

Chapter 690

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Barbers and Hairdressers; Electrologists; Permanent Color Technicians and Tattoo Artists

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OCCUPATIONS AND PROFESSIONS

BARBERS AND HAIRDRESSERS**(Generally)**

690.005 Definitions for ORS 690.005 to 690.235. As used in ORS 690.005 to 690.235:

(1) "Board" means the State Board of Barbers and Hairdressers.

(2) "Certificate" means a certificate of registration, issued under ORS 690.048, authorizing the holder to practice hair design, facial technology or nail technology under ORS 690.005 to 690.235.

(3) "Facial technology" means the use of the hands, mechanical or electrical apparatus or appliances, cosmetic preparations, anti-septics, tonics, lotions or creams in massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work performed on the human face and neck above the seventh vertebra for cosmetic purposes and not for the treatment of disease or physical or mental ailments.

(4) "Facility" means an establishment operated for the purpose of engaging in the practice of hair design, facial technology or nail technology and licensed under ORS 690.055.

(5) "Hair design" means, when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments any one or more of the following practices:

(a) Shaving, trimming or cutting of the beard.

(b) Arranging, styling, dressing, curling, temporary waving, permanent waving, relaxing, cutting, singeing, bleaching, coloring, dyeing, cleansing, shampooing, conditioning, applying hair tonics or similar work upon the hair of an individual.

(c) Massaging the scalp and neck when performed in conjunction with activities in paragraph (a) or (b) of this subsection.

(6) "Independent contractor" means an individual who qualifies as an independent contractor under ORS 670.600.

(7) "License" means a license issued under ORS 690.055 to a person who is an independent contractor or who operates a facility.

(8) "Nail technology" means manicuring or pedicuring performed for cosmetic purposes and not for treatment of disease or physical or mental ailments. "Manicuring or pedicuring" includes:

(a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating the nails of the hands or feet;

(b) Massaging, cleansing, treating or beautifying the hands or feet; and

(c) Application, sculpturing and removal of artificial nails of the hands.

(9) "Permit" means a permit to practice, demonstrate or teach hair design, facial technology or nail technology issued under ORS 690.105.

(10) "Practitioner" means a person certified and registered to practice hair design, facial technology or nail technology under ORS 690.048.

(11) "School of hair design" means an establishment operated for the purpose of teaching hair design and licensed under ORS 345.010 to 345.470. [1977 c.886 §1; 1983 c.151 §1; 1987 c.31 §2; 1989 c.171 §81; 1993 c.45 §296; 1993 c.267 §1]

690.010 [Amended by 1969 c.687 §1; 1977 c.270 §1; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.015 Prohibited acts. This section establishes prohibitions relating to the practice of hair design, facial technology and nail technology. The prohibitions under this section are subject to the exemptions under ORS 690.025. A person who violates a prohibition under this section is subject to the penalties under ORS 690.992 in addition to any administrative action taken by the board under ORS 690.075 or any civil penalty under ORS 690.995. A person violates a prohibition under this section if the person does any of the following:

(1) Practices or attempts to practice hair design, facial technology or nail technology without a certificate as a practitioner or a permit.

(2) Operates a facility unless it is at all times under the direct supervision of a practitioner.

(3) Displays a sign or in any way advertises or purports to be a practitioner, barber or hairdresser or to be engaged in the practice or business of hair design, facial technology or nail technology without first obtaining a permit, certificate or license.

(4) Knowingly makes a false statement on an application for a license, certificate or permit or for the renewal of a license, certificate or permit.

(5) Permits any individual in the employ or under the supervision or control of the person to practice hair design, facial technology or nail technology without a certificate or permit.

(6) Obtains or attempts to obtain a certificate, license or permit by fraudulent means.

(7) Permits the fraudulent use of the certificate of the person by another person.

(8) Practices hair design, facial technology or nail technology as an independent contractor without a license issued under

ORS 690.055. [1977 c.886 §3; 1981 c.141 §1; 1983 c.151 §2; 1987 c.31 §3; 1993 c.267 §2]

690.020 [Amended by 1961 c.300 §3; 1969 c.687 §2; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.025 Exemptions. This section establishes exemptions from regulation under ORS 690.005 to 690.235. An exemption is partial or complete as described in the following:

(1) Persons who perform service without compensation in case of emergency or in domestic administration are not subject to regulation under ORS 690.005 to 690.235.

(2) The following persons are not subject to regulation under ORS 690.005 to 690.235 while in the proper discharge of their professional duties:

(a) A licensed health care professional acting within scope of the professional license or permit or a person subject to regulation by a health care professional licensing board.

(b) A person engaged in rendering emergency medical assistance as defined in ORS 30.800.

(c) Persons licensed by the State Board of Pharmacy, merchants or other individuals when demonstrating apparatus or supplies for purposes of sale.

(d) Commissioned medical and surgical officers of the United States Army, Navy or Marine Hospital Service.

(e) Persons applying temporary makeup, combing hair or applying hair spray, without compensation specifically for the application or combing, for the sole purpose of preparing any individual for a professional photograph or theatrical performance.

