

Chapter 692

1983 REPLACEMENT PART

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OCCUPATIONS AND PROFESSIONS

GENERAL PROVISIONS

692.010 Definitions. As used in this chapter, "board" means the State Mortuary Board. [Amended by 1957 c.596 §1; 1983 c.810 §3]

692.020 [Amended by 1973 c.411 §1; repealed by 1983 c.810 §29]

692.025 License required to practice as funeral service practitioner or embalmer; acts constituting practice; requirements for operation of funeral establishment. (1) An individual may not practice as a funeral service practitioner unless the individual is licensed as a funeral service practitioner under ORS 692.045. An individual practices as a funeral service practitioner if the individual for payment is engaged directly or indirectly in supervising or otherwise controlling the transportation, care, preparation, processing and handling of dead human bodies before the bodies undergo cremation, entombment or burial, or before the bodies are transported out of the State of Oregon.

(2) An individual may not practice as an embalmer unless the individual is licensed as an embalmer under ORS 692.105. An individual practices as an embalmer if the individual is engaged or purports to be engaged in either of the following:

(a) The practice of disinfecting or preserving from decay dead human bodies.

(b) Preparing human bodies dead of contagious or infectious disease for transportation by railroad, express company or common carrier.

(3) A person may not operate a funeral establishment unless the establishment meets the requirements under this subsection. A place is a funeral establishment if the place is used for the care and preparation of dead human bodies before the bodies undergo cremation, entombment or burial, or before the bodies are transported out of the State of Oregon. A funeral establishment must:

(a) Be licensed by the board under ORS 692.146;

(b) Be operated by a funeral service practitioner; and

(c) If offering the service of embalming, employ a licensed embalmer and have on the premises embalming facilities meeting requirements established by the State Mortuary Board. [1983 c.810 §4]

Note: Section 26b, chapter 810, Oregon Laws 1983, provides:

Sec. 26b. (1) Notwithstanding section 6 of this Act [692.045], the State Mortuary Board shall issue a license to

practice as a funeral service practitioner to any individual to whom this section applies if the individual meets the following requirements not later than November 1, 1984:

(a) The individual must apply to the board for a funeral service practitioner's license on an application form provided by the board.

(b) The individual must pay the fee established under ORS 692.160. The fee must accompany the application.

(2) This section applies to an individual who is not licensed under ORS chapter 692 as a funeral director on the day before the effective date of this Act [October 15, 1983] and who establishes to the satisfaction of the board that the individual has been engaged continuously in full-time employment for at least six months immediately preceding the effective date of this Act in supervising or otherwise controlling, whether directly or indirectly, the transportation, care, preparation, processing and handling of dead human bodies before the bodies undergo cremation, entombment or burial, or before the bodies are transported out of the State of Oregon.

(3) This section does not apply:

(a) To any individual registered as an apprentice under ORS chapter 692 either before the effective date of this Act or on or after the effective date of this Act; or

(b) To any individual who was an employe of a funeral director during the period of one year immediately preceding the effective date of this Act.

692.030 [Amended by 1973 c.411 §2; repealed by 1983 c.810 §29]

692.040 Application of chapter. This chapter does not apply to any of the following:

(1) A public institution, medical college, county medical society, anatomical association, college of embalming, or any officer thereof, or to any other recognized person carrying out the statutes of the State of Oregon prescribing the conditions under which indigent dead human bodies are held subject for scientific or anatomical study.

(2) The customs or rites of any religious sect in the burial of their dead.

(3) A person who picks up dead human bodies under the direction of a funeral service practitioner for delivery to a funeral service practitioner, funeral establishment, cemetery or crematorium pursuant to an agreement with the funeral service practitioner, if the person is not otherwise engaged in any of the activities of a funeral service practitioner, an embalmer or a funeral establishment as described in ORS 692.025. [Amended by 1957 c.596 §2; 1983 c.810 §5]

LICENSING

692.045 Funeral service practitioner license; application; fee; examination. (1) The board shall issue a license to an individual to practice as a funeral service practitioner if the individual meets all of the following requirements:

(a) The individual must apply to the board for a funeral service practitioner's license on an application form provided by the board.

(b) The individual must pay the fee established under ORS 692.160. The fee must accompany the application.

