

Chapter 692

1955 REPLACEMENT PART

Funeral Directors and Embalmers

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692.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of Funeral Directors and Embalmers.

(2) "Embalmer" means a person who is engaged, or holding himself out as engaged, in the practice of disinfecting or preserving from decay dead human bodies, or preparing for the transportation by railroad, express company, or common carrier, human bodies dead of contagious or infectious disease.

(3) "Embalmer's apprentice" means any person engaged in the study of the art of embalming under the instruction and supervision of a regularly licensed embalmer and practicing in this state.

(4) "Funeral director" means any person engaged in or conducting, or holding himself out as engaged in or conducting the business or profession of preparing dead human bodies for burial or disposal, other than by embalming; directing or supervising the burial or disposal of dead human bodies; providing or maintaining a place for the preparation or disposition or the care of dead human bodies, or who shall, in connection with his name or business use the word or words "funeral director," "undertaker," or "mortician," or any other title indicating that he is engaged in the business or profession described in this subsection.

(5) "Funeral director's apprentice" means any person operating under or in connection with a funeral director for the purpose of learning the business or profession of funeral director, to the end that he may become licensed under the provisions of this chapter.

692.020 License required to practice funeral directing. (1) No person shall engage in the business or profession of a funeral director unless licensed so to do by the State Board of Funeral Directors and Embalmers. The board hereby is granted authority to issue licenses to funeral directors.

(2) Any person desiring to engage in the business or practice of a funeral director shall make application to the board, and shall accompany his application by the fee provided in subsection (3) of this section, whereupon the board shall fix the time and place for the examination of the applicant and shall notify the applicant thereof.

(3) Any person who has been lawfully engaged in conducting the business or profession of a licensed funeral director in this

state for the six months next prior to December 31, 1951, shall, upon payment of the statutory license fee and after proper application, be entitled to a renewal of his license as a funeral director as provided in ORS 692.160. All other persons shall first qualify for examination in accordance with the provisions of this chapter and shall be licensed only after due examination by the board and the payment of an examination fee of \$25 and a license fee of \$10. The examination fee is in addition to the license fee.

692.030 License required to practice embalming. (1) No person shall follow, engage in, or hold himself out as engaged in the practice as an embalmer, unless licensed so to do by the State Board of Funeral Directors and Embalmers. The board hereby is granted authority to issue licenses to embalmers.

(2) All persons shall qualify for examination in accordance with the provisions of this chapter and shall be licensed as an embalmer only after due examination by the board and the payment of the examination fee and license fee specified in ORS 692.110 and ORS 692.160.

692.040 Application of chapter. This chapter does not apply to, or in any way interfere with the duties of any officer of any public institution, nor with the duties of any officer of a medical college, county medical society, anatomical association, college of embalming, or any other recognized person carrying out the provisions of the statutes of the State of Oregon prescribing the conditions under which indigent dead human bodies are held subject for scientific or anatomical study, nor with the customs or rites of any religious sect in the burial of their dead.

692.050 Application for funeral director's license. An application for a license as a funeral director shall be in writing and verified on a form provided by and addressed to the board and filed with the secretary of the board. The application must specify the address of the applicant, and must be accompanied by the affidavits of at least two reputable residents of the county in which the applicant resides or proposes to engage in or conduct a funeral establishment to the effect that the applicant is of good character.

692.060 Qualifications of applicants for funeral director's examination. An applicant

for a funeral director's license is entitled to an examination if he:

(1) Is a citizen of the United States.

(2) Is at least 21 years of age.

(3) Has had practical experience as an apprentice for not less than two or more than three consecutive years, excluding time lost by interruptions caused by active duty of applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

(4) Has completed apprenticeship not more than two years prior to taking the examination, excluding time lost under the circumstances mentioned in subsection (3) of this section.

692.070 Scope of examination for funeral director's license. The applicant for a funeral director's license shall, before the application is granted, successfully pass an examination upon the following subjects: Funeral directing, the signs of death, the manner in which death may be determined, the laws governing the preparation and disposal of dead human bodies, and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing.

692.080 Issuance of funeral director's licenses; character investigations; limitation on practice of funeral director. (1) If the board finds, upon due examination, that the applicant is of good moral character, and is possessed of skill and knowledge of sanitary science, and has sufficient knowledge, experience and training to properly conduct such business or profession, the board may issue to the applicant upon payment of the license fee, a license to operate as a funeral director affiliated with a licensed embalmer.

