

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

<p>In the Matter of the funeral establishment license of Treasure Valley Diversified, Inc. dba HAREN-WOOD FUNERAL CHAPEL,</p> <p align="center">RESPONDENT</p>	<p>Notice of Proposed Disciplinary Action (Reprimand) And Opportunity for a Hearing</p> <p>CASE NO. 07-1047A</p>
--	---

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board ("OMCB," "Board") proposes to take disciplinary action in the form of a reprimand against Treasure Valley Diversified, Inc. dba Haren-Wood Funeral Chapel on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

Grounds for Disciplinary Action:

1.

1a. At all times mentioned herein Treasure Valley Diversified, Inc. dba Haren-Wood Funeral Chapel (hereinafter "Respondent") was licensed by the Oregon Mortuary and Cemetery Board as a funeral establishment. (OMCB License Nos. FE-8291 or FE-8540)

1b. At all times mentioned herein, Dennis Haren (Haren) was a licensed funeral service practitioner and embalmer (OMCB License No. CO-3476); and at all times mentioned herein Haren was a corporate officer and the manager of Respondent funeral establishment.

1c. Definitions that may be relevant to this notice are contained in ORS 97.010, ORS 692.010, OAR 830-011-0000 and 16 Code of Federal Regulation (CFR) 453.1.

1d. On or about the following dates, the Board conducted inspections of Respondent funeral establishment: a.) October 28, 1997; b.) October 13, 1998; c.) August 21, 2002; d.) March 21, 2005; and e.) October 11, 2007.

2.

2a. During the 2005 and 2007 inspections the Federal Trade Commission Funeral Rule's ("Funeral Rule") "basic services fee disclosure" on Respondent's effective General Price Lists was not a verbatim copy of the disclosure required by the Funeral Rule.

2b. The foregoing are violations of 16 CFR 453.2(b)(4)(iii)(C) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which are cause for discipline under ORS 692.180(1)(g).

3.

3a. During the 1997, 2002, 2005 and 2007 inspections, the Funeral Rule's "casket price list disclosure" on Respondent's effective General Price Lists was not a verbatim copy of the disclosure required by the Funeral Rule.

3b. The foregoing are violations of 16 CFR 453.2(b)(4)(iii)(A) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which are cause for discipline under ORS 692.180(1)(g).

4.

4a. During the 1997, 2002, 2005 and 2007 inspections, the Funeral Rule's "outer burial container price list disclosure" on the effective General Price Lists was not a verbatim copy of the disclosure required by the Funeral Rule.

4b. The foregoing are violations of 16 CFR 453.2(b)(4)(iii)(B) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which are cause for discipline under ORS 692.180(1)(g).

5.

5a. During the 1997, 1998, 2002, 2005 and 2007 inspections, Respondent's effective General Price Lists did not contain an accurate price range for all direct cremations offered by Respondent pursuant to the Funeral Rule.

5b. The foregoing are violations of 16 CFR 453.2(b)(4)(ii)(C) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which is cause for discipline under ORS 692.180(1)(g).

6.

6a. During the 1997, 1998, 2002, 2005 and 2007 inspections, Respondent's effective General Price Lists did not contain an accurate price range for all immediate burials offered by Respondent.

6b. The foregoing are violations of 16 CFR 453.2(b)(4)(ii)(D) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which is cause for discipline under ORS 692.180(1)(g).

7.

7a. During the 1998 inspection, Respondent's General Price List contained the effective date of "January 1, 1998."

7b. During the 2002 inspection, Respondent's General Price List still contained the effective date of "January 1, 1998," however, several items and their prices on the General Price List had changed.

7c. The foregoing inaccurate effective date is a violation of 16 CFR 453.2(b)(4)(i)(C)(3) which is cause for discipline under ORS 692.180(1)(h); and the foregoing is a violation of OAR 830-030-0090(1)(c) which is cause for discipline under ORS 692.180(1)(g).

7d. The foregoing is also considered a sales presentation or practice which conceals or misstates a material fact in violation of OAR 830-030-0100(9) which is cause for discipline under

ORS 692.180(1)(g); and the foregoing is considered misrepresentation in the conduct of business, a violation of ORS 692.180(1)(a).

8.

8a. During the 2005 inspection, Respondent's Casket Price List contained the effective date of "November 11, 2003."