(3) A student attending a school licensed to teach hair design, facial technology or nail technology under ORS 345.010 to 345.470 is not required to obtain a certificate or permit to perform the person's training. [1977 c.886 §2; 1983 c.151 §3; 1987 c.31 §4; 1993 c.45 §297; 1993 c.267 §3]

690.030 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

(Certificates, Licenses and Permits)

690.035 Application for license or certificate. A person desiring to obtain a license or certificate shall apply in writing to the board on a form provided by the board. Each application shall be accompanied by evidence under oath or affirmation and satisfactory to the board that the applicant possesses the necessary qualifications. [1977 c.886 §4]

690.040 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.045 Qualifications for issuance of certificate. (1) Except as otherwise provided

in this section, an applicant must do all of the following to be issued a certificate as a practitioner under ORS 690.048:

(a) Pass the certification examination given by the board under ORS 690.065;

(b) Pay the examination fee and application fee determined by the board under ORS 690.235; and

(c) Successfully complete all courses within each area of practice for which the applicant is seeking a certificate as a practitioner that a school is required to teach to be licensed under ORS 345.010 to 345.470.

(2) The board may waive for a person who holds a currently valid authority to perform hair design, facial technology or nail technology issued by a licensing agency of another state or territory of the United States all or part of the schooling requirements imposed under this section to qualify for a certificate.

(3) Also, the board may issue the person a certificate without requiring the person to pass an examination under this section if:

(a) The person pays the required fee for a reciprocity fee under ORS 690.235; and

(b) The board determines that the licensing agency of the jurisdiction where the person holds the current valid authority:

(A) Accords reciprocal privileges to residents of this state; and

(B) Has requirements for qualification to practice hair design, facial technology or nail technology that the board determines are substantially equivalent to the requirements of this state.

(4) An applicant shall not be required to comply with the schooling requirements for a certificate under subsection (1) of this section if the applicant is the graduate of a hair design, facial technology or nail technology school in another state or territory or in a state correctional institution and the requirements for successful completion of training at the school are determined by the Superintendent of Public Instruction to meet the minimum requirements for licensing a school of hair design or a school permitted to teach facial technology or nail technology under ORS 345.010 to 345.470. [1977 c.886 §5; 1979 c.855 §3; 1983 c.151 §4; 1987 c.31 §5; 1993 c.45 §298; 1993 c.267 §4]

690.048 Certificate prima facie evidence of right to practice; designation as barber. (1) The board shall issue a certificate to each applicant who qualifies under ORS 690.045. A certificate shall be valid as provided under ORS 690.045. The certificate shall be prima facie evidence of the right of the holder to practice in the field of practice

for which the holder has qualified and to purport to be a practitioner.

(2) The certificate issued to an applicant who has graduated from a school licensed under ORS 345.460 shall designate only that its holder is a "barber" and that its holder has graduated from a school licensed under ORS 345.460.

(3) A certificate shall state the areas of practice the practitioner may perform. [1983 c.151 §6; 1993 c.267 §5]

690.050 [Amended by 1959 c.630 §1; 1961 c.436 §1; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.055 Facility and independent contractor license requirements. (1) To be issued a license for a facility or as an independent contractor, each applicant shall:

(a) Be 18 years of age.

(b) Comply with the rules of the board concerning health, safety and sanitation.

(c) Comply with the applicable health and safety laws and rules of the Health Division and any other state agencies.

(d) Pay the application fee determined by the board.

(2) The board shall issue to each qualified applicant a license. A license shall be valid for one year. The license shall be prima facie evidence of the right of the:

(a) Owner of the facility to operate a facility and to advertise as offering the services for which the facility is licensed; or

(b) Independent contractor to advertise and offer services as a practitioner.

(3) A facility issued a license under this section must at all times be under the direct supervision of a practitioner. [1977 c.886 §6; 1981 c.141 §2; 1983 c.151 §7; 1993 c.267 §6]

690.060 [Amended by 1959 c.630 §2; 1961 c.436 §2; 1969 c.687 §3; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.065 Examinations. (1) Examinations shall be given at such times and places as the board may determine, but in no instance less often than once every month.

(2) The board shall give each qualified applicant notice of the time and place of the examination.

(3) The board shall determine the subjects, scope and form of and the passing score for examinations. [1977 c.886 §7; 1993 c.267 §7]

690.070 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.075 Grounds for refusal, suspension or revocation of certificate or license. The board may refuse to issue or may suspend or revoke any certificate or license for any one or more of the following causes:

(1) Continued performance of hair design, facial technology or nail technology by a person knowingly having an infectious or communicable disease.

(2) Violation of ORS 646.608 in the conduct of a hair design, facial technology or nail technology business.

(3) Violation of ORS 690.015 or 690.095 or any rule adopted under ORS 690.165 or 690.205.

(4) Addiction to or severe dependency upon alcohol or controlled substances that impairs the person's ability to perform in a professional manner.

(5) Activities involving fraud or deceit, gross negligence, incompetency or misconduct in the practice of hair design, facial technology or nail technology. [1977 c.886 §8; 1983 c.151 §8; 1987 c.31 §6; 1993 c.267 §8]

Note: Sections 2 to 4, chapter 285, Oregon Laws 1993, provide:

Sec. 2. (1) The board may refuse to renew or may suspend a certificate or license of a person, or place the person on probation, if the person is in default in repayment on any student loan guaranteed or insured by the State Scholarship Commission and is not paying in a satisfactory manner as provided in this section.

(2) The board shall establish a program under which the board may refuse to renew or may suspend any certificate or license of a person, or may place the person on probation, if the person is in default in repayment on any student loan guaranteed or insured by the State Scholarship Commission and is not paying in a satisfactory manner as determined by the repayment requirements of the United States Department of Education for reinstatement of borrower loan eligibility. The board, with the advice of the State Scholarship Commission, shall adopt rules necessary to implement this section.

(3) The program described in subsection (2) of this section shall include the following procedures:

(a) The board shall provide the State Scholarship Commission with a copy of the database or electronic media containing the names, social security numbers as available and last-known address of applicants for license or certificate renewal or reinstatement.

