

Chapter 345

2013 EDITION

Career Schools

DEFINITIONS	
345.010	Definitions for ORS 345.010 to 345.450 and 345.992 to 345.997
LICENSING	
345.015	Application of ORS 345.010 to 345.450
345.017	Application of ORS 345.010 to 345.450 to school that confers academic degrees; student eligibility for moneys from Tuition Protection Fund
345.020	Duty and powers of Higher Education Coordinating Commission; rules
345.030	License requirements; fingerprints; transfer of license
345.040	Approval of registration of agent required; bonding
345.060	Appointment of executive officer of Higher Education Coordinating Commission as agent for service of process; service of process
345.070	Registered agent identification credential
345.080	Fees; rules
345.110	Tuition Protection Fund; rules
345.113	Negotiability of contract for student loan
345.115	Refund schedule; limit on advance deposit; default
345.117	Information required on enrollment agreement
345.120	Investigations; probation; suspension or revocation of licenses
345.210	Proof of license required in suit by career school, agent or employee
345.230	Remedies are additional
345.240	Discrimination prohibited; complaint
STANDARDS	
345.320	Legislative findings and purpose
345.325	Minimum standards; rules
345.330	Advisory committee
345.340	Recommended minimum standards
HAIR DESIGN, BARBERING, ESTHETICS AND NAIL TECHNOLOGY SCHOOLS	
345.400	Regulation of schools teaching hair design, barbering, esthetics or nail technology; rules
345.430	Determination of qualifications of out-of-state or out-of-country applicants to take board test
345.440	Safety and sanitation inspections
345.450	Annual inspection fee
PENALTIES	
345.990	Criminal penalties
345.992	Civil penalties
345.995	Schedule of civil penalties; rules
345.997	Civil penalty credited to General Fund

DEFINITIONS

345.010 Definitions for ORS 345.010 to 345.450 and 345.992 to 345.997. As used in ORS 345.010 to 345.450 and 345.992 to 345.997:

(1) “Agent” means an individual who is employed by or for a career school, or is working on behalf of the school under a contract, for the purpose of actively procuring students, enrollees or subscribers of the school by solicitation in any form that is made at a place or places other than the school office or place of business of the school.

(2) “Barbering” has the meaning given that term in ORS 690.005.

(3) “Career school” or “school” means any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession.

(4) “Esthetics” has the meaning given in ORS 690.005.

(5) “Hair design” has the meaning given in ORS 690.005.

(6) “License” means the authority the career school has been granted to operate under ORS 345.010 to 345.450.

(7) “Nail technology” has the meaning given in ORS 690.005.

(8) “Registration” means the approval by the Higher Education Coordinating Commission of a teacher or agent to instruct in or to represent the school. [Amended by 1957 c.279 §1; 1961 c.268 §1; 1965 c.529 §12; 1973 c.239 §1; 1975 c.478 §1; 1977 c.886 §27; 1979 c.387 §1; 1987 c.31 §13; 1989 c.333 §1; 1993 c.267 §19; 1995 c.343 §1; 2005 c.117 §8; 2012 c.104 §20; 2013 c.22 §§1,2]

LICENSING

345.015 Application of ORS 345.010 to 345.450. ORS 345.010 to 345.450 do not apply to:

(1) Instruction or training solely avocational or recreational in nature or to institutions offering such education exclusively.

(2) Instruction or training sponsored or offered by a bona fide trade, business, professional or fraternal organization or by a business primarily for the organization’s membership or the business’s employees.

(3) Instruction or training sponsored, offered or contracted by organizations, institutions or agencies, if the instruction or training is advertised or promoted to be in the nature of professional self-improvement

or personal self-improvement and the instruction or training is not:

(a) Advertised or promoted as leading to or fulfilling the requirements for licensing, certification, accreditation or education credentials; or

(b) Leading to an occupation, employment or other activity for which a person may reasonably expect financial compensation.

(4) Courses offered in hospitals that meet standards prescribed by the American Medical Association or national accrediting associations for nursing.

(5) Courses, instruction or training offered for a limited number of hours, as defined by rule of the Higher Education Coordinating Commission.

(6) Schools offering only courses of an advanced training or continuing educational nature when offered solely to licensed practitioners and people previously qualified or employed in the profession for which a course is being offered.

(7) Courses, instruction or training offered to prepare a student to become certified as a nursing assistant or a medication aide in compliance with standards prescribed by the Oregon State Board of Nursing.

