

Chapter 692

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Funeral Service Practitioners; Embalmers; Funeral Establishments; Cemetery and Crematory Operators

GENERAL PROVISIONS

- 692.010 Definitions
- 692.025 License required for funeral service practitioner, limited funeral service practitioner, embalmer, funeral establishment operator, cemetery or crematory operator
- 692.040 Application of chapter

LICENSING

- 692.045 Funeral service practitioner or limited funeral service practitioner license; application; examination
- 692.070 Scope of examination for funeral service practitioner or limited funeral service practitioner license; notice of examination
- 692.090 Assistant funeral directors
- 692.105 Embalmer license; application; qualifications of applicant
- 692.130 Scope and conduct of embalmer examination
- 692.140 Reciprocity for embalmers, limited funeral service practitioners or funeral service practitioners
- 692.146 Application for funeral establishment or immediate disposition company license
- 692.148 When new or reissued license, registration or certificate required; fee
- 692.160 Fees; how determined; expiration date; notice of renewal
- Note Transitional provision for licenses and certificates; fees—1993 c.248 §3
- 692.170 Reinstatement of lapsed licenses
- 692.180 Grounds for revocation, suspension or refusal to issue or renew licenses or certificates; civil penalty
- 692.190 Application for and issuance of apprentice certificates; conditions and duration of apprenticeship
- 692.230 Grounds for suspension and revocation of certificates of apprenticeship; reregistration when certificate has lapsed or is suspended or revoked
- 692.260 Grounds for revocation, suspension or refusal to renew funeral establishment or immediate disposition company license
- 692.265 License denial and civil penalty procedure; rules and orders; judicial review
- 692.275 Certificate for operating cemetery or crematorium; registration of certain cemeteries; rules applicable to crematoriums
- 692.285 Certificate or registration required for prearrangement or preconstruction funeral or cemetery sales; fees; annual report; audit; revocation of certificate or registration

STATE BOARD

- 692.300 State Mortuary and Cemetery Board; appointment; term; qualifications; confirmation

- 692.310 Meetings; officers
- 692.320 Powers and duties
- 692.330 Compensation and expenses
- 692.350 Publication of statutes and rules
- 692.375 Disposition of receipts

ENFORCEMENT

- 692.380 Courts having jurisdiction; initiation of proceedings
- 692.385 Enforcement proceedings instituted by board; relation to other enforcement provisions
- 692.387 Availability of inspection warrants; effect
- 692.389 Issuance of inspection warrant upon cause; supporting affidavit; cause of issuance of warrant
- 692.391 Issuance of inspection warrant by magistrate; examination of applicant; contents and conditions of warrant
- 692.393 Execution of inspection warrant; presentation of credentials; authority and purpose; time of expiration

MISCELLANEOUS

- 692.405 Identifying receptacle

PENALTIES

- 692.990 Penalties

CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183.310 to 183.550
- Death certificate required, 432.307
- Deaths or injuries, report, Ch. 146
- Embalmer, duties relative to anatomical gift, 97.275
- Military or naval service, persons relieved from payment of fees, 408.450
- No action against funeral service practitioner relating to cremated remains left for five years, 97.150
- Records and permits concerning deaths, body dispositions and the sale of caskets, 432.307 to 432.337
- 692.180
- Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280
- 692.180
- Necessity of apprenticeship or training agreement, 660.020
- 692.285
- Violation, criminal penalty, 128.991
- 692.300
- Administrative agencies generally, Ch. 182
- Health Division, assistant director as ex officio member of the board, 409.330

OCCUPATIONS AND PROFESSIONS

692.320

Employment of attorneys, authorization by Attorney
General, 180.220
Purchasing, 279.712
Rental agreements, supervision, 276.428

State Personnel Relations Law, Ch. 240

692.330

Expenditures without allotment prohibited in certain
cases, 291.238

GENERAL PROVISIONS

692.010 Definitions. As used in this chapter:

(1) "Board" means the State Mortuary and Cemetery Board.