(b) The State Scholarship Commission shall establish procedures to accept and process the information provided by the board under paragraph (a) of this subsection.

(c) Immediately upon receiving the information provided under paragraph (a) of this subsection, the State Scholarship Commission shall match the information with the commission's loan default database to determine whether an applicant is in default of a student loan and is not paying in a satisfactory manner. The commission shall notify any applicants determined to be in default and not paying in a satisfactory manner and shall give a copy of the notice to the board.

(d) The State Scholarship Commission may take any action authorized by law against any applicant identified under this section as in default on a student loan and not paying in a satisfactory manner. The commission shall provide the applicant with an administrative process to challenge inclusion of the applicant's name on the loan default database, according to the provisions of 34 CFR 30.20 to 30.33 and 34 CFR 682.410.

(e) If an applicant meets satisfactory borrower repayment criteria, the State Scholarship Commission

shall send an individual borrower release notice to the board and to the applicant advising that the release has been sent to the board. If the applicant satisfies other requirements for renewal or reinstatement, the board shall renew or reinstate the certificate or license.

(4) Where the board proposes to place a practitioner on probation as provided in this section, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550. [1993 c.285 §2]

Sec. 3. The State Scholarship Commission, in cooperation with the State Board of Barbers and Hairdressers, shall report to the Sixty-eighth Legislative Assembly on the implementation of section 2 of this Act. The report shall include a description of the number of certificates or licenses refused or suspended and describe the effects of section 2 of this Act on the number of loan repayments and defaults. [1993 c.285 §3]

Sec. 4. Section 2 of this Act is repealed July 1, 1995. [1993 c.285 §4]

690.080 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.085 Renewal of certificates and licenses. (1) Except as otherwise provided in this section, all certificates and licenses expire one year after the date of issue, unless renewed prior to the expiration date by payment of the required renewal fee and compliance with other requirements for renewal. The board, however, may vary the date of certificate and license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee.

(2) Any license or certificate not renewed before it expires may be renewed within one year by payment of the required renewal fee, compliance with other requirements for renewal and payment of a late renewal fee set by the board.

(3) A certificate that has not been renewed for more than one year, and less than five years, after the date of expiration may be renewed and restored upon payment of the renewal fee.

(4) A certificate that has not been renewed for a period of five years after date of expiration may be renewed and restored if the applicant:

(a) Satisfactorily passes the examination required by ORS 690.065.

(b) Pays one year's license fee in advance. [1977 c.886 §9; 1983 c.151 §9; 1987 c.31 §7; 1993 c.267 §9]

690.087 [1979 c.855 §2; 1981 c.897 §100; renumbered 345.470]

690.090 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.095 Display of certificate required.

(1) Every holder of a certificate shall display it in a conspicuous place within the facility.

(2) Every holder of a license shall display it in a conspicuous place within the facility. [1977 c.886 §10; 1979 c.663 §1; 1993 c.267 §10]

690.100 [Amended by 1961 c.300 §4; 1969 c.687 §4; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.105 Demonstration permit requirements. (1) A person not certified under ORS 690.045 who wishes to practice, demonstrate and teach hair design, facial technology or nail technology, or perform any one or more of such functions, temporarily and primarily for educational purposes and is otherwise qualified as determined by the board shall first obtain a demonstration permit from the board.

(2) The permit shall specify:

(a) The purpose for which it is granted.

(b) The period during which the person is permitted to practice, demonstrate and teach, which period shall not exceed 10 days.

(c) The time and place of exercising the privilege granted by the permit.

(3) A person may be granted a permit under this section if the person:

(a) Makes application to the board for the permit.

(b) Is currently licensed or certified to practice or teach hair design, facial technology or nail technology in another state and presents satisfactory evidence of that fact to the board, or is otherwise qualified as determined by the board.

(c) Describes the purpose for which the permit is sought.

(d) Pays the required permit fee. [1977 c.886 §11; 1983 c.151 §11; 1987 c.31 §8; 1993 c.267 §11]

690.110 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.115 [1977 c.886 §12; repealed by 1981 c.141 §4]

690.120 [Amended by 1961 c.300 §5; 1973 c.832 §38; 1977 c.873 §8; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.123 Certificate of identification. (1) The board may issue a practitioner a certificate of identification to practice outside of or away from a licensed facility.

(2) The board shall determine requirements and fees for issuance of a certificate of identification.

(3) Practitioners performing services outside of a licensed facility under the provisions of a certificate of identification shall comply with the safety and sanitation requirements under ORS 690.165 and 690.205 and rules adopted thereunder. [1977 c.886 §13; 1983 c.151 §12; 1993 c.267 §12]

690.125 [1961 c.300 §2; 1969 c.687 §6; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.130 [Amended by 1959 c.630 §3; 1961 c.300 §6; 1961 c.436 §3; 1969 c.687 §7; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.140 [Amended by 1965 c.274 §1; 1973 c.832 §39; 1977 c.873 §9; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.150 [Amended by 1961 c.300 §7; 1965 c.274 §2; 1969 c.687 §11; 1971 c.86 §1; 1973 c.832 §40; repealed by 1977 c.842 §26 and 1977 c.886 §42]

(State Board)

690.155 State Board of Barbers and Hairdressers; qualifications; appointment. (1) There is created within the Health Division of the Department of Human Resources a State Board of Barbers and Hairdressers consisting of seven members appointed by the Assistant Director for Health. Each member of the board shall serve for a term of three years and until a successor is appointed and qualified. At all times the membership of the board shall be so constituted that:

(a) Six members of the board shall be practitioners with certificates.

(b) One member shall be a public member who is not a practitioner.

