



OREGON MORTUARY & CEMETERY BOARD

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Administrative Rulemaking: *A Collaborative Effort Moving Forward*

Relevant to: All Licensees

The 2015 Strategic Planning session was deemed a great success. Thirty-two individuals (including licensees, interested parties, OMCB board members & staff) gathered together at the Red Lion in Pendleton and had very productive conversations relating to the implementation of [HB 2471](#) (addresses FSP and Embalmer apprenticeships, internships, testing & industry entry), [HB 2472](#) (allows for self-inspections and industry members to perform certain inspections), [HB 3242](#) (grants OMCB authority to issue a permit to certain persons to facilitate an interment in an unlicensed cemetery when a pre-existing interment right exists and there is an imminent need) & [HB 3243](#) (makes improvements to Indigent Disposition Fund management and transfers management of the fund to OMCB).

The administrative rule advisory committees were designated in early October and each committee met weekly during the month. The meetings included great discussions related to the development of the administrative rules and other issues that should be addressed legislatively in a future session.

Each committee discussed the policy impacts of the law changes, and made recommendations and raised questions to be addressed. This input was used to develop draft administrative rules by OMCB staff and were presented to the OMCB board for review and approval.

During the November 3, 2015 meeting, the Board voted to approve and move forward with the proposed administrative rules.

The proposed administrative rules for HB 2471, HB 3242 & HB 3243 were filed with the Oregon Secretary of State and will be published in the December Oregon Bulletin and have been posted on our website for your review and comment at <http://www.oregon.gov/MortCem/Pages/Rulemaking.aspx>.

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There will be a public hearing for the proposed administrative rules for HB 2471, HB 3242 & HB 3243 on December 22, 2015 at 10 am.

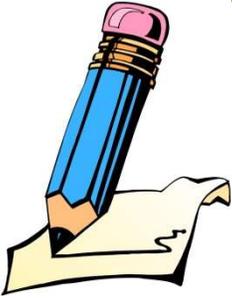
Additionally, written public comments may be submitted until December 22, 2015 by 4 pm.

The committee members clearly illustrated that they are passionate about what they do and the people they serve and want the best for the industry - both today and in the future.

The OMCB board and staff would like to recognize the advisory committee members and thank them for their participation and effort:

Cynthia Beal, Christina Cilley, Ty Cochrane, Craig Collins (Chair), Gene Drake, Doug Ferrin, Rachel Fox, Rick Harvey, Terri Makinson, Melisa McDonald, Angela McKenzie-Tucker, Kim Morley (Chair), Mark Musgrove (Chair), Wally Ordeman, Timothy Proctor, Deon Strommer, Amy Terry & Randy Tjaden.





When to Contact the Board

Relevant to: All Licensees

There are certain situations when a licensee is required to “notify” or “report to” the Board. We’ve collected those situations here for easy reference. Please note that these must be reported in writing, which includes fax and email.

A licensee must notify the Board when:

- An apprentice’s employment/supervision terminates (OAR 830-011-0020[7])
- An apprentice transfers from one licensed funeral service practitioner or embalmer to another (ORS 692.148[2][c])
- A licensee (renewing a license) begins active military duty (OAR 830-020-0020[4])
- A facility manager is assigned to a licensed facility (OAR 830-030-0000[12])
- Human remains are going to be held longer than 10 days before undergoing final disposition (OAR 830-030-0010[4])
- Human remains cannot be cremated & processed within 48 hours of being released to crematory authority (OAR 830-040-0000[11])
- Prior to a change in ownership (OAR 830-040-0040)
- A licensee’s name changes (ORS 692.148[2][a])
- The location of the funeral establishment, immediate disposition company or crematorium changes (ORS 692.148[2][b])
- A licensee is convicted of a misdemeanor or felony or is arrested for a felony crime (within 10 days after the conviction or arrest) (ORS 676.150[3])
- Human remains or partial human remains, other than processed cremated remains, are discovered in a presumed unoccupied grave or crypt when opening for purposes of an interment (OAR 830-030-0000[8])
- Processed cremated remains are discovered in a presumed unoccupied grave, crypt or niche when opening (OAR 830-030-0000[9])
- There is an actual or suspected incident of client or corpse abuse (OAR 830-030-0090[4])
- At the time of license renewal, a complete list of all licensed employees (full-time, part-time & licensed independent contractors) (OAR 830-040-0060[1])
- Conduct by any death care industry licensee that violates Oregon law relating to death care (OAR 830-030-0090[1])



Board Mission

The Board's programs affect those who have suffered a loss, those who make final arrangements and those who provide death care goods and services. It is the Board's responsibility to license and regulate the practice of individuals and facilities engaged in the care, preparation, processing, transportation and final disposition of human remains, to educate the general public, and advise on relevant issues of public policy.

