

Final Order by Default

State Mortuary and Cemetery Board State of Oregon

In the Matter of the Embalmer
Apprenticeship Certificate and Funeral
Service Practitioner Apprenticeship
Certificate Application of:

MARK W. MILLS,
Applicant

Case No.: 10-1028

FINAL ORDER ON DEFAULT

On December 9, 2010, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Denial of an Application and Opportunity for Hearing (Notice) on Mark W. Mills (Applicant) that it intended to deny his application for an Embalmer Apprenticeship Certificate and Funeral Service Practitioner Apprenticeship Certificate for violation of OAR 830-050-0050(3), ORS 692.180(1)(g), ORS 692.180(1)(i) and ORS 670.280(3) and pursuant to OAR 830-011-0050(1) and ORS 692.180(1).

The Notice offered Applicant an opportunity for a hearing if a written request for a hearing was received by the Board within 60 days from the date the Notice was mailed. On February 8, 2011, the Board received a written request for hearing from Applicant. Applicant's request for a hearing was not timely because it was received by the Board 61 days after the Notice was issued. Applicant 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 Applicant. The Board therefore denies the late hearing request.

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 an Embalmer Apprenticeship Certificate and Funeral Service Practitioner Apprenticeship Certificate must apply on a form provided by the Board and consent to a background check. OAR 830-011-0050(1)
2. By application received on April 5, 2010, Applicant applied to the Board for an Embalmer Apprenticeship Certificate and Funeral Service Practitioner Apprenticeship Certificate.
3. Applicant disclosed on the application that he was convicted of Sexual Abuse 3 in 1991.

4. On or about April 11, 1990, Applicant was arrested for two counts of Sexual Abuse 2, Class A misdemeanors. Applicant was convicted on two counts of Sexual Abuse 2 on February 14, 1991 in the Marion County District Court (Docket # 90D102576). He was sentenced to 60 months probation and must register as a sex offender.

5. Applicant's conviction is based on the following conduct: On or about April, 1990, Applicant engaged in inappropriate physical contact with two minor females on at least one occasion.

CONCLUSIONS OF LAW

1. ORS 692.180(1)(i) provides that the Board may refuse to grant a license for conviction of a crime when the conduct or the crime bears a demonstrable relationship to funeral service practice, embalming practice or the operation of cemeteries, crematoriums or other facilities for final disposition of human remains.

2. ORS 670.280(3) provides a licensing board may deny a professional license based on conduct that is substantially related to the fitness and ability of the applicant to engage in the activity for which the license is required, upon consideration of the circumstances.

3. OAR 830-050-0050(3) provides the Board may refuse to grant a license, certificate, or registration if an applicant has been convicted of a crime whose facts and circumstances have a demonstrable bearing upon the standards of the profession.

4. ORS 692.180(1)(g) provides that any violation of this chapter or any rules adopted under this chapter is cause for denial of an application.

5. Applicant's conduct, including his criminal conviction for inappropriate touching of minor children, create a risk of harm to consumers, or their families, in the death care industry and render him unfit to practice as an apprentice. As an apprentice, Applicant would be responsible for meeting with vulnerable and grieving families, and may be alone with underage family members. As an apprentice, Applicant would be responsible for the handling of human remains of all ages. As an apprentice, Applicant may receive personal or financial information about a decedent or his or her family. Applicant's conduct indicates he cannot safely carry out the duties of an apprentice. Therefore, the Board may deny Applicant's application under ORS 692.180(1)(i), ORS 670.280(3), and OAR 830-050-0050(3) and ORS 692.180(1)(g).

ORDER

Applicant's combination Embalmer Apprenticeship Certificate and Funeral Service Practitioner Apprenticeship Certificate Application is hereby denied.

DATED this ___7th___ day of March, 2011.

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

Date of Service: ___March 7, 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.