(c) The individual must pass an examination conducted by the board under ORS 692.070 following application for the funeral service practitioner's license.

(2) An individual may not take an examination under ORS 692.070 until the individual has successfully completed practical experience as a funeral service practitioner's apprentice as provided in ORS 692.190. [1983 c.810 §6]

692.050 [Repealed by 1983 c.810 §29]

692.060 [Amended by 1971 c.115 §1; 1979 c.858 §1; repealed by 1983 c.810 §29]

692.070 Scope of examination for funeral service practitioner license; notice of examination. (1) The board shall offer an examination at least once each year to applicants for a license to practice as a funeral service practitioner.

(2) The examination shall include Oregon and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of dead human bodies and to survivor death benefits.

(3) Notice of the time and place of the examination shall be sent to the applicants by mail at least 10 days before the examination. [Amended by 1981 c.719 §1; 1983 c.810 §7]

692.080 [Repealed by 1983 c.810 §29]

692.090 Assistant funeral directors. (1) No assistant funeral director's license shall be issued after July 1, 1971, except as provided in subsection (2) of this section.

(2) Any person who has been lawfully engaged in conducting funerals as a licensed assistant funeral director in the state for the six months prior to December 31, 1970, shall, upon payment of the license fee as provided in ORS 692.160 and after proper application, be entitled to a renewal of his license as an assistant funeral director. [Amended by 1971 c.115 §2]

692.100 [Repealed by 1983 c.810 §29]

692.105 Embalmer license; application; fee; qualifications of applicant. (1) The board shall issue a license to an individual to practice as an embalmer if the individual is 18 years of age or older, applies for a license and has successfully met the qualifications described in this section.

(2) An individual must apply for a license as follows:

(a) The individual shall apply to the board on an application form provided by the board.

(b) The individual must pay the fee established under ORS 692.160. The fee must accompany the application.

(3) An individual applying for a license under this section must meet the following requirements:

(a) The individual must complete 12 months of practical experience as an embalmer's apprentice as provided in ORS 692.190.

(b) The individual must provide written evidence of graduation from an accredited program of funeral service education.

(c) The individual must obtain a passing score on the examination provided in ORS 692.130 or show evidence satisfactory to the board that the individual has successfully passed the National Board Examination as administered by the Conference of Funeral Service Examining Boards.

(d) The individual must be knowledgeable in the application of state law.

(4) When an individual provides written evidence of graduation from an accredited program of funeral service education, if the individual does not show evidence satisfactory to the board, as provided under subsection (3) of this section, that the individual has passed the National Board Examination, the board may examine the individual as provided in ORS 692.130. In any case, however, the board shall not issue an embalmer's license until an individual has completed the apprenticeship qualification. [1983 c.810 §8]

692.110 [Amended by 1971 c.115 §3; repealed by 1983 c.810 §29]

692.120 [Amended by 1971 c.115 §4; 1981 c.719 §2; repealed by 1983 c.810 §29]

692.130 Scope and conduct of embalmer examination. (1) The board shall offer an examination at least once each year to applicants for a license to practice as an embalmer.

(2) Notice of the time and place of the examination shall be sent to the applicants by mail at least 10 days before the examination.

(3) The board shall specify the subjects in funeral service arts and science to be included in the examination for a license to operate as an embalmer. The board may use the questions prepared by the Conference of Funeral Service Examining Boards or its successor.

(4) The board shall adopt rules establishing standards for minimum performance on the examination and conditions for reexamination.

[Amended by 1955 c.754 §1; 1971 c.115 §5; 1973 c.411 §3; 1979 c.858 §2; 1981 c.719 §3; 1983 c.810 §9]

692.140 Reciprocity for embalmers or funeral service practitioners. (1) The board shall issue a license to practice as a funeral service practitioner or an embalmer to an applicant from another state if:

(a) The applicant for recognition of the license applies to the board and fulfills the requirements specified in subsection (2) of this section; and

(b) The board is satisfied that the applicant has the requisite qualifications for licensing as a funeral service practitioner or an embalmer in this state.

