TITLE 52

OCCUPATIONS AND PROFESSIONS

Chapter 670. Occupations and Professions Generally
671. Architect; Landscape Architect, Contractor and Business
672. Professional Engineers; Land Surveyors; Geologists
673. Accountants; Tax Consultants and Preparers
674. Real Estate Appraisers and Appraisal
675. Psychologists; Occupational Therapists; Clinical Social Workers; Licensed Professional Counselors and Marriage and Family Therapists
676. Health Professions Generally
677. Regulation of Medicine, Podiatry and Related Medical Services
678. Nurses; Nursing Home Administrators
679. Dentists
680. Dental Hygienists; Denturists
681. Audiologists and Speech Pathologists
683. Optometrists; Opticians
684. Chiropractors
685. Naturopaths
686. Veterinarians; Veterinary Technicians
687. Massage Technicians
688. Physical Therapists; Radiologic Technologists; Athletic Trainers
689. Pharmacists; Drug Outlets; Drug Sales
690. Barbers and Hairdressers; Electrologists; Permanent Color Technicians and Tattoo Artists
691. Dietitians
692. Funeral Service Practitioners; Embalmers; Funeral Establishments; Cemetery and Crematory Operators
693. Plumbers
694. Hearing Aid Dealers
695. Watch Dealers
696. Real Estate and Escrow Activities
697. Collection Agency Businesses; Debt Consolidating Agencies
698. Auctions
699. Innkeepers and Hotelkeepers
700. Sanitarians
701. Construction Contractors
702. Consumer Electronic Entertainment Equipment Service
703. Polygraph Examiners; Certified Shorthand Reporters
704. Outfitters and Guides

Chapter 670

1993 EDITION

Occupations and Professions Generally

EDUCATIONAL REQUIREMENTS

670.010 Waiver of educational requirement for admission to examination for license or certificate to practice profession, trade or calling

670.020 Filing evidence of complete educational requirement after taking examination

LICENSING ADMINISTRATION

(Generally)

670.275 Policy statement

670.280 Denial, suspension or revocation of license prohibited solely because of criminal conviction; exception

670.283 Power of state agency to suspend license includes power to reinstate

670.290 Prohibited uses of juvenile records in employment, licensing or admission

670.300 Licensing and advisory board officers; quorum and meeting requirements; compensation and expenses of members

670.304 Application of ORS 670.300 to 670.410

670.306 Administrative officers for boards; other employees

670.310 Rulemaking authority; board seal

670.315 Administration of oaths; obtaining and taking evidence at board proceedings; effect of failure to obey board subpoena

670.325 Proceedings on denial of license; restraining violations; authority of hearing officers; record of proceedings

670.335 Disposition of fees received by boards; procedure for payment of board expenses

670.345 Procedure for filling vacancies on board

670.350 Administration of professional qualification examinations

(Reciprocal Agreements)

670.380 When reciprocal licensing or registration agreements authorized; termination

(Licensing Period)

670.410 Changing of licensing period

INDEPENDENT CONTRACTORS

670.600 Independent contractor; standards

670.605 Rules to define independent contractor

CROSS REFERENCES

Administrative rules and procedures, 183.310 to 183.550

Attorneys, Ch. 9

Discrimination against naturopathic physician prohibited, 685.055

Discrimination prohibited, 30.670

Driver training schools and instructors, certification by Department of Transportation, 822.500 to 822.535

Elevator installation, repairs, operation, 460.045

Escrow agents, 696.511

Milk handlers and producer-handlers, 583.440

Nurserymen, 571.055

Pressure vessel inspectors, 480.570

Prior convictions, procuring order to set aside in certain cases, 137.225

Private vocational schools, licensing, 345.030

Professional corporations, Ch. 58

Water well contractors and operators, 537.747 to 537.753

Wrecker of motor vehicles, 822.100 to 822.150

EDUCATIONAL REQUIREMENTS

670.010 Waiver of educational requirement for admission to examination for license or certificate to practice profession, trade or calling. Any state board or commission that examines applicants for license or certification to practice a profession or engage in a trade or calling may, in its discretion, waive the educational requirement for admission to such examination, provided that the applicant furnishes evidence satisfactory to such state board or commission that the applicant is currently enrolled in a school, college or university approved by such state board or commission and will satisfy the educational requirement for admission to such examination on satisfactory completion of courses for which the applicant is currently enrolled and that this educational requirement will be met not later than four calendar months from the first day of the month following the month in which the examination is given. [1953 c.103 §1; 1975 c.429 §5; 1977 c.47 §1]