(8) Schools that the Higher Education Coordinating Commission:

(a) Determines are adequately regulated by other means that guarantee the school meets the standards described in ORS 345.325; and

(b) As a result of the determination described in paragraph (a) of this subsection, grants an exemption from the licensure requirements of ORS 345.010 to 345.450.

(9) Schools offering only review instruction to prepare a student to take an examination to enter a profession, where the student has completed prior training related to the profession.

(10) Schools described in ORS 348.597 and, except as provided in ORS 345.017, schools approved by the Higher Education Coordinating Commission to confer or offer to confer academic degrees under ORS 348.606.

(11) Any parochial or denominational institution providing instruction or training relating solely to religion and that does not grant degrees. [Amended by 1961 c.268 §2; 1965 c.529 §13; 1975 c.478 §3; 1979 c.148 §1; 1979 c.387 §2; 1989 c.333 §2; 1993 c.45 §261; 1995 c.343 §2; 1997 c.652 §32; 2005 c.546 §7; 2009 c.340 §3; 2011 c.637 §132; 2012 c.104 §21; 2013 c.49 §§1,2]

345.017 Application of ORS 345.010 to 345.450 to school that confers academic degrees; student eligibility for moneys from Tuition Protection Fund. When a

school that is licensed under ORS 345.010 to 345.450 is approved by the Higher Education Coordinating Commission to confer or offer to confer an academic degree under ORS 348.606 and the school continues to offer a course or program that does not lead to an academic degree:

(1) The school must continue to be licensed as a career school and meet the requirements of ORS 345.010 to 345.450 until:

(a) All courses or programs offered by the school are approved by the commission; and

(b) All students who were first enrolled in the school when the school was licensed as a career school have:

(A) Completed the course or program for which the student contracted with the career school; or

(B) Terminated enrollment in the career school for any reason.

(2) A student who is enrolled in a course or program for which a school must be licensed under ORS 345.010 to 345.450 is eligible for moneys from the Tuition Protection Fund established under ORS 345.110 if the student:

(a) Qualifies for moneys under rules adopted by the Higher Education Coordinating Commission under ORS 345.110; and

(b) Was first admitted to the school when the school was licensed as a career school under ORS 345.010 to 345.450.

(3) When a course or program that did not lead to an academic degree is approved by the Higher Education Coordinating Commission to lead to an academic degree, the regulatory authority for that course or program transfers to the commission upon the approval. [2009 c.340 §2; 2011 c.637 §133; 2012 c.104 §22]

345.020 Duty and powers of Higher Education Coordinating Commission; rules. (1) The Higher Education Coordinating Commission may adopt rules pursuant to ORS chapter 183 for the general governance and operation of career schools. Rules adopted by the commission may be specific to the individual professions for which career schools provide instruction or training.

(2) The commission shall administer ORS 345.010 to 345.450 and 345.992 to 345.997 and shall enforce all laws and rules relating to the licensing of career schools and agents.

(3) The commission may establish procedures whereby schools become eligible to participate in federal student assistance programs if approved by the United States Department of Education.

(4) Members and employees of the commission may not have financial interests in

any career school and may not act as agents or employees of any career school. [Amended by 1955 c.527 §1; 1961 c.268 §3; 1975 c.478 §4; 1989 c.333 §3; 1995 c.343 §3; 2012 c.104 §23; 2013 c.50 §§1,2]

345.030 License requirements; fingerprints; transfer of license. (1) A person may not open, conduct or do business as a career school in this state without obtaining a license under ORS 345.010 to 345.450.

(2) Except as provided in subsection (8) of this section, the Higher Education Coordinating Commission may issue a license to conduct a career school only after the applicant has presented proof satisfactory to the commission that the applicant complies with applicable standards adopted under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the school and to its faculty members and agents.

(3) A career school licensed in any other state must be licensed in this state before establishing a physical presence in this state such as offices or agents, or both, for the purpose of solicitation of students.

(4) In determining whether to issue a license to a career school, the commission may consider the prior history of the applicant in operating other career schools. The prior history of operating other career schools includes, but is not limited to:

(a) Conduct by the applicant that is cause for probation of a licensee or for suspension or revocation of a license as provided in ORS 345.120 (2);

(b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to 345.450; and

(c) The history of the applicant in operating career schools in other states.

