

**BEFORE THE MORTUARY AND CEMETERY BOARD1  
OF THE STATE OF OREGON**

In the Matter of the funeral service practitioner license of Laura Jo Hofsess (FS-0259)	Notice of Proposed Disciplinary Action And Opportunity for a Hearing
<b>RESPONDENT</b>	<b>CASE NO. 06-1028C</b>

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board ("Board" and "OMCB") proposes to take disciplinary action against you on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license suspension or 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 Respondent was licensed by the Board as a funeral service practitioner (OMCB License No. FS-0259).

**1b.** At all times mentioned herein Respondent was an owner and the assigned manager of a funeral establishment doing business as Myrtle Grove Funeral Service – Bay Area (OMCB License No. FE-8513) ("Myrtle Grove").

**1c.** At all times mentioned herein Donna Schmidt (OMCB License No. AF-1905) ("Schmidt") was employed at Myrtle Grove as an apprentice funeral service practitioner; and Respondent was Schmidt's apprenticeship supervisor.

**2.**

**2a.** Funeral establishments are required to have a General Price List, with an effective date, stating the specific funeral goods or funeral services offered by the funeral provider together with the price of each item. 16 CFR 453.2(b)(4)

**2b.** Myrtle Grove's General Price List, effective May 31, 2006, states that the price for the use of facilities and staff for viewing/visitation remains is \$150.00; and the price for washing/disinfecting the remains is \$90.00. The General Price List also states, "No public or private funeral service, or public viewing will be held over the remains of an unwashed deceased human body."

**2c.** Oregon law does not require washing and disinfecting of remains for a private family viewing.

**2d.** Definitions that may be relevant to this notice are contained in OAR 830-011-0000, 16 CFR 453.1, and ORS 692.010.

**3.**

**3a.** On June 26, 2006, "Roger P." died. The persons with the right to control final disposition of the decedent's remains, pursuant to ORS 97.130(1)(2) and (3), were his adult son, Solomon P. and adult daughter, Amy P.

**3b.** On or about June 26 and 27, 2006, Solomon P., Amy P., and the decedent's ex-wife, Debbie S., spoke with Schmidt to make final disposition arrangements by cremation. When the family requested a brief, private, family viewing of the remains prior to cremation, Schmidt provided a price of \$695 for direct cremation or \$1275 for cremation with a viewing

**3c.** The family objected to the cost of a viewing, and Schmidt informed the family they could pay a discount of \$240.00 in addition to the price for direct cremation. Specifically, this charge included a \$150.00 charge for the *use of facilities and staff for viewing/visitation*, and a charge of \$90.00 for *washing/disinfecting of the remains*. Schmidt conferred with Respondent who confirmed the family must pay the \$90.00 for washing and disinfecting. Schmidt then

continued to require a charge of \$90.00 for washing/disinfecting of the remains, if the family still wanted to have a private family viewing.

3d. The family did not have a private family viewing.

4.

4a. OAR 830-011-0020(10) provides that if a funeral service practitioner's apprentice makes any arrangements for a deceased person the licensed funeral service practitioner supervising the apprentice is responsible for any arrangements made by the apprentice.

4b. Misstating a material fact, specifically, stating that washing or disinfecting remains is necessary or required for a private family viewing when it was not, is a sales presentation or practice that is considered misrepresentation in the conduct of doing business.

4c. Respondent, therefore, violated OAR 830-030-0100(9) which is cause for disciplinary action under ORS 692.180(1)(g); and Respondent violated ORS 692.180(1)(a).

5.

Further, by aiding, abetting, or assisting Schmidt to violate or circumvent any law, rule or regulation intended to guide the conduct of the death care industry, Respondent violated OAR 830-030-0090(2)(a)(F), which is cause for disciplinary action under ORS 692.180(1)(g).

6.

Finally, Respondent failed to supervise her apprentice when she allowed her to violate death care industry standards, which is a violation of OAR 830-030-0090(1)(f) which is cause for disciplinary action under ORS 692.180(1)(g).

### **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 20 days from the date this notice was mailed. If a request for hearing is not received within**

this 20-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, Box 19, 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, but are not required, to 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 20 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 \_\_\_22nd\_\_\_ day of March, 2007

**STATE MORTUARY AND CEMETERY BOARD**

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