

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

In the Matter of

**HERITAGE CREMATION PROVIDER,
LLC**

FINAL ORDER on DEFAULT
(Civil Penalties)

CASE NO. 14-1019

On December 16, 2014, the Oregon Mortuary & Cemetery Board (Board) properly served a Notice of Proposed Disciplinary Action and Opportunity for a Hearing (Notice) in OMCB Case No. 14-1019 to Heritage Cremation Provider, LLC (Respondent) that proposed to take disciplinary action in the form of a reprimand and civil penalties. The Notice is attached to this Final Order and is incorporated by reference.

The Notice offered Respondent 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. The Board mailed the Notice to the company address the Board was able to locate and it was returned unclaimed. The Board did not receive a written request for a hearing.

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. Respondent maintains a website which includes advertisement of services to be provided in Oregon.
2. Respondent's online advertisement represents Respondent as a licensed funeral establishment in Oregon. Specifically, the advertisement says: "Our funeral home is owned and managed by licensed funeral directors who understand..."
3. Respondent is not licensed as a funeral establishment in Oregon.
4. Respondent's online advertising represents Respondent as licensed to operate in virtually every city and unincorporated area in Oregon, including cities and unincorporated areas with no licensed funeral establishments. Specifically, the advertisement appears as "_____'s Most Trusted Funeral Provider," with the blank filled in with any city or area searched by the internet.
5. Respondent's online advertisement offers pre-planning, specifically stating: "We offer professional pre-planning."
6. Respondent is not a certified provider of pre-planning services in Oregon.
7. Respondent's online advertisement states that the company's funeral home supports "our community" in virtually every city and unincorporated area in Oregon, but no physical address is provided for any funeral home in any community in Oregon.
8. Respondent's online advertisement states that embalming is required by Oregon law if there is a viewing of the body.
9. Oregon law only requires embalming if the remains of the decedent will be out of refrigeration longer than six hours (OAR 830-030-0080[1]) or if the person died of a communicable disease and there will be a public viewing (OAR 830-030-0080[2]).

10. Respondent's online advertisement represents Respondent as having a certificate of authority to operate a crematorium in virtually every city and unincorporated area in Oregon, including cities and unincorporated areas with no licensed funeral establishments. Specifically, the advertisement appears as "_____'s Most Trusted Cremation Provider," with the blank filled in with any city or area searched by the internet.
11. Respondent's online advertisement represents Respondent as having a certificate of authority to operate a crematorium in virtually every city and unincorporated area in Oregon, including cities and unincorporated areas with no licensed funeral establishments. Specifically, the advertisement appears as "_____'s Most Trusted Cremation Provider," with the blank filled in with any city or area searched by the internet.
12. Respondent's online advertisement implies that they are associated with a company named "Oregon Cremation Services," by specifically using the term in four instances:
 - a. Your Oregon Cremation services specialist or funeral director will be pleased to help you every step of the way.
 - b. Remember that Oregon Cremation services are there to help you through this difficult time.
 - c. Many people choose Oregon Cremation services.
 - d. Why Choose Oregon Cremation Services?
13. The name "Oregon Cremation Services" is a registered business name in Oregon, however the name does not correspond to a licensed death care facility in Oregon.

ULTIMATE FINDINGS

14. Respondent's online advertising regarding licensure constitutes advertising, promoting, or marketing at need or preneed funeral arrangements without first having received a license from the Board in violation of OAR 830-040-0050(2).
15. Respondent's online advertising regarding licensure constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).
16. Respondent's online advertisement regarding ability to operate anywhere in Oregon constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).
17. Respondent's online advertisement regarding pre-planning services constitutes advertising, promoting, or marketing at need or preneed funeral arrangements without first having received a license from the Board in violation of OAR 830-040-0050(2).
18. Respondent's online advertisement regarding pre-planning services constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).
19. Respondent's online advertisement regarding availability of funeral homes in Oregon communities constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).
20. Respondent's online advertisement regarding embalming requirements in Oregon is a false and misleading statement that constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).
21. Respondent's online advertising regarding availability of cremation services constitutes advertising, promoting, or marketing at need or preneed funeral arrangements without first having received a certificate of authority to operate a crematorium from the Board in violation of OAR 830-040-0050(3).
22. Respondent's online advertisement regarding availability of cremation services in Oregon communities constitutes a sales presentation or practice that conceals or misstates a material fact

that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).

23. Respondent's online advertisement utilizing the term "Oregon Cremation Services/services" constitutes a sales presentation or practice that conceals or misstates a material fact that is prohibited misrepresentation in the conduct of doing business in violation of OAR 830-030-0100(1).

CONCLUSIONS OF LAW

24. Heritage Cremation Provider, LLC's online advertising, as described above in Sections 1 and 13, violated OAR 830-040-0050(2), OAR 830-030-0100(1), and OAR 830-040-0050(3).
25. Violations of the Board's rules is cause for disciplinary action under ORS 692.180(1)(g).
26. For the above actions, and pursuant to ORS 692.180(1)(a) and (g), a reprimand and civil penalty of \$1,000 per violation for a total of \$10,000 is appropriate.

ORDER

NOW THEREFORE, after considering the Board's file relating to this matter, the Board enters the following Final Order on Default:

1. Civil penalties of \$10,000 are due within ten (10) days of this Order and payable by Heritage Cremation Provider, LLC to the Board.
2. This Final Order shall become effective when signed by the Executive Director of the Board.

Dated this 20 day of February, 2015

/s/ Michelle Sigmund-Gaines
Michelle Sigmund-Gaines, Executive Director
Oregon Mortuary & Cemetery Board

Date of Mailing: February 20, 2015

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 Order was mailed to you.