(5) The commission may not issue a license to or renew the license of a career school until the applicant provides all of the following to the commission:

(a) A financial statement, certified true and accurate and signed by the owner of the school;

(b) Proof of compliance with the tuition protection policy established by the commission pursuant to ORS 345.110; and

(c) Fingerprints of individuals as described in subsection (6) of this section.

(6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance of a license or a renewal of a license must provide to the commission the fingerprints of faculty members and agents of the school and individuals who hold positions of authority or control in the operation of the school if the career school will be en-

rolling or does enroll persons under 18 years of age.

(b) In addition to requirements provided under paragraph (a) of this subsection, the commission may require a career school to provide the fingerprints of any agents of the school who will have contact with persons under 18 years of age on behalf of the career school.

(c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this subsection if the commission has conducted a state or nationwide criminal records check on the person within the three years preceding the date of the application.

(d) Fingerprints acquired under this subsection may be used only for the purpose of requesting a state or nationwide criminal records check under ORS 181.534.

(7) Notwithstanding ORS 345.325 (10), the commission may place a school on probation or deny, suspend or revoke a license if the commission finds that an individual who holds a position of authority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

(8) The commission may issue a conditional license to a career school that meets the requirements of subsection (5) of this section but that does not comply with the applicable standards adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective for a period prescribed by the commission, which may not exceed 90 days.

(9)(a) Except as provided in paragraph (b) of this subsection, a career school license is nontransferable. The licensee must give 30 days of notice to the commission when transferring ownership of a career school.

(b) The commission may transfer a career school license or allow the ownership of a career school to transfer with less than 30 days of notice if:

(A) The owner of the school dies, is incapacitated or is incarcerated; or

(B) Other circumstances render the owner unable to operate the career school.

(10) Each career school shall display its license in a prominent place. [Amended by 1961 c.268 §4; paragraph (b) of subsection (2) and subsection (3) formerly 345.050; 1975 c.478 §5; 1989 c.333 §4; 1993 c.45 §262; 1995 c.343 §4; 2009 c.340 §4; 2012 c.104 §24]

345.040 Approval of registration of agent required; bonding. (1) A person may not act in this state as an agent for a career school domiciled within or outside this state, unless the Higher Education Coordinating Commission has approved the agent's registration as a part of the school's license under ORS 345.010 to 345.450. No person shall act

as an agent for a career school unless and until the career school has obtained a license.

(2) For the purposes of licensing and student protection, persons acting as agents for a career school domiciled within or outside this state are employees of the school and shall be included under the school's bonding or student protection policy, or both. Agents shall perform their duties and conduct their business in accordance with ORS 345.010 to 345.450.

(3) An agent shall be a person who has attained the age of 18 years, is of good moral character and is otherwise competent and qualified to safeguard and protect the interests of the public. [Amended by 1961 c.268 §5; 1973 c.827 §34; 1975 c.478 §6; 1979 c.744 §16; 1981 c.527 §1; 1989 c.333 §5; 1995 c.343 §5; 2012 c.104 §25]

345.050 [Amended by 1961 c.268 §6; renumbered as part of 345.030]

345.060 Appointment of executive officer of Higher Education Coordinating Commission as agent for service of process; service of process. (1) Every agent for a career school not domiciled in this state shall be held to have appointed the executive officer of the Higher Education Coordinating Commission as agent to accept service of all summonses, pleadings, writs and processes in all actions or proceedings brought against the applicant in this state. Service upon the executive officer shall be taken and held in all courts to be as valid and binding as if personal service thereof had been made upon the applicant within this state.

(2) When any summons, pleading, writ or process is served on the executive officer, service shall be by duplicate copies. One of the duplicates shall be filed in the office of the executive officer and the other immediately forwarded by certified mail to the agent thereby affected or therein named, at the agent's last-known post-office address. If service is of a summons, the plaintiff therein also shall cause the agent to be served therewith in a manner provided by ORCP 7. [Amended by 1961 c.268 §7; 1975 c.478 §7; 1979 c.284 §138; 1989 c.333 §6; 1995 c.343 §6; 2012 c.104 §26]

345.070 Registered agent identification credential. The employing school shall issue an identification credential to each agent registered under ORS 345.010 to 345.450 in the form and size prescribed by the Higher Education Coordinating Commission. Each agent shall carry the credential at all times while engaged as an agent of the school. [Amended by 1961 c.268 §8; 1975 c.478 §8; 1989 c.333 §7; 2012 c.104 §27]