(2) The board may cause an investigation to be made as to the character of the applicant and may require such showing as may reasonably prove the good character of the applicant. The board may also subpoena witnesses, administer oaths and take testimony with respect to the character of the applicant, upon proper notice before such hearing.

(3) If any person licensed in this state as a funeral director who is not also licensed as an embalmer engages or attempts to engage in such business or profession without

the services of a licensed embalmer, such person's funeral director's license is subject to termination by the board after public hearing, but at the discretion of the board may be reinstated or renewed following such termination.

692.090 Assistant funeral directors must be licensed. (1) No person shall practice as an assistant funeral director without first obtaining a license as provided in this section.

(2) The board may license, with or without examination, one or more assistants of funeral directors who have been licensed under this chapter upon payment of an assistant's license fee of \$5. Before issuing a license to an assistant funeral director, the board shall require satisfactory proof that the assistant is capable and trustworthy to act as such and of good moral character. Such assistants shall be licensed and registered as assistants of designated licensed funeral directors only, and shall not perform services for any funeral director other than the one with whom they are registered.

(3) The annual renewal fee for licenses for assistants is \$5, and is due and payable on or before January 1 of each year.

(4) The license may be revoked, or the board may refuse to renew the license, for any of the reasons stated in this chapter as applied to funeral directors.

692.100 Examination of applicants for embalmer's license. The board shall hold a public examination at least once each year for the purpose of examining applicants for embalmer's licenses, in the office of the secretary or at such other times and places as the board may determine. Notice of the time and place of the meeting shall be sent to the various applicants by mail at least 10 days before the meeting or examination.

692.110 Application for embalmer's examination. The applicant for an embalmer's license shall make application to the board, shall pay to the secretary an examination fee of \$25 and shall present himself at the next meeting of the board for the examination of applicants. The application must be in writing and verified, on a form provided by and addressed to the board, and must be accompanied by the \$25 fee and by affidavits of at least two reputable residents of the county in which the applicant resides or proposes to engage in the practice of an em-

balmer to the effect that the applicant is of good character.

692.120 Qualifications of applicants for embalmer's license. In order to qualify for a license as an embalmer, the applicant shall:

(1) Be over 21 years of age.

(2) Be of good character.

(3) Have first completed a two-year course of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state, and the applicant shall have completed the required course of apprenticeship within a period of three consecutive years, excluding time lost by interruptions caused by active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

(4) Have completed a full course of instruction in an embalming school which has been approved by the board. The applicant shall be given credit upon his period of apprenticeship for the time he may have spent in attending such an approved embalming school.

(5) Have completed the course of apprenticeship not more than two years prior to the date of examination, excluding time lost under the circumstances mentioned in subsection (3) of this section.

692.130 Scope and conduct of embalmer's examination. The board shall examine applicants for an embalmer's license in the following subjects: Theory and practice of embalming; anatomy, pathology, bacteriology; hygiene, including sanitation and public health; chemistry, including toxicology; restorative art, including plastic surgery and demi-surgery; and mortuary law. The board in such examination may use the questions prepared by the Conference of Embalmers Examining Boards of the United States, Inc. To constitute a passing grade, an applicant must receive an average mark not less than 75 percent on all subjects; provided, that where the applicant has received a mark of less than 70 percent in one or more subjects, such applicant shall not be passed notwithstanding his average mark may be higher than 75 percent. If the board is satisfied that the applicant has the requisite qualifications to practice the occupation of embalmer, a license shall be issued to him authorizing him

to practice such occupation until December 31 of that year. [Amended by 1955 c.754 §1]

692.140 Reciprocity; embalmers and funeral directors. The board may recognize licenses issued to funeral directors or embalmers from other states, and, upon presentation of such license may, upon the payment of the sum of \$25 to the secretary of the board, issue to the lawful holder thereof the funeral director's or embalmer's license provided for in this chapter. However, such recognition shall not be extended to funeral directors or embalmers holding licenses from other states unless reciprocal rights are granted to holders of funeral directors' or embalmers' licenses granted in this state. Such reciprocal licenses may be renewed annually upon payment of the renewal license fee as provided in ORS 692.160 for license holders residing in this state. No person is entitled to a reciprocal license as a funeral director or embalmer unless he furnishes proof that he has, in the state in which he is regularly licensed, complied with requirements substantially equal to those set out in this chapter.

692.150 Execution and display of licenses. (1) Licenses under this chapter shall be granted to individuals upon the qualification and the examination of the individual applicant, and shall specify the name to whom it is issued.

