

Notice of Proposed Denial of Application

STATE MORTUARY AND CEMETERY BOARD

STATE OF OREGON

In the Matter of the Preneed Salesperson Registration Certificate Application of JACI SHIPLEY , APPLICANT	Notice of Proposed Denial of an Application And Opportunity for a Hearing CASE NO. 08-1018
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Pursuant to ORS 692.180 and ORS 692.190, the Oregon Mortuary & Cemetery Board proposes to deny your application for a Preneed Salesperson Registration Certificate on the grounds noted below.

Grounds for Application Denial:

1.

1a. On April 16, 2008, the Oregon Mortuary & Cemetery Board (the "Board") received Applicant's completed Application for Preneed Salesperson Registration Certificate (hereafter the "Application").

1b. In the Application, Applicant certified that she understood that any misrepresentation or omission of fact on her application or supplementary background materials shall be cause for refusal to issue an Oregon License or Certificate.

2.

2a. In the Application, Background Information Question #2 asks the Applicant, "As a licensee (or applicant) have you ever received a reprimand, warning, violation, suspension, fine, cancellation (or denial) by any city, county, or state licensing agency?" Applicant wrote, "No."

2b. On or about January 30, 1996, Applicant paid civil penalties imposed by the Oregon Board of Cosmetology, an Oregon Health Licensing Agency, as follows:

- i. \$200 civil penalty for "Operating Without Facility License;" and
- ii. \$200 civil penalty for "Expired Practitioner's Certificate [#515722]"

2c. The foregoing failure to disclose disciplinary actions by another state agency are two instances of misrepresentation on an Application which are cause for refusal to grant a license under 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).

2d. In addition, the foregoing disciplinary action against Applicant for operating without a facility license and practicing with an expired license is conduct that bears a demonstrable relationship to death care industry practices or operations and are therefore grounds for refusal to grant an applicant's certificate or registration pursuant to OAR 830-050-0050(5) and ORS 692.180(1)(g).

3.

3a. In the Application, Background Information Question #3 asks the Applicant: "Have you ever been arrested, charged, or cited for anything other than traffic violations?" Applicant wrote, "Yes."

3b. The background form also requires that if the answer to the foregoing question is "Yes" the applicant must provide a detailed, complete and accurate written account(s) of the facts and circumstances of each arrest or cite (include any dismissals).

3c. Applicant disclosed two arrests on her Application: A 1998 arrest in Jackson County, Oregon, for Driving Under the Influence of Intoxicants (Applicant mistakenly wrote "1996" on the Application); and a 2007 arrest in Medford, Oregon for Assault 4th Degree.

3d. However, Applicant did not disclose the following two additional arrests: A 1987 arrest in Medford, Oregon for Theft 2nd Degree; and a 1992 arrest in Medford, Oregon,

for two counts of Negotiating Bad Checks. Applicant informed the Board that the Court dismissed the two Negotiating Bad Check charges after she paid civil restitution; Jackson County District Court records confirm issuance of an Order of Dismissal with Civil Compromise.

3e. The foregoing failure to disclose at least two arrests are two instances of misrepresentation on an Application which are cause for refusal to grant a license under 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).

4.

4a. In the Application, Background Information Question #4 asks the Applicant, "Have you ever been convicted of, or are you currently charged with, committing a crime whether or not adjudication was withheld?" Applicant wrote, "Yes."

4b. Applicant disclosed one conviction: A 2007 Assault 4th Degree conviction in Jackson County Circuit Court, Oregon, for which she pled guilty and received probation and a deferred sentence with conditions.

4c. However, Applicant failed to disclose a 1987 conviction in Medford Municipal Court for Theft 2nd Degree for which she paid a \$30.00 fine, and received a 10-day suspended jail sentence.

4d. The foregoing misrepresentation on an Application is cause for refusal to grant a license under 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).

5.

5a. Finally, the crimes that Applicant committed, Theft 2nd Degree and Assault 4th Degree involve facts and circumstances that have a demonstrable bearing upon the standards of the profession, and bears a demonstrable relationship to preneed and funeral service practice.

5b. The foregoing is cause for refusal to grant a license under ORS 692.180(1)(g), OAR 830-050-0050(3), and ORS 692.180(1)(i).

6.

Definitions that may be relevant to this notice may be found 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 Oregon Mortuary & Cemetery Board (the "Board") at 800 NE Oregon Street, Portland, OR 97232, within 60 days from the date this notice was mailed. If a request for hearing is not received within this 60-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the time and place of the hearing. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed Denial of Application. 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 appear at a scheduled hearing, the Board may issue a final order by default denying your Application. If the Board issues a final order by default, it designates its file on this matter as the record.

DATED this 1st day of August, 2008

STATE MORTUARY AND CEMETERY BOARD

<s> Lynne Nelson
Lynne Nelson, Compliance Manager

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