(2) An applicant under this section shall apply to the board on a form provided by the board. The applicant shall include the following with the application:

(a) Proof satisfactory to the board that the applicant is licensed and has practiced as a funeral service practitioner or an embalmer in another state for the two years immediately preceding the application date.

(b) Proof satisfactory to the board of compliance, in the state in which the applicant is regularly licensed, with requirements substantially equal to the requirements of this chapter.

(c) Payment of the initial reciprocity licensing fee established under ORS 692.160. [Amended by 1971 c.115 §6; 1973 c.411 §4; 1981 c.719 §4; 1983 c.810 §10]

692.144 [1957 c.596 §4; 1971 c.115 §7; repealed by 1983 c.810 §29]

692.146 Application for funeral establishment license; inspection of establishment; issuance of license. (1) The board shall issue a license to a funeral establishment if the person who will operate the establishment applies to the board for a license on a form provided by the board. The application shall be accompanied by the application fee established under ORS 692.160.

(2) The application shall disclose the following:

(a) The name and address of the establishment.

(b) That the establishment is operated by a licensed funeral service practitioner.

(3) For purposes of this section and ORS 692.025, each branch of a licensee's funeral establishment is a separate establishment and must be licensed at a fixed place of business.

[1957 c.596 §5; 1971 c.115 §8; 1983 c.810 §11]

692.150 [Repealed by 1983 c.810 §29]

692.160 License fees; how determined; expiration date; notice of renewal.

(1) The fees that may be charged under this chapter are:

(a) Application fee for a funeral establishment.

(b) Fee for a funeral establishment.

(c) Change of location.

(d) Examination fee for a funeral service practitioner's license.

(e) Initial license fee for a funeral service practitioner's license.

(f) Renewal fee of a licensed funeral service practitioner.

(g) Examination fee for an embalmer's license.

(h) Initial license fee for an embalmer's license.

(i) Renewal fee for an embalmer's license.

(j) Application fee for an apprentice certificate.

(k) Renewal fee for a registered apprentice.

(L) License fee for an assistant funeral director.

(m) Establishment change of name.

(n) Initial reciprocity license fee.

(o) Reinstatement of lapsed license or certificate.

(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 service practitioner, to each licensed embalmer and to each licensed operator, addressed to the licensee at the licensee's last-known address, a notice that the renewal fee is due and payable and that if such fee is not paid by the renewal date the license shall lapse.

(4) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, the fees and charges established under this section shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly for the board's budget, as modified by the Emergency Board or future sessions of the Legislative Assembly. [Amended by 1957 c.596 §11; 1971 c.115 §9; 1973 c.411 §5; 1977 c.873 §11; 1979 c.36 §1; 1981 c.719 §5; 1983 c.290 §1]

692.165 Reissuing funeral establishment license when name or location of establishment changed. If a person conducting a funeral establishment licensed under ORS 692.146 wishes to change the name or location of the establishment, the person shall apply to the board for reissuance of the license of the establishment. The person shall include payment of the fee established under ORS 692.160 with the application. The board shall reissue the license in the changed name or location when the board receives the application and the fee. [1957 c.596 §7; 1971 c.115 §10; 1983 c.810 §14]

692.170 Reinstatement of lapsed licenses. (1) When a licensee or an apprentice has allowed a license or a certificate of apprenticeship to lapse, the board may reinstate the license or certificate if the licensee or apprentice:

(a) Applies for reinstatement not later than the 90th day after the lapse; and

(b) Pays all fees owing to the date of reinstatement as well as a reinstatement fee established under ORS 692.160.

(2) Upon the lapse of a license or certificate, the board shall send the notice of lapse to the licensee or apprentice by registered or certified mail at the last-known address of the licensee or apprentice. [Amended by 1971 c.115 §11; 1973 c.411 §6; 1983 c.810 §15]

692.180 Grounds for revocation, suspension or refusal to issue or renew licenses; civil penalty. (1) If the board after a hearing as provided in ORS 692.265 finds any of the causes described in this section in regard to a licensee or applicant, the board may impose a civil penalty of not more than \$1,000, suspend or revoke a license to practice as a funeral service practitioner or as an embalmer or refuse to grant or renew a license. The causes are as follows:

(a) Misrepresentation in the conduct of business or in obtaining a license.

