

**BEFORE THE  
STATE MORTUARY AND CEMETERY BOARD**

In the Matter of:	) <b>FINAL ORDER</b>
	)
<b>MATTHEW K. LEMMON,</b>	)
	) OAH Case No. 1102207
Applicant.	) Agency Case No. 10-1050

This matter came before the Oregon Mortuary and Cemetery Board (Board) during a regularly scheduled meeting on September 20, 2011 to consider the Proposed Order issued in this case by Administrative Law Judge Jennifer Rackstraw. Applicant Matthew Lemmon (Applicant) did not file exceptions to the Proposed Order. After considering the matter, the Board now issues this Final Order.

The Board adopts the ALJ's proposed order, including the Findings of Fact, Conclusions of Law, Opinion and proposed sanctions. The proposed order has been modified to correct typographical errors, indicated by ~~strike through~~ followed by *italics*.

**HISTORY OF THE CASE**

On December 14, 2010, the State Mortuary and Cemetery Board (Board) issued a Notice of Proposed Denial of Application and Opportunity for a Hearing (Notice) to Matthew K. Lemmon, denying Mr. Lemmon's application for an Embalmer Apprenticeship Certificate and a Funeral Service Practitioner Apprenticeship Certificate. On February 11, 2011, Mr. Lemmon requested an administrative hearing. On February 14, 2011, the Board referred the request for hearing to the Office of Administrative Hearings (OAH).

On March 14, 2011, a telephone prehearing conference was held, with Senior Administrative Law Judge (ALJ) Jennifer H. Rackstraw of the OAH presiding. Mr. Lemmon represented himself. Senior Assistant Attorney General Johanna Riemenschneider represented the Board.

On July 6, 2011, a hearing was held in Portland, Oregon, with ALJ Rackstraw presiding. Mr. Lemmon participated via telephone, represented himself, and testified as a witness. Ms. Riemenschneider represented the Board. Board investigator Robert Magill and Board compliance specialist Brenda Biggs testified for the Board. Board compliance manager Lynne Nelson was present on the Board's behalf, but did not testify. The record closed on July 6, 2011.

**ISSUE**

Whether the Board may deny Mr. Lemmon's application for an Embalmer Apprenticeship Certificate and a Funeral Services Practitioner Apprenticeship Certificate on the

ground that Mr. Lemmon violated ORS 692.180(1) and 670.280(3) and OAR 830-050-0050(2) and (3) and 830-030-0090(2)(c)(D).

### EVIDENTIARY RULINGS

The Board's Exhibits A1 through A19 were admitted into the record without objection.

### FINDINGS OF FACT

1. When Mr. Lemmon was a teenager, he sexually abused his younger sister and engaged in bestiality. (Test. of Lemmon.)

2. On August 11, 1994, Mr. Lemmon was indicted on charges of Sexual Abuse in the First Degree, a class B felony, in violation of ORS 163.427, in Morrow County, Oregon. The Indictment alleged that Mr. Lemmon unlawfully and knowingly subjected a person under the age of 14 to sexual contact by touching her vagina. (Ex. A15 at 1-2.)

3. On December 1, 1994, Mr. Lemmon pled guilty to Sexual Abuse in the First Degree. (Ex. A14 at 1-2.) On the Petition to Enter Plea of Guilty, Mr. Lemmon admitted that on or about July 11, 1992, he "unlawfully touched the crotch and surrounding body parts" of the victim (who was not his younger sister) with his fingers "for the purpose of arousing and gratifying [his] own sexual desire." (*Id.* at 2.) Mr. Lemmon's victim was nine years old at the time the unlawful touching occurred. (*Id.*)

4. In a sentencing evaluation dated November 28, ~~2004~~1994, Robert Staunton, Ph.D., wrote, in part:

Mr. Lemmon indicates that he has a long standing problem with sexually deviant behavior, at least dating back to teen years when he sexually offended both his sister and niece. His strong interest in pornography and his sexual involvement in bestiality further substantiate[] his self-assessed problem with deviancy.