(2) A person is not eligible for appointment as a member of the board if the person:

(a) Is associated, directly or indirectly, in the manufacture of cosmetic or barber appliances or supplies or their rental, sale or distribution to licensees.

(b) Has previously served two terms.

(3) A member of the board serves at the pleasure of the Assistant Director for Health. Vacancies shall be filled by the Assistant Director for Health, by appointment for the unexpired term.

(4) The Assistant Director for Health, or a designated representative, shall serve as an ex officio member of the board but without the right to vote. [1977 c.886 §14; 1983 c.151 §13; 1987 c.414 §84]

690.160 [1969 c.687 §9; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.165 Powers of board. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.235, the board shall have the power:

(1) To determine whether applicants to practice hair design, facial technology or nail technology meet the qualifications under ORS 690.045 or 690.055, to conduct examinations, and to grant permits, certificates and licenses to qualified applicants upon compliance with ORS 690.045, 690.055 or 690.105 and the rules of the board.

(2) To enter into contracts with licensing boards from other states or with other organizations or associations to conduct regional examinations, to recognize national examinations and to enter into contracts with an independent testing service to provide examination services, collect application and examination fees and administer examinations at the direction of the board.

(3) To establish safety and sanitation standards for the practice of hair design, facial technology or nail technology, and to enforce the standards.

(4) To prescribe and furnish forms for applications for examinations, certificates, licenses and permits.

(5) To do any act necessary or proper to effect and carry out the duties required of the board by ORS 690.005 to 690.235.

(6) To adopt rules prescribing standards of professional conduct for persons practicing hair design, facial technology or nail technology. [1977 c.886 §21; 1983 c.151 §14; 1987 c.31 §9; 1993 c.267 §13]

690.170 [1969 c.687 §10; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.175 Officers; rules; meetings; quorum; compensation and expenses. (1) The board shall elect a chairperson. The board shall prescribe rules to govern the proceedings of the board. The board shall hold meetings at such times and places as it determines. A majority of the members of the board shall constitute a quorum.

(2) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1977 c.886 §§16,17]

690.185 Administrator; appointment and compensation; services and employees. (1) The Assistant Director for Health shall fix the qualifications of and appoint an administrator for the board who shall not be a member of the board. Subject to the applicable provisions of the State Personnel Relations Law, the assistant director shall fix the compensation of the administrator, who shall be in the unclassified service.

(2) The Assistant Director for Health shall provide the board with such services and employees as the board requires to carry out its duties. [1977 c.886 §18; 1983 c.151 §15; 1987 c.414 §85]

690.195 Records of board. (1) The board shall keep a record of its proceedings relating to the issuance, refusal, suspension and revocation of certificates. This record shall also contain the name, place of business and the date of each certificate and license issued by the board.

(2) The board shall keep a record of all complaints received, including the date of receipt, name and place of business of each practitioner or licensee involved, the name and address of each complainant and the nature of the complaint.

(3) The records of the board shall at all reasonable times be open to inspection by the public. [1977 c.886 §19; 1987 c.31 §10; 1993 c.267 §14]

690.200 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.205 Rules; approval of Health Division; when domestic use of facility permitted. (1) The board has authority to make reasonable rules for the administration of the provisions of ORS 345.430 and 690.005 to 690.235 and prescribe safety and sanitation requirements for facilities. Sanitation requirements for facilities shall be subject to the approval of the Health Division. A copy of the rules adopted by the board shall be furnished by the board to the owner or manager of each shop.

(2) Notwithstanding subsection (1) of this section, the board may not prohibit the use of the facility for domestic purposes if the part devoted to domestic purposes is in a completely separate room not used by customers, with walls extending from floor to ceiling and with any connecting doors kept closed while the facility is in actual operation.

(3) Any rules adopted by the board shall be adopted in accordance with the procedures set forth in ORS 183.310 to 183.550. [1977 c.886 §§20,22(2); 1983 c.151 §16; 1993 c.267 §15]

690.210 [Repealed by 1977 c.270 §3; 1977 c.842 §26 and 1977 c.886 §42]

690.215 When hearing required. Where the board proposes to revoke or suspend or refuse to issue or renew a certificate, permit or license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550. [1977 c.886 §22(1)]

690.220 [Amended by 1969 c.687 §12; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.225 Inspections; investigations; hearings; notice of complaint. (1) In addition to any other duties prescribed by law, the Assistant Director for Health shall establish within the Health Division a program to provide for the inspection of facilities licensed under ORS 690.055 and of schools licensed to teach hair design, facial technology or nail technology under ORS 345.010 to 345.470.

(2) Inspections conducted under this section shall determine whether the facilities comply with the safety and sanitation requirements under ORS 690.165 and 690.205 and rules adopted thereunder and whether the schools comply with the safety and sanitation requirements under ORS 345.010 to 345.470 and rules adopted thereunder. Upon completion of each school inspection the Assistant Director for Health shall cause a report of the results of the inspection to be submitted to the Department of Education.

(3) Upon its own motion or upon any complaint, the board may initiate and conduct investigations of and hearings on all matters relating to violations of ORS 690.005 to 690.235 and rules adopted thereunder.

(4) The board shall notify any practitioner or licensee who is the subject of a complaint and shall provide an opportunity for the practitioner or licensee to respond in writing to the complaint.

(5) In the conduct of investigations or upon the hearing of any matter of which the board may have jurisdiction, the board may take evidence, administer oaths and take the deposition of witnesses, including the person charged, in the manner provided by law in civil cases. The board may also compel the appearance of witnesses in person, the same as in civil cases, by subpoena issued over the signature of the board administrator, require answers to interrogatories and compel the production of papers, accounts, documents and testimony pertaining to the matter under investigation or to the hearing.