670.020 Filing evidence of complete educational requirement after taking examination. (1) Evidence of completion of the educational requirement waived as provided in ORS 670.010 shall be filed with such state board or commission not later than four calendar months from the first day of the month following the month in which the examination is taken. State boards and commissions shall withhold official certification of the successful completion of the examination until such evidence is furnished. The affidavit of the registrar or administrative head of the school, college or university shall be deemed satisfactory evidence.

(2) If any candidate admitted to an examination as provided in ORS 670.010 shall fail or neglect within said period to complete the educational requirement for such examination, then the completion of the examination by such candidate shall be null and void, and of no effect. The state board or commission which examined the candidate, however, shall retain any examination fee paid by the candidate. [1953 c.103 §2; 1975 c.429 §6; 1981 c.89 §19]

670.210 [1967 c.344 §1; 1971 c.648 §31; repealed by 1981 c.76 §1]

670.220 [1967 c.344 §§2, 3; 1971 c.648 §32; repealed by 1981 c.76 §1]

670.230 [1967 c.344 §4; repealed by 1981 c.76 §1]

670.240 [1967 c.344 §5; repealed by 1981 c.76 §1]

LICENSING ADMINISTRATION

(Generally)

670.275 Policy statement. In enacting chapter 753, Oregon Laws 1971, it is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of certain professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility for decisions on qualifications, standards of practice, licensing, discipline and other discretionary functions relating to professional activities in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments. [Formerly 184.575]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "chapter 753, Oregon Laws 1971" in 670.275. Chapter 753, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located in volume 15 of Oregon Revised Statutes.

670.280 Denial, suspension or revocation of license prohibited solely because of criminal conviction; exception. Except as provided in ORS 342.143 or 342.175, no licensing board or agency shall deny, suspend or revoke an occupational or professional license or certification solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold such license or certificate. [1973 c.359 §1; 1991 c.662 §6a]

670.283 Power of state agency to suspend license includes power to reinstate. If a state agency, board or commission has the power to issue any license, certification or registration necessary to practice any profession or engage in any trade or calling, any statute granting the state agency, board or commission the power to suspend the license, certification or registration includes the power to reinstate:

(1) At a time certain; or

(2) When the person subject to suspension fulfills conditions for reinstatement set by the agency, board or commission. [1979 c.201 §1]

670.285 [1975 c.759 §10; renumbered 183.435]

670.290 Prohibited uses of juvenile records in employment, licensing or admission. It shall be unlawful for any state agency or licensing board, including the Oregon State Bar, to:

(1) Require that an applicant for employment, licensing or admission answer any questions regarding the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262;

(2) Bar or discharge from employment or refuse to hire or employ such individual be-

cause of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262; or

(3) Deny, revoke or suspend a license because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262. [1977 c.801 §2; 1983 c.820 §16; 1993 c.33 §360]

670.300 Licensing and advisory board officers; quorum and meeting requirements; compensation and expenses of members. (1) Except as otherwise provided by law, each professional licensing and advisory board shall select annually one of its members as chairman and another as vice chairman, with such powers and duties necessary for the performance of the functions of such offices as the board shall determine.

(2) The majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once a year, not later than July 1, at a place, day and hour determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairman or a majority of the members of the board.

(4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. [1971 c.753 §8; 1987 c.414 §95]

670.304 Application of ORS 670.300 to 670.410. Except as otherwise specifically provided, ORS 670.300 to 670.410 apply to the following professional licensing and advisory boards:

(1) Professional licensing and advisory boards established in the Office of the Secretary of State, except the Appraiser Certification and Licensure Board.

