STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

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| In the Matter of **Carolyn R. Franklin** | ) | **NOTICE OF** |
| | ) | **PROPOSED ACTION** |
| | ) | Case No. INS 06-08-008 |

## Proposed Action

The Director of the Oregon Department of Consumer and Business Services (director) commences this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Carolyn R. Franklin (Franklin).

The director gives notice, pursuant to ORS 183.415, that the director proposes to revoke Franklin's Oregon resident individual insurance producer license pursuant to ORS 744.074(1).

The director proposes to take this action because the director has reason to believe the following.

Licensing Information

Franklin has been licensed in Oregon as a resident individual insurance producer from 11/4/97 to 11/30/02 and since 11/13/03. Franklin's last recorded residence and business address is located in Oakridge, Oregon, but it is believed that Franklin's actual residence and another business address is located in Springfield, Oregon.

Used a Fraudulent, Coercive, or Dishonest Practice in Business

Franklin is subject to enforcement action pursuant to ORS 744.074(1)(h) because of the following circumstances. ORS 744.074(1)(h) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person used a fraudulent, coercive, or dishonest practice, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Oregon or elsewhere.

At all relevant times, Franklin was an owner of and managed Oakridge Chapel of the Woods (Oakridge), a provider of mortuary, funeral, cremation, and burial goods and services; and licensed by the Oregon Mortuary and Cemetery Board as a funeral establishment. Oakridge is located in Oakridge, Oregon.

From on or about 6/4/02 to 10/8/02, Franklin, filed with Forethought Life Insurance Company (Forethought) five claims each misrepresenting that a specified individual had died, that Oakridge had provided mortuary, funeral, cremation, or burial goods and services, or some combination thereof, for the individual, that such goods and services cost a specified amount; and that Oakridge was entitled to payment for providing such goods and services pursuant to a life insurance policy issued by Forethought to the individual. At all relevant times, the individuals had not died, Oakridge had not provided any such goods and services, and thus, Oakridge was not entitled to any payment from Forethought. The date of the claim, the name of the insured individual, the policy number, and the amount claimed and received by Franklin, in each of the five instances is as follows:

| Date Claim Filed | Insured | Policy No. | Amount |
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| 6/4/02 | Ellsworth D. Peterson | 5069967 | $5,949.83 |
| 8/8/02 | Ruth M. Morris | 793593 | $7,855.13 |
| 9/5/02 | Richard H. Jones | 894399 | $6,571.84 |
| 9/23/02 | Laura E. Short | 5070100 | $3,243.23 |
| 10/8/02 | Marjorie E. Hickox | 3020586 | $10,130.28 |
| Total | | | $33,750.31 |

As referred to above, on or about 10/8/02, Franklin, filed with Forethought a claim misrepresenting that Marjorie E. Hickox (Hickox) of Roseburg, Oregon had died, that Oakridge had provided mortuary, funeral, cremation, or burial goods and services, or some combination thereof, for Hickox, that such goods and services cost a $11,749.00; and Oakridge was entitled to payment for providing such goods and services pursuant to a life insurance policy, number 3020586, issued by Forethought to Hickox. As of the date the claim was filed, Hickox had not died, Oakridge had not provided any such goods and services, and thus Oakridge was not entitled to any payment. On 10/9/02, Forethought issued five checks totaling $10,130.28

representing the total death benefit payable pursuant to the policy. From 10/16/02 to 10/25/02, Franklin deposited the checks into one of two bank accounts of Oakridge. In September or October 2002, Julie A. Mather (Mather), Hickox' conservator and the beneficiary under the policy, called and spoke to Franklin about changing some of the goods and services to be provided when Hickox died. In August 2005, Mather called and informed Franklin that Hickox may die soon due to her declining health. On 11/7/05, Hickox died. Subsequently, Oakridge provided certain goods and services. In January 2006, Mather called and spoke to Franklin about not having received a death certificate, a billing for the goods and services provided, and a refund of the different between the cost of such goods and services provided and the death benefit of the policy. Franklin told Mather that she would send the billing and refund soon. On 3/2/06, Mather received the death certificate but not billing or refund, so Mather called and left a voice mail message for Franklin again requesting the billing and refund. On 3/7/06, Mather called Forethought and was told that Forethought had paid the death benefit in October 2002, so Mather faxed to Forethought a copy of the death certificate showing that Hickox died on 11/7/05. Later that same day, 3/7/06, Franklin called and told Mather that Forethought had called her, that in October 2002 a "Marjorie Hicks" of Oakridge, Oregon had died and Forethought "had gotten the files mixed up and sent [Hickox'] money by mistake," that Franklin "had put the check into a client trust account and [Mather] had a total of $10,750.32 [in the] account." Mather asked Franklin to fax a copy or read the billing to Mather. Franklin said her fax machine was broken and the bill was too long to read but would mail to Mather the bill and refund by 3/10/06. Mather has not received any further communication, including any bill or refund, from Franklin. On 3/12/06, Franklin sent Forethought a copy of a billing for the goods and services and the costs of thereof purportedly provided by Oakridge for Hickox. This billing is commonly referred to as an At Needs Statement. The billing stated that the total cost was $8,647.32. However, the billing charged $2,987.82 for goods that were not provided, and overcharged $1,275.00 for services that were provided, for a total over billing of $4,262.82.