(6) In all investigations and hearings, the board and any person affected thereby may have the benefit of counsel, and all hearings shall be held in compliance with ORS 183.310 to 183.550. [1977 c.886 §26; 1983 c.151 §17; 1987 c.31 §11; 1987 c.414 §86; 1989 c.491 §68; 1993 c.45 §299; 1993 c.267 §16]

690.228 Enjoining violations. If the board determines that a person has or is about to engage in an activity that is or will be in violation of any provision of ORS 690.005 to 690.235, the board, without bond, may institute a proceeding in an appropriate circuit court to restrain the activity or proposed activity. A court may issue an injunction under this section without proof of actual damages. The board may employ special counsel for a proceeding under this section. An injunction issued under this section does not relieve a person from any prosecution or board action taken for violation of ORS 690.005 to 690.235. [1983 c.151 §16b]

690.230 [Amended by 1961 c.436 §4; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.235 Fees. The board shall establish and collect fees approved by the Assistant Director for Health as necessary for the administration of ORS 690.005 to 690.235. No fee shall exceed the following:

(1) Application for a certificate, license or permit, \$15.

(2) Issuance of an original certificate as a practitioner, \$30.

(3) Renewal of a certificate as a practitioner, \$60.

(4) Each examination for a certificate as a practitioner, \$15.

(5) Issuance of a demonstration permit under ORS 690.105, \$15.

(6) Issuance of a facility license, \$100.

(7) Renewal of a facility license, \$100.

(8) Issuance of an independent contractor license, \$50.

(9) Renewal of an independent contractor license, \$50.

(10) Issuance of a duplicate or replacement certificate, license or permit, \$5.

(11) Late renewal fee, \$5.

(12) Reciprocity fee, \$50.

(13) Issuance of a certificate of identification, \$50. [1977 c.886 §23; 1981 c.141 §3; 1983 c.151 §18; 1987 c.414 §87; 1989 c.675 §1; 1993 c.267 §17]

690.240 [Amended by 1969 c.377 §2; repealed by 1971 c.734 §21]

690.243 [1977 c.886 §24; repealed by 1979 c.31 §1]

690.245 [1971 c.734 §146; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.250 [Amended by 1969 c.377 §3; repealed by 1971 c.734 §21]

690.260 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.270 [Repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.275 [1977 c.886 §38a; 1979 c.855 §1; 1983 c.151 §20; renumbered 345.460]

690.280 [Amended by 1965 c.373 §1; 1971 c.753 §31; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.290 [Amended by 1969 c.377 §1; 1973 c.832 §40a; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.300 [Amended by 1965 c.274 §3; 1969 c.314 §91; 1969 c.377 §4; 1973 c.832 §40b; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.310 [Amended by 1969 c.377 §5; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.320 [Amended by 1973 c.832 §41; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.330 [Amended by 1961 c.436 §5; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.340 [Amended by 1967 c.637 §34; repealed by 1977 c.842 §26 and 1977 c.886 §42]

ELECTROLOGISTS; PERMANENT COLOR TECHNICIANS AND TATTOO ARTISTS

(Generally)

690.350 Definitions for ORS 690.350 to 690.430. As used in ORS 690.350 to 690.430, unless the context requires otherwise:

(1) "Council" means the Advisory Council to the Health Division for Electrologists and Permanent Color Technicians and Tattoo Artists.

(2) "Division" means the Health Division of the Department of Human Resources.

(3) "Electrologist" means a person who practices electrolysis pursuant to the provisions of ORS 690.350 to 690.430.

(4) "Electrolysis" means the process by which hair, with a series of treatments, is permanently removed from the skin by inserting a needle-conductor into the hair

follicle and directing electrical energy toward the hair cell. The word "electrolysis" is used in generic form in ORS 690.350 to 690.430 and refers to modalities of galvanic electrolysis, thermolysis and combinations thereof.

(5) "Instructor" means a person who teaches in a school of electrolysis pursuant to the provisions of ORS 690.350 to 690.430.

(6) "Licensed electrologist" means a person licensed under the provisions of ORS 690.350 to 690.430 to practice electrolysis.

(7) "Licensed permanent color technician and tattoo artist" means a person licensed under the provisions of ORS 690.350 to 690.430 to practice tattooing.

(8) "Permanent color technician and tattoo artist" means a person who practices tattooing pursuant to the provisions of ORS 690.350 to 690.430.

(9) "Physician" means a person licensed to practice the healing arts by this state pursuant to ORS chapter 677, 684 or 685.

(10) "Schools of electrolysis" means those teaching establishments approved by the Department of Education where electrolysis and related subjects are taught.

(11) "Tattoo" means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

(12) "Tattooing" means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic, medical or figurative purposes.

