed Disciplinary Action

State Mortuary and Cemetery Board
State of Oregon

In the Matter of the crematory license of
PORTLAND CREMATION CENTER, LLC

LICENSEE

AGENCY CASE NO. 09-1060C

Notice of Proposed Disciplinary Action

And

Opportunity for a Hearing

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board (hereafter "OMCB," "Board") proposes to take disciplinary action in the form of a reprimand and \$5,000 in civil penalties against Portland Cremation Center, LLC, which holds a crematory authority license (OMCB License No. CR-0694) on the grounds noted below.

Grounds for Disciplinary Action:

1a. At all times mentioned herein, Portland Cremation Center, LLC (hereafter "Licensee") was licensed by the Board as a crematory in Portland (OMCB License No. CR-0694) and Licensee conducted cremation services for area funeral homes.

1b. At all times mentioned herein, Portland Cremation Center, LLC dba Portland Mortuary Services (hereafter "PMS") was licensed by the board as a funeral establishment in Portland (OMCB License No. FE-8536) and PMS conducted removal and refrigeration services for area funeral homes. PMS and Licensee crematory are co-located.

1c. At all times mentioned herein, Care Cremation Society, Inc. dba Care Cremation Service was licensed by the Board as an immediate disposition company in Clackamas (OMCB License No. IM-9078) and Care Cremation Service contracted PMS to remove and hold remains, and with Licensee to cremate remains.

1d. For the following reasons, the Board intends to impose disciplinary action against Licensee.

2.

2a. On October 26, 2009, a female adult, hereafter identified as “Decedent” passed away. Decedent’s family called Care Cremation Service to handle the final disposition arrangements for direct cremation. Care Cremation Service contracted with PMS to do the removal and hold the remains, and with Licensee to do the cremation.

2b. On October 26, 2009, the Oregon State Identification metal tag number “H91816” was assigned and affixed to Decedent’s remains at PMS on behalf of Care Cremation Service. This number must be written on the final disposition permit by the responsible funeral service practitioner. (See *former* OAR 830-030-0000(3), since amended by OMCB Order 1 2012)

2c. However, on or about October 28, 2009, Care Cremation Service provided Licensee with a final disposition permit and a cremation authorization with the wrong Oregon State Identification tag number written on them. Instead of writing tag number “H91816” on the final disposition permit and on the cremation authorization, a Care Cremation Service representative wrote tag number “H91815”.

2d. On October 28, 2009, Licensee’s crematory operator, Scott Collins (“Collins”), accepted the remains of Decedent on behalf of Licensee by signing the final disposition permit without properly verifying that the Oregon State Identification Tag Number attached to the Decedent matched the number on the final disposition permit in violation of *former* OAR 830-030-0000(5) (since amended by OMCB Order 1 2012).

2e. After cremation and processing, Collins placed Decedent’s cremated remains into a temporary cremated remains receptacle. According to *former* OAR 830-030-0050(5) (since amended by OMCB Order 1 2012) the following information must be affixed to the temporary

receptacle for cremated remains: the decedent's name, date of death, identifying metal disc number, name of funeral home and name of crematory.

2f. Collins affixed a label containing the foregoing information to the temporary receptacle containing the cremated remains of Decedent. However, the label contained Oregon State Identification Tag Number (H91815) instead of the correct tag number that was attached to the cremated remains (H91816) in violation of *former* OAR 830-030-0050(5) (since amended by OMCB Order 1 2012).

3.

3a. Licensees are responsible for maintaining supervision of unlicensed persons to whom tasks are assigned. Licensee, therefore, violated *former* OAR 830-030-0090(1)(e) (since amended by OMCB Order 1-2012) when Collins failed to verify the metal ID tag with the number on the final disposition permit, and when Collins affixed a label containing the wrong ID Tag Number to the temporary receptacle as described above in Sections 2d, 2e and 2f.

3b. Licensee also failed to follow through with agreed upon arrangements with Care Cremation Service when Licensee returned incorrectly labeled remains to Care Cremation Center in violation of *former* OAR 830-030-0090(1)(d) (since amended by OMCB Order 1-2012).

3c. Further, Licensee's permanent records contained a final disposition permit and cremation authorization containing inaccurate information which are violations of *former* OAR 830-030-0090(2)(b)(A) and *former* OAR 830-040-0000(6)(a) (since amended by OMCB Order 1-2012).

3d. Violation of a board rule is cause for disciplinary action under ORS 692.180(1)(g).

4.

For the foregoing reasons the Board proposes to take disciplinary action in the form of a reprimand and a civil penalty of \$1,000 for each of the approximately five (5) violations

described above against Licensee. The maximum penalty the Board may impose includes a civil penalty of \$1,000 for each violation, license suspension, license revocation, and refusal to renew any license. ORS 692.180(1).

5.

Definitions that may be relevant to this notice are contained in *former* ORS 692.010 (since amended by Or Laws 2009 c. 709 § 1) and *former* OAR 830-011-0000 (since amended by OMCB Order 1-2009, OMCB Order 2-2010, OMCB Order 1-2011, OMCB Order 1-2012).

Rights and Procedures

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If you want a hearing, you must file a written request for hearing with the State Mortuary & Cemetery Board (the “Board”) within 21 days from the date this notice was mailed. The Board’s address is 800 NE Oregon Street #430, Portland OR 97232-2195. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the time and place of the hearing. A Notice of Contested Case Hearing Right and Procedures is enclosed with this Notice of Proposed Disciplinary Action and Opportunity for Hearing. If you do not request a hearing within 21 days, or if you withdraw a hearing request, notify the Board or administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing disciplinary action as determined by the Board. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of a prima facie case.

DATED this __23rd__ day of July, 2012

STATE MORTUARY AND CEMETERY BOARD

____<s> Lynne Nelson_____
Designee: Lynne Nelson, OMCB Compliance Manager