Chapter 692

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

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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) "Exempt operating cemetery" means an operating cemetery that has 10 or fewer interments annually.

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

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

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

(7) "Operating cemetery" means a cemetery that:

(a) Performs interments;

(b) Has fiduciary responsibility for endowment care, general care or special care funds; or

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

(8) "Rental cover" means a partial enclosure that appears similar to a casket that 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; 1997 c.638 §2; 2001 c.224 §1; 2007 c.436 §1]

692.020 [Amended by 1973 c.411 §1; repealed by 1983 c.810 §29]

692.025 License required for 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 an embalmer unless the individual is licensed as an embalmer under ORS 692.105. An individual practices as an embalmer if the individual is engaged or purports to be engaged in either of the following:

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

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

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

(a) Be licensed by the State Mortuary and Cemetery 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 board; and

(d) Have access to hospital or mortuary refrigeration.

(4) 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.

(5) 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.

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

(7) 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; 1997 c.638 §3]

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.

(4) A person who picks up dead human bodies under the direction of a licensed funeral service practitioner employed by a funeral establishment registered under ORS 692.270 for transportation out of the state or 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; 1999 c.724 §5]

LICENSING

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

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

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

(c) The individual must successfully complete practical experience as a funeral service practitioner's apprentice under ORS 692.190.

(2) An individual may not take an examination under ORS 692.070 until the individual has provided written evidence of graduation from an associate degree program meeting the requirements established by board rule.

(3) Notwithstanding subsection (2) of this section, an applicant with four years of experience as a licensed funeral service practitioner or embalmer in this state or in another state is not required to provide written evidence of graduation from an associate degree program in order to take the examination under ORS 692.070. [1983 c.810 §6; 1989 c.177 §3; 1993 c.308 §4; 1997 c.638 §4; 1999 c.724 §8; 2007 c.170 §3]

692.050 [Repealed by 1983 c.810 §29]

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

692.070 Scope of examination for funeral service practitioner license; notice of examination. (1) The 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.

(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; 1997 c.638 §5]

692.080 [Repealed by 1983 c.810 §29]

692.090 [Amended by 1971 c.115 §2; repealed by 1997 c.638 §12]

692.100 [Repealed by 1983 c.810 §29]

692.105 Embalmer license; application; qualifications of applicant. (1) The State Mortuary and Cemetery 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 State Mortuary and Cemetery Board shall offer an examination at least once each year to applicants for a license to practice as an embalmer.

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

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

(4) The board shall adopt rules establishing standards for minimum performance on the examination and conditions for reexamination. [Amended by 1955 c.754 §1; 1971 c.115 §5; 1973 c.411 §3; 1979 c.858 §2; 1981 c.719 §3; 1983 c.810 §9]

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

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

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

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

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

(b) 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; 1997 c.638 §6; 2007 c.170 §1]

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 a licensed 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; 1997 c.638 §7]

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 State Mortuary and Cemetery Board for a new license.

(2) A person holding a license or certificate of authority or who is registered under this chapter 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 License fees; expiration date of licenses; notice of renewal; rules. (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 certificate of removal registration, a license as a reciprocal 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 or an embalmer 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 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 State Mortuary and Cemetery 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 and embalmers shall expire on January 1 in even-numbered years or on such date as may be specified by rule of the State Mortuary and Cemetery Board. 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 or on such date as may be specified by board rule.

(3) The board shall mail to each licensed funeral service practitioner, 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 the 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 and to each licensed embalmer at least 60 days before the license expires. 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 at least 60 days before the license or certificate of authority expires. The 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 State Mortuary and Cemetery 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; 1997 c.638 §8; 1999 c.724 §9; 2007 c.768 §53]

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 State Mortuary and Cemetery 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; investigation; confidentiality. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery 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, when the conduct bears a demonstrable relationship to funeral service practice, embalming practice or the operation of cemeteries or crematoriums.

(c) Except as provided in this paragraph, solicitation of human dead bodies by the licensee or any agent, assistant or employee of the licensee, either before or after death. This paragraph does not apply to:

(A) Activities permissible under ORS 97.923 to 97.949; or

(B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous or subsequent assignment of a life insurance policy or an annuity contract.

(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 that 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 97.929 or 97.937 or regulations adopted by the Federal Trade Commission regulating funeral industry practices.

(i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service practice, embalming practice or the operation of cemeteries or crematoriums. A copy of the record of the conviction certified to by the clerk of 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 chapter. This subsection does not prohibit a licensee from acting as the legal representative of a deceased relative or a deceased licensee if the deceased licensee was a partner, 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 183.745.

(4) Upon receipt of a complaint, the board shall conduct an investigation as described under ORS 676.165.

(5) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. [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; 1995 c.326 §1; 1995 c.696 §45; 1997 c.791 §53; 1999 c.59 §207; 2001 c.796 §21]

692.190 Application for and issuance of apprentice registration; conditions and duration of apprenticeship; rules. (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 at a time is authorized to operate under or in connection with each licensed funeral service practitioner practicing in this state for the purpose of learning the functions of a funeral service practitioner.

(3) One embalmer apprentice at a time is authorized to engage in the study of the art of embalming under the instruction and supervision of each licensed embalmer practicing in this state.