(13) "Tattoo facility" means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted. [1987 c.698 §1; 1993 c.30 §1; 1993 c.45 §300]

690.355 License required to perform electrolysis or tattooing; exceptions. No person, including an electrologist or a permanent color technician and tattoo artist, shall perform electrolysis or tattooing, display a sign or in any other way advertise or purport to be an electrologist or permanent color technician and tattoo artist unless that person holds a valid license issued by the division. However, ORS 690.350 to 690.430 do not prevent or affect the use of electrolysis or tattooing by a physician, a person under the control and supervision of a physician or any other person specifically permitted to use electrolysis or tattooing by law. [1987 c.698 §2; 1989 c.171 §82; 1993 c.30 §2]

690.360 Prohibited acts. No person shall:

(1) Sell, barter or offer to sell or barter a license;

(2) Purchase or procure by barter a license with intent to use it as evidence of the person's qualification to practice electrolysis or tattooing;

(3) Alter materially a license with fraudulent intent;

(4) Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered; or

(5) Willfully make a false, material statement in an application for licensure or for renewal of a license. [1987 c.698 §13; 1993 c.30 §3]

(Licensing)

690.365 License fee; general qualifications. An applicant for licensure shall pay a fee established by the division under ORS 690.350 to 690.430 and shall show to the satisfaction of the division that the applicant:

(1) Has complied with the provisions of ORS 690.350 to 690.430 and the applicable rules of the division;

(2) Is not less than 18 years of age;

(3) Has a high school diploma or equivalent education;

(4) Has submitted evidence of completion of education or training prescribed and approved by the division under ORS 690.410 as follows:

(a) A course of study in a school of electrolysis meeting the requirements under ORS 690.410, or has completed in another state a course of study that has been determined by the division to be equivalent to that required by ORS 690.350 to 690.430 if the application is for an electrologist license; or

(b) A training program under the direct supervision of a licensed permanent color technician and tattoo artist if the application is for a permanent color technician and tattoo artist license; and

(5) Has passed an examination approved, administered or recognized by the division. [1987 c.698 §3; 1993 c.30 §4]

690.370 Examinations. (1) An applicant for licensure who is notified by the division that the applicant has fulfilled the requirements of ORS 690.365 (1) to (4) shall appear at a time, place and before such persons as the division may designate, for an examination.

(2) The division shall offer an examination at least twice a year. The applicant who fails any part of the examination may apply to retake the failed section or sections twice

without being required to obtain additional training. [1987 c.698 §4]

690.380 Display of license required; notice to division of place of business; notice to licensees; license to operate tattoo facility. (1) A person who holds a license shall notify the division in writing of the regular address of the place or places where the person performs or intends to perform electrolysis or tattooing and shall keep the license conspicuously posted in the place of business at all times.

(2) The division shall keep a record of the place or places of business of each person who holds a license.

(3) Any notice required to be given by the division to a person who holds a license may be given by mailing the notice to the address of the last place of business of which the person has notified the division.

(4) The division shall issue to each qualified applicant a license to operate a tattoo facility as defined in ORS 690.350 (13) and to advertise permanent makeup or tattooing services for which the facility is licensed. [1987 c.698 §8; 1993 c.30 §5]

Note: Section 14, chapter 30, Oregon Laws 1993, provides:

Sec. 14. (1) Not later than 90 days after the effective date of this Act [November 4, 1993], the Health Division shall license any permanent color technician and tattoo artist who:

(a) Pays the application fee and the fee for issuance of a license;

(b) Provides proof of a valid current business license issued from a city or county in this state or other evidence satisfactory to the Health Division that the technician or artist was practicing in compliance with any applicable licensing requirement; and

(c) Passes a written examination and whose place of business passes an onsite facility inspection.

(2) Any permanent color technician and tattoo artist practicing on the effective date of this Act shall apply to the division for a license and may continue to practice until the division conducts a written examination and an onsite facility inspection and receives the results of the first available examination under ORS 690.410 (5).

(3) After the period described in subsection (1) of this section, any applicant for licensing as a permanent color technician and tattoo artist must meet all of the requirements of ORS 690.350 to 690.430. [1993 c.30 §14]

690.385 License renewal; fees; effect of failure to renew; continuing education requirement. (1) Except as otherwise provided in this section, a license issued under ORS 690.415 expires one year after the date of issue unless renewed by payment of the required renewal fee. The division, however, may vary the date of license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee. If payment is transmitted by postal service, the envelope must be postmarked on or before

the expiration of the license. If the license expires, the license may be renewed on payment of a renewal fee and late penalty fee established by the division under ORS 690.350 to 690.430.

(2) The division may suspend the license of any person who fails to renew. A suspended license may be reactivated upon the payment of a reactivation fee established by the division under ORS 690.350 to 690.430 and all past unpaid renewal fees.

(3) A person applying for reactivation shall not be required to take an examination as a condition of reactivation if the reactivation occurs within three years after the date of the license expired.

(4) All electrologists and permanent color technicians and tattoo artists must participate in continuing education, with guidelines and effective date to be established by rule of the division. [1987 c.698 §9; 1993 c.30 §6]

690.390 Required standards for licensees. Licensed practicing electrologists and permanent color technicians and tattoo artists shall meet the following standards and any others the division may adopt by rule:

(1) Electrolysis and tattooing instruments shall be sterilized in accordance with methods approved by the rules of the division;

(2) Practicing electrologists and permanent color technicians and tattoo artists shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(3) Case history cards shall be kept for each client. [1987 c.698 §11; 1993 c.30 §7]

(Discipline)

690.395 Grounds for suspension, revocation or nonrenewal of license or probation. The division may revoke, suspend, refuse to issue a license or renewal or place on probation any licensee upon proof that a person or licensee:

(1) Has been convicted of a violation under ORS 690.360;

(2) Has been convicted in this or any other state of a crime related to the practice of electrolysis or tattooing;

(3) Has knowingly misrepresented, misstated or failed to disclose personal qualifications or other information necessary to practice electrolysis or tattooing in any communication to the division;

(4) Has used, caused or promoted the use of any advertising matter, promotional literature, warranty, label, insignia or any other representation, however disseminated or

published, that is false, misleading or deceptive;

(5) Has knowingly deceived the public by acting in a manner as to mislead clients as to the person's professional status;

(6) Has employed directly or indirectly any suspended or unlicensed person to perform any electrolysis or tattooing covered by ORS 690.350 to 690.430;

