

---

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

In the Matter of the funeral service  
practitioner and embalmer license of:

**BRIAN R. ABELL,**

**Licensee**

**CASE NO.: 09-1041C**

**FINAL ORDER by DEFAULT**

On January 27, 2011, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Disciplinary Action and Opportunity for Hearing (Notice) on Brian Abell (Licensee) that it intended to impose a reprimand and civil penalties for violation of OAR 830-030-0090(2)(a)(F), OAR 830-030-0090(2)(b)(E), OAR 830-030-0090, OAR 830-030-0090(2)(b)(A), OAR 830-030-0090(2)(b)(C), OAR 830-040-0000(9)(b), OAR 830-040-0000(6) pursuant to ORS 692.180(1)(g).

The Notice offered Licensee an opportunity for a hearing if a written request for a hearing was received by the Board within 21 days from the date the Notice was mailed. On February 18, 2011, the Board received a written request for hearing from Licensee. Licensee's request for a hearing was not timely because it was received by the Board 22 days after the Notice was issued. Licensee did not identify any reason for the late hearing request. The Board does not have any information indicating that the request was filed late under circumstances beyond the reasonable control of the Licensee. The Board therefore denies the late hearing request.

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. 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/embalmer (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 Brian R. Abell, who is licensed as a funeral service practitioner and embalmer (OMCB License No. CO-3002, hereafter "Licensee"); and at all times mentioned herein Burns Mortuary employed Allison Ashbeck, an Oregon notary public who does not hold a license with this Board (hereafter "Ashbeck").

3. On or about March 4, 2008, LaFollette and Licensee went to another licensed funeral establishment in Pendleton and presented seven (7) consumer file transfer requests. Each request is stamped with Ashbeck's notary stamp and contains Ashbeck's signature as a notary affirming the signature of the consumer in Ashbeck's presence. The requests are identified by initials: D.P., A.H. & J.H., R.B. & E.B., L.S. & P.S. Licensee had directed Ashbeck to notarize the file transfer requests.
4. With respect to at least one of the foregoing seven transfer requests, Ashbeck 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 Ashbeck's presence.
6. With respect to at least one of the foregoing seven transfer requests, Ashbeck failed to verify it was the true signature of the consumer on the form she notarized.

### **CONCLUSIONS OF LAW**

1. Ashbeck, while under the supervision of Licensee, 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*. The foregoing conduct is considered misrepresentation in the conduct of business and fraudulent or dishonest conduct.
2. As described above in the Finding of Facts, Licensee directed Ashbeck to sign 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, Ashbeck did not notarize the consumer's signature on the transfer request form at the time of the consumer's signature. Further, when Ashbeck signed as a notary affirming the signatures of at least one of the transfer requests, the consumer did not sign the form in Ashbeck's presence. Finally, with respect to at least one of the seven transfer requests, Ashbeck failed to verify it was the true signature of the consumer on the form she notarized. Ashbeck, therefore, violated OAR 830-030-0100(9), OAR 850-050-0050(9) and OAR 830-030-0090(2)(b)(B) and Ashbeck violated ORS 692.180(1)(a) and (b). Further, Ashbeck'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).
3. Licensee, therefore, aided, abetted, or assisted an individual to violate or circumvent a law, rule or regulation intended to guide the conduct of the death care industry, and directed a person to falsify a death care document. The foregoing is a violation of OAR 830-030-0090(2)(a)(F) and OAR 830-030-0090(2)(b)(E) which are cause for disciplinary action under ORS 692.180(1)(g).
4. Further, Licensee's conduct, as described in the Findings of Fact, 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), OAR 830-030-0090(2)(b)(C), OAR 830-040-0000(9)(b) or OAR 830-040-0000(6). The foregoing are cause for disciplinary action under ORS 692.180(1)(g).
5. A reprimand and civil penalties of \$2000 may be imposed for the violations committed by

Licensee under ORS 692.180.

**ORDER**

1. Licensee is hereby reprimanded.
2. Licensee 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.