8b. During the 2007 inspection, Respondent's Casket Price List still contained the effective date of "November 11, 2003," however, several caskets and prices on the Casket Price List had changed.

8c. The foregoing inaccurate effective date is a violation of 16 CFR 453.2(b)(2)(i) which is cause for discipline under ORS 692.180(1)(h); and the foregoing is a violation of OAR 830-030-0090(1)(c) which is cause for discipline under ORS 692.180(1)(g).

8d. The foregoing is also considered a sales presentation or practice which conceals or misstates a material fact in violation of OAR 830-030-0100(9), which is cause for discipline under ORS 692.180(1)(g); and the foregoing is considered misrepresentation in the conduct of business, a violation of ORS 692.180(1)(a).

9.

9a. During the 2005 and 2007 inspections, Respondent's Outer Burial Container Price Lists had no effective date.

9b. The foregoing are violations of 16 CFR 453.2(b)(3)(i) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which is cause for discipline under ORS 692.180(1)(g).

10.

10a. During the 1997, 2005 and 2007 inspections, the Funeral Rule's "outer burial container disclosure" on the Outer Burial Container Price List was not a verbatim copy of the disclosure required by the Funeral Rule.

10b. The foregoing are violations of 16 CFR 453.3(c)(2) which are cause for discipline under ORS 692.180(1)(h); and the foregoing are violations of OAR 830-030-0090(1)(c) which are cause for discipline under ORS 692.180(1)(g).

11.

11a. During the 2005 and 2007 inspections, Respondent's Cremation Authorization contained an incorrect statutory reference (ORS 97.141), and the Cremation Authorization stated that, "A majority of the surviving adult children of the decedent" would be required to authorize cremation.

11b. In 1997, the Oregon legislature repealed ORS 97.141. The current statute, ORS 97.130(1) and (2), does not require a "majority" of persons within a classification to authorize cremation.

11c. Therefore, the foregoing statute and statement on the Cremation Authorization is considered misstating or concealing a material fact, and therefore misrepresentation in violation of OAR 830-030-0100(9), which is cause for discipline under ORS 692.180(1)(g); and the foregoing is misrepresentation in the conduct of business in violation of ORS 692.180(1)(a).

12.

12a. During the 1998, 2002, 2005 and 2007 inspections, the Statement of Funeral Goods and Services Selected (SFGSS) did not contain the required OMCB licensing statement: "This facility is licensed by the Oregon State Mortuary and Cemetery Board."

12b. The foregoing are violations of OAR 830-040-0005 which are cause for discipline under ORS 692.180(1)(g).

13.

13a. The Funeral Rule provides that it is a deceptive act or practice to represent that state or local law requires embalming when that is not the case; and to fail to disclose that embalming is not required by law, except in certain special cases, if any. 16 CFR 453.3(a)(1)(i)(ii).

13b. In Oregon, embalming is not a legal requirement for public funerals or viewings as long as washed and disinfected human remains are not out of refrigeration longer than six hours. OAR 830-030-0080(1); See also OAR 830-030-0080(2) and (3).

13c. The Funeral Rule further provides that it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless: 1) state or local requires embalming or, 2) the person with the right to control disposition requests and provides prior approval for embalming. OAR 830-030-0010(3); 16 CFR 453.5

13d. Respondent engaged in a misleading business practice or an unfair or deceptive act or practice on the following three occasions in violation of 16 CFR 453.5 and OAR 830-030-0100(9), which are cause for disciplinary action under ORS 692.180(1)(a), (h) and (g):

13e. During the 2002 inspection, the permanent record for two decedents, Raul R. and Glenn R., contained Statements of Funeral Goods and Services Selected (SFGSS) that stated the reason for embalming was "viewing."

13f. During the 2007 inspection, the permanent record for decedent, Jerry J., who died in 2006, contained a SFGSS that stated the reason for embalming was "viewing."

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. If a request for hearing is not received within this 21-day period, your 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 you request a hearing, you will be notified of the time and place of the hearing. You must be represented by legal counsel at a hearing. 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 21 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing 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 ___20th___ day of March, 2008

STATE MORTUARY AND CEMETERY BOARD

____<S> Lynne Nelson_____
Designee: Lynne Nelson, Compliance Manager