(7) Has permitted another person to use the license;

(8) Has practiced electrolysis or tattooing under a false, misleading or deceptive name;

(9) Has failed, if a licensed electrologist or permanent color technician and tattoo artist, to maintain a business address and telephone number at which the licensee may be reached during business hours;

(10) Has failed, if a nonpracticing electrologist or permanent color technician and tattoo artist, to provide the division with a home address and telephone number;

(11) Has failed to properly and reasonably accept responsibility for the actions of employees;

(12) Has practiced electrolysis or tattooing with a mental or physical illness that affects ability to perform or endangers the public;

(13) Has demonstrated gross incompetence in performing electrolysis or tattooing; or

(14) Has violated any of the provisions of ORS 690.350 to 690.430 or rules adopted pursuant to ORS 690.350 to 690.430. [1987 c.698 §10; 1993 c.30 §8]

690.400 Opportunity for hearing prior to disciplinary action. Where the division proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, or impose probation on a licensee, opportunity for a hearing shall be accorded as provided in ORS 183.310 to 183.550. [1987 c.698 §12]

(Administration)

690.405 Powers and duties of Health Division relating to practice of electrolysis or tattooing. The powers and duties of the division as related to ORS 690.350 to 690.430, 690.996 and 690.997 are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of ORS 690.350 to 690.430;

(2) To determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;

(3) To license persons who apply to the division and who have qualified to practice electrolysis or tattooing;

(4) To rent facilities when necessary to carry out the examination of applicants for licensure;

(5) To renew licenses;

(6) To suspend or revoke licenses or place licensees on probation in the manner provided by ORS 690.350 to 690.430;

(7) To appoint representatives to conduct or supervise the examination of applicants for licensure;

(8) To designate the time and place for examining applicants for licensure;

(9) Subject to the provisions of ORS 183.310 to 183.550, to adopt rules that are necessary to carry out the provisions of ORS 690.350 to 690.430, 690.996 and 690.997;

(10) To carry out the periodic inspection of facilities of persons who practice electrolysis or tattooing;

(11) To issue a tattoo facility license to qualified applicants upon compliance with ORS 690.350 to 690.430; and

(12) To appoint or employ subordinate employees. [1987 c.698 §15; 1993 c.30 §9]

690.410 Rules. (1) Pursuant to ORS 183.310 to 183.550, and in consultation with the council, the division shall adopt rules to register and approve schools of electrolysis and to approve instructors who teach in such schools. Such rules shall include, but not be limited to, requirements that schools of electrolysis:

(a) Offer a course of study which shall include minimum standards of 600 hours of instruction as advised by the council;

(b) File with the division for approval, an outline of the proposed course of study. A copy of the outline shall be sent to the Department of Education. Areas of instruction shall include, but not be limited to, the following: (A) Division rules for electrolysis; (B) bacteriology; (C) sanitation and sterilization; (D) anatomy and physiology; (E) endocrinology; (F) structure, dynamics and diseases of skin and hair; (G) circulatory and nervous systems; (H) electricity; (I) a working knowledge of electrolysis, thermolysis and combinations thereof; (J) draping and positioning; and (K) professional ethics and business practices. The outline shall state the hours for instruction and lectures in theory and the hours for instruction for practical application;

(c) Provide adequate premises with separate areas for classwork and practical instruction including treatment areas for student training;

(d) Provide adequate equipment for the full and ready teaching of all subjects included in the curriculum;

(e) Comply with the division's sanitary rules; and

(f) Use the word "school" or other appropriate term conspicuously in its literature and advertising matter.

(2) The rules adopted under subsection (1) of this section shall also include requirements that:

(a) An initial inspection shall be performed prior to granting of a license; and

(b) Periodic inspections may be done at the discretion of the division and the Department of Education.

(3) To teach in an approved school of electrolysis:

(a) Instructors must hold a current, valid license to practice electrolysis in this state and must have had a minimum of two years of practical experience approved by the division or Department of Education as a licensed electrologist;

(b) Instructors must pass an instructor's examination approved, administered or recognized by the division;

(c) Instructor owners and instructors when employed as instructors in an approved school shall perform electrolysis only as demonstration for instructional purposes. However, this requirement does not exclude instructors from having a private practice as long as the private practice is not performed during the instructor's regular teaching schedule. An approved electrolysis instructor must be present to supervise and instruct in the classroom substantially at all times during school hours;

(d) Instructors shall comply with ORS 690.350 to 690.430 and the applicable rules of the division and of the State Board of Education; and

(e) All instructors must participate in continuing education, with guidelines and effective date to be established by rule of the State Board of Education.

(4) Pursuant to ORS 183.310 to 183.550, and in consultation with the council, the division shall adopt rules to prescribe education and training standards for the practice of tattooing.

(5) An applicant seeking licensure as a permanent color technician and tattoo artist shall be required to demonstrate safety, sanitation and sterilization techniques by means of an inspection conducted by the regulatory authority to test the applicant's knowledge of infection control practices and require-

ments. [1987 c.698 §6; 1989 c.475 §1; 1989 c.491 §69; 1993 c.30 §10; 1993 c.45 §301]

690.415 Fees. (1) The division shall assess, by rule, the following fees and any other fees necessary to carry out the provisions of ORS 690.350 to 690.430:

- (a) Application fee.
- (b) Examination fees.
- (c) Reexamination fees.
- (d) Reciprocity fee.
- (e) License fee.
- (f) License renewal fee, active and inactive.
- (g) Late fee.
- (h) Reactivation fee.
- (i) Duplicate license fee.
- (j) Demonstration permit.
- (k) Tattoo facility fee and renewal fee, active or inactive.