(2) Every license issued under this chapter shall be signed by the president and secretary of the board, and shall be displayed conspicuously in the place of business or employment of the licensee.

692.160 Annual renewal of embalmer's and funeral director's licenses. (1) Every licensed funeral director and every licensed embalmer shall pay annually a fee for the renewal of his license. The renewal fee payable by a licensed funeral director is \$10 and by a licensed embalmer is \$10.

(2) All licenses granted under this chapter shall expire on January 1 following their issuance or renewal, and shall become invalid unless renewed as provided in this section.

(3) The board shall mail on or before November 1 of each year to each licensed funeral director and to each licensed embalmer, addressed to him at his last known address, a notice that his renewal fee is due and payable and that if such fee is not paid by January 1 the license shall lapse.

692.170 Reinstatement of lapsed licenses. When a licensee has for any reason allowed his license to lapse, the board hereby is given power of reinstatement, in its discretion, if application therefor is made within a period of six months from the lapse and is accompanied by all fees, from the time of the lapse to date of reinstatement.

692.180 Grounds for refusal to issue or denial of embalmer's and funeral director's licenses. The board has the power to refuse to grant, to refuse to renew, to suspend or revoke a license after proper hearing and notice to the licensee, upon the licensee being found guilty of any of the following acts or omissions:

(1) Conviction of a crime involving moral turpitude.

(2) Unprofessional conduct which hereby is defined to include:

(a) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer.

(b) False or misleading advertising as a funeral director or embalmer.

(c) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending; but this does not prohibit general advertising.

(d) Employment by the licensee of persons known as "cappers" or "steerers" or "solicitors" or other such persons to obtain funeral directing or embalming business.

(e) Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employe, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer.

(f) The buying of business by the licensee, his agents, assistants, or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees for the purpose of securing business.

(g) Gross immorality.

(h) Aiding or abetting an unlicensed person to practice funeral directing or embalming.

(i) Using profane, indecent or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body

has not yet been interred or otherwise disposed of.

(j) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery.

(k) Using any casket or part of a casket which has been previously used as a receptacle for, or in connection with, the burial or other disposition of, a dead human body.

(L) Violation of any of the provisions of this chapter.

(m) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.

(n) Fraud or misrepresentation in obtaining a license.

(o) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.

692.190 Application for and issuance of apprentice's certificates in embalming and funeral directing. (1) Every person desiring to engage as an apprentice shall make application for registration as a funeral director's apprentice or an embalmer's apprentice to the board upon a form provided by the board. The application shall state that the applicant is over the age of 18 years, holds a high school certificate, or possesses the equivalent of a high school education, and is of good moral character. The application must be verified by the oath of applicant and be accompanied by a fee of \$5. The secretary of the board shall, whenever it appears to him that no reason exists for the denial of an application and that the application is regular upon its face, have the power to issue to the applicant, a certificate of apprenticeship, without submitting the application to the board. If, however, any doubt exists as to the qualifications of the applicant, the application shall be submitted to the board and may be accepted or rejected by a majority vote of the board.

(2) The regular course of apprenticeship shall be two years, but the apprentice is entitled to two weeks' vacation each year, without leave of absence from the board.

692.200 Annual renewal of apprentice's certificate. A certificate of apprenticeship issued as provided in ORS 692.190 shall be signed by the apprentice and shall be renewable annually upon the payment by the hold-

er on January 1 of each year of an annual renewal fee of \$5. Failure to pay the renewal fee during the month of December of any year shall cause the certificate to become delinquent, in which case it shall be renewed only for good cause shown. No person may be granted a certificate of apprenticeship as funeral director's apprentice or embalmer's apprentice, respectively, for more than three consecutive years, excepting, however, time excluded for completion of course of apprenticeship as provided by ORS 692.060 and 692.120. The board shall mail on or before November 1 of each year to each registered apprentice at his last known address a notice that his renewal fee is due and payable and that, if not paid by January 1, his license will lapse.

692.210 Annual report of apprentices. All apprentices registered as provided in ORS 692.190 shall be under the supervision and control of the board and shall be required to report to the board annually on January 1 upon forms provided by the board, showing the work which such apprentices have performed during the annual period preceding the first of the month on which the report is made, including the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise preparing for disposition during such period. The information contained in the report shall be certified to as correct by the funeral director by whom the apprentice has been employed during such period.