(4) The duration of an apprenticeship required for licensure is:

(a) Twelve months for a funeral service practitioner apprentice.

(b) Twelve months for an embalmer apprentice.

(5) A person may serve as a funeral service practitioner apprentice for an aggregate total of not more than 48 months. 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 that the board finds are excusable under rules of the board.

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

(7) A person may serve as an embalmer apprentice for an aggregate total of not more than 48 months. 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 that the board finds are excusable under rules of the board.

(8) Notwithstanding subsections (2) and (3) of this section, a licensed funeral service practitioner or a licensed embalmer may serve as a preceptor for not more than three students serving a funeral service internship in accordance with guidelines established by an accredited funeral service education program.

(9) 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; 1997 c.97 §1; 1997 c.638 §9; 2007 c.170 §2]

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; investigation; confidentiality. (1) The State Mortuary and Cemetery 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 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.

(3) Upon receipt of a complaint, the board shall conduct an investigation as described under ORS 676.165.

(4) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175. [Amended by 1973 c.411 §9; 1983 c.810 §17; 1997 c.791 §54]

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 (3).

(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; 1997 c.638 §10]

692.265 License denial and civil penalty procedure; rules and orders; judicial review. (1) If the State Mortuary and Cemetery 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 chapter 183.

(2) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules and orders shall be as provided in ORS chapter 183. [1971 c.734 §151; 1983 c.810 §19]

692.270 Certificate of removal registration for removal of dead human bodies; requirements; sanctions. (1) The State Mortuary and Cemetery Board shall issue a certificate of removal registration to a funeral establishment licensed in another state contiguous to Oregon with laws substantially similar to the provisions of this section for the limited purpose of removing dead human bodies from Oregon, prior to submitting a certificate of death, if the establishment that will make the removals applies to the board for a certificate of removal registration on a form provided by the board. The application fee established under ORS 692.160 shall accompany the application. A certificate issued under this subsection expires upon a change of ownership of the funeral establishment.

(2) For purposes of this section, each branch of a registrant's funeral establishment is a separate establishment and must be registered as a fixed place of business.

(3) Notwithstanding ORS 692.025 (1) and 692.045, a funeral service practitioner who files death certificates in another state may file an Oregon certificate of death if the funeral service practitioner is employed by a licensed funeral establishment registered with the board under this section.

(4) The conduct of a funeral service practitioner or any other person employed by or acting on behalf of a removal registrant shall be the direct responsibility of the holder of a certificate of removal registration.

(5) For any of the causes described in ORS 692.180, or for violation of any death care rule or law in another state, the board may impose upon the holder of a certificate of removal registration or applicant any of the sanctions described in ORS 692.180. [1999 c.724 §6]

Note: 692.270 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 692 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

692.275 Certificate for operating cemetery or crematorium; fees; 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 exempt operating cemetery is entitled to receive a certificate of authority to operate upon payment of an initial fee not to exceed $100 and a fee not to exceed $50 for registration of all principals regardless of the total number of principals. An exempt operating cemetery is not required to pay the renewal fee or the fee for any change in principal other than the cemetery manager.

(2) A cemetery, other than an operating cemetery or a historic cemetery listed with the Oregon Commission on Historic Cemeteries under ORS 97.782, shall be registered with the board. An owner of a cemetery, other than an operating cemetery or a historic cemetery listed with the Oregon Commission on Historic Cemeteries under ORS 97.782, 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.

(7) The board may not subject an exempt operating cemetery to random inspections. [1985 c.207 §19; 1989 c.177 §11; 1991 c.542 §3; 1999 c.731 §11; 2001 c.224 §2; 2003 c.173 §10; 2007 c.436 §2]

692.285 [1985 c.207 §21; 1987 c.813 §14; 1993 c.467 §1; 1995 c.144 §6; 1995 c.325 §1; 1997 c.98 §1; repealed by 2001 c.796 §29]

STATE BOARD

692.300 State Mortuary and Cemetery Board; appointment; term; qualifications. (1) There is created the State Mortuary and Cemetery Board in the Department of Human Services 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. [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; 1997 c.632 §12]

692.310 Meetings; officers. The State Mortuary and Cemetery 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; rules. (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, embalmers, funeral establishments, crematoriums and cemeteries.

(b) The registration of apprentices.

(c) The practice of 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; 1997 c.638 §11]

692.330 Compensation and expenses. Each member of the State Mortuary and Cemetery 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 State Mortuary and Cemetery 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 State Mortuary and Cemetery Board Account; disposition of receipts. The State Mortuary and Cemetery Board Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the State Mortuary and Cemetery Board under this chapter shall be paid into the account and are appropriated continuously to be used only for the administration and enforcement of this chapter, for the administration and enforcement of ORS 97.931 and for the purpose of education of funeral service practitioners and embalmers. Any interest or other income from moneys in the account shall be credited to the account. [1973 c.411 §14; 1983 c.810 §24; 2001 c.796 §26; 2005 c.726 §1]

ENFORCEMENT

692.380 Courts having jurisdiction; initiation of proceedings. Circuit courts, justice courts and municipal courts sitting as justice 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 State Mortuary and Cemetery 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 State Mortuary and Cemetery 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 jurisdiction of the State Mortuary and Cemetery 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 State Mortuary and Cemetery 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]