

STATE OF OREGON MORTUARY AND CEMETERY BOARD

In the Matter of the Application for Oregon Preneed Salesperson Registration Certificate of DANA C. MARKS, APPLICANT	FINAL ORDER ON DEFAULT DENIAL OF APPLICATION CASE NO. 14-1005
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On September 2, 2014, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of Application and Opportunity for Hearing (Notice) on Dana C. Marks (Applicant) that it intended to deny her application for an Oregon Preneed Salesperson Registration Certificate in accordance with OAR 830-050-0050(4) and ORS 692.180(1)(a) and (g).

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 Final Order on Default:

FINDINGS OF FACT

1. On February 11, 2014 the Board received a completed application from Dana C. Marks (Applicant) for an Oregon Preneed Salesperson Registration Certificate (Application).
2. Application and a background investigation for Preneed Salesperson Registration Certificates are required pursuant to OAR 830-011-0050(1) and OAR 830-011-0070(1). See also ORS 97.931.
3. The Application advises applicants that misrepresentation, with or without intent, is cause for denial of an Application.
4. Question 1 in Section 5 of the background investigation section of the Application asks: “Do you currently hold or have you ever held, or applied for, any type of occupational or professional license, certification, or registration or business license in Oregon or any other state or country.” Applicant circled “No.”
5. The Board’s background investigation revealed that Applicant misrepresented occupational licenses held in the following manner:
 - a. Applicant stated she held a Cemetery Salesperson license in Portland, Oregon when she did not.

- b. Applicant failed to disclose that she holds a current Cemetery Salesperson license issued effective March 15, 2013 by California’s Cemetery & Funeral Bureau.
 - c. Applicant failed to disclose that she holds a current Insurance Producer license issued effective February 5, 2014 by Oregon Insurance Division.
6. The Application also requires the applicant to list arrests, charges or citations for any offense other than traffic violations; and to specify if applicants have ever entered into a diversion agreement. The Application specifically defines Driving Under the Influence of Intoxicants (DUI) as a crime.
7. Question 3 in Section 5 of the background investigation section of the Application asks “Have you ever been arrested, charged or issued a citation for any offense/crime other than traffic violations?” Question 6 in Section 5 asks “Have you ever entered into a diversion agreement or placed on probation?” Applicant answered “No” to both questions.
8. The Board’s background investigation revealed that on 04/21/1994, Applicant was arrested and charged in Oregon with DUI, paid \$371.00 in Washington County Circuit Court fees, and entered into a diversion program.

CONCLUSIONS OF LAW

- 1. Applicant’s conduct as described in Sections 4, 5, 7 and 8 above is a misrepresentation in obtaining a license in violation of ORS 692.180(1)(a).
- 2. Violation of a provision of ORS chapter 692 or any rule adopted thereunder is grounds for denial of a Preneed Salesperson Registration Certificate application pursuant to OAR 830-050-0050(4), ORS 692.180(1)(a) and ORS 692.180(1)(g).
- 3. Denial of a Preneed Salesperson Registration Certificate application is appropriate under the circumstances.

ORDER

- 1. Applicant’s Application for a Preneed Salesperson Registration Certificate is hereby denied.
- 2. This Final Order on Default shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this 27 day of October, 2014.

<signed> _____
Michelle Gaines
Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: _____

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 service of this order.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States.