

## **Final Order by Default**

---

### **State of Oregon Mortuary and Cemetery Board**

**In the Matter of the Denial of the  
Preneed Salesperson Registration  
Application of**

**Jaci Shipley,**

**Applicant**

**Case No.: 08-1018**

**Final Order**

On August 1, 2008 the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of Application (Notice) on Applicant that it intended to deny Jaci Shipley's Preneed Salesperson Registration Application for violations of ORS 692.180(1)(a), ORS 692.180(1)(g), ORS 692.180(1)(i), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B) and OAR 830-050-0050(2), (3) and (5). The Notice offered Jaci Shipley (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:

#### **FINDINGS OF FACT**

1. Applicants for a preneed salesperson registration must apply on a form provided by the Board and consent to a background check. ORS 97.931(1)(2) and (3)
2. Applicants are informed, by means of written notice on the application, that any misrepresentation or omission is cause for refusal to issue a registration.
3. By application received on April 16, 2008, Applicant applied to the Board for a Preneed Salesperson Registration.
4. Application question number two (2) of the Background Information Section asks if the Applicant has ever received a reprimand, warning, violation, suspension, fine, cancellation (or denial) by any city, county, or state licensing agency. If the answer is "yes" the Applicant is required to provide a complete copy of all notice(s), order(s) or charging document(s), and a detailed, complete and accurate written account of the facts and circumstances of each event. Applicant answered "no."
5. On or about January 30, 1996, Applicant paid civil penalties imposed by the Oregon Board of Cosmetology, an Oregon Health Licensing Agency as follows:

- i. \$200 civil penalty for "Operating Without Facility License;" and
- ii. \$200 civil penalty for "Expired Practitioner's Certificate [#515722]"

6. Applicant did not provide a complete copy of all notice(s), order(s) or charging document(s), or a detailed, complete and accurate written account of the facts and circumstances of the foregoing events. Applicant, therefore, misrepresented her licensing history to the Board. ORS 692.180(1)(a)

7. Application question number three (3) of the Background Information Section 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 of the facts and circumstances of each arrest.

8. Applicant answered that she was arrested in 1996 for Driving Under the Influence of Intoxicants in Jackson County, Oregon; and in 2007 for Assault 4<sup>th</sup> Degree in Medford, Oregon.

9. In 1987, Applicant was also arrested for Theft 2<sup>nd</sup> Degree in Medford, Oregon, and in 1992 for two counts of Negotiating Bad Checks in Medford, Oregon.

10. Applicant did not provide an accurate, detailed and complete written account of the facts and circumstances of the foregoing arrests for Theft 2<sup>nd</sup> Degree or Negotiating Bad Checks. Applicant, therefore, misrepresented her criminal history to the Board. ORS 692.180(1)(a)

11. Application question number four (4) asks if the Applicant has ever been convicted of a felony or misdemeanor crime. If the answer is "yes" the Applicant is required to list all of the convictions and provide a detailed, complete and accurate written account of the facts and circumstances of each crime which led to the conviction.

12. Applicant answered that she received diversion for the crime of Driving Under the Influence of Intoxicants in 1996, and Applicant answered that that she pled guilty and received probation and a deferred sentence with conditions for the crime of Assault 4<sup>th</sup> Degree in 2007 in Medford, Oregon.

13. In 1987, Applicant was also convicted for Theft 2<sup>nd</sup> Degree in Medford, Oregon; and in 1992, Applicant pleaded guilty and was convicted of two counts of Negotiating Bad Checks in Medford, Oregon. The conviction for Negotiating Bad Checks was later dismissed after Applicant made restitution payments.

14. Applicant did not provide an accurate, detailed and complete written account of the facts and circumstances for the foregoing convictions of Theft 2<sup>nd</sup> Degree and two counts of Negotiating Bad Checks. Applicant, therefore, misrepresented her criminal history to the Board. ORS 692.180(1)(a)

15. The foregoing misrepresentations by Applicant of the facts and circumstances of her disciplinary licensing history, arrests and convictions are cause for refusal to grant a registration under ORS 692.180(1)(a), ORS 692.180(1)(g), OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B), and OAR 830-050-0050(2).

16. In addition, the conduct resulting in disciplinary actions against Applicant is conduct that bears a demonstrable relationship to the death care industry practices or operations; and the crimes that Applicant committed involve facts and circumstances that have a demonstrable bearing upon the standards of the profession, and bears a demonstrable relationship to preneed and funeral service practice. ORS 692.180(1)(g), OAR 830-050-0050(3), OAR 830-050-0050(5) and ORS 692.180(1)(i).

### **ULTIMATE FINDINGS**

1. By failing to disclose and give accurate, detailed and complete account of the facts and circumstances of the disciplinary actions against her cosmetology licenses, and her arrests and convictions of "Theft 2<sup>nd</sup> Degree" and "Negotiating Bad Checks" in her application, Applicant failed to answer truthfully and accurately inquiries regarding matters within the Board's jurisdiction, made false and misleading statements to the Board, and misrepresented her licensing and criminal history to the Board.
2. The foregoing disciplinary actions against Applicant for operating without a facility license and practicing with an expired license is conduct that bears a demonstrable relationship to the death care industry practices or operations which is grounds for refusal to grant an applicant's certificate or registration.
3. The crimes that Applicant committed, Theft 2<sup>nd</sup> Degree and Assault 4<sup>th</sup> Degree involve facts and circumstances that have a demonstrable bearing upon the standards of the profession, and bear a demonstrable relationship to preneed and funeral service practice.

### **CONCLUSIONS OF LAW**

1. In applying to the Board for licensure, Applicant misrepresented her licensing and criminal history by making false and misleading statements. A false or misleading statement on a license application is grounds for license denial pursuant to OAR 830-050-0050(2), OAR 830-030-0090(2)(d)(B) and ORS 692.180(1)(g); and misrepresentation on an application to the Board is cause for refusal to grant a license pursuant to OAR 830-030-0090(2)(c)(D) and ORS 692.180(1)(a) and (g).
2. Applicant's conduct of operating a facility without a license and practicing with an expired license bears a demonstrable relationship to the death care industry practices or operations which is grounds for refusal to grant Applicant's certificate or registration pursuant to OAR 830-050-0050(5) and ORS 692.180(1)(g).
3. The crimes that Applicant committed, Theft 2<sup>nd</sup> Degree and Assault 4<sup>th</sup> Degree involve facts and circumstances that have a demonstrable bearing upon the standards of the profession, and bear a demonstrable relationship to preneed and funeral service practice. The foregoing is grounds for refusal to grant a license under ORS 692.180(1)(g), OAR 830-050-0050(3), and ORS 692.180(1)(i).

**ORDER**

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

DATED and ENTERED this 13th day of October, 2008.

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

Date of Service: \_\_\_\_\_ October 13, 2008 \_\_\_\_\_

**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 this order.