345.080 Fees; rules. (1) Before issuing any licenses under ORS 345.010 to 345.450, the Higher Education Coordinating Commis-

sion shall collect the following nonrefundable, annual license fees:

<u>In-State Schools</u>		
<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$	0 - 15,000	\$ 600
	15,001 - 50,000	800
	50,001 - 125,000	1,000
	125,001 - 250,000	1,425
	250,001 - 500,000	1,850
	500,001 - 750,000	2,275
	750,001 - 1,000,000	2,700
	Over 1,000,000	3,125
<u>Out-of-State Schools</u>		
<u>Tuition</u>	<u>Income Range</u>	<u>Fee</u>
\$	0 - 50,000	\$ 1,850
	50,001 - 250,000	2,275
	250,001 - 500,000	2,700
	500,001 - 750,000	3,125
	750,001 - 1,000,000	3,550
	Over 1,000,000	3,975

(2) The commission may adopt, by rule, fees for:

- (a) Teacher registrations;
- (b) Copies of student transcripts maintained by the commission;
- (c) Submissions of applications to renew a license after the due date established by rule of the commission;
- (d) Submissions of payments to the Tuition Protection Fund established under ORS 345.110 after the time limits established by rule of the commission; and
- (e) Investigative costs incurred by the commission when the commission determines that the career school has violated any provision of ORS 345.010 to 345.450 or any applicable rule.

(3) In addition to any fees collected by the commission, the commission may charge the fee established by rule under ORS 181.534 for a nationwide criminal records check.

(4) All fees collected under this section shall be paid to the credit of the commission. Such moneys are continuously appropriated to the commission and shall be used for the administration of the licensing program under ORS 345.010 to 345.450. [Amended by 1955 c.527 §2; 1961 c.268 §9; 1975 c.478 §9; 1989 c.333 §8; 1993 c.45 §263; 1993 c.413 §5; 1999 c.638 §1; 2003 c.540 §1; 2009 c.340 §5; 2012 c.104 §28; 2013 c.571 §§1,2]

Note: The amendments to 345.080 by section 3, chapter 571, Oregon Laws 2013, become operative July 1, 2015. See section 4, chapter 571, Oregon Laws 2013. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

345.080. (1) Before issuing any licenses under ORS 345.010 to 345.450, the Higher Education Coordinating Commission shall collect a nonrefundable annual license fee established by the commission by rule.

(2) The commission may adopt, by rule, fees for:

- (a) Teacher registrations;
 - (b) Copies of student transcripts maintained by the commission;
 - (c) Submissions of applications to renew a license after the due date established by rule of the commission;
 - (d) Submissions of payments to the Tuition Protection Fund established under ORS 345.110 after the time limits established by rule of the commission; and
 - (e) Investigative costs incurred by the commission when the commission determines that the career school has violated any provision of ORS 345.010 to 345.450 or any applicable rule.
- (3) In addition to any fees collected by the commission, the commission may charge the fee established by rule under ORS 181.534 for a nationwide criminal records check.
- (4) All fees collected under this section shall be paid to the credit of the commission. Such moneys are continuously appropriated to the commission and shall be used for the administration of the licensing program under ORS 345.010 to 345.450.

Note: Section 4, chapter 571, Oregon Laws 2013, provides:

Sec. 4. (1) The amendments to ORS 345.080 by section 3 of this 2013 Act become operative on July 1, 2015.

(2) Until the Higher Education Coordinating Commission first adopts rules pursuant to ORS 345.080 as amended by section 3 of this 2013 Act, the commission may collect the annual license fees established by ORS 345.080 as amended by section 2 of this 2013 Act. [2013 c.571 §4]

345.090 [Amended by 1961 c.268 §10; repealed by 1975 c.478 §29]

345.100 [Amended by 1961 c.268 §11; 1975 c.478 §10; repealed by 1989 c.333 §25]

345.110 Tuition Protection Fund; rules.

(1) The Tuition Protection Fund is established separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. Proceeds of the fund are continuously appropriated to the Higher Education Coordinating Commission to protect students when a career school ceases to provide educational services and for administrative expenses incurred under subsection (5) of this section.

(2) The commission shall maintain and administer the fund and shall adopt by rule procedures governing the administration and maintenance of the fund, including requirements relating to contributions to and claims against the fund.