(b) Except as provided in ORS 128.410 to 128.420, solicitation of human dead bodies by the licensee or any agent, assistant or employe of the licensee, either before or after death.

(c) Offensive treatment of dead human bodies.

(d) Aiding or abetting a person who is not a licensee or an apprentice in any act involving the disposition of dead human bodies before the bodies undergo cremation, entombment or burial or before the bodies are transported out of the State of Oregon.

(e) Resale of any casket or body container which has been purchased by the personal representative of a deceased person.

(f) Violation by a licensee of any of the provisions of this chapter.

(g) Violation by a licensee of any provision of ORS 128.410 to 128.420 or regulations adopted by the Federal Trade Commission regulating funeral industry practices and in force on January 1, 1984.

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

(i) Acting as the legal representative of any deceased person for whom the licensee has rendered services governed by this chapter. This subsection does not prohibit a licensee from acting as the legal representative of a deceased relative or a deceased licensee if the deceased licensee was a partner, employe or employer in the licensee's practice.

(2) All amounts recovered under this section shall be deposited in the General Fund. [Amended by 1971 c.115 §12; 1983 c.810 §16]

692.190 Application for and issuance of apprentice certificates; conditions and duration of apprenticeship. (1) An individual who wishes to engage as an apprentice shall apply to the board for registration as a funeral service practitioner's apprentice or an embalmer's apprentice upon a form provided by the board. The application must be accompanied by the fee established under ORS 692.160.

(2) One funeral service practitioner's apprentice is authorized to operate under or in connection with a licensed funeral service practitioner practicing in this state for the purpose of learning the functions of a funeral service practitioner.

(3) One embalmer's apprentice is authorized to engage in the study of the art of embalming

under the instruction and supervision of a licensed embalmer practicing in this state.

(4) The duration of an apprenticeship is:

(a) Six months for a funeral service practitioner's apprentice.

(b) Twelve months for an embalmer's apprentice.

(5) The apprenticeship of a funeral service practitioner's apprentice:

(a) Shall not include 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, or time lost by interruptions which the board finds excusable under rules of the board.

(b) Shall be completed not more than two years before the date of the examination under ORS 692.070, excluding time lost for interruptions described in paragraph (a) of this subsection.

(6) An embalmer's apprentice may serve the apprenticeship concurrently with the funeral service practitioner apprenticeship.

(7) An embalmer's apprentice shall complete the required apprenticeship within a period of not more than three consecutive years and not more than two years before the date of the examination under ORS 692.130. In computing time under this subsection, the board shall exclude time lost by interruptions caused by active duty of the apprentice in the military service of the United States or its allies during war or national emergency and by interruptions which the board finds are excusable under rules of the board.

(8) The board shall adopt rules under which the board may confer credit for apprenticeship service or its equivalency performed by an applicant in another state. [Amended by 1973 c.411 §7; 1981 c.719 §8; 1983 c.810 §12]

692.200 [Amended by 1973 c.411 §8; repealed by 1983 c.810 §29]

692.210 [Repealed by 1983 c.810 §29]

692.220 [Repealed by 1983 c.810 §29]

692.230 Grounds for suspension and revocation of certificates of apprenticeship; reregistration when certificate has lapsed or is suspended or revoked. (1) The board may suspend or revoke a certificate of apprenticeship, after notice and upon hearing, if the board finds any of the causes specified in ORS 692.180 in regard to the apprentice.

(2) An apprentice who has had a certificate of apprenticeship suspended or revoked may apply for reregistration within one year after the

suspension or revocation, but the board shall not allow more than two such reregistrations. When the circumstances warrant, the board may allow an apprentice credit under a reregistration for time actually served under a previous registration. However, if the previous registration has been suspended or revoked under subsection (1) of this section, the board shall not credit on the registration more than 75 percent of the time previously served. [Amended by 1973 c.411 §9; 1983 c.810 §17]

692.240 [Amended by 1971 c.115 §13; repealed by 1971 c.734 §21]

692.250 [Repealed by 1971 c.734 §21]

692.260 Grounds for revocation, suspension or refusal to renew funeral establishment license. The board may revoke, suspend or refuse to renew a license issued to a funeral establishment if the board finds any of the following in regard to the establishment or its operation:

(1) Any of the causes specified in ORS 692.180.