692.220 Leaves of absence for apprentices. The board has power to grant leaves of absence and to grant extensions thereof to apprentices registered under the provisions of this chapter. However, no credit shall be given to an apprentice upon his apprenticeship for the period during which he is absent from duty on leave and no more than an aggregate of 12 months' leave of absence shall be granted to any apprentice during the term of his apprenticeship. Application for leave of absence and for extension thereof shall be made by the apprentice upon a form provided by and addressed to the board. Upon the termination of a leave of absence or any extension thereof, the apprentice shall report to the board the fact that he has resumed his duties as an apprentice and certified to by the funeral director under whom he has resumed his duties or by the embalmer under whom he is apprenticed, confirming this fact. Failure to so re-

port within 10 days after the expiration date of any leave of absence or extension thereof shall automatically cancel the registration of the apprentice.

692.230 Grounds for suspension and revocation of certificates of apprenticeship; reregistration when certificate has lapsed or is suspended or revoked. (1) The board has power to suspend or revoke a certificate of apprenticeship, after notice and upon hearing, where the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote not less than an average of 30 hours per week, to the duties of his apprenticeship.

(b) Failure to make an annual report to the board as required in ORS 692.210.

(c) Absence from duty except on vacation for an aggregate of more than 10 days in any six months or 20 days in any year, without leave of absence granted by the board.

(d) Gross immorality.

(e) Being on duty as an apprentice while under the influence of liquor.

(f) Disobedience of proper orders or instructions of his superiors.

(g) Violation of any provision of this chapter or any rule or regulation of the board made under this chapter.

(h) Soliciting business for a funeral director or for any embalmer.

(i) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(2) An apprentice who has allowed his certificate of apprenticeship to lapse or who has had his certificate of apprenticeship suspended or revoked may within one year after such suspension or revocation make application for reregistration, but not more than two such reregistrations shall be allowed by the board. The board may, when the circumstances warrant, allow an apprentice credit under a reregistration for time actually served under a previous registration, except that if the previous registration has been suspended or revoked upon any of the grounds set forth in subsection (1) of this section not more than 75 percent of the time previously served shall be credited on the reregistration.

692.240 Board hearings to be public; record of proceedings at hearing. All hearings provided for by this chapter shall be open to the public, and a stenographic report and record of proceedings of each hearing

shall be made at the expense of the board. A copy of such stenographic report and record shall be furnished to any interested party, upon request and tender to the secretary of the board of the reasonable cost of preparation thereof, but in no event shall such cost exceed \$1.25 per page of such report and record.

692.250 Appeal from decision of board.

(1) Whenever, by decision, final order or other final determination upon any public hearing provided for by this chapter, a party to such hearing shall feel aggrieved, an appeal may be taken to the circuit court for the county within which such party resides, or, if he is not a resident of Oregon, then to the circuit court for the county within which the hearing was held. However, if there is more than one appellant, the circuit court having jurisdiction to hear the appeal of the first appellant filing a notice of appeal, shall have jurisdiction to hear all appeals arising from the same hearing, irrespective of the place of residence of the appellants.

(2) To take an appeal, a written notice of appeal, accompanied by tender of a sum of money sufficient to cover the reasonable cost of preparing a transcript of the proceedings and testimony had before the board, such sum not to exceed \$1.25 per page of such transcript, shall be filed with the secretary of the board within 15 days following the rendering of the decision, final order or other final determination. Within 30 days following the filing of notice of appeal and tender of costs as required by this subsection, the secretary shall prepare for transmittal by the appellant to the clerk of the court having jurisdiction of the appeal, a transcript of such proceedings and testimony, which transcript shall be filed by the appellant with the clerk of court within 15 days following the time allowed for preparation thereof. The notice of appeal shall state the grounds for the appeal, and the place of residence of the appellant.

(3) On taking and perfecting an appeal to the circuit court having jurisdiction thereof, the court shall proceed as in equity.

(4) An appeal may be taken from the judgment, decree or any appealable order of the circuit court to the Supreme Court of the state. Appeals to the Supreme Court shall be taken, perfected, heard and determined in the manner prescribed by law for taking, perfecting, hearing and determining appeals in equity to the Supreme Court.

682.260 to 682.290 [Reserved for expansion]

692.300 State Board of Funeral Directors and Embalmers; appointment, terms and qualifications of members. There hereby is created a board to carry out the purposes and enforce the provisions of this chapter, to be known as the State Board of Funeral Directors and Embalmers, consisting of five members. The term of office of the members of the board shall be two years. They shall be appointed by the Governor and hold office until the appointment and qualification of their successors. On January 1 of each even-numbered year, the Governor shall appoint two members to the board. On January 1 of each odd-numbered year, the Governor shall appoint three members to the board. All appointive members shall have had a minimum of five consecutive years of experience immediately preceding their appointment in the preparation and disposition of dead human bodies and the practicing of embalming within the State of Oregon.

