



## **FAQs Regarding Eternal Hills Cemetery, Funeral Home and Crematory License Revocations & Impacts**

### **Q. What is the Oregon Mortuary & Cemetery Board?**

- A. The Oregon Mortuary & Cemetery Board (OMCB) is one of approximately 20 health professional regulatory boards in Oregon. These boards are comprised of individual citizens appointed by the Governor and in most instances, confirmed by the Oregon Senate. The Boards are comprised of a mix of practitioners in the regulated field as well as members of the general public. The OMCB has 7 industry members and 4 members of the general public, for a total of 11 members. The mission of the OMCB and the other health professional regulatory boards is to protect the health, safety and welfare of Oregonians.

### **Q. What exactly is being revoked and what does that mean?**

- A. Under Oregon Revised Statute (ORS) 692, death care practitioners and facilities are required to hold a license from the Oregon Mortuary & Cemetery Board (OMCB) in order to operate or practice. ORS Chapter 692, ORS Chapter 97 and Oregon Administrative Rules (OAR) Chapter 830 establish and govern the standards and requirements for operating a death care facility in Oregon. Therefore, when a facility license, such as for a funeral establishment, cemetery or crematory, is revoked, the facility is not able to operate. The operating license does not impact ownership of the businesses, property, cemetery or assets.

### **Q. What is the Board's disciplinary procedure?**

- A. When the Board receives a complaint, all of the statements and relating evidence are gathered from the complainant. If the allegations in the complaint fall under the Board's jurisdiction, the investigatory process begins, and the respondents in the case are informed of the allegations and asked to provide evidence and statements relating to the allegations. A detailed investigative report outlining all the evidence and statements from all parties is presented to the Board in executive session for their review. The Board will then vote in general session to either take action or no action in the case.

Once the Board proposes disciplinary action against a licensee, that licensee receives a Notice of Proposed Disciplinary Action that outlines the alleged facts, proposed violations, and resultant proposed discipline. The licensee has typically 21 days – 60 days, depending on type of license, to request a administrative hearing, which is conducted by a separate agency-- the Office of Administrative Hearings, and an assigned Administrative Law Judge (ALJ). The proceeding is conducted under the Administrative Procedures Act and the model rules of procedure. Both the licensee and the Board may present evidence to the ALJ. The ALJ issues a proposed order in the form of findings of fact, conclusions of law and recommended agency action. A licensee has the opportunity to make written objections, called "exceptions," to the ALJ's recommendations. Once the ALJ makes a final ruling, the Board will render the final order in a case. The

Board may modify the proposed order issued by the ALJ, but may only modify a proposed finding of “historical” fact only if there is clear and convincing evidence in the record that the proposed finding is wrong.

With respect to the facility licenses held by Eternal Hills, the Board served a final order on March 18, 2016 after the above described process. The order finds that the facility licenses shall be revoked on March 30, 2016.

**Q. So do the revocations go into effect on March 30<sup>th</sup>, or after the final appeal?**

A. The revocations described in the Final Orders are effective March 30<sup>th</sup>; however the respondents named in the Orders may file for a Judicial Review with the Court of Appeals within 60 days of receipt of the Orders. The Orders remain in effect during this final appeal process, unless a request for stay is received and granted. The Board had not received a request for a stay of the order at this time.

**Q. So if the revocations go into effect, does that mean all these facilities are closed down?**

A. The Board only grants the license to operate and does not otherwise regulate or control the businesses or properties themselves. The owners of the businesses still own all the facilities and assets. To operate one of these facilities after March 30<sup>th</sup>, a facility license will be required.

**Q. What about in the cemetery? What if I only own a plot but nothing else is pre-paid? Do I lose my plot?**

A. You do not lose any plots (interment rights) you own when a cemetery license to operate is revoked. The revocation of the license to operate does not change the legal status of the cemetery. It is still a dedicated cemetery; the current cemetery owners are just not allowed to operate. Of note, the revocation of the operating license does not require the facility to close the cemetery to visitors—it only limits the ability to perform burials or new sales of plots or cemetery related goods and services. In the short term, the Oregon Legislature recently passed a new law that would allow for a permit to be granted on a per instance basis should there be a death and the imminent need to perform a burial in a cemetery that does not have an operating license.

**Q. If license revocation happens at a cemetery, can I visit the cemetery or is it closed to the public?**

A. The owner of a cemetery does not need a license in order to keep the cemetery grounds open to the public, and so a revocation itself would not require the cemetery gates to be closed and for the public to be prevented from visiting the cemetery. However, the choice of whether to allow or limit public access is solely that of the owner of the cemetery. In the long term, if an owner ceases operation permanently or abandons a dedicated cemetery, the grounds do not stop being a cemetery and there may be means at the county level to address access to and operation of the cemetery.

**Q. I made funeral or cemetery prepaid pre-need arrangements; if the licenses are revoked, do I lose my investment?**

A. The vast majority of pre-need arrangements are funded via an insurance or trust product and are transportable. They are not impacted by the revocation of the operating licenses.

**Q. Why can't I just go into a cemetery myself and make a burial, or have someone else do so?**

A. Without a license to operate, this would be against the law. It is also important for any interments to be properly documented in the cemetery records, and any unauthorized interments could lead to inaccurate records, confusion, unintentional errors and potentially the need for disinterment or other disruptions to the cemetery and interred remains in the future.

**Q. Help! I have a funeral and/or burial scheduled with Eternal Hills for the near future! What can I do?**

A. If you have a funeral, cremation or burial scheduled on or after the 30<sup>th</sup> and until the facilities are relicensed, you may be impacted, but there are still options. Eternal Hills will not be able to perform the funeral or cremation, but another practitioner in the area could do so. Eternal Hills Cemetery staff could perform a burial under the permit process described previously, or a qualifying 3<sup>rd</sup> party could do so under the same process.

**Q. You haven't answered my question!**

A. Give us a call or email [mortuary.board@state.or.us](mailto:mortuary.board@state.or.us) and we will be happy to try and answer any additional questions.

**Q. I have a complaint about a death care facility or practitioner in Oregon. How do I file a complaint?**

A. Simply download the complaint form from our web site or contact us to have the form emailed/faxed/mailed to you. You can download the form at:  
[http://www.oregon.gov/MortCem/consumer\\_information/complaint.pdf](http://www.oregon.gov/MortCem/consumer_information/complaint.pdf)

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March 28, 2016