2015 Board Members

Dwight Terry President

Funeral Service
Practitioner/Embalmer

Jane Woodward Vice President

Funeral Service Practitioner

Laurie Goolsby Secretary/Treasurer

Public Member

Nancy Corr Public Member

Sirpa Duoos
Cemetery Operator, City/County

Larry Gyure

Cemetery Operator, Special
District

Marie Henry

Cemetery Operator, For Profit

Judy Juntunen Public Member

Kevin Loveland

Crematorium Operator

RCA Moore

Public Member

Morris Pearson

Embalmer

Members are volunteers serving 3 year terms. Members are appointed by the Governor & confirmed by the Senate.

Marijuana Use in the Workplace

Relevant to: All Licensees



As you are most likely aware, Measure 91 legalized the recreational use of marijuana effective July 1, 2015.

The State of Oregon (as an employer), will continue to comply with the federal [Drug Free Workplace Act of 1988](#), which prohibits the possession, use, manufacturing or distribution of marijuana in the workplace.

For those private companies who also choose to comply with the federal act, the following State of Oregon Q&A may be helpful:

Q: Does the law allow employees to consumer marijuana on breaks or lunch hours?

A: The legalization of recreational marijuana use does not allow employees to report for work impaired or to possess or use controlled substances in the workplace.

Q: What is considered the “workplace?”

A: The workplace is all property and facilities owned, leased or rented by the Oregon state government, including grounds, buildings, vehicles and any other equipment and any site where an employee performs work.

Q: How do agencies determine if an employee is “impaired?”

A: When a supervisor receives a complaint or witnesses abnormal behavior of an employee, in most cases it is advisable to manage the employee’s behavior or conduct (rather than assuming the cause of the employee’s behavior or perceived impairment). In some situations, reasonable suspicion testing may be permitted, such as where reasonable suspicion testing is permitted by the applicable collective bargaining agreement. Agencies should seek advice before testing an employee. It is recommended and by the terms of some collective bargaining agreements required, that two managers assess the employee to determine if the employee is impaired. It is important that supervisors document their observations, any conversations with the employee and note any witnesses.

Q: If an employee smokes marijuana, will this jeopardize their employment?

A: It may, under some circumstances. Under the Drug-Free Workplace Act, if an employee’s use or conduct involving marijuana occurs in the workplace and results in a criminal drug statute conviction, he or she must notify the employer no later than 5 days after the conviction. Depending on the circumstances, an employee may be subject to discipline up to and including dismissal.

Note: This article is for informational purposes only and is not intended to provide legal advice. If you have any questions about this topic, we recommend that you contact an attorney.

(Taken from: http://www.oregon.gov/DAS/CHRO/docs/advice/Marijuana_FAQs.pdf)

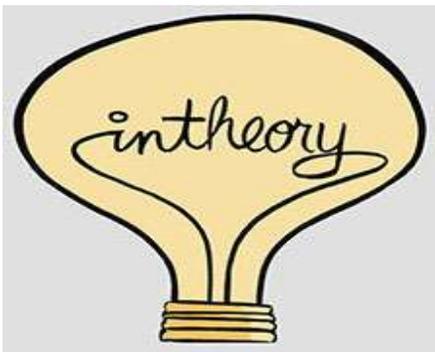
“The legalization of recreational marijuana use does not allow employees to report for work impaired or to possess or use controlled substances in the workplace.”

“Agencies should seek advice before testing an employee.”

“Under the Drug-Free Workplace Act, if an employee’s use or conduct involving marijuana occurs in the workplace and results in a criminal drug statute conviction, he or she must notify the employer no later than 5 days after the conviction.”

The Washington Post: In Theory (Part I)

Relevant to: All Licensees



“You have only to talk to a room of doctors, patients, medical educators or hospice providers to hear everyone agree on what is needed: more planning for the last year of life; more doctors having the difficult conversations; less automatic treatment for conditions that can’t be cured and more attention paid to the emotional and spiritual sides of dying – not just the medical part.”

“I remember thinking: ‘He... expired?’ Coupons expire. Milk expires. But people die.”

Similar to FRONTLINE’s *Facing Death & Being Mortal*, *The Washington Post’s In Theory* series recently explored the myriad of issues surrounding death and dying from a variety of perspectives. The authors questioned how end-of-life experiences can best be honored by the US medical system. Additionally, the articles sought to expose many of the myths that Americans tend to bring to the end-of-life process.

Amanda Bennett, columnist for *The Post*, says that awareness about the needs of individuals at the end of life has grown immensely in recent decades. However, while more people have gained familiarity with how to talk about death and dying, it can still be challenging to find an end-of-life experience that is open, honest, meaningful and humane.

There is very little doubt anymore about what is needed. “You have only to talk to a room of doctors, patients, medical educators or hospice providers to hear everyone agree on what is needed; more planning for the last year of life; more doctors having the difficult conversations; less automatic treatment for conditions that can’t be cured and more attention paid to the emotional and spiritual sides of dying – not just the medical part.” This keen awareness and knowledge, however, doesn’t seem to be enough to prevent over two-thirds of individuals from dying in a medical facility, rather than at home, where most people say they would prefer to die.