This evaluator concurs with Mr. Lemmon's assessment of himself. Mr. Lemmon has a serious problem with sexually deviant behavior, as his sexually deviant activities would indicate. \* \* \*. [I]t is this evaluator's opinion that Mr. Lemmon falls within the Low Risk Sexual Reoffense Risk Category. This is to suggest that if Mr. Lemmon is allowed to remain within the community to pursue treatment, he is assessed as being at Low Risk to sexually reoffend while pursuing treatment.

(Ex. A13 at 1.)

5. In a Judgment and Sentence Order dated January 12, 1995, Mr. Lemmon was found guilty of Sexual Abuse in the First Degree. He was sentenced to five years of formal probation, a 30-day suspended jail sentence, 60 days of electronic surveillance, 160 hours of community

service, and restitution of up to \$10,000, to be paid at a rate of \$50 per month. (Ex. A12 at 1-3; see Ex. A16 at 1.) In addition, he was ordered to have no contact with the victim or her family, to abide by the conditions of the “Sex Offender Package,” and to register as a sex offender. (Exs. A12 at 3, A16 at 1.)

6. In an Amended Judgment and Sentence Order dated June 1, 1995, Mr. Lemmon was sentenced to the same terms as set forth in the January 12, 1995 Order, except that he was ordered to pay restitution at a rate of \$100 per month. (Exs. A2, A9.)

7. In April 1998, Mr. Lemmon violated the terms of his probation by viewing pornography. As a result, he was ordered to perform 80 additional hours of community service. (Ex. A8 at 1.)

8. In November 2000, Mr. Lemmon moved from Oregon to Washington. (Ex. A1 at 3.) Sex offenders who move to Washington from another state must register with the county sheriff within three days of establishing residence. (Revised Code of Washington (RCW) 9A.44.130(4)(a)(v).)<sup>1</sup> Mr. Lemmon registered as a sex offender with an address of 113 SW Boulevard in Aberdeen, Washington. (Ex. A19 at 4.)

9. Once a sex offender is registered, he or she must notify the appropriate county sheriff within three days of moving to a new address. (RCW 9A.44.130(5)(a), (b).)<sup>2</sup> Some time prior

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<sup>1</sup> RCW 9A.44.130(4)(a)(v) provides, in part:

(4)(a) Offenders shall register with the county sheriff within the following deadlines:

\* \* \* \* \*

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders \* \* \* who move to Washington state from another state \* \* \* that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence \* \* \*. The duty to register under this subsection applies to sex offenders convicted under the laws of another state \* \* \* for offenses committed before, on, or after February 28, 1990 \* \* \*. Sex offenders \* \* \* from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

<sup>2</sup> RCW 9A.44.130(5)(a) and (b) provide, in part:

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by

to May 27, 2005, Mr. Lemmon moved from 113 SW Boulevard in Aberdeen, Washington to 1109 Arthur Street, Apartment 1 in Aberdeen, Washington (Arthur Street address).<sup>3</sup> (Exs. A1 at 3, A19 at 4.) The new residence was public housing and former and current registered sex offenders were not allowed to reside there. (Test. of Lemmon.) Mr. Lemmon did not register as a sex offender after moving to his new residence. (See Ex. A19; test. of Lemmon.)

10. On May 27, 2005, after learning of a Child Protective Services referral regarding Mr. Lemmon (see Ex. A19 at 6-7), two Aberdeen police detectives and a social worker went to the Arthur Street address. (*Id.* at 4.) Mr. Lemmon's wife denied that he was home, and she was subsequently arrested on charges of Obstructing a Law Enforcement Officer. (*Id.* at 5, 13.) The police found Mr. Lemmon hiding in a closet at the residence. He initially denied to the detectives that he lived at the residence, but then admitted to them that he had lived there for several weeks. (*Id.* at 4-5.)

11. On July 25, 2005, Mr. Lemmon pled guilty to Failure to Register as a Sex Offender, in violation of RCW 9A.44.130(5), (6), (10)(a), and (11)(a) and 9A.20.021(1)(c), in Gray's Harbor County, Washington. On August 5, 2005, Mr. Lemmon was ordered to pay various fees, serve 10 days in jail and 12 months of community custody, and refrain from the possession, ownership, or control of firearms. (Exs. A4, A7.)

