

Final Order on Default

State Mortuary and Cemetery Board State of Oregon

In the Matter of the Embalmer License
by Reciprocity Application of:

JIMMY JACK LOGAN,

Applicant

Agency Case No.: 12-1033

FINAL ORDER on DEFAULT

On December 5, 2012, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of an Application and Opportunity for Hearing (Notice) on Jimmy Jack Logan (Applicant) that it intended to deny his application for an Embalmer License by Reciprocity for violations of ORS 692.180(1) and ORS 670.280(3).

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 by Default:

FINDINGS OF FACT

1. Applicants for embalmer license by reciprocity must apply on a form provided by the Board and consent to a background check. OAR 830-020-0030(1), OAR 830-020-0030(4), OAR 830-011-0050(1), ORS 692.025(8) or ORS 692.140(2).
2. Applicants are informed by means of written notice on the application, that any misrepresentation or omission is cause for refusal to issue a license or certificate.
3. On July 13, 2012 the Board received an application from Jimmy Jack Logan ("Applicant") for Embalmer License by Reciprocity ("Application").
4. In the Application's Background Information Questionnaire, Applicant answered "Yes" to the question "Have you ever entered into a diversion agreement or placed on probation." If the Applicant answers "Yes" to any question, Applicants are required to provide a signed, dated written statement explaining the circumstances of the incident. Applicant attached a signed supplemental sheet of paper on which he wrote: *"I Jimmy Jack Logan attest to answering Yes to question 5-5 regarding Diversion and Probation. I am currently granted Diversion for A DUI in Cowlitz County Washington and will complete my 2 year program in March 2013."*

5. In the Application's Background Information Questionnaire, Applicant answered "No" to the following questions:

- Have you ever had any administrative, civil or criminal action taken against you, or your personal or business license, or had any such action initiated against you by ANY government entity including, but not limited to: municipal, county, state tribal or federal / district courts or agencies?
- Have you ever been arrested, charged or issued a citation for any offense/crime other than traffic violations?
- Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?
- Do you have any ongoing criminal charges or civil legal matters that are currently unresolved?

6. Although Applicant admitted, in his supplemental statement, that he received diversion and probation in Cowlitz County, Washington, for Driving Under the Influence of Intoxicants ("DUII"), as described above in Section 4, in his Application he circled "No" to the question, "Have you ever been arrested, charged or issued a citation for any offense/crime other than traffic violations." Applicant was arrested and charged by the Longview Police Department for this DUII on December 01, 2010.

7. Applicant failed to disclose in his application to the Board that on May 24, 2003 he was arrested in Rainier, Oregon and charged with DUII. On June 18, 2003, Applicant appeared in Rainier Municipal Court (Case No. OR0050200). Applicant was placed on diversion and adjudication was withheld. Applicant's driver's license was suspended 6/24/2003 – 09/24/2003.

8. Applicant also failed to disclose in his application to the Board that on November 30, 2004, Applicant was arrested by the Washington State Patrol and charged with DUII. On April 10, 2006, Logan was convicted of DUII in Cowlitz County District Court (Case No. C00503286) and was fined \$8,500 (\$7,900 suspended).

9. On July 16, 2012, the Board's investigator interviewed Applicant. During the interview the investigator asked Applicant, on two occasions, if Applicant had any arrests or charges other than the 2010 Cowlitz County arrest for DUII; Applicant stated "No" on both occasions.

ULTIMATE FINDINGS of FACT

1. As described above in Findings of Fact 6, 7, 8 and 9, Applicant misrepresented his criminal history on his Application and Applicant failed to answer truthfully and completely questions asked by a Board employee during a background investigation.

2. As described above in Findings of Fact 6, 7, 8 and 9, Applicant's conduct has a demonstrable bearing upon the standards of the funeral service profession and is related to the fitness and ability of the Applicant to engage in the activity for which the license is required.

CONCLUSIONS OF LAW

1. Failing to disclose and misrepresentation of criminal history on a Board application and to a Board investigator are misrepresentation and dishonest conduct which is grounds for license denial under OAR 830-030-0090(5)(d) and (g), OAR 830-011-0080(2), 830-050-0050(2) and (4) and ORS 692.180(1)(a), (b) and (g).

2. Applicant's misrepresentation, dishonesty and untruthfulness is conduct that has a demonstrable bearing upon the standards of the funeral service profession and is related to the fitness and ability of the Applicant to engage in the activity for which the license is required, and is therefore cause for license denial under ORS 692.180(1)(a) and (b) and ORS 670.280(3).

3. For the foregoing reasons denial of Applicant's application for Embalmer License by Reciprocity is appropriate.

ORDER

1. Applicant's 2012 Application for Embalmer License by Reciprocity is hereby denied.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this __26th__ day of June, 2013.

_<s> Michelle Gaines _____
Michelle Gaines, Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: _June 26, 2013_____

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.