

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

In the Matter of the Funeral Establishment License of Alderwoods (Oregon), Inc. dba Fir Lawn Mortuary (OMCB License No. FE-8464)	Notice of Proposed Disciplinary Action And Opportunity for a Hearing
RESPONDENT	CASE NO. 07-1002A

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board 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 revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

1.

1a. At all times mentioned herein Alderwoods (Oregon), Inc. dba Fir Lawn Mortuary (Respondent) was licensed by the Oregon Mortuary and Cemetery Board (OMCB, Board) as a funeral establishment (OMCB License FE-8464).

1b. At all relevant times mentioned herein, Jeffry Williams (Williams) was licensed by the Board as a funeral service practitioner and embalmer (OMCB License No. CO-3430) and employed by Respondent.

1c. At all times mentioned herein, Cynthia Hinton (Hinton) was licensed as a funeral service practitioner (OMCB License No. FS-0382) and employed by Respondent.

1d. OAR 830-030-0010(3) provides that no embalmer shall embalm human remains without obtaining written or oral permission of a person who has the right to control the disposition of the remains.

1e. OAR 830-040-0000(6)(g) provides that every licensee, licensed facilities and funeral service practitioners shall keep a detailed, accurate, and permanent record of all transactions that are performed for the care and preparation and final disposition of human remains. The record shall include, in relevant arrangements, written documentation of permission to embalm remains from the person who has the right to control disposition of the remains pursuant to ORS 97.130(1) and (2). The record of such authorization shall include, at a minimum, the following information: The name of the authorizing individual and relationship to the deceased, date and time contacted, phone number and name of the licensee or funeral home representative acquiring the authorization.

Grounds for Disciplinary Action:

2.

2a. In 1997, Georgia Z. met with a representative of Respondent funeral establishment to make final disposition prearrangements. Georgia Z. signed a Statement of Funeral Goods and Services Selected (contract) for a Celebration of Life package that included embalming, visitation, casket and burial, however Georgia Z. did not authorize the embalming by signing an embalming authorization form.

2b. When Georgia Z. died on October 31, 2006, Respondent was contacted to take custody of the decedent's remains. The person with the right to control final disposition of decedent's remains pursuant to ORS 97.130(1) and (2) was a daughter of the decedent, Victoria E.

2c. Jeffry Williams claims that prior to embalming the decedent's remains at about 2:30pm on October 31, 2006, he called Victoria E. and obtained oral permission to embalm the remains. Williams claims he documented the oral permission by placing an "X" in the "Yes" box next to a statement: "Verbal permission granted for embalming?" which was pre-printed on the file jacket that holds the permanent records for the final disposition arrangements of the decedent.

2d. Pursuant to OAR 830-040-0000(6)(g), Respondent's employee failed to include the following information in the oral permission: (i.) The authorizing individual's name; (ii.) the authorizing individual's relationship to the deceased; (iii.) the date contacted; (iv.) the time contacted; (v.) the authorizing individual's phone number; and (vi.) the name of the licensee or funeral home representative acquiring the authorization.

2e. Therefore, Respondent failed to include in the permanent record for Georgia Z., a properly completed documentation of oral permission to embalm. The foregoing is a violation of OAR 830-040-0000(6)(g) which is cause for disciplinary action under ORS 692.180(1)(g).

3.

3a. Pursuant to OAR 830-030-0010(3) when oral permission is received to embalm, written documentation/confirmation of the oral permission shall be required and shall be documented by separate signature specifically authorizing embalming either on the "Statement of Funeral Goods and Services Selected" or on a separate embalming authorization form. Further, written permission shall become a part of the permanent record as outlined in OAR 830-040-0000(6).

3b. On November 1, 2006, at about 1:30pm, Williams met with Victoria E. to discuss the arrangements for the final disposition of Georgia Z. Williams submitted Respondent's embalming authorization form, titled "Preparation Authorization," to Victoria E. for her signature as required pursuant to OAR 830-040-0000(6)(g). Victoria E. signed the authorization.

3c. However, Williams failed to include in the written authorization to embalm the following information: (i.) The authorizing individual's relationship to the deceased; (ii) the authorizing individual's phone number; and (iii.) the name of the licensee or funeral home representative acquiring the authorization.

3d. Therefore, Respondent failed to include in the permanent record for the final disposition arrangements of Georgia Z., a properly completed written authorization to embalm in violation of OAR 830-040-0000(6)(g) which is cause for disciplinary action under ORS 692.180(1)(g).

4.

4a. At the time the violations described above in sections 2 and 3 occurred, Cynthia Hinton (Hinton) was the assigned manager of Respondent funeral establishment.

4b. OAR 830-011-0000(11) defines a facility manager as one who has decision-making authority and whose primary duties include control over the operation of the licensed facility.

5.

5a. On August 17, 2006, the Board conducted a routine inspection of Respondent funeral establishment. The Inspector found that the permanent record of an embalmed decedent contained an embalming authorization that did not include the time of day that the authorizing person was contacted for authorization, or the phone number of the authorizing person.

5b. The Inspector discussed the rule requirements for properly completed oral and written embalming authorizations with the facility manager, Cynthia Hinton. Hinton advised that Respondent had issued an updated embalming authorization meeting the rule requirements, and Hinton informed the Inspector that future files would include properly completed oral and written embalming authorizations.

5c. On August 4, 2004, the Board conducted a routine inspection of another funeral establishment operated by Respondent. The Inspector found that the permanent record of one embalmed decedent did not contain a written embalming authorization and the permanent record of another embalmed decedent contained an embalming authorization that did not include the name of the licensee or representative obtaining the authorization.

5d. The Inspector discussed the rule requirements regarding properly completed embalming authorizations with the funeral service practitioner who arranged for the final disposition of the foregoing two decedents, Cynthia Hinton. Further, as the facility representative during the inspection, Hinton signed, and received a copy of, the Inspection Receipt that listed the violations and relevant Administrative Rules.

6.

Definitions relevant to this notice may be found in OAR 830-011-0000, ORS 692.010, and ORS 97.010.

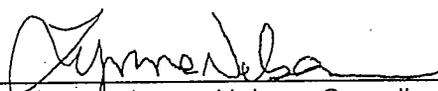
Rights and Procedures

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 are 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 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 9th day of July, 2007

STATE MORTUARY AND CEMETERY BOARD



Designee: Lynne Nelson, Compliance Manager