Franklin filed with Forethought a claim for $11,749.00 on or about 10/8/02, and received $10,130.28 by 10/25/02, was not entitled to any payment from 10/25/02 to on or about 11/7/05, and when Oakridge became entitled to payment on or about 11/7/05 Oakridge was entitled to only about $4,384.50. Thus, in addition to Franklin filing with Forethought a false claim on or about 10/8/02, Franklin also subsequently submitted to Forethought a billing misrepresenting the goods and services that Oakridge provided and the costs of such goods and services, intentionally withheld $10,130.28 from Forethought from 10/25/02 to on or about 11/7/05, and of that amount intentionally withheld approximately $5,745.78 from Mather since on or about 11/7/05.

Forged Person's Name on Application for Insurance or Related Document

Franklin is subject to enforcement action pursuant to ORS 744.074(1)(k) because of the following circumstances. ORS 744.074(1)(k) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person forges another person's name to an application for insurance or to any document related to an insurance transaction. In each of the five instances described above, Franklin forged the name of the beneficiary of the life insurance policy, further misrepresenting to Forethought that "[a]s the person legally responsible for the funeral arrangements of the deceased insured, I [the beneficiary] authorize payment to [Oakridge] in the amount of the total cost of the funeral goods and services furnished." The date of the claim, the name of the insured individual, the policy number, and the name of the beneficiary whose name was forged, in each of the five instances is as follows:

| Date Claim Filed | Insured | Policy No. | Beneficiary |
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| 6/4/02 | Ellsworth D. Peterson | 5069967 | Sharon Peterson |
| 8/8/02 | Ruth M. Morris | 793593 | Shirley Lucas |
| 9/5/02 | Richard H. Jones | 894399 | Shirley Lucas |
| 9/23/02 | Laura E. Short | 5070100 | Robbie Short |
| 10/8/02 | Marjorie E. Hickox | 3020586 | Julie A. Mather |

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Failed to Respond to Director's Inquiry

Franklin is subject to enforcement action pursuant to ORS 731.296 because of the following circumstances. ORS 744.074(1)(b) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person violated any insurance statute; or any rule, order or subpoena of the director or the insurance regulator of another state. ORS 731.296 requires a person who is licensed in Oregon in any capacity under the Insurance Code to promptly and truthfully respond to an inquiry from the director.

On 6/27/06, an investigator of the Insurance Division met with Franklin at Oakridge Chapel of the Woods, 76478 Ash Street, Oakridge, OR 97463-9606 and requested information and documents about purportedly providing mortuary, funeral, cremation, or burial goods and services, or some combination thereof, for seven individuals, five of which are described above, who were alive at the time the goods and services were purported provided, and filing life insurance claims with Forethought for payment of such goods and services. Franklin provided some of the documents. However, when the investigator attempted to ask Franklin questions about the information and documents, Franklin refused to answer the questions because she claimed that her attorney had advised her not to answer such questions. The investigator explained to Franklin that ORS 731.296 required her to respond to the investigator's questions and that her refusal could have consequences. Franklin still refused to answer the questions.

On 7/6/06, the Insurance Division issued a subpoena to Franklin pursuant to ORS 731.232. The subpoena required Franklin to appear on 7/20/06 at 10:00 AM at the Insurance Division office located at 350 Winter Street NE, Salem, OR 97301, to be interviewed about allegedly filing the false insurance claims described above. On 7/17/06 at 4:27 PM, the Insurance Division caused the subpoena to be personally served to Franklin at Andreason's Cremation and Burial Service, 3305 Main Street Suite 110, Springfield, OR 97478-5813. Franklin did not appear as requested.

## Notice of Right to Administrative Hearing

A party has the right to a hearing pursuant to ORS 183.415. A party may request a hearing by sending a written request to the Insurance Division. A party may send the request to the Insurance Division by delivering it to the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us. The Insurance Division must *receive* the request within *21 days* from the date this notice was *sent* to the party.

If the Insurance Division receives from a party a written request for a hearing by the above due date, then the Insurance Division will refer the request to the Office of Administrative Hearings (OAH). OAH will schedule the hearing and notify the party of the date and location of the hearing and other related information. OAH will conduct the hearing in accordance with the Oregon Administrative Procedures Act, ORS Chapter 183; and related rules, Oregon Administrative Rules (OAR) 137-03-0501 *et seq*. A party that is an individual may represent themselves, or may be represented by an attorney licensed in Oregon, at a hearing. Subsequently, OAH will issue a proposed order, and the director will issue a final order.

If the Insurance Division does not receive from a party a written request for a hearing by the above due date; or if a party that timely requested a hearing withdraws the request, notifies the Insurance Division or OAH that the party will not appear at a scheduled hearing, or does not appear at a scheduled hearing, then the director intends to issue a final order by default taking the action proposed herein. If a hearing is not held, then the designated portion of the Insurance Division's file in this case will automatically become part of the contested case record for the purpose of proving a *prima facie* case. If a hearing is held, the designated portion of the Insurance Division's file in this case will not become part of the record, unless expressly offered by the Insurance Division as documentary evidence and admitted as such.

Dated August 24, 2006

/s/ Joel Ario
Joel Ario
Administrator
Insurance Division
Department of Consumer and Business Services

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