(2) The Oregon Board of Maritime Pilots, in the Department of Transportation.

(3) The State Board of Barbers and Hairdressers, in the Health Division of the Department of Human Resources.

(4) The State Board of Architect Examiners.

(5) The State Landscape Contractors Board.

(6) The State Board of Engineering Examiners.

(7) State Landscape Architect Board.

(8) State Board of Geologist Examiners. [1987 c.414 §94; 1991 c.67 §176; 1993 c.744 §241]

670.305 [1971 c.753 §9; repealed by 1973 c.659 §1 (670.306 enacted in lieu of 670.305)]

670.306 Administrative officers for boards; other employees. (1) Subsections (2) and (3) of this section shall apply only to the following professional licensing boards:

(a) State Board of Architect Examiners

(b) Construction Contractors Board

(c) State Board of Engineering Examiners

(d) State Landscape Architect Board

(e) State Landscape Contractors Board

(f) Oregon Board of Maritime Pilots

(g) State Board of Tax Service Examiners

(h) State Board of Accountancy

(2) A board shall fix the qualifications of and appoint an administrative officer, after consultation:

(a) In the case of a board referred to in subsection (1)(a), (b), (c), (d) or (e) of this section, with the Governor.

(b) In the case of a board referred to in subsection (1)(f), (g) or (h) of this section, with the executive officer of the department or other agency in which the board is established.

(3) An administrative officer of a board shall not be a member of that board.

(4) Subject to the applicable rules of the State Personnel Relations Law, the board shall fix the compensation of its administrator, who shall be in the unclassified service.

(5) Subject to applicable rules of the State Personnel Relations Law, the administrative officer shall appoint all subordinate employees, prescribe their duties and fix their compensation. [1973 c.659 §2 (enacted in lieu of 670.305); 1975 c.429 §7; 1975 c.464 §1; 1981 c.821 §2; 1987 c.414 §96; 1993 c.744 §242]

670.310 Rulemaking authority; board seal. (1) Except as otherwise provided by law and in accordance with any applicable provisions of ORS 183.310 to 183.550, each professional licensing board and advisory board may make such rules as are necessary or proper for the administration of the laws such board is charged with administering.

(2) Each professional licensing board and advisory board may adopt a seal. [1971 c.753 §10; 1987 c.414 §97]

670.315 Administration of oaths; obtaining and taking evidence at board proceedings; effect of failure to obey board subpoena. (1) Except as otherwise provided by law each professional licensing board or advisory board, acting through its chairman or vice chairman or a hearing officer, may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to the carrying out of the laws the board is charged with administering.

(2) If any person fails to comply with a subpoena issued under this section or refuses

to testify on any matters on which the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to compel obedience. [1971 c.753 §11; 1987 c.414 §98]

670.320 [1971 c.753 §12; repealed by 1987 c.414 §172]

670.325 Proceedings on denial of license; restraining violations; authority of hearing officers; record of proceedings. (1) All proceedings for the refusal to issue, or the suspension or revocation of any license, certificate of registration or other evidence of authority required to practice any profession subject to the authority of a professional licensing or advisory board shall be conducted pursuant to the procedure for contested cases required or authorized by ORS 183.310 to 183.550.

(2) If a professional licensing or advisory board decides that any person has or is about to engage in any activity that is or will be a violation of law the board is charged with enforcing, the board may institute a proceeding in an appropriate circuit court to restrain the activity or proposed activity. An injunction may be issued without proof of actual damages, but does not relieve the defendant of any criminal liability.

