



Oregon

Mortuary and Cemetery Board

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Final Order by Default

State Mortuary and Cemetery Board

In the Matter of the Denial of Preneed
Salesperson Registration Application
of **Phyllis A. Harem,**

Applicant

Case No. 07-1009

Final Order

On April 18, 2007, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of Application (Notice) on Applicant that it intended to deny her Preneed Salesperson Registration application for violations of ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-050-0050(2), and OAR 830-050-0050(5). 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 the 60-day period. The Notice designated the Board's file on the matter as the record for purposes of default.

NOW THEREFORE, after considering the Board's file relating to the matter, the Board enters the following:

FINDINGS OF FACT

1. Applicants for a preneed salesperson registration certificate must apply on a form provided by the Board and consent to a background check. ORS 97.931(1) and (2), OAR 830-011-0070
2. Applicants represent by signature on the application that all statements made on the application and on the supplementary materials are true and correct to the best of their knowledge and belief, and acknowledge that any misrepresentation or omission is cause for refusal to issue a license or certificate.
3. By application received on March 1, 2007, Applicant applied to the Board for a Preneed Salesperson Certificate of Registration.



4. The Application's Personal Information section on page one of the application asks if the Applicant has used or been known by any other names. Applicant answered "yes" and listed the surnames of Hushour and Peterson. Applicant failed to disclose that she also used or had been known by the surnames Hunter and Harem-Hunter.

5. Question number two on page three of the application asks if the Applicant has ever received a reprimand, warning, violation, suspension, fine, cancellation (or denial) by any city county or state licensing agency. Applicant answered "no" to question number two, failing to disclose that in 1996 the Board issued Applicant a Default Order in Case Number 95-1009. Applicant received a Letter of Reprimand and a six-month probationary period for misrepresentation in the conduct of business as a Preneed Salesperson and for fraudulent and dishonest conduct. Applicant failed to provide a promotional discount to a consumer during a period Applicant's company was conducting a discount sale.

6. Question number three on page three of the application asks if the Applicant has been arrested, charged, or cited for anything other than traffic violations. If the answer is "yes" the Applicant is required to list all of the arrests, including dismissals, and provide a detailed, complete and accurate written account(s) of the facts and circumstances of each arrest. Applicant answered "no" to question number three, failing to disclose an arrest in 1989, under the name of Phyllis A Hunter, for Violation of a Restraining Order; and Applicant failed to give a detailed, complete and accurate written account of the facts and circumstances of that arrest.

7. On October 3, 1994, the Board received Applicant's completed Application for a Preneed Sales Person Registration. On the 1994 application, in which Applicant swore an oath that the information provided was truthful, Applicant provided a Social Security Number (SSN) that begins with the digits "543." In 1995, Applicant submitted the same SSN with the digits "543" to the Board for renewal of her registration. On the 2007 application, Applicant provided her correct SSN that begins with the digits "542".

ULTIMATE FINDINGS

1. By failing to disclose (1) all names she had ever used or been known by; (2) prior discipline by a state licensing agency; (3) her criminal arrest history and (4) her correct SSN in her 1994 and 1995 applications, Applicant made false and misleading statements to the Board. Specifically:
 - a. By failing to disclose prior discipline that she received by a state licensing agency, Applicant misrepresented her disciplinary history to the Board.
 - b. By failing to disclose all names she had ever used or been known by, Applicant misrepresented her personal information to the Board.
 - c. By failing to disclose and give a complete and accurate account of the facts and circumstances of an arrest, Applicant misrepresented her criminal history to the Board.

d. By failing to give her correct SSN in two prior applications, Applicant misrepresented her personal information to the Board.

2. Preneed salespersons negotiate directly with consumers and may be responsible for financial transactions. Given the five foregoing misrepresentations to the Board, and Applicant's prior disciplinary action for misrepresentation and fraudulent and dishonest conduct, Applicant's conduct is substantially related to the fitness and ability of the Applicant to engage in preneed sales.

CONCLUSIONS OF LAW

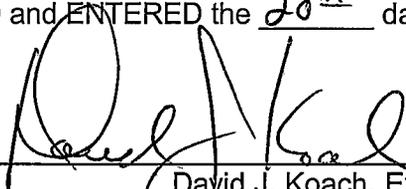
1. In applying to the Board for licensure, Applicant misrepresented her disciplinary and criminal history, names she has used or been known by, and her correct SSN. Misrepresentation is grounds for refusal to grant a license pursuant to ORS 692.180(1)(a), OAR 830-050-0050(2) and ORS 692.180(1)(g).

2. Applicant's prior disciplinary action for misrepresentation and fraudulent and dishonest conduct is grounds for refusal to grant a license under ORS 97.931(3), ORS 670.280(3), OAR 830-050-0050(5), and ORS 692.180(1)(g).

ORDER

1. Applicant's Preneed Salesperson Application is hereby denied.
2. The Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED the 20th day of June, 2007.



David J. Koach, Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: June 20, 2007 (zn)

Appeal Rights: You are entitled to judicial review of the 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 the order.