(2) The division shall license each applicant, without discrimination, who proves to the satisfaction of the division fitness for such licensure as required by ORS 690.350 to 690.430 and upon payment of a fee established by the division under this section. Except as provided in ORS 690.385, the division shall issue to the applicant a license that expires one year after the date of issuance.

(3) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges, the division shall establish all fees under ORS 690.350 to 690.430. The fees and charges established under this subsection shall not exceed the cost of administering the regulatory program under ORS 690.350 to 690.430 pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the budget for ORS 690.350 to 690.430, as the budget may be modified by the Emergency Board. [1987 c.698 §5; 1991 c.703 §33; 1993 c.30 §11]

690.420 Disposition of receipts. (1) All moneys received by the Health Division under ORS 690.350 to 690.430, 690.992 (2), 690.996 and 690.997 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 690.350 to 690.430, 690.992 (2), 690.996 and 690.997.

(2) All penalties recovered under ORS 690.996 (1) shall be paid into the General Fund in the State Treasury and credited to

the Health Division Account. [1987 c.698 §§23,27; 1991 c.734 §104]

(Advisory Council)

690.425 Advisory council; membership; terms; compensation. (1) There hereby is created the Advisory Council to the Health Division for Electrologists and Permanent Color Technicians and Tattoo Artists. The council shall consist of five members to be appointed by the Governor.

(2) Members of the council shall be residents of this state. Two members must be practicing electrologists with a minimum of two years of experience. One member shall be a licensed and practicing permanent color technician and tattoo artist. One member shall be a licensed physician in this state. One member shall be a public member who does not possess the professional qualifications of other members.

(3) No owner, instructor or others having any direct or indirect financial interest in a school of electrolysis or tattooing or in the manufacturing of electrolysis or tattooing equipment shall serve as a member of the council.

(4) No person shall serve more than two consecutive two-year terms.

(5) The term of office of a member shall begin on January 1. A member shall continue to serve until a successor who qualifies has been appointed. Before a member's term expires, the Governor shall appoint a successor to assume the duties of office on January 1 at the expiration of the predecessor's term.

(6) A vacancy on the council shall be filled by appointment for the unexpired term through a list of qualified names submitted to the Governor.

(7) The council shall meet at least once a year.

(8) Members of the council shall be entitled to compensation and expenses as provided in ORS 292.495. [1987 c.698 §24; 1993 c.30 §12]

690.430 Duties of advisory council. (1) The council shall have the responsibility and duty of advising the division in all matters relating to ORS 690.350 to 690.430, 690.996 and 690.997, shall prepare or adopt the examinations required by ORS 690.350 to 690.430, 690.996 and 690.997 subject to the approval of the division and shall assist the division in carrying out the provisions of ORS 690.350 to 690.430, 690.996 and 690.997.

(2) The division shall consider and be guided by the recommendations of the council in all matters relating to ORS 690.350 to 690.430, 690.996 and 690.997. [1987 c.698 §26]

PENALTIES

690.990 [Amended by 1977 c.270 §2; repealed by 1977 c.842 §26 and 1977 c.886 §42]

690.992 Criminal penalties. (1) Violation of ORS 690.015 is a Class B misdemeanor.

(2) Violation of ORS 690.355 or 690.360 is a Class A misdemeanor. [1977 c.886 §25; subsection (2) enacted as 1987 c.698 §14]

Note: 690.992 (2) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 690 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

690.995 Civil penalties for violation of ORS 690.015, 690.095 or certain rules. (1) In addition to any other penalty provided by law, a person who violates ORS 690.015 or 690.095 or any rule adopted under ORS 690.165 or 690.205 is subject to forfeiture and payment of a civil penalty to the State Board of Barbers and Hairdressers in an amount of not more than \$1,000 for each offense.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(3) The moneys received by the State Board of Barbers and Hairdressers from civil penalties under this section shall be deposited and accounted for as are other moneys received by the board and shall be for the administration and enforcement of those laws the board is charged with administering and enforcing. [1983 c.151 §22; 1991 c.734 §80]

690.996 Civil penalty for violation of ORS 690.350 to 690.430 or certain rules. (1) In addition to any other liability or penalty provided by law, the division may impose a civil penalty on a person who violates any provision of ORS 690.350 to 690.430, 690.996 and 690.997 or any rule adopted thereunder.

(2) A civil penalty imposed by the division under subsection (1) of this section shall be in an amount determined by the division but shall not exceed \$1,000 for each violation.

(3) A civil penalty imposed under subsection (1) of this section may be remitted or reduced upon such terms and conditions as the division considers proper and consistent with the public health and safety.

(4) In imposing a penalty pursuant to subsection (2) of this section, the division shall consider the following factors:

(a) The immediacy and extent to which the violation threatens the public health or safety;

(b) Any prior violations of statutes, rules or orders; and

(c) The history of the person incurring a penalty in taking all feasible steps to correct any violation. [1987 c. 698 §§16,18,19,20]

690.997 Procedure for imposing civil penalty under ORS 690.996. (1) Any civil penalty under ORS 690.996 (1) shall be imposed in the manner provided in ORS 183.090.

(2) Notwithstanding ORS 183.090, the person to whom the notice is addressed shall have 30 days from the date of service of the notice in which to make written application for a hearing before the division.

(3) In any judicial review of civil penalties imposed under ORS 690.996 (1), the court may reduce the amount of the penalty. [1987 c.698 §17; 1991 c.734 §81]

690.998 [1987 c.698 §§21,22; repealed by 1991 c.734 §122]