

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

In the Matter of:

ALLISON ASHBECK,

Respondent

CASE NO.: 09-1041D

FINAL ORDER by DEFAULT

On January 20, 2011, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Disciplinary Action and Opportunity for Hearing (Notice) on Allison Ashbeck (Respondent) that it intended to impose civil penalties for violation of OAR 830-030-0100(9), OAR 850-050-0050(9), OAR 830-030-0090(2)(b)(B), ORS 692.180(1)(a) and (b), OAR 830-030-0090, OAR 830-030-0090(2)(b)(A), OAR 830-040-0000(6) and ORS 692.180(1)(g).

The Notice offered Respondent an opportunity for a hearing if requested within 21 days from the date the Notice was mailed. Respondent did not request a hearing within this 21-day period day 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 on Default:

FINDINGS OF FACT

1. At all times mentioned herein, LaFollette, LLC dba Burns Mortuary of Pendleton (OMCB License No. FE-8561) was licensed by the Board as a funeral establishment in Pendleton (hereafter "Burns Mortuary"); and at all times mentioned herein, Brian LaFollette (hereafter "LaFollette") was licensed as a funeral service practitioner (OMCB License No. CO-3220), and LaFollette was the assigned manager and an owner of Burns Mortuary.
2. At all times mentioned herein Burns Mortuary employed Allison Ashbeck, an Oregon notary public who does not hold a license with this Board (hereafter "Respondent"); and at all times herein Burns Mortuary employed Brian Abell, who is licensed as a funeral service practitioner and embalmer (OMCB License No. CO-3002, hereafter "Abell").
3. On or about March 4, 2008, LaFollette and Abell went to another licensed funeral establishment in Pendleton and presented seven (7) consumer file transfer requests. Each request is stamped with Respondent's notary stamp and contains Respondent's signature as a notary affirming the signature of the consumer in Respondent's presence. The requests are identified by initials: D.P., A.H. & J.H., R.B. & E.B., L.S. & P.S.
4. With respect to at least one of the foregoing seven transfer requests, Respondent did not notarize the consumer's signature on Burn's Mortuary transfer request form at the time of the consumer's signature.

5. With respect to at least one of the foregoing seven transfer requests, the consumer did not sign the form in Respondent's presence.
6. With respect to at least one of the foregoing seven transfer requests, Respondent failed to verify it was the true signature of the consumer on the form she notarized.

CONCLUSIONS OF LAW

1. The foregoing conduct is considered misrepresentation in the conduct of business and fraudulent or dishonest conduct. Respondent acted contrary to the legal standards for notarization of documents. See *ORS 194.166(11), (13); ORS 194.505; ORS 194.515; ORS 194.575*.
2. ORS 692.180(1)(a) provides that misrepresentation in the conduct of business by any person is cause for Board action.
3. ORS 692.180(1)(b) provides that fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to funeral service practice is cause for Board action.
4. ORS 692.180(1)(g) provides that any violation of this chapter or any rules adopted under this chapter is cause for disciplinary action.
5. OAR 830-030-0090 provides that every licensee or agent of a licensed facility of the Oregon State Mortuary and Cemetery Board (Board) shall abide by the accepted standards of the Death Care Industry and the minimum standards.
6. OAR 830-030-0090(2)(b)(A) provides that inaccurate record keeping in client record as required in OAR 830-040-0000 is cause for Board action.
7. OAR 830-040-0000(6) provides that all licensees, licensed facilities and funeral service practitioners shall keep a detailed, accurate, and permanent record of all transactions that are performed for the care and preparation and final disposition of human remains.
8. OAR 830-030-0090(2)(b)(B) provides that falsifying a client's funeral service, cemetery or crematory records including, but not limited to, filling in someone else's omissions, signing someone else's name, recording services and/or merchandise not provided or fabricating data is cause for Board action.
9. OAR 830-030-0100(9) provides that it is prohibited conduct and shall be considered misrepresentation in the conduct of doing business to engage in any sales presentation or practice which conceals or misstates a material fact.
10. As described above in the Finding of Facts, Respondent signed as a notary, affirming the signatures of seven (7) consumers, on seven transfer request forms. However, with respect to at least one of the transfer requests, Respondent did not notarize the consumer's signature on the transfer request form at the time of the consumer's signature. Further, when Respondent signed as a notary affirming the signatures of at least one of the transfer requests, the consumer did not sign the form in Respondent's presence. Finally, with respect to at least one of the seven transfer requests, Respondent failed to verify it was the true signature of the consumer on the form she notarized.

11. Respondent, therefore, violated OAR 830-030-0100(9), OAR 850-050-0050(9) and OAR 830-030-0090(2)(b)(B) which are cause for disciplinary action under ORS 692.180(1)(g) and Respondent violated ORS 692.180(1)(a) and (b).

12. Further, Respondent's conduct is considered unprofessional conduct, a failure to abide by the minimum accepted standards of the death care industry, and inaccurate record-keeping which are violations of OAR 830-030-0090, OAR 830-030-0090(2)(b)(A), and OAR 830-040-0000(6). The foregoing are cause for disciplinary action under ORS 692.180(1)(g).

13. Civil penalties of \$2000 may be imposed for the violations committed by Respondent under ORS 692.180.

ORDER

Respondent shall pay civil penalties of \$2000. Civil penalties are due within 10 days of the date the order becomes final by operation of law or on appeal.

DATED this _18th____ day of April, 2011.

____<s> Michelle Gaines_____
Michelle Gaines, Executive Director
Oregon Mortuary & Cemetery Board

Date of Service: ____April 18, 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.