(2) "Cemetery" means any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:

(a) A burial park, for earth interments;

(b) A mausoleum, for crypt interments;
or

(c) A columbarium, for permanent cinerary interments.

(3) "Holding room" means a room which is located in a licensed facility for the care, storage or holding of dead human bodies prior to effecting disposition.

(4) "Immediate disposition" means a direct method of disposition of dead human remains by way of immediate burial or immediate cremation.

(5) "Immediate disposition company" means any business licensed under this chapter, other than a licensed funeral establishment, where a licensed funeral service practitioner or limited funeral service practitioner operates the business of immediate disposition and where business records are kept.

(6) "Operating cemetery" means a cemetery which:

(a) Performs interments and has fiduciary responsibility for endowment care, general care or special care funds;

(b) Has outstanding financial obligations;
or

(c) Has outstanding preneed service contracts for unperformed services.

(7) "Rental cover" means a partial enclosure which appears similar to a casket which is utilized for viewing purposes and surrounds the burial or cremation container. [Amended by 1957 c.596 §1; 1983 c.810 §3; 1985 c.207 §7; 1987 c.252 §10; 1989 c.177 §1]

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

692.025 License required for funeral service practitioner, limited funeral service practitioner, embalmer, funeral establishment operator, cemetery or crematory operator. (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 a limited funeral service practitioner unless the individual is licensed as a limited funeral service practitioner under ORS 692.045. An individual practices as a limited funeral service practitioner if the individual for payment is engaged directly or indirectly in supervising or otherwise controlling the transportation, processing and handling of dead human bodies throughout the immediate disposition process.

(3) 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.

(4) 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;

(c) Have on the premises embalming facilities or holding room facilities meeting requirements established by the State Mortuary and Cemetery Board; and

(d) Have access to hospital or mortuary refrigeration.

(5) A person may not operate an immediate disposition company unless the immediate disposition company meets the requirements under this subsection. An immediate disposition company must:

(a) Be licensed at a fixed location under ORS 692.146; and

(b) Be operated by a licensed funeral service practitioner or limited funeral service practitioner.

(6) No person or city, county or other municipal corporation shall conduct the business of an operating cemetery without first receiving a certificate of authority to

conduct the business of an operating cemetery under ORS 692.275.

(7) A person may not operate a crematorium unless the crematorium meets the requirements of ORS 692.275.

(8) All applicants for licenses, certificates, or licensees under this section and all principals of any licensed establishment must consent to a background check, including information solicited from the Department of State Police. [1983 c.810 §4; 1985 c.207 §9; 1989 c.177 §2; 1991 c.542 §2]

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 except as to the burial or other disposition 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, a funeral establishment, a cemetery or a crematorium as described in ORS 692.025. [Amended by 1957 c.596 §2; 1983 c.810 §5; 1985 c.207 §10]

LICENSING

692.045 Funeral service practitioner or limited funeral service practitioner license; application; examination. (1) The State Mortuary and Cemetery Board shall issue a license to an individual to practice as a funeral service practitioner or a limited funeral service practitioner if the individual meets the following requirements:

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

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

(2) An individual may not take an examination under ORS 692.070 until the individ-

ual has successfully completed practical experience as a funeral service practitioner's or limited funeral service practitioner's apprentice as provided in ORS 692.190. [1983 c.810 §6; 1989 c.177 §3; 1993 c.308 §4]

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 or limited funeral service practitioner license; notice of examination. (1) The State Mortuary and Cemetery Board shall offer an examination at least once each year to applicants for a license to practice as a funeral service practitioner or limited 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; 1989 c.177 §4]

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 the 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; 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 by applying to the board on an application form provided by the board.

(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; 1993 c.308 §5]

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, limited funeral service practitioners or funeral service practitioners. (1) The State Mortuary and Cemetery Board shall issue a license to practice as a funeral service practitioner, limited 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, limited 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, limited 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; 1989 c.177 §5]

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

692.146 Application for funeral establishment or immediate disposition company license. (1) The State Mortuary and Cemetery Board shall issue a license to a funeral establishment or immediate disposition company if the person who will operate the establishment or immediate disposition company 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 or company.