(3) Each career school shall pay to the Tuition Protection Fund an initial capitalization deposit in amounts and within time limits established by rule of the commission. Thereafter, each school shall make installment payments based on a matrix adopted by rule of the commission. In establishing the amount and frequency of payments, the commission may consider the enrollment and financial condition of each school and such other factors as the commission considers appropriate. The commission may deny, suspend or revoke the license of a school which fails to make payments or fails to conform to

other requirements of this section or rules adopted by the commission under this section.

(4) The commission shall deposit moneys received under this section with the State Treasurer in the Tuition Protection Fund.

(5) The commission may disburse moneys from the fund by checks or orders drawn upon the State Treasurer in conformance with rules of the commission and only for tuition protection purposes, including the commission's costs in administering and maintaining the fund.

(6) The commission may enter into contracts to carry out the purposes of the fund. The provisions of ORS 279.835 to 279.855 and ORS chapters 279A and 279B do not apply to contracts entered into under this subsection. [Amended by 1975 c.478 §11; 1981 c.897 §49; 1989 c.333 §9; 1991 c.534 §4; 1993 c.45 §264; 1995 c.343 §7; 2003 c.540 §2; 2003 c.794 §257a; 2012 c.104 §29]

345.113 Negotiability of contract for student loan. (1) In any contract for the provision of instruction or training or other services by a career school on credit entered into between a career school and a student, or between a lending institution which regularly loans money to students of a particular career school and a prospective student of that career school, such contract, note or any instrument or evidence of indebtedness of the student shall have printed on the face thereof the words "Student Loan." Such contract, note, instrument or evidence of indebtedness with the words "Student Loan" printed thereon shall not be a negotiable instrument within the meaning of ORS chapter 73. However, this section shall have no force or effect on the negotiability of any contract, promissory note, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal governmental agency even though the contract, note, instrument or other evidence of indebtedness contains the wording required by this subsection.

(2) Notwithstanding the absence of such notice on a contract, note, instrument or evidence of indebtedness arising out of a contract for the provision of training or instruction or other services by a career school, an assignee of the rights of the career school or lending institution as described in subsection (1) of this section is subject to all claims and defenses of the student against the career school or lending institution arising out of the contract for provision of professional instruction or training or other services. Any agreement to the contrary shall be of no force or effect in limiting the rights of a student under this section. The assignee's liability under this section shall not exceed the amount owing

to the assignee at the time the claim or defense is asserted against the assignee. The restrictions imposed by this subsection shall not apply with respect to any promissory note, contract, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal governmental agency even though said note, contract, instrument or other evidence of indebtedness shall contain the words required by subsection (1) of this section.

(3) An assignee of a student loan who in good faith enforces a security interest in property held by the student shall not be liable to such student for punitive damages in an action for wrongful repossession. The fact that a career school misrepresented the nature of the training or instruction or other services shall not, of itself, make an assignee's repossession wrongful. [1975 c.478 §28; 1995 c.343 §8]

345.115 Refund schedule; limit on advance deposit; default. (1) The enrollment agreement entered into between a person and a career school for the purpose of obtaining instruction or training shall contain a schedule for the refund of tuition, deposits and fees when the person does not complete the course or program of instruction or training which was the subject of the contract. No action or suit may be brought by a career school or its assigns if the enrollment agreement does not contain this refund schedule. This provision shall not limit the career school's right to defend any action or suit brought by any person on a contract which does not contain such a schedule.

(2) The refund schedule required by subsection (1) of this section shall be established by the Higher Education Coordinating Commission in consultation with the advisory committee appointed under ORS 345.330. In establishing the refund schedule, the commission shall consider:

(a) The reasonable, obligated and fixed costs of the career school, including but not limited to rent, personnel and nonreturnable supplies.

(b) The method of instruction.

(c) The reasonable value of services performed prior to cancellation of the course or program.

(3) The commission may establish varying refund schedules when the difference in services performed necessitates separate schedules.

(4) Nothing in this section is intended to prevent a career school from requiring an advance deposit of tuition on behalf of the person intending to enroll in a course or program offered by or through the career school. However, the advance deposit shall

be limited to 20 percent of the total tuition and fees, excluding federal and state financial aid, unless the commission determines by rule that larger advance deposits are appropriate.