12. On or about February 20, 2007, Mr. Lemmon was arrested for and charged with Assault – Domestic Violence, in Snohomish County, Washington. A formal complaint against Mr. Lemmon was not filed with the court within 72 hours. As a result, the case was closed and the charges against him were dismissed. (Ex. A6 at 1.)

13. On July 26, 2008, Mr. Lemmon received a non-traffic citation in Okanogan County, Washington. The citation alleged two violations: 1) Failure to Submit Catch for Inspection, in violation of RCW 77.15.470; and 2) Unlawful Recreational Fishing in the First Degree, in violation of RCW 77.15.370.1A.<sup>4</sup> The citation noted that Mr. Lemmon "did possess more than

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certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, the person must register with that county sheriff within three business days of moving. Within three business days, the person must also provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom the person last registered[.]

<sup>3</sup> Mr. Lemmon wrote on his Board application materials that he moved to the Arthur Street address in November 2004. However, at hearing, he testified that the date he provided to the Board was incorrect and that he moved to that address at least 10 years after his Sex Abuse I conviction. (Test. of Lemmon.)

<sup>4</sup> RCW 77.15.470 provides, in part:

(1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

twice legal limit of two fish ‘5 fish.’” (Ex. A5 at 1.) The citation ordered Mr. Lemmon to make a mandatory court appearance on August 5, 2008. (*Id.*) Mr. Lemmon attended the court appearance. (Test. of Lemmon.) On the citation, under the heading “Findings,” “BF” is circled for both violations.<sup>5</sup> (Ex. A5 at 1.) On February 20, 2009, Mr. Lemmon was ordered to pay \$125 for each violation, for a total fine of \$250. (*Id.*)

14. On August 9, 2010, Mr. Lemmon submitted an Application for Embalmer Apprenticeship Certificate & Funeral Service Practitioner (FSP) Apprenticeship Certificate (the application) to the Board. (Ex. A1 at 1-11.) On page two of the application, question three asks, “Have you **ever** been arrested, charged or cited for anything other than traffic violations? **Yes or No \* \* \*** If “**Yes**,” you must provide your detailed, complete and accurate written account(s) of the facts or circumstances of each arrest or cite (include any dismissals).” (*Id.* at 2; emphasis in original.) Mr. Lemmon wrote “Yes” in response to question three. (*Id.*)

15. On page two of the application, question four asks, “Have you **ever** been convicted of, or are you currently charged with, committing a crime whether or not adjudication was withheld? **Yes or No[.]**” (*Id.* at 2; emphasis in original.) The application defines “crime” as including “a misdemeanor, felony, or military offense” and “convicted” as including, “but not limited to, having been found guilty by verdict of a judge or a jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence, or a fine.” (*Id.*) The application states that if you answer “Yes” to question four, then you must attach the following to the application: “a) a signed, dated written statement explaining the circumstances of each incident; b) a copy of the charging document; and c) a copy of the official document

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- (a) Obey check station signs;
  - (b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer; or
  - (c) Produce for inspection upon request by a fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards[.]
- (2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

RCW 77.15.370 provides, in part:

- (1) A person is guilty of unlawful recreational fishing in the first degree if:
  - (a) The person takes, possesses, or retains two times or more than the bag limit of fish \* \* \* allowed by any rule[.]

\* \* \* \* \*

- (2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

<sup>5</sup> At hearing, counsel for the Board suggested that “BF” stands for “Bail Forfeiture.”

which demonstrates the resolution of the charges or any final judgments.” (*Id.*) Mr. Lemmon answered “Yes” to question four. (*Id.*)

16. With his application, Mr. Lemmon submitted a written statement that provided, in part:

In the summer of 1991 while living in CA I came to OR for a family reunion at Cutsforth Park in Morrow County. At that time my marriage was in trouble my life was also in dis[ar]ray. While at the family reunion I had several drinks. While sitting in a hammock I inappropriately sexual[ly] to[u]ched my niece. Quickly re[a]lizing what I ha[d] done, I moved away from her. Not telling anyone.