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

(c) That the immediate disposition company is operated by either a licensed funeral service practitioner or limited funeral service practitioner.

(3) For purposes of this section and ORS 692.025, each branch of a licensee's funeral establishment or immediate disposition company 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; 1989 c.177 §6]

692.148 When new or reissued license, registration or certificate required; fee. (1) If the principals of a licensed funeral establishment or immediate disposition company change, the establishment or company shall apply to the board for a new license.

(2) A person holding a license or certificate of authority or who is registered under

ORS chapter 692 shall apply to the board for reissuance of the license, certificate or registration if any of the following occur:

- (a) The name of the person changes;
- (b) The location of the funeral establishment, immediate disposition company or crematorium changes;
- (c) An apprentice registered under ORS 692.190 transfers from one licensed funeral service practitioner or licensed embalmer to another;
- (d) The original license, registration or certificate is lost or destroyed; or
- (e) When a person holding a license or certificate of authority issued under this chapter obtains another license or certificate of authority issued under this chapter.

(3) The application for reissuance of the license, registration or certificate shall include payment of the fee established under ORS 692.160. The board shall reissue the license, certificate or registration when the board receives the application and the fee. [1993 c.308 §3]

692.150 [Repealed by 1983 c.810 §29]

692.160 Fees; how determined; expiration date; notice of renewal. (1) The fees that may be charged under this chapter are:

(a) A fee covering requests for applications for a funeral establishment license, an immediate disposition company license, a certificate of authority for a cemetery, a certificate of authority for a crematorium, registration as a funeral service practitioner apprentice, registration as an embalmer apprentice, a license as a reciprocal funeral service practitioner, a license as a reciprocal limited funeral service practitioner or a license as a reciprocal embalmer. The application fee shall be accompanied by an additional fee for each principal of a funeral establishment, immediate disposition company, cemetery or crematorium.

(b) A fee covering the renewal of a license for a funeral establishment, a license for an immediate disposition company or a certificate of authority for a crematorium.

(c) A fee covering the renewal of a funeral service practitioner license, a limited funeral service practitioner license, an embalmer license or an assistant funeral director license.

(d) A fee for renewal of a combination funeral service practitioner and embalmer license.

(e) A fee for renewal of the registration of a funeral service practitioner apprentice or an embalmer apprentice.

(f) An examination fee for a funeral service practitioner license, a limited funeral

service practitioner license or an embalmer license.

(g) A fee covering the renewal of a certificate of authority for a cemetery.

(h) A fee covering the reinstatement of a lapsed license or certificate of authority.

(i) A fee for reissuing a license, registration or certificate of authority as provided in ORS 692.148.

(j) Fees for copying any public record maintained by the board, for documents distributed by the board and postage for mailing any copies or documents.

(2) All licenses granted under this chapter to funeral service practitioners, limited funeral service practitioners, assistant funeral directors and embalmers shall expire on January 1 in even-numbered years unless renewed as provided in this section. All licenses or certificates of authority granted under this chapter to operators of funeral establishments, to operators of immediate disposition companies, to operators of cemeteries or to operators of crematoriums shall expire on January 1 in odd-numbered years unless renewed as provided in this section.

(3) The State Mortuary and Cemetery Board shall mail to each licensed funeral service practitioner, to each licensed limited funeral service practitioner, to each licensed assistant funeral director, to each licensed embalmer, to each licensed operator of a funeral establishment or immediate disposition company and to each cemetery and crematorium holding a certificate of authority under ORS 692.275, addressed to the licensee or certificate holder at the licensee's or certificate holder'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 or certificate of authority shall lapse. The notice shall be mailed to each licensed funeral service practitioner, to each licensed limited funeral service practitioner, to each assistant funeral director and to each licensed embalmer on or before November 1 of each odd-numbered year. The notice shall be mailed to each licensed operator of a funeral establishment or immediate disposition company and to each cemetery and crematorium holding a certificate of authority under ORS 692.275 on or before November 1 of each even-numbered year. On or after July 1, 1986, the State Mortuary and Cemetery Board may impose continuing education requirements as a prerequisite for relicensure.