(5) A school shall be considered in default of the enrollment agreement when a course or program is discontinued or canceled or the school closes prior to completion of contracted services. When a school is in default, student tuition may be refunded on a pro rata basis if the commission determines that the school has made provision for students enrolled at the time of default to complete a comparable program at another institution at no additional tuition cost to the student beyond the original contract with the defaulting school. If the school does not make such provision, a total refund of all tuition and fees shall be made to the students. [1965 c.409 §2; 1967 c.67 §16; 1975 c.478 §12; 1989 c.333 §10; 1993 c.742 §78; 1995 c.343 §9; 2012 c.104 §30]

345.117 Information required on enrollment agreement. Any enrollment agreement used within this state as a contract for instruction between a career school and a student shall have printed or stamped upon it: "Any inquiry a student may have regarding this contract may be made in writing to the school (name and address), or to the Higher Education Coordinating Commission (current address)." [1975 c.478 §22; 1989 c.333 §11; 1995 c.343 §10; 2012 c.104 §31]

345.120 Investigations; probation; suspension or revocation of licenses. (1) On the written complaint of any person, the Higher Education Coordinating Commission shall, and on the commission's own motion may, investigate the actions of any career school or agent, or any person who assumes to act in either capacity within this state.

(2) As a result of the investigation, and in addition to any penalty that may be imposed under ORS 345.992, the commission may place a licensee on probation or may suspend or revoke any license issued under ORS 345.010 to 345.450 when the licensee has:

- (a) Obtained a license by misrepresentation.
- (b) Violated ORS 345.010 to 345.450 or any applicable rule.
- (c) Ceased to engage in the business authorized by the license.
- (d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

(3) When notice of suspension or revocation is issued, the licensee shall be notified and, upon request, shall be granted a contested case hearing under ORS 183.310 (2).

(4) A licensee placed on probation must be formally notified by the commission that it has deficiencies that must be corrected within a time specified in the notice.

(5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling students but may remain in operation to complete training of students enrolled on the effective date of the suspension.

(6) A licensee whose license has been revoked is not authorized to continue in operation on and after the effective date of the revocation. [Amended by 1965 c.409 §3; 1975 c.478 §13; 1989 c.333 §12; 1993 c.45 §265; 1995 c.343 §11; 2012 c.104 §32]

345.130 [Repealed by 1975 c.478 §29]

345.140 [Repealed by 1975 c.478 §29]

345.150 [Amended by 1971 c.734 §39; repealed by 1975 c.478 §29]

345.160 [Repealed by 1975 c.478 §29]

345.170 [Repealed by 1975 c.478 §29]

345.180 [Repealed by 1975 c.478 §29]

345.190 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.200 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.210 Proof of license required in suit by career school, agent or employee. No career school or its agents or employees shall bring or maintain any suit or action in any court in or of this state for a cause of suit or action arising out of doing business as a career school in this state, without alleging and proving that it has complied with the applicable licensing provisions of ORS 345.010 to 345.450 and 345.992 to 345.997 at the time such cause of suit or action arose. [Amended by 1975 c.478 §14; 1989 c.333 §13; 1995 c.343 §12]

345.220 [Amended by 1961 c.268 §12; 1965 c.529 §14; repealed by 1975 c.478 §29]

345.230 Remedies are additional. The remedies provided in ORS 345.010 to 345.450 and 345.992 to 345.997 are in addition to, and not exclusive of, any other remedies provided by law. [Amended by 1975 c.478 §15; 1975 c.759 §17a; 1991 c.67 §85]

345.240 Discrimination prohibited; complaint. (1) No career school licensed under ORS 345.010 to 345.450 shall refuse admission to or discriminate in admission against or discriminate in giving instruction to any person otherwise qualified.

(2) Any violation of this section is an unlawful practice under ORS chapter 659A. Any person unlawfully discriminated against under this section may file a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries.

(3) A certified copy of a finding by the Commissioner of the Bureau of Labor and Industries under ORS 659A.850 that the

school has violated this section shall be adequate proof of the violation.

(4) As used in this section, “discriminate” has the meaning given “discrimination” in ORS 659.850. [Amended by 1957 c.724 §11; 1973 c.714 §4; 1989 c.333 §14; 1993 c.45 §266; 1995 c.343 §13; 2001 c.621 §77]

345.250 [Amended by 1957 c.724 §12; repealed by 1989 c.333 §26]

345.310 [1965 c.529 §2; repealed by 1975 c.478 §29]

STANDARDS

345.320 Legislative findings and purpose. (1) The Legislative Assembly finds that career schools are capable of increasing the educational opportunities available in this state or to residents of this state and of making a contribution to the social and economic progress of the people of this state. Career schools offer different approaches to education than do public schools and are often able to provide professional, technical and placement assistance not otherwise available.