692.310 Meetings of board; officers of board. The board shall meet annually, and at such other times as it may determine, and shall elect from its members, each for a term of one year, a president and secretary. The secretary shall also act and serve as treasurer of the board. The salary of the secretary shall be fixed by the board and shall be payable out of the State Funeral Directors' and Embalmers' Fund.

692.320 Powers and duties of board. (1) The board has the power to adopt and enforce reasonable rules and regulations relating to the practice of embalming, to the business of a funeral director, to the sanitary condition of places where such business or practice is conducted, with particular regard to plumbing, sewage, ventilation and equipment, and generally to carry out the various provisions of this chapter in the protection of the peace, health, safety, welfare and morals of the public. However, such rules and regulations shall not become effective until they have been filed in the office of the Secretary of State, and when so filed such rules and regulations shall be in full force and have the effect of law.

(2) The board has the power to inspect the premises in which the business of funeral director is conducted or where embalming is practiced, and may employ the inspectors and attorneys to aid in the enforcement of

this chapter and rules adopted pursuant thereto, whose compensation and expenses shall be payable only out of the fees collected under this chapter. The board shall have power to hold hearings, conduct investigations, subpoena witnesses, administer oaths and take testimony in order to carry out the provisions of this chapter.

(3) The board shall have a common seal and shall have the power to lease or rent a suitable place in Multnomah County, Oregon, in which to house its headquarters and shall purchase such office supplies and equipment from time to time as may be required in the operation of its headquarters. All such expenses and compensation for clerical and stenographic help shall be payable from the State Funeral Directors' and Embalmers' Fund in the manner provided in ORS 692.330.

692.330 Expenses of board; compensation of members. All expenses incident to the execution of the provisions of this chapter shall be paid from the State Treasury upon warrant drawn by the Secretary of State, upon the presentation of the proper vouchers approved by the president and secretary of the board. Other than such necessary expenses as are incident to attending the meetings of the board, the members of the board shall serve without pay except as otherwise provided in this chapter.

692.340 Bond of treasurer; oath of office of members. The treasurer shall give surety bond, to be approved by and deposited with the Secretary of State, in the sum of \$1,000. The members of the board shall take oath provided by law for public officers. The cost of the bond shall be paid by the board.

692.350 Publication of statutes and regulations. The board shall at least once every two years publish for distribution to funeral directors, embalmers and apprentices and such other persons as may be interested therein, in pamphlet form, the provisions of this chapter together with all rules and regulations prescribed, adopted or promulgated pursuant to this chapter.

692.360 Biennial report to Governor. The board shall report to the Governor, bi-

ennially, a full statement of the receipts and disbursements of the board during the preceding two years and a full statement of its doings and proceedings, and such recommendations as may seem proper.

692.370 Disposition of fees. (1) The board shall, on or before the tenth day of each month pay into the State Treasury all the fees received by the board, and the same shall be received by the State Treasurer. Ten percent of this gross amount shall be, upon receipt, assigned to the State of Oregon and shall become a part of the General Fund. The remainder shall be placed by the State Treasurer in a fund to be known as the State Funeral Directors' and Embalmers' Fund, which hereby is created, and made available for expenditures necessary for proper administration of this chapter, and for the purpose of education of funeral directors and embalmers.

(2) All necessary expenses incurred in giving examinations to applicants and incidental to the renewals of licenses and all necessary expenses incurred in education and enforcing the provisions of this chapter shall be audited by the Secretary of State and paid from the funds provided for in this section in the same manner as other claims against the state are paid, after due approval thereof by the president and secretary of the board.

692.380 Courts having jurisdiction; initiation of proceedings. Circuit courts, justice courts, municipal courts sitting as justice courts, and district courts have concurrent jurisdiction with the circuit courts of the State of Oregon in all prosecutions arising under this chapter. The district attorney is authorized to institute prosecutions for violations of this chapter by information, or prosecutions may be instituted by indictment, or by complaint verified before any magistrate.

692.990 Penalties. Violation of any of the provisions of this chapter is punishable, upon conviction, by a fine not exceeding \$300, or by imprisonment in the county jail not exceeding six months, or by both.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

