

## Final Order on Default

### State Mortuary and Cemetery Board State of Oregon

**In the Matter of the Application  
For Intern Apprenticeship Certificate of**

**ANDRE L. GARCIA,  
Applicant**

**Case No.: 10-1022**

**FINAL ORDER on DEFAULT**

On January 13, 2011, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of an Application and Opportunity for Hearing (Notice) on Andre L. Garcia (Applicant) that it intended to deny his application for an Intern Apprenticeship Certificate for violation of OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B), and OAR 830-050-0050(2) or (9), ORS 692.180(1)(a) and ORS 692.180(1)(b) and pursuant to ORS 692.180(1)(g).

The Notice offered Applicant an opportunity for a hearing if requested within 60 days from the date the Notice was mailed. The Notice was mailed certified, return receipt to the address listed on the Board's records. The Notice was returned "not deliverable as addressed, unable to forward". The 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 Intern Apprenticeship Certificate must apply on a form provided by the Board and consent to a background check. OAR 830-011-0050.
2. Applicants are informed by means of written notice on the application, that any misrepresentation or omission is cause for refusal to issue a certificate.
3. By application received on March 4, 2010, Applicant applied to the Board for an Intern Apprenticeship Certificate.
4. The Application's Background Information section, asks Applicant, "Have you ever been arrested, charged or cited for anything other than traffic violations;" Applicant answered "No".
5. Applicant was arrested on September 8, 2006 for "Assault 4<sup>th</sup> Degree", a misdemeanor, in Spokane County, Washington. The charge was dismissed.
6. The Application's second page asks Applicant, "Do you have any charges or

legal matters that are currently unresolved..." Applicant answered "No".

7. At the time the Applicant submitted his Application to the Board, a 2002 Tax Warrant, issued by Spokane Superior Court, existed against Applicant for failure to repay an overpayment made to him by the Washington Department of Labor and Industries.

### **CONCLUSIONS OF LAW**

1. In applying to the Board for certificate, Applicant misrepresented his arrest history and unresolved legal matters. Making a misrepresentation to obtain a certificate is grounds for certificate denial pursuant to OAR 830-030-0090(2)(c)(D), OAR 830-030-0090(2)(d)(B) and OAR 830-050-0050(2) or (9); and also ORS 692.180(1)(a) and (b).
2. Violation of a Board rule is grounds for denial of an application pursuant to ORS 692.180(1)(g). Violation of a provision of ORS chapter 692 or any rule adopted thereunder is grounds for denial of an Intern Apprenticeship Certificate application.
3. Denial of Applicant's Intern Apprenticeship Certificate application is appropriate under the circumstances.

### **ORDER**

1. Applicant's Application for Intern Apprenticeship Certificate is hereby denied.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

DATED and ENTERED this \_\_7th\_\_ day of April, 2011.

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

Date of Service: \_\_\_April 12, 2011\_\_\_\_\_

**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.