(3) Any hearing officer appointed by a professional licensing board is vested with full authority of the board to schedule and conduct hearings on behalf and in the name of the board on all matters referred to the hearing officer for hearing by the board, including proceedings for placing persons registered or licensed by the board on probation and for suspension and revocation of registration or licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing. The transcript shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Each hearing officer may administer oaths and issue summonses, notices and subpoenas, but may not place any registrant or licensee on probation or issue, refuse, suspend or revoke a registration or license. [1971 c.753 §13; 1987 c.414 §99]

670.330 [1971 c.753 §14; renumbered 456.757 in 1987]

670.335 Disposition of fees received by boards; procedure for payment of board expenses. Except as otherwise provided by law, all fees or other funds received by a professional licensing or advisory board shall be paid into the State Treasury monthly. Such payments shall be credited to separate accounts in the General Fund for each board, and any such payments shall constitute a continuous appropriation of such amounts from the General Fund for the purpose of carrying out the functions of the board making the payment. All necessary expenses of each board shall be paid from the amounts paid by such board in the same manner as other claims against the state are paid, after approval thereof by the chairperson or administrator of the board. [1971 c.753 §15; 1987 c.414 §101; 1993 c.744 §242a]

670.340 [1971 c.753 §16; renumbered 456.762 in 1987]

670.345 Procedure for filling vacancies on board. At least 60 days before a vacancy is to occur on a professional licensing or advisory board, the professional organizations representing persons subject to licensing or other regulation by the board may nominate at least three qualified persons for each vacancy, and shall certify its nominees to the appointing officer or body who shall consider these nominees in selecting successors to retiring board members. This section does not apply to appointment of public members. [1971 c.753 §17; 1987 c.414 §103]

670.350 Administration of professional qualification examinations. Each professional licensing and advisory board that is authorized or required by law to administer an examination as part of its determination of professional qualifications shall administer such examinations at least once each year at such time and place as the board shall designate. [1971 c.753 §18; 1987 c.414 §104]

(Reciprocal Agreements)

670.380 When reciprocal licensing or registration agreements authorized; termination. (1) If the administrator determines that the standards, qualifications and examinations for licensing or registration of building trades and mechanical and specialty skills of another state are substantially similar to the standards, qualifications and examinations required under applicable Oregon statutes and rules administered by the agency as specified in ORS 455.100, the administrator with approval of the designated examining or advisory board may, when it is in the best interest of the economy of the State of Oregon, enter into a reciprocal agreement with such other state to issue without examination licenses or certificate of registration upon proof of licensing or registration in such other state and upon payment of appropriate fees.

(2) Reciprocal agreements may be terminated by the administrator with approval of the designated, examining or advisory board, upon a determination that the other party is not maintaining and enforcing standards, qualifications and examinations substantially similar to those of Oregon. [1974 s.s. c.47 §§1,2; 1987 c.414 §105]

(Licensing Period)

670.410 Changing of licensing period. (1) A board may vary the expiration date of a registration, license or certificate issued by the board. Notwithstanding any other law, registrations, licenses and certificates may be made to expire on a biennial basis.

(2) In accordance with subsection (1) of this section, the board shall give a person written notice of the new renewal date assigned and make appropriate adjustments in the renewal fee.

(3) This section applies only to those registrations, licenses and certificates issued under ORS 479.640, 690.005 to 690.235 or ORS chapters 671, 672, 673, 693, 701, 702 and 776. [1977 c.873 §27; 1979 c.107 §1; 1981 c.821 §3; 1987 c.414 §106]

INDEPENDENT CONTRACTORS

670.600 Independent contractor; standards. As used in various provisions of ORS chapters 316, 656, 657, 657A and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met:

(1) The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;

(2) The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;

(3) The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;

(4) The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;

(5) Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer;

(6) The individual or business entity providing labor or services is registered under ORS chapter 701, if the individual or business entity provides labor or services for which such registration is required;

(7) Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and

(8) The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist:

(a) The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;

(b) Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;

(c) Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;

(d) Labor or services are performed only pursuant to written contracts;

(e) Labor or services are performed for two or more different persons within a period of one year; or

(f) The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided. [Formerly 701.025]

670.605 Rules to define independent contractor. In accordance with ORS 183.310 to 183.550, those agencies responsible for the administration of ORS chapters 316, 656, 657, 657A and 701, jointly shall adopt rules to carry out the provisions of ORS 670.600. [Formerly 701.030]

670.990 [1967 c.344 §6; repealed by 1981 c.76 §1]