In 1993 I was moving back to Oregon after a divorce. My niece then turned me into the sher[iff]’s office. In Jan of ’94 I went to Court and \* \* \* pleaded guilty to Sex Abuse I. Served 5 years probation and sexual therapy.

In Jan. of 2005 \* \* \* my younger sister asked me to buy her illegal drugs. I refused to. That summer the police came to my door in [Aberdeen], WA. My sister had made accusations that I had molested my children and that my wife & I were doing illegal drugs. I was arrest[ed] for Failure to Reg[i]ster and our children were taken away. When I first moved to Aberdeen, WA the detectives there informed me that after 10 years I was no longer required to register as a sex offender. But I was misinformed[.] I must go before a judge and have it removed. So though I was registered for college and had my mail coming to my new address in Aberdeen and listed there with my employment[,] the DA’s office said I was hid[ing] from them. After getting a bad lawyer and trying to fight it, I was convicted of Failure to Register. All other charges and ac[c]usations were dropped because of false accusations. So in Sept of 2005 I was convicted of Failure to Reg[i]ster.

(Ex. A1 at 10-11; emphasis in original.)

17. On his application for Board licensure, Mr. Lemmon reported that from October 2001 to November 2004, he lived at “113 S. West St” in Aberdeen, Washington. (Ex. A1 at 3.) Mr. Lemmon’s correct address was 113 SW Boulevard. (*See* Ex. A19.)

18. On his application for Board licensure, Mr. Lemmon reported that in November 2004, he moved to “1109 Aurthur St” in Aberdeen, Washington. (Ex. A1 at 3.) Mr. Lemmon’s correct address was 1109 Arthur Street, Apartment 1. (*See* Ex. A19 at 3-4.)

19. The Board processed Mr. Lemmon’s application and conducted a background check. On August 11, 2010, Board compliance specialist Brenda Biggs spoke with Mr. Lemmon via telephone. Ms. Biggs asked Mr. Lemmon about the domestic violence arrest and the wildlife

violation citations that he did not include on his application for Board licensure. Mr. Lemmon told Ms. Biggs that he had forgotten about the arrest and the citations. Ms. Biggs told Mr. Lemmon to submit a written statement to the Board to further explain the incidents. (Test. of Biggs.)

20. On August 13, 2010, Mr. Lemmon submitted written statements to the Board that provided, in part:

In Feb of 2007 I was arrested for domestic dispute. Several weeks earlier I had caught my wife having an affair. We had been going to coun[s]eling and trying to save our marriage. That night we were having an argument. It got very loud and the neighbors called the police. When they arrived, the police said that the law was when they were called out on a domestic call, someone must go to jail. So they arrested me. All charges were dismissed and I was released. It was all a misunderstanding and my wife and I are still together.

In July of 2008 a friend and I went fishing to an area of the Columbia River in WA that we had never fished before. We were unfamiliar with the regulations for that area. We were checked by the fish and game warden. We both had 1 fish over the allowed limit. The fish were taken away and we received a citation, and summons for court. The judge ordered we pay a \$200 fine and the citation to be dropped.

(Ex. A3 at 1-2; emphasis in original.)

21. On August 17, 2010, Board investigator Robert Magill took over Mr. Lemmon's case. Mr. Magill requested that Mr. Lemmon provide records to the Board regarding the 2005 arrest and conviction for Failure to Register as a Sex Offender. Mr. Lemmon provided the requested records to the Board in September 2010. (Test. of Magill; *see* Ex. A4 at 1-12.)

22. An apprentice embalmer prepares a body for a funeral, including washing the body, removing bodily fluids, embalming the body, setting and shaping features, dressing the body, and applying make-up to the body. The apprentice must keep an accurate and truthful log of his or her apprenticeship activities. (Test. of Magill.)

23. A funeral services practitioner apprentice meets with vulnerable and grieving families, sometimes in the families' own homes. The apprentice must keep an accurate and truthful log of these meetings. The apprentice helps the families make funeral arrangements and handles the provision of goods and services relating to the arrangements. The apprentice handles documents such as insurance contracts and trusts. The apprentice must fill out contracts, and ensure that ~~creation~~ *cremation* and embalming authorizations are properly filled out and signed. The apprentice must file documents, such as death certificates, with the state. The apprentice may be required to cooperate with and assist the Board with periodic facility inspections and investigations. (Test. of Magill.)