(4) 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 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 within the board's budget, as the budget may be modified by the Emergency Board. [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; 1985 c.207 §11; 1989 c.177 §7; 1991 c.703 §35; 1993 c.248 §1; 1993 c.308 §1]

Note: Section 3, chapter 248, Oregon Laws 1993, provides:

Sec. 3. Transitional provision for licenses and certificates; fees. Notwithstanding ORS 692.160, in order to carry out the transition from the issuance of licenses and certificates of authority on an annual basis to a biennial basis:

(1) Any license or certificate of authority granted under ORS chapter 692 prior to January 1, 1994, shall expire January 1, 1994, unless renewed as provided in ORS chapter 692 and this section.

(2) A license granted to a funeral service practitioner, a limited funeral service practitioner, an assistant funeral director or to an embalmer for the year 1993 and renewed prior to January 1, 1994, shall expire January 1, 1996.

(3) A license or certificate of authority granted to an operator of a funeral establishment, an immediate disposition company, a cemetery or a crematorium for the year 1993 and renewed prior to January 1, 1994, shall expire January 1, 1995.

(4) The State Mortuary and Cemetery Board shall charge an annual license or renewal fee, and not a biennial license or renewal fee, for licenses and certificates of authority issued to operators of funeral establishments, immediate disposition companies, cemeteries or crematoriums where the license or certificate of authority was renewed prior to January 1, 1994, or where a license issued after January 1, 1994, is valid only until January 1, 1995. [1993 c.248 §3]

692.165 [1957 c.596 §7; 1971 c.115 §10; 1983 c.810 §14; 1989 c.177 §8; repealed by 1993 c.308 §6]

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 or certificates; civil penalty. (1) Upon complaint or upon its own motion, the board may investigate any complaint concerning any person, licensee or holder of a certificate of authority made by any person or by the board. If the board finds any of the

causes described in this section in regard to any person, licensee or applicant or the holder of a certificate of authority, the board may impose a civil penalty of not more than \$1,000 for each violation, suspend or revoke a license to practice or to operate under this chapter 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) Fraudulent or dishonest conduct where such conduct bears a demonstrable relationship to funeral service practice or embalming practice, or the operation of cemeteries or crematoriums.

(c) Except as provided in ORS 128.400 to 128.440, 128.990, 128.991 and 692.285, solicitation of human dead bodies by the licensee or any agent, assistant or employee of the licensee, either before or after death.

(d) Offensive treatment of dead human bodies or a body in the person's custody has been disposed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

(e) 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.

(f) Sale or reuse of any casket or body container which has been previously utilized for the placement of a deceased human body. This does not include use of a rental cover as defined in ORS 692.010.

(g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

(h) Violation of any provision of ORS 128.412 or 128.415 or regulations adopted by the Federal Trade Commission regulating funeral industry practices.

(i) Conviction of a crime where such crime bears a demonstrable relationship to funeral service practice or embalming practice or the operation of cemeteries or crematoriums. A copy of the record of such conviction certified to by the clerk or the court entering the conviction, shall be conclusive evidence of the conviction.

(j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

(k) 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.

(l) Acting as the legal representative of any deceased person for whom the licensee has rendered services governed by this chap-

ter. 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, employee or employer in the licensee's practice.

(m) Failure to pay any civil penalty imposed by the board within 10 days after the order is entered or, if appealed, within 10 days after the order is sustained on appeal.

(2) All amounts recovered under this section shall be deposited in accordance with ORS 692.375.

