

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

<p>In the Matter of the funeral establishment license of MYRTLE GROVE, LLC. dba MYRTLE GROVE FUNERAL SERVICE – BAY AREA,</p> <p style="text-align: center;">LICENSEE</p>	<p>Notice of Proposed Disciplinary Action And Opportunity for a Hearing</p> <p style="text-align: center;">CASE NO. 07-1028A</p>
--	---

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board proposes to take disciplinary action against your funeral establishment license. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand, license revocation, civil penalties 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, Myrtle Grove Funeral Service – Bay Area was licensed by the Board as a funeral establishment (OMCB License No. FE-8615 or FE-8513, hereafter “Licensee”).

1b. Licensee funeral establishment’s physical address, as it appears on the Board's records, is: 2645 Woodland Drive, Coos Bay, Oregon.

1c. At all times mentioned herein Laura Jo Hofsess was licensed as a funeral service practitioner (OMCB License No. FS-0259, hereafter “Hofsess”); and Hofsess was the assigned manager and limited liability company member of Licensee funeral establishment.

1d. At no time mentioned herein did Licensee operate a licensed funeral establishment in Reedsport, Oregon.

2.

Licensee ran the following advertisements in Oregon telephone book directories:

- i.) Verizon Yellow Pages Southern Oregon Coast telephone directory, July 2007, page 70, under section "M:"

Myrtle Grove Funeral Service-Bay Area Rdspt....271-2851

- ii.) Verizon Yellow Pages Southern Oregon Coast telephone directory, July 2007, page 82, under the heading "Crematories & Cremation Services:"

Myrtle Grove Funeral Service-Bay Area

Bay Area

2645 Woodland Dr Cs By..... 269-2851

Reeds Port.....271-2851

- iii.) Verizon Yellow Pages Southern Oregon Coast telephone directory, July 2007, page 103, under the heading "Funeral Directors:"

Myrtle Grove Funeral Service - Bay Area

Rdspt.....271-2851

- iv.) Verizon Yellow Pages Reedsport Neighborhood, July 2005, page 11, under the heading "Crematories & Cremation Services:"

Myrtle Grove Funeral Service-Bay Area

Rdspt.....271-2851

- v.) Verizon Yellow Pages Reedsport Neighborhood, July 2005, page 16, under the heading "Funeral Directors:"

Myrtle Grove Funeral Service-Bay Area

Rdspt.....271-2851

- vi.) Dex (Qwest) Yellow Pages Official Directory, Florence, Mapleton, Reedsport, Yachats and Surrounding Area, through June 2008, page 31, under the heading "Cremation Services:"

Myrtle Grove Funeral Service-Bay Area

.....271-2851

- vii.) Dex (Qwest) Yellow Pages Official Directory, Florence, Mapleton, Reedsport, Yachats and Surrounding Area, through June 2008, page 43, under the heading "Funeral Homes and Directors:"

MYRTLE GROVE FUNERAL SERVICE – BAY AREA

Full Service Funeral Home
Cremation Services & Specialty
Priced Packages
Privately Owned and Operated

Reedsport.....271-2851

viii.) The Local Pages Inc Florence telephone directory, 2006-2007, page 27, under the heading "Cremation Services:"

Myrtle Grove Funeral Service-Bay Area

Rdspt.....271-2851

ix.) The Local Pages Inc Florence telephone directory, 2006-2007, page 37, under the heading "Funeral Homes & Directors:"

Myrtle Grove Funeral Service-Bay Area

Rdspt.....271-2851

x.) Verizon Yellow Pages Reedsport Neighborhood, July 2006, page 11, under the heading "Crematories & Cremation Services:"

Myrtle Grove Funeral Service-Bay Area Rdspt.....271-2851

xi.) Verizon Yellow Pages Reedsport Neighborhood, July 2006, page 13, under the heading "Funeral Directors:"

MYRTLE GROVE FUNERAL SERVICE - BAY AREA

Rdspt.....271-2851

3.

In 2007, Licensee authorized the publishing and mailing of a consumer survey that contained the following heading:

Myrtle Grove
Funeral Service

Coquille Valley
94105 Rink Creek Lane
P.O. Box 37
Coquille, OR 97423
(541) 396-3158

Bay Area
2645 Woodland Drive
Coos Bay, OR 97420
(541) 269-2851

Reedsport.
(541) 271-2851

4.

4a. ORS 692.180(1)(a) provides that misrepresentation in the conduct of business is grounds for disciplinary action.

4b. OAR 830-040-0050(5) provides that any advertisement that intentionally conceals or misstates a material fact is considered misrepresentation.

4c. OAR 830-030-0100(9) provides that any sales presentation or practice that conceals or misstates a material fact is considered a misrepresentation in the conduct of doing business.

4d. In the foregoing advertisements listed in Sections 2i, ii, iii, iv, v, vii, viii, ix, x, xi and Section 3 Licensee misrepresented the location of a licensed funeral establishment or concealed or misstated a material fact: Licensee funeral establishment is located in Coos Bay, not Reedsport. This fact is material as it may be relevant to a consumer's decision to engage Licensee's services.

4e. Therefore, Licensee violated OAR 830-040-0050(5) or OAR 830-030-0100(9) in at least eleven (11) instances which are cause for disciplinary actions under ORS 692.180(1)(g); and the foregoing advertisements are misrepresentations in the conduct of business which are violations of ORS 692.180(1)(a).

5.

5a. OAR 830-040-0050(1) provides that each licensed facility advertising through any media shall include the physical address as it appears on the Board's records.

5b. Licensee's foregoing advertisements listed in Sections 2i, iii, iv, v, vi, vii, viii, ix, x and xi do not include the physical address of the funeral establishment in Coos Bay.

5c. Licensee, therefore, violated OAR 830-040-0050(1) in at least ten (10) instances, which are cause for disciplinary actions under ORS 692.180(1)(g).

6.

6a. On October 7, 1998 the Board issued a Letter of Warning to funeral establishment manager and operator, Laura Jo Hofsess, advising her that future advertising may not be misleading to the consumer.

6b. Definitions that may be relevant to this notice are contained in ORS 692.010 and OAR 830-011-0000.

Opportunity for Hearing

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 imposed 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 13th day of October, 2008

STATE MORTUARY AND CEMETERY BOARD

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