## CONCLUSION OF LAW

The Board may deny Mr. Lemmon's application for an Embalmer Apprenticeship Certificate and a Funeral Services Practitioner Apprenticeship Certificate on the ground that Mr. Lemmon violated ORS 692.180(1) and 670.280(3) and OAR 830-050-0050(2) and 830-030-0090(2)(c)(D).

## OPINION

To serve an apprenticeship as an embalmer or funeral services practitioner in Oregon, a person must apply for a certificate of apprenticeship from the Board. ORS 692.190(1).<sup>6</sup> The Board has proposed denial of Mr. Lemmon's application for an Embalmer Apprenticeship Certificate and a Funeral Services Practitioner Apprenticeship Certificate based on alleged violations of ORS 692.180(1) and 670.280(3) and OAR 830-050-0050(2) and (3) and 830-030-0090(2)(c)(D). The Board has the burden of establishing its allegations by a preponderance of the evidence. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position); *Metcalfe v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

### **1. False or misleading statement or fraud, misrepresentation, or deceit during application process**

ORS 692.180(1)(a) provides that the Board may refuse to grant a license for "[m]isrepresentation \* \* \* in obtaining a license." Similarly, OAR 830-050-0050(2) provides that the Board may refuse to grant a license, certificate, or registration to an applicant if the applicant makes "false or misleading statements in applying to the Board for licensure, certificate of authority, certificate of registration, or apprenticeship." Finally, OAR 830-030-0090(2)(c)(D) provides that "[u]sing fraud, misrepresentation, or deceit during the application process for licensure, certification or registration" may be cause for Board action.

A "misrepresentation" is defined as "an untrue, incorrect or misleading representation" and as "a representation by words or other means that under the existing circumstances amounts

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<sup>6</sup> ORS 692.190(1) states, in part:

An individual who wishes to engage as an apprentice shall apply to the State Mortuary and Cemetery Board for registration as a funeral service practitioner apprentice or an embalmer apprentice upon a form provided by the board. The individual must consent to a background check, including information solicited from the Department of State Police[.]

to an assertion not in accordance with the facts.” *Webster’s Third New Int’l Dictionary* 1445 (unabridged ed 2002).

The record establishes that Mr. Lemmon misrepresented his criminal history on his license application when he conveyed to the Board that his only arrests and convictions were for Sex Abuse I and Failure to Register as a Sex Offender. In fact, Mr. Lemmon was also arrested on approximately February 20, 2007 for domestic violence, and he was cited for violations of wildlife law in July 2008 and paid associated fines.

At hearing, Mr. Lemmon contended that he did not intentionally fail to list the domestic violence arrest and the wildlife violation citation and fines on his Board application materials. He insisted that he forgot about the domestic violence arrest and that he did not realize that he needed to disclose the wildlife violation citation. He further testified that he believed that payment of the wildlife violation fines resulted in the citation or charges being “dismissed.” He asserted that he knew the Board would be conducting a criminal background check on him, so he had no reason to try to hide criminal history information from the Board.

Because ORS 692.180(1)(a) and OAR 830-050-0050(2) and 830-030-0090(2)(c)(D) do not expressly require that the Board prove that the person making assertions to the Board acted with any specific mental state, the Board need not establish that Mr. Lemmon made any misrepresentations with the intent to deceive or mislead. *See Pierce v. DPSST*, 196 Or App 190, 194 (2004). Thus, even if Mr. Lemmon inadvertently withheld information from the Board with regard to his criminal history, the fact remains that he made incorrect or misleading representations when he failed to list his criminal history accurately and completely on his application. Consequently, the Board has proven violations of ORS 692.180(1)(a) and OAR 830-050-0050(2) and 830-030-0090(2)(c)(D), and the Board may deny Mr. Lemmon’s application under those provisions.

