

Notice of Proposed Denial of Application

**STATE MORTUARY AND CEMETERY BOARD
STATE OF OREGON**

<p>In the Matter of the Embalmer Apprenticeship Certificate Application and Funeral Service Practitioner Apprenticeship Application of MATTHEW KURT LEMMON, APPLICANT</p>	<p>Notice of Proposed Denial of an Application And Opportunity for a Hearing CASE NO. 10-1050</p>
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Pursuant to ORS 692.180(1) and ORS 670.280(3) the Oregon Mortuary & Cemetery Board proposes to deny your application for Embalmer Apprenticeship Certificate and Funeral Service Practitioner Apprenticeship Certificate on the grounds noted below.

Grounds for Application Denial:

1. On August 9, 2010, the Oregon Mortuary & Cemetery Board ("Board") received a completed application for an Embalmer Apprenticeship Certificate and Funeral Service Practitioner Certificate ("Application") from Matthew Kurt Lemmon ("Applicant").

2. Application and a background investigation for embalmers and funeral service practitioners are required and permissible pursuant to OAR 830-011-0050(1) and ORS 692.180(1).

3.

3a. The Application's Background Information section, Question #3, asks Applicant, "*Have you ever been arrested, charged or cited for anything other than traffic violations?*" Applicant answered "Yes." Applicant disclosed being charged in Morrow County, Oregon, in 1994 for Sexual Abuse in the First Degree (a Class B Felony); and charged in Gray's Harbor County, Washington, in 2005 for Failure to Register as a Sex Offender (a Class C Felony).

3b. Applicant failed to disclose that on February 20, 2007, he was arrested for domestic violence in Snohomish County, Washington.

3c. Applicant failed to disclose that on July 28, 2008, he received a misdemeanor criminal citation for violation of fish and wildlife laws in Okanogan County, Washington.

3d. Therefore, Applicant misrepresented his arrest history and failed to answer truthfully and completely in at least two instances in his Application in violation of OAR 830-050-0050(2), OAR 830-050-0050(9), OAR 830-030-0090(2)(c)(D), and OAR 830-030-0090(2)(d)(B), and ORS 692.180(1)(g). Applicant also violated ORS 692.180(1)(a) and ORS 692.180(1)(b).

4.

4a. The Application's Background Information section, Question #4, asks Applicant, "*Have you ever been convicted of, or are you currently charged with, committing a crime whether or not adjudication was withheld?*" If the answer is "Yes" Applicant is required to provide a signed, dated, written statement explaining the circumstances of each incident. Applicant answered "Yes." Applicant disclosed that in 1995 he was convicted in the Circuit Court of the State of Oregon in Morrow County for Sexual Abuse in the First Degree (a Class B Felony), and sentenced to serve a five year probationary period, perform 160 hours of community service, pay up to \$10,000 for the victim's treatment, and complete required counseling classes. The applicant also disclosed a 2005 conviction in the Superior Court of Washington, Gray's Harbor County, for Failure to Register as a Sex Offender (a Class C Felony). Applicant stated he was sentenced to 10 days confinement, 12 months community custody, and fined \$1,210.00 in fees and assessments.

4b. Applicant failed to disclose conviction of the foregoing mentioned July 28, 2008, misdemeanor criminal citation in Okanogan County, Washington, in which he was sentenced to pay a fine.

4c. Therefore, Applicant misrepresented his criminal conviction history on an application and failed to answer truthfully and completely in violation of OAR 830-050-0050(2), OAR 830-

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050-0050(9), OAR 830-030-0090(2)(c)(D), and OAR 830-030-0090(2)(d)(B), and ORS 692.180(1)(g). Applicant also violated ORS 692.180(1)(a) and ORS 692.180(1)(b).

5.

Applicant's conduct and conviction of crimes having a demonstrable bearing upon the standards of the funeral service and embalming profession is cause for denial of the Application pursuant to 830-050-0050(3), ORS 692.180(1)(g), ORS 692.180(1)(i) and ORS 670.280(3).

6.

Definitions that may be relevant to this notice are listed in ORS 692.010 and OAR 830-011-0000.

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 60 days from the date this notice was mailed. If a request for hearing is not received by the Board within this 60-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to the Oregon Mortuary and Cemetery Board, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by an attorney at the hearing. Parties are ordinarily and customarily represented by counsel. You are not required to be represented by counsel, unless you are an agency, trust, corporation or association. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed Disciplinary Action. If you do not request a hearing within 60 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to

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appear at a scheduled hearing, the Board may issue a final order by default imposing the discipline 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 establishing a prima facie case.

DATED this __14th____ day of December, 2010

STATE MORTUARY AND CEMETERY BOARD

_<s> Lynne Nelson
Designee: Lynne Nelson, Compliance Manager