(2) Violation of ORS 692.025 (3).

(3) Failure to comply with the rules of the board. [1957 c.596 §6; 1971 c.734 §149; 1983 c.810 §18]

692.265 License denial and civil penalty procedure; rules and orders; judicial review. (1) If the board proposes to impose a civil penalty or to revoke, suspend or refuse to issue or renew any license or certificate, the board shall accord an opportunity for hearing as provided in ORS 183.310 to 183.550.

(2) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.550. [1971 c.734 §151; 1983 c.810 §19]

STATE BOARD

692.300 State Mortuary Board; appointment; term; qualifications; confirmation. (1) There is created the State Mortuary Board in the Health Division to carry out the purposes and enforce the provisions of this chapter. The board shall consist of seven members. The members of the board shall be as follows:

(a) Three members shall be licensed funeral service practitioners. One of the members under this paragraph shall be a funeral service practitioner who does not offer embalming.

(b) One member shall be a licensed embalmer.

(c) Three members shall be representatives of the public. Of the three members described in this paragraph, one shall be a member of a recognized consumer organization and one shall be a member of a recognized senior citizen organization.

(2) The term of office of the members of the board shall be four years. They shall be appointed by the Governor and hold office until the appointment and qualification of their successors. On January 1 of every other even-numbered year, the Governor shall appoint four members to the board. On January 1 of every other odd-numbered year, the Governor shall appoint three members to the board.

(3) All appointments of members of the board by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1971 c.650 §25; 1973 c.792 §46; 1979 c.858 §3; 1981 c.439 §1; 1983 c.810 §20]

692.310 Meetings; officers. The board shall meet at least semiannually, 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. [Amended by 1971 c.115 §14; 1973 c.411 §10; 1983 c.810 §21]

692.320 Powers and duties. (1) The board has the power to adopt and enforce for the protection of the public health, safety and welfare reasonable rules relating to the following:

(a) The licensing of funeral service practitioners, embalmers and funeral establishments.

(b) The registration of apprentices.

(c) The practice of funeral service practitioners and embalmers, and the operation of funeral establishments.

(d) Sanitary conditions of funeral establishments and any location in which dead human bodies are stored or processed prior to final disposition.

(2) The board has the power to inspect the sanitary conditions of funeral establishments and any location in which dead human bodies are stored or processed prior to final disposition. The board shall employ one or more persons to perform such inspections and aid in the enforcement of this chapter and rules adopted thereunder. No person employed under this subsection may be a member of the board or a member of the funeral industry in active private practice.

(3) The board may hold hearings, conduct investigations, subpoena witnesses, administer

oaths and take testimony in order to carry out the provisions of this chapter.

(4) The board shall have a common seal and, subject to any applicable provision of the State Personnel Relations Law, may employ necessary clerical assistants, fix the compensation for them and incur other necessary expenses. [Amended by 1957 c.596 §8; 1973 c.411 §11; 1983 c.389 §6; 1983 c.810 §22]

692.330 Compensation and expenses. Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1969 c.314 §93; 1973 c.411 §12]

692.340 [Repealed by 1973 c.411 §15]

692.350 Publication of statutes and rules. Except as provided in this section, after each change in the provisions of this chapter or in the rules adopted under this chapter, the board shall publish for distribution to funeral service practitioners, embalmers and apprentices and to other interested persons, the provisions of this chapter together with all rules adopted under this chapter. If a change or changes in the rules are not extensive in scope, the board may publish the changes in supplementary form. [Amended by 1983 c.810 §23]

692.360 [Repealed by 1973 c.411 §15]

692.370 [Amended by 1967 c.637 §35; repealed by 1973 c.411 §15]

692.375 Disposition of receipts. All moneys received by the Health Division under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account. The moneys are appropriated continuously and shall be used only for the administration and enforcement of this chapter and for the purpose of education of funeral service practitioners and embalmers. [1973 c.411 §14; 1983 c.810 §24]

ENFORCEMENT

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.

PENALTIES

692.990 Penalties. Violation of ORS
692.025 is a misdemeanor. [Amended by 1957 c.596
§9; 1983 c.810 §25]