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

(4) In any judicial review of orders under this section, the court may assess costs and reasonable attorney fees against the licensee on trial and on appeal. Costs and fees shall be payable and collectible in the same manner as the civil penalty. [Amended by 1971 c.115 §12; 1983 c.810 §16; 1985 c.207 §12; 1987 c.252 §8; 1987 c.813 §10; 1991 c.734 §82]

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 State Mortuary and Cemetery Board for registration as a funeral service practitioner apprentice or an embalmer apprentice upon a form provided by the board. The individual must consent to a background check, including information solicited from the Department of State Police. The application must be accompanied by the fee established under ORS 692.160.

(2) One funeral service practitioner 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 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) Two years for a full service funeral service practitioner apprentice.

(b) Twelve months for an embalmer apprentice.

(c) Twelve months for a funeral service practitioner apprentice who desires to become licensed as a limited funeral service practitioner with practice limited to immediate disposition of dead human bodies.

(5) The apprenticeship of a funeral service practitioner 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 through attendance of formal funeral service education, 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 apprentice may serve the apprenticeship concurrently with the funeral service practitioner apprenticeship.

(7) An embalmer 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:

(a) An applicant in another state; or

(b) An applicant whose license or certificate of apprenticeship has lapsed. [Amended by 1973 c.411 §7; 1981 c.719 §8; 1983 c.810 §12; 1985 c.207 §13; 1989 c.177 §9; 1993 c.275 §1]

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 or immediate disposition company license. The State Mortuary and Cemetery Board may revoke, suspend or refuse to renew a license issued to a funeral establishment or immediate disposition company if the board finds any of the following in regard to the establishment or company or its operation:

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

(2) Violation of ORS 692.025 (4).

(3) Failure to comply with the rules of the board. [1957 c.596 §6; 1971 c.734 §149; 1983 c.810 §18; 1989 c.177 §10]

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]

692.275 Certificate for operating cemetery or crematorium; registration of certain cemeteries; rules applicable to crematoriums. (1) The application for a certificate of authority to conduct the business of an operating cemetery shall be made on a form provided by the State Mortuary and Cemetery Board. The application shall be accompanied by the application fee established under ORS 692.160. However, any operating cemetery that has five or fewer interments annually is entitled to receive a certificate of authority to operate upon payment of the initial fee but is not required to pay the renewal fee.

(2) A cemetery other than an operating cemetery shall be registered with the board. An owner of a cemetery, other than an operating cemetery, shall register the cemetery with the board on a form provided by the board. No fee shall be required of a cemetery registrant.

(3) The person who plans to operate a crematorium shall apply before operation for a certificate of authority to operate a crematorium on a form provided by the board. The

application shall be accompanied by the application fee established under ORS 692.160.

(4) For purposes of this section and ORS 692.025, each location of a cemetery or crematorium is a separate location and must be licensed separately. Those cemeteries that are subject to registration shall be registered separately.

(5) The recommendation of the Cremation Association of North America shall be used in adopting rules regulating crematoriums.

(6) This section applies to operating cemeteries or other cemeteries owned by any city, county or other municipal corporation. [1985 c.207 §19; 1989 c.177 §11; 1991 c.542 §3]

692.285 Certificate or registration required for prearrangement or preconstruction funeral or cemetery sales; fees; annual report; audit; revocation of certificate or registration. (1) It is unlawful for any person, as defined in ORS 128.400, to engage in prearrangement sales or preconstruction sales, as defined in ORS 128.400, unless authorized to do so, in advance, by a certificate of registration received from the office of the Secretary of State.

(2) It is unlawful for any salesperson employed by any person, as defined in ORS 128.400, to engage in prearrangement sales or preconstruction sales, as defined in ORS 128.400, unless the salesperson is registered with the State Mortuary and Cemetery Board. The board by rule shall establish procedures for issuing and renewing registrations required by this subsection, establish standards for determining whether a registration should be issued and set a registration and renewal fee.

(3) Any person licensed under ORS 692.160 who elects to engage in prearrangement sales or preconstruction sales as described in subsection (1) of this section shall first register with the State Mortuary and Cemetery Board.