Despite all the gains made in recent years, cultural taboos against talking about death and dying are still strong. The tools that we have at hand to ensure that we get the kind of end-of-life experience we want are still far too fallible. Families and doctors alike are often reluctant to give up an illusory hope for a cure. Too often, we shy away from making the emotionally challenging decisions that lead to a better experience of dying.

Given all of the advances in awareness of hospice and palliative care in recent decades, it is perhaps surprising to learn that many doctors are still intimidated by conversations around death and dying. But according to Aaron Kheriaty, specialist in psychiatry at the University of California-Irvine, there is a deeply entrenched culture among physicians that eschews mention of death and emphasizes proactive treatment, even in cases where such treatment is futile. This culture will not be easily banished, because it has become so embedded in the formation of America’s doctors.

Kheriaty notes that many doctors practically refuse to utter the word “death” in the course of their practice. Kheriaty recounts a time when he noticed the absence of a patient and inquired about where he had gone. “Matter-of-factly, the resident physician said, ‘He expired last night.’ I remember thinking: ‘He... expired?’ Coupons expire. Milk expires. But people die. There was that word again – the ‘d’ word – being carefully avoided by doctors who dealt with death routinely.”

To be continued...

(Taken from: <http://us3.campaign-archive2.com/?u=163e18111683bc0d5746e6f89&id=00794f1e45>)

And Now, a Word From Our Inspector...

Relevant to: All Licensees

Pre-Printed Document Review:

The Oregon Mortuary & Cemetery Board (OMCB) is pleased to offer a full review of changes made to documents, (i.e. GPL, CPL, Authorizations, etc.), prior to final printing. These document reviews will help to decrease deficiencies noted during regular biennial inspections as well as costs of reprinting. They can also help prevent potential FTC violations.

Sample Documents Available:

We offer many sample documents either in hard copy, Word or PDF format. There's no need to re-create the wheel! Word documents allow you to easily make changes to facility forms without incurring expensive printing costs. Examples of sample documents include the Interment/Scattering Authorization, Statement of Funeral Goods and Services Selected (SFGSS), Embalming Authorization, Certificate of Interment/Inurnment Rights, Cemetery Rules and others. Please contact me to request any of these sample documents. I may also have something to offer even if it is not specifically listed above.

Cemetery Informational E-mail:

I have a helpful informational email that I send out to anyone who requests cemetery information. The email lays out very clearly a cemetery's responsibilities and duties as well as what forms and records each cemetery is required to maintain. The email attachments include sample Word documents as well as OAR 830 and ORS 97.

When to Use Preneed & At Need Contracts

Relevant to: All Licensees

As a reminder, contracts must be **pre-need** (prearrangement sales contract) or **at-need** and the difference in law is based on if the death has occurred. Because of this, you cannot use an at-need contract if the death hasn't occurred, even if the death is imminent.

Preneed/prearrangement sales contract is defined in ORS 97.923(9) as "any sale, excluding the sale and contemporaneous or subsequent assignment of a life insurance policy or an annuity contract, made to a purchaser, that has as its purpose the furnishing of funeral or cemetery



Inspection Corrections:

If you have a question regarding a recent inspection, please do not hesitate to contact me to discuss it. If we do not agree on a particular issue, we can seek an opinion from our Executive Director, Michelle Sigmund-Gaines, the FTC or the Board. If I wrote a deficiency in error, please bring it to my attention. I review hundreds of photos for each inspection, sometimes over a thousand photos a day. Although I do my best to find all of the required information from the inspection photos, I do miss things. Sometimes I even get something wrong altogether! Please bring these issues to my attention so that I can correct the follow up letter as well as the Board's records and databases. It is our goal to report and maintain accurate information and records.

Questions:

I am available by phone or email to answer questions. Email is the best and quickest way to reach me: Brenda.Biggs@state.or.us or (971) 673-1505. I am in the office and generally return phone calls on Tuesdays and Thursdays. If I don't know the answer, I will research the question and get back to you.

I am here to help. Please feel free to contact me at any time, for any reason. It is my goal to assist Oregon licensees to be in compliance with both State and FTC statutes, rules and regulations.

merchandise or services in connection with the final disposition or commemoration of the memory of a dead human body, for use at a time determinable by the death of the person or persons whose body or bodies are to be disposed and where the sale terms require payment or payments to be made at a currently determinable time."

At need is defined in OAR 830-011-0000(5) as "arrangements entered into **after a death has occurred**, 'at the time of need.'"

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**Regulating Death Care
Facilities & Practitioners
in Oregon.**

We're on the Web!

Visit us at:

<http://www.oregon.gov/mortcem>

Upcoming OMCB Meetings

Tuesday, December 29, 2015 @ 9am
OMCB Board Meeting
Location: 800 NE Oregon Street, Room 445

Tuesday, February 9, 2016 @ 9am
OMCB Board Meeting
Location: TBD

Tuesday, April 12, 2016 @ 9am
OMCB Board Meeting
Location: TBD

Notice of Public Hearing & Administrative Rulemaking

Tuesday, December 22, 2015 @ 10am
Location: 800 NE Oregon Street, Room 445

Details at
<http://www.oregon.gov/MortCem/Pages/Meetings.aspx>

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