(2) It is the purpose of ORS 345.010 to 345.450 to provide for the protection, education and welfare of the citizens of this state, its career schools and its students, by establishing minimum standards concerning quality of education, ethical and business practices, health and safety and fiscal responsibility, and protecting against substandard, transient, unethical, deceptive or fraudulent practices. [1965 c.529 §3; 1975 c.478 §2; 1993 c.45 §267; 1995 c.343 §14]

345.325 Minimum standards; rules. The Higher Education Coordinating Commission shall adopt by rule minimum standards for the licensing of career schools under ORS 345.010 to 345.450 that are reasonably calculated to ensure that:

(1) The quality and content of each course or program of instruction can achieve its stated objective;

(2) The facilities, instructional equipment and materials are sufficient to enable students to achieve the program goals and are adequate for the purposes of the program;

(3) The directors, administrators and instructors are properly qualified;

(4) Prior to an applicant signing an enrollment agreement, the school provides the applicant with a catalog or brochure that includes an accurate description of the program for which the applicant is enrolling, total costs of tuition and fees and other information specified by rule;

(5) Upon satisfactory completion of instruction and training, the student is given appropriate educational credentials;

(6) Adequate records and standard transcripts are maintained;

(7) The career school is maintained and operated in compliance with all applicable ordinances and laws;

(8) The career school is financially sound and capable of fulfilling its commitments to students;

(9) Neither the career school nor its agents engage in advertising, sales, collection, credit or other practices of any type which are unlawful under ORS 646.608;

(10) The directors, administrators, supervisors and instructors of the school are of good reputation and character, except that a school shall not be placed on probation or a license shall not be denied, suspended or revoked because a faculty member has been convicted of a crime except as authorized under ORS 670.280;

(11) Any student housing owned, maintained or approved by the career school is appropriate, safe and adequate;

(12) The school has a written placement assistance plan; and

(13) A license application from a new school or an application for approval of a new program from an existing school shall include labor market information that identifies the need for the new school or program. [1975 c.478 §21; 1979 c.744 §17; 1989 c.333 §15; 1993 c.45 §268; 1995 c.343 §15; 2012 c.104 §33]

345.330 Advisory committee. (1) The Higher Education Coordinating Commission shall appoint a representative advisory committee consisting of 11 members who shall serve for terms of three years ending June 30. Of the membership of the committee:

(a) Seven members shall be persons affiliated with career schools as owners, directors, administrators, instructors or representatives, but not more than one member shall represent an out-of-state career school.

(b) Four members shall be persons who are not eligible under paragraph (a) of this subsection. At least one of these members shall have graduated from a career school.

(2) The advisory committee appointed under subsection (1) of this section shall:

(a) Make recommendations to the commission concerning the need for professional and technical instructional and training facilities, the types of instruction and training needed and by whom these can best be provided.

(b) Recommend standards for career schools as provided in ORS 345.325 which are consistent with the purposes of such schools.

(c) Investigate and present findings to the commission on the administration and operation of laws relating to career schools. However, the investigations and findings of the advisory committee do not affect the authority of the commission to issue, deny, suspend or revoke the license of any career school.

(d) Consult with the commission in determining the refund schedule under ORS 345.115.

(e) Make recommendations to the commission concerning rules to be adopted by the commission for ORS 345.010 to 345.450 and 345.992 to 345.997.

(3) Members of the advisory committee are entitled to compensation and expenses as provided in ORS 292.495 from funds appropriated to the commission for purposes of administering ORS 345.010 to 345.450. [1965 c.529 §4; 1967 c.67 §17; 1975 c.478 §16; 1989 c.333 §16; 1993 c.45 §269; 1995 c.343 §16; 2012 c.104 §34; 2013 c.50 §§3,4]

345.340 Recommended minimum standards. Consistent with the requirements of ORS 345.325, the advisory committee shall recommend to the Higher Education Coordinating Commission minimum standards for the operation of career schools. In making its recommendations, the committee shall consider changes in technological, economic and social conditions which affect employment needs, opportunities and skills. [1965 c.529 §5; 1975 c.478 §18; 1995 c.343 §17; 2012 c.104 §35]