(4) The State Mortuary and Cemetery Board may conduct a background check of any salesperson applying for registration under subsection (2) of this section. The background check may include information solicited from the Department of State Police. After consideration of information obtained from any background check and any other information in its possession, the State Mortuary and Cemetery Board shall determine whether to register the salesperson. A salesperson shall be registered at the business location of the salesperson's employer. The registration shall be retained by the salesperson's employer. Upon termination of the salesperson's employment with that employer, the employer shall return the registration to the State Mortuary and Cemetery

Board. Upon receiving a salesperson registration under this subsection from an employer, the State Mortuary and Cemetery Board shall solicit information from the employer regarding the salesperson. Information received from the employer shall be considered by the State Mortuary and Cemetery Board if the salesperson applies for registration at a later date.

(5) Any person applying for a certificate of registration shall pay an application fee to the Secretary of State. The Secretary of State shall charge an annual fee to all persons required by this section to file an annual report. The fees described in this section shall be reasonable and shall defray the costs associated with the administration of this section. The fees charged by the Secretary of State shall be deposited into a separate account and be continuously appropriated to that office for administration of this section.

(6) Each person who remains legally obligated under any prearrangement sales contract or preconstruction sales contract shall file an annual report with the office of the Secretary of State on forms provided by that office. The annual report shall contain any and all documentation and information considered necessary by the Secretary of State. The annual reports shall not become public record, but shall be considered as admissible information in any disciplinary actions brought against the holder of a certificate of registration. If the annual report is not filed or if the annual report is filed and shows any discrepancy the office of the Secretary of State shall refer the investigation to the office of the Attorney General and likewise notify the State Mortuary and Cemetery Board. The Secretary of State may relieve the person required to file the annual report of the duty to file upon a determination that the person has performed all obligations under the prearrangement sales contract or preconstruction sales contract, or that such obligations lawfully have been assumed by another or discharged or canceled.

(7) The Secretary of State shall have the authority to cause such audits upon the records relating to the sales of any of the prearranged plans listed in subsection (1) of this section by holders of a certificate of registration as that office may consider appropriate. Investigations required that are outside of normal auditing procedures, whether they are requested by the State Mortuary and Cemetery Board or by a consumer complaint, shall be referred by the office of the Secretary of State to the office of the Attorney General and notification of the referral to the office of Attorney General will be made

to the State Mortuary and Cemetery Board. The investigations shall not be conducted by an investigator who has any connection with the State Mortuary and Cemetery Board nor any of the board members thereof.

(8) The Secretary of State may revoke or refuse to issue or renew a certificate of registration under this section upon a determination that the holder has not complied with the provisions of this section or ORS 128.400, 128.407 and 128.421 to 128.440 or any rules adopted thereunder. Where the Secretary of State proposes to take such action the person affected by the action shall be accorded notice and an opportunity for hearing as provided by ORS 183.310 to 183.550.

(9) The State Mortuary and Cemetery Board may revoke or refuse to issue or renew the registration of a salesperson described in subsection (2) of this section upon a determination that the applicant or holder has not complied with the provisions of this section or ORS 128.400, 128.407 and 128.421 to 128.440 or any rules adopted thereunder. When the board proposes to take such action, the person affected by the action shall be accorded notice and an opportunity for hearing as provided by ORS 183.310 to 183.550.

(10) The conduct of salespersons employed by a holder of a certificate of registration shall be the direct responsibility of the holder of the certificate of registration.

(11) Notice of the revocation of a certificate of registration by the office of the Secretary of State shall be sent to the State Mortuary and Cemetery Board. [1985 c.207 §21; 1987 c.813 §14; 1993 c.467 §1]

STATE BOARD

692.300 State Mortuary and Cemetery Board; appointment; term; qualifications; confirmation. (1) There is created the State Mortuary and Cemetery Board in the Health Division to carry out the purposes and enforce the provisions of this chapter. The board shall consist of 11 members. The members of the board shall be as follows:

(a) Two 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 cemeteries, one representing for-profit cemeteries, one representing a city or county owned or operated cemetery and one representing a special district owned or operated cemetery.

(d) One member shall be a representative of a crematorium.

