

**BEFORE THE MORTUARY AND CEMETERY BOARD
OF THE STATE OF OREGON**

<p>In the Matter of the funeral establishment license of Christopher L. Bartlett dba Oregon Mortuary Services (OMCB License No. FE-8523),</p> <p style="text-align: center;">RESPONDENT</p>	<p>Notice of Proposed Disciplinary Action And Opportunity for a Hearing</p> <p style="text-align: center;">CASE NO. 07-1017B</p>
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Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board (“OMCB,” “Board”). proposes to take disciplinary action against the funeral establishment license of Christopher L. Bartlett dba Oregon Mortuary Services on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

Grounds for Disciplinary Action:

1.

1a. At all times mentioned herein Christopher L. Bartlett dba Oregon Mortuary Services (hereafter “Respondent”) was licensed by the OMCB as a funeral establishment (OMCB License No. FE-8523).

1b. At all times mentioned herein Christopher L. Bartlett was licensed by the OMCB as a funeral service practitioner and embalmer (OMCB License No. CO-3603); and at all times mentioned herein, Christopher L. Bartlett (hereafter “Bartlett”) was the manager of Respondent funeral establishment.

1c. Definitions that may be relevant to this notice are contained in OAR 830-011-0000 and ORS 692.011.

2.

2a. OAR 830-040-0020(9) provides that a funeral establishment's preparation room shall be kept in a sanitary condition at all times.

2b. OAR 830-040-0020(8) provides that instruments used during an embalming shall be cleaned and sterilized after each embalming; and that instruments shall be free of stains and foreign particles.

2c. OAR 830-030-0004(4)(b) provides that only a licensed embalmer or certificated embalmer apprentice shall perform the required sanitizing of the preparation room, including but not limited to, embalming tables, work surfaces, sinks, floors, instruments, and handling and properly disposing of hazardous waste.

2d. OAR 830-040-0010 provides that all funeral establishments shall keep their premises sanitary at all times.

3.

3a. On March 14, 2007, the preparation room at Respondent funeral establishment contained two embalming or preparation instruments stained with rust.

3b. The foregoing is a violation of OAR 830-040-0020(8) and (9), which is cause for disciplinary action under ORS 692.180(1)(g).

4.

4a. On August 21, 2007, approximately four days after an embalming, the preparation room was unsanitary in the following manner:

- i. The room contained a partially filled, uncovered waste can.
- ii. There were several instruments with foreign matter.
- ii. One sink contained two used shaving razors and a soiled toothbrush.
- iv. Another sink contained other various other soiled work tools.
- v. A large gauze pad and two white rag towels were on the floor.
- vi. A syringe containing opaque pink fluid with exposed needle lay on the counter top.
- viii. There was a bucket full of dark brown water with a soiled submerged mop.

4b. The foregoing instances of failing to keep the preparation room sanitary are violations of OAR 830-040-0020(8) and (9), and OAR 830-040-0010 which are cause for disciplinary action under to ORS 692.180(1)(g).

5.

5a. OAR 830-030-0004(4)(b) provides that only a licensed embalmer or certificated embalmer apprentice shall handle and properly dispose of contaminated waste.

5b. In July 2007, Respondent failed to dispose of contaminated waste in a timely manner. As a result, and in order to protect other employees at the facility, an unlicensed person, Donald B., handled contaminated waste when cleaning the area where the OMS contaminated waste bins are located, in violation of OAR 830-030-0004(4)(b).

5c. Respondent, therefore, failed to assign persons to perform functions for which they are licensed and which are within their scope of practice/scope of duties in violation of OAR 830-030-0090(1)(e) which is cause for disciplinary action under ORS 692.180(1)(g).

5d. Further, directly or indirectly causing any person or licensee to be in violation of any section of applicable rule or law is considered unprofessional conduct which is a violation of OAR 830-050-0000(2) and cause for disciplinary action under ORS 692.180(1)(g).

6.

6a. OAR 830-030-0010(3) provides that no embalmer shall embalm human remains without obtaining written or oral permission of a person who has the right to control the disposition of the remains. When oral permission is received to embalm, written documentation/confirmation of the oral permission shall be required and shall be documented by separate signature specifically authorizing embalming; and such written permission shall become a part of the permanent record as outlined in OAR 830-040-0000(6).

6b. OAR 830-040-0000(6) provides that all licensees shall keep a detailed, accurate, and permanent record of all transactions performed for the care and preparation and final disposition of human remains. The record shall include, at a minimum, the name of decedent and the

identifying metal disc number provided by Vital Statistics; the date of death; the name of purchaser of professional services and relationship; the name of the funeral service practitioner or cemetery or crematory personnel responsible for making the arrangements; the name of the embalmer responsible for embalming; and written documentation of permission to embalm or cremate a human remains is required from the person who has the right to control disposition of the remains pursuant to ORS 97.130(1) and (2).

6c. In a November 29, 2006 letter to Respondent, the Board warned Respondent that embalming remains without obtaining written authorization to embalm was a violation of OAR 830-030-0010(3); and the letter warned Respondent that failing to include in the facility's permanent record written authorization to embalm from the person with the right to control final disposition was a violation of OAR 830-040-0000(6)(g).

6d. Between approximately August 1, 2007 and August 18, 2007, Respondent, through the actions of Bartlett, embalmed the remains of approximately eighteen (18) decedents. The decedent's names are: Jerry A.; Wayne T.; Pedro F.; Rebecca M.; Lawrence W.; Genevieve V.; Langston W.; Tena F.; Viola G.; Angel B.; Alzena D.; James C.; Rae C.; Arthur N.; Nick P.; Mary C.; Alice E.; and Sattis C.

6e. Respondent did not obtain for the permanent record for the foregoing decedents a copy of the oral or written authorizations to embalm, or written confirmation of oral permission to embalm, from the person with the right to control final disposition pursuant to ORS 97.130(1) and (2).

6f. Therefore, Respondent violated OAR 830-040-0000(6) and OAR 830-030-0010(3) in at least eighteen (18) instances which are cause for disciplinary action under ORS 692.180(1)(g).

Rights and Procedures

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If you want a hearing, you must file a written

request for hearing with the State Mortuary & Cemetery Board (the “Board”) within 21 days from the date this notice was mailed. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to the Oregon Mortuary and Cemetery Board, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If you request a hearing, you will be notified of the time and place of the hearing. You have the right to be represented by legal counsel at a hearing. A Notice of Contested Case Rights and Procedures is enclosed with this Notice of Proposed Disciplinary Action. If you do not request a hearing within 21 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing the discipline as determined by the Board. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of establishing a prima facie case.

DATED this 8th day of May, 2008

STATE MORTUARY AND CEMETERY BOARD

____<s> Lynne Nelson_____
Designee: Lynne Nelson, Compliance Manager