345.350 [1965 c.529 §§6,10; repealed by 1975 c.478 §29]

345.360 [1965 c.529 §7; repealed by 1975 c.478 §29]

345.370 [1965 c.529 §8; 1975 c.478 §19; repealed by 1989 c.333 §26]

345.380 [1965 c.529 §11; repealed by 1975 c.478 §29]

HAIR DESIGN, BARBERING, ESTHETICS AND NAIL TECHNOLOGY SCHOOLS

345.400 Regulation of schools teaching hair design, barbering, esthetics or nail technology; rules. In addition to the other requirements of ORS 345.010 to 345.450, the rules adopted by the Higher Education Coordinating Commission to regulate schools teaching hair design, barbering, esthetics or nail technology:

(1) May include rules the commission considers necessary to protect the economic or physical health and safety of the public and of the students attending the school including compliance with ORS 345.110.

(2) Shall include rules that set standards for teachers teaching in schools licensed to teach hair design, barbering, esthetics or nail technology pursuant to ORS 345.010 to 345.450.

(3) Shall require the schools to teach, and require for graduation from the school,

courses that meet the following minimum standards:

(a)(A) A minimum hourly training requirement for:

- (i) Hair design, 1,450 hours;
- (ii) Barbering, 1,100 hours;
- (iii) Esthetics, 250 hours; and
- (iv) Nail technology, 350 hours; and

(B) In addition to the programs listed in this subsection, a student is also required to successfully complete the following requirements once:

- (i) Safety and sanitation, 150 hours; and
- (ii) Career development, 100 hours.

(b) A student proficiency-based training requirement for hair design, barbering, esthetics or nail technology, if the school has developed written requirements for graduation that are approved by the commission. [1977 c.886 §29; 1987 c.31 §14; 1989 c.333 §17; 1991 c.67 §86; 1993 c.45 §270; 1993 c.267 §20; 1995 c.79 §188; 1995 c.343 §18; 2005 c.117 §9; 2012 c.104 §36; 2013 c.50 §§5,6]

345.410 [1977 c.886 §30; 1987 c.31 §15; repealed by 1989 c.333 §26]

345.420 [1977 c.886 §31; 1983 c.151 §23; 1989 c.333 §18; 1993 c.45 §271; repealed by 1993 c.742 §77]

345.430 Determination of qualifications of out-of-state or out-of-country applicants to take board test. The Higher Education Coordinating Commission shall determine whether a person from out-of-state who is not certified in hair design, barbering, esthetics or nail technology by another state or a person from out-of-country seeking a certificate in hair design, barbering, esthetics or nail technology is qualified to take the test of the Board of Cosmetology. A determination shall be made by an evaluation of academic transcripts, apprenticeship records and work experience documentation. If documentation is not available, the commission may refer the person to a career school for evaluation and recommendation. [1977 c.886 §33; 1987 c.31 §16; 1989 c.333 §19; 1993 c.267 §21; 1995 c.343 §19; 1999 c.425 §27; 2005 c.117 §10; 2012 c.104 §37; 2013 c.314 §§43a,43b]

345.440 Safety and sanitation inspections. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to 345.450 to teach hair design, barbering, esthetics or nail technology shall be conducted by the Health Licensing Office. [1977 c.886 §34; 1987 c.31 §17; 1987 c.414 §150; 1993 c.45 §272; 1993 c.267 §22; 1995 c.343 §19a; 2001 c.104 §120; 2005 c.117 §11; 2005 c.648 §119; 2013 c.568 §8]

Note: The amendments to 345.440 by section 8, chapter 568, Oregon Laws 2013, become operative July 1, 2014. See section 142, chapter 568, Oregon Laws 2013, as amended by section 146, chapter 568, Oregon Laws 2013. The text that is operative until July 1, 2014, is set forth for the user's convenience.

345.440. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to 345.450 to teach hair design, barbering, esthetics or nail tech-

nology shall be conducted by the Oregon Health Licensing Agency.

345.450 Annual inspection fee. (1) In addition to the fees required by ORS 345.080, before issuing any license under ORS 345.010 to 345.450 to a school teaching hair design, barbering, esthetics or nail technology, and annually thereafter, the Higher Education Coordinating Commission shall collect a nonrefundable annual inspection fee of \$100.

(2) The inspection fee collected under subsection (1) of this section shall be transferred to the Health Licensing Office for inspections performed by the office under ORS 345.