(e) Four members shall be representatives of the public, one of whom 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 ending on December 31. A member is eligible for no more than two consecutive terms. They shall be appointed by the Governor and hold office until the appointment and qualification of their successors.

(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; 1985 c.207 §15; 1991 c.542 §5]

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 State Mortuary and Cemetery 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, limited funeral service practitioners, embalmers, funeral establishments, crematoriums and cemeteries.

(b) The registration of apprentices.

(c) The practice of funeral service practitioners, limited funeral service practitioners and embalmers, and the operation of funeral establishments, immediate disposition companies, crematoriums and cemeteries.

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

(e) Matters necessary to carry out the provisions of this chapter.

(2) Other than areas used as living quarters, the board shall inspect not less than once biennially the facilities and records of funeral establishments, cemeteries and crematoriums and immediate disposition companies and any location in which dead human bodies may be stored, temporarily held or processed prior to final disposition. The inspection of the records of such locations shall be limited to those records required to comply with this chapter or ORS chapter 432 or rules adopted pursuant thereto. The board may make random inspections at other times.

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 actively engaged in a practice regulated by this chapter.

(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 administrative staff, 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; 1985 c.207 §17; 1987 c.252 §1; 1989 c.177 §12; 1993 c.248 §4]

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.

692.385 Enforcement proceedings instituted by board; relation to other enforcement provisions. (1) Whenever it appears to the board that any person is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the board, or any rule or order issued thereunder, the board may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the board. [1987 c.252 §3]

692.387 Availability of inspection warrants; effect. Upon application of the board, or any public officer, agent or employee of the board acting in the course of official duties, magistrates authorized to issue search warrants may issue an inspection warrant whenever an inspection or investigation of any place subject to the jurisdiction of the board is required or authorized. The inspection warrant is an order authorizing the inspection or investigation to be conducted at a designated place subject to jurisdiction of the board. [1987 c.252 §4]

692.389 Issuance of inspection warrant upon cause; supporting affidavit; cause of issuance of warrant. (1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant under ORS 692.387 to 692.393, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the place to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

(2) Cause shall be considered to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the particular place subject to the juris-

diction of the board, or there is probable cause to believe that a condition of nonconformity with a statute, rule or order within the board's authority exists with respect to the particular place, or an investigation is reasonably believed to be necessary in order to determine or verify the existence of jurisdiction or of a violation of any statute, rule or order enforceable by the board. [1987 c.252 §5]

692.391 Issuance of inspection warrant by magistrate; examination of applicant; contents and conditions of warrant. (1) Before issuing an inspection warrant, the magistrate may examine under oath the applicant and any other witness until satisfied of the existence of grounds for granting such application.

(2) If the magistrate is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the magistrate shall issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the place to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8 a.m. and 6 p.m., or where the magistrate has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night. [1987 c.252 §6]

692.393 Execution of inspection warrant; presentation of credentials; authority and purpose; time of expiration. (1) Except as provided in subsection (2) of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the place designated in the warrant and show upon request to the occupant or person in possession of the place the warrant or a copy thereof.

(2) In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection (1) of this section, but may promptly enter the designated place if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition.

(3) A peace officer may be requested to assist in the execution of the inspection warrant.

(4) An inspection warrant must be executed and returned to the magistrate by

whom it was issued within 10 days from its date, unless such magistrate before the expiration of such time, by indorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. [1987 c.252 §7]

MISCELLANEOUS

692.405 Identifying receptacle. The funeral service practitioner or person acting as such shall be responsible for causing to be affixed to each receptacle, as defined by rule of the board, in which a dead human body is contained an identifying metal disc,

of a design to be approved by rule of the State Mortuary and Cemetery Board, that shall remain attached to the receptacle in which the body is contained and shall bear a corresponding number that is also on both the death certificate and the final disposition permit. In the event of cremation, the disc shall stay with the cremated remains. [1985 c.207 §20]

PENALTIES

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

OCCUPATIONS AND PROFESSIONS
