

Final Order by Default

State of Oregon Mortuary and Cemetery Board

In the Matter of the Denial of the
Preneed Salesperson Registration
Application of

Leslie A. Holt,
Applicant

Case No.: 07-1006

Final Order

On May 24, 2007 the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of Application (Notice) on Leslie A. Holt (Applicant) that it intended to deny her Preneed Salesperson Registration Application for violations of ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B) and OAR 830-050-0050(2). The Notice offered Applicant an opportunity for a hearing if requested within 60 days from the date the Notice was mailed. Applicant did not request a hearing within this 60-day period or otherwise. The Notice designated the Board's file on this matter as the record for purposes of default.

NOW THEREFORE, after considering the Board's file relating to this matter, the Board enters the following:

FINDINGS OF FACT

1. Applicants for a preneed salesperson registration must apply on a form provided by the Board and consent to a background check. ORS 97.931(1)(2) and (3)
2. Applicants are informed, by means of written notice on the application, that any misrepresentation or omission is cause for refusal to issue a registration.
3. By application received on February 20, 2007, Applicant applied to the Board for a Preneed Salesperson Registration.
4. Application question number three (3) of the Background Information Section asks if the Applicant has been arrested, charged or cited for anything other than traffic violations. If the answer is "yes" the Applicant is required to list all of the arrests, including dismissals, and provide a detailed, complete and accurate written account of the facts and circumstances of each arrest.
5. Application question number four (4) asks if the Applicant has ever been convicted of a felony or misdemeanor crime. If the answer is "yes" the Applicant is required to list all of the convictions and provide a detailed, complete and accurate written account of the facts and circumstances of each crime which led to the conviction.

6. Applicant answered that she was arrested and charged with the felony crime of Possession of Controlled Substance in April 2003 which was reduced to a violation of Attempting to Possess a Controlled Substance, a misdemeanor crime. Applicant provided the following explanation of the aforementioned arrest which led to the conviction:

"I had expected [sic] a ride with a casual acquaintance. During which her vehicle was stopped by an off-duty Clackamas County officer. (They were looking for a vehicle of similar description.) She was unable to provide any identification and her vehicle was searched. As it so happened that her vehicle contained a small amount of controlled substance. (This was unknown to me.) As a result we both were sited [sic]. Unable to hire an attorney I plead [sic] guilty to a reduced charge."

7. On or about November 18, 2002, Applicant was a passenger in a vehicle when the vehicle was stopped by a Clackamas County Sheriff Deputy in Washington County, Oregon for an improper lane change. During the traffic stop, Applicant admitted to the deputy that a 6" by 6" box on the floor of the vehicle that contained a crystal substance was Applicant's box, that she smoked methamphetamine earlier that day, and that she had been using methamphetamine for approximately one year.

8. Applicant received a citation in lieu of arrest, on April 7, 2003, for the Class C Felony crime of former ORS 475.992, renumbered ORS 475.840 (2005), "Possession of a Controlled Substance."

9. On May 7, 2003, Applicant pleaded guilty and was convicted of a Class A Misdemeanor crime; ORS 161.405(2)(d), ORS 475.992, "Attempting to Possess a Controlled Substance."

10. Applicant did not provide an accurate, detailed and complete written account of the facts and circumstances for the foregoing arrest and conviction. By failing to provide an accurate, detailed and complete written account of the facts and circumstances of an arrest and conviction, Applicant misrepresented her criminal history to the Board. ORS 692.180(1)(a)

11. The foregoing misrepresentation by Applicant of the circumstances of her arrest and conviction are cause for refusal to grant a registration under ORS 97.931(2), ORS 97.931(3)(a), ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B) and OAR 830-050-0050(2).

ULTIMATE FINDINGS

1. By failing to give an accurate, detailed and complete account of the facts and circumstances for the arrest of "Possession of a Controlled Substance" and the conviction of "Attempting to Possess a Controlled Substance" in her application, Applicant failed to answer truthfully and accurately inquiries regarding matters within the Board's jurisdiction and Applicant made a false and misleading statement to the Board.
2. By failing to give a complete and accurate account of the facts and circumstances of an arrest and conviction Applicant misrepresented her criminal history to the Board.

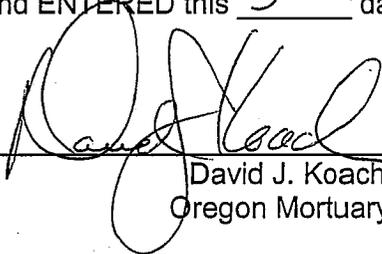
CONCLUSION OF LAW

In applying to the Board for licensure, Applicant misrepresented her criminal history by making false and misleading statements. A false or misleading statement on a license application is grounds for license denial pursuant to OAR 830-050-0050(2), OAR 830-030-0090(2)(d)(B) and ORS 692.180(1)(g); and misrepresentation on an application to the Board is cause for refusal to grant a license pursuant to OAR 830-030-0090(2)(c)(D) and ORS 692.180(1)(a) and (g).

ORDER

1. Applicant's Preneed Salesperson Registration Application is hereby denied.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this 5th day of October, 2007.



David J. Koach, Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: October 5, 2007

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS Chapter 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date of this order.