## **2. Lack of fitness for licensure**

ORS 692.180(1)(b) and (i) allow the Board to refuse to grant a license for fraudulent or dishonest conduct or the 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.” Moreover, ORS 670.280(3) allows a licensing board to 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.” Similarly, OAR 830-050-0050(3) allows the Board to 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.”

First, the Board contends that Mr. Lemmon’s history of sexual abuse of children renders him unfit for an apprenticeship certificate. Funeral service practitioners and apprentices meet with grieving families to make funeral arrangements, and those meetings may occur in a family’s home, or in other places where children might conceivably be present. The Board insinuates that Mr. Lemmon poses a risk to the safety of children in such situations, particularly given that the

adult members of the families may be distracted by the funeral arrangements and their grief over the death of their loved ones. The Board has proven that Mr. Lemmon has a history of sexual abuse of children, including his niece and sister, as well as a history of otherwise sexually deviant behavior. However, a 1994 evaluation by Robert Staunton, Ph.D., placed Mr. Lemmon in the “Low Risk Sexual *Re-offense* Category,” and there is no evidence that Mr. Lemmon has reoffended since the sexual abuse of his niece in 1992. *See* Exhibit A13 at 1. Given Mr. Lemmon’s sexual history, it is reasonable to infer that he might continue to pose *some* risk to the safety of children. However, the Board has not provided sufficient evidence to establish that, more likely than not, Mr. Lemmon poses a risk to children in the context of his duties as an apprentice embalmer and/or a funeral service practitioner apprentice.

Second, the Board contends that Mr. Lemmon “has not demonstrated the responsibility necessary to acquire a professional license from the Board.” Hearing Memorandum at 7. Apprentice embalmers and funeral service practitioner apprentices must know and follow the Board’s administrative rules. Apprentices may be required to cooperate with and assist the Board with periodic facility inspections and investigations. By failing to comply with sex offender registry requirements in Washington and by failing to adhere to state regulations applicable to a fishing license, I conclude that Mr. Lemmon has not demonstrated that he is willing to familiarize himself with and follow applicable laws and rules.

Finally, the Board contends that Mr. Lemmon has failed to demonstrate that he is capable of accurate recordkeeping, which is a requirement of an apprentice embalmer and a funeral service practitioner apprentice. Apprentices must complete paperwork for their employers, as well as for the Board. Failure to complete such paperwork accurately could result in public death records being incorrect, or could cause a decedent to be treated in a manner not in accordance with the authorization of the next of kin. By failing to disclose his complete criminal history on his application for Board certification and by submitting written statements to the Board that contained incorrect and incomplete information, I conclude that Mr. Lemmon has not demonstrated that he is capable of keeping accurate and complete records in the course of his work as an apprentice.

For the reasons set forth above, the Board may also deny Mr. Lemmon’s application under ORS 670.280(3).

### **FINAL ORDER**

The State Mortuary and Cemetery Board issues the following order:

1. The Proposed Order in Agency Case No. 10-1050 is adopted as modified.
2. Applicant’s application for an Embalmer Apprenticeship Certificate and a Funeral Services Practitioner Apprenticeship Certificate is denied.

\_\_Oct. 3, 2011\_\_\_\_\_  
Date

<s> Lynne Nelson  
\_\_\_\_\_  
Lynne Nelson, OMCB Interim Executive  
Director

**NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW (COURT OF APPEALS)**

You are entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial Review may be initiated by filing a petition for review with the Oregon Court of Appeals within 60 days from the date this Final Order was mailed to you.

**CERTIFICATE OF MAILING**

On October 3, 2011, I mailed the foregoing Final Order issued on this date in OMCB Case No. 10-1050:

By: First Class Mail

Matthew K. Lemmon  
2438 Auburn Avenue  
Baker City OR 97814

By: Email

Johanna Riemenschneider  
Assistant Attorney General  
Department of Justice  
1162 Court Street NE  
Salem OR 97301-4096

Office of Administrative Hearings  
Salem, OR

\_\_10/3/11\_\_\_\_\_  
Date

\_\_<s> Nathan Goldberg\_\_\_\_\_  
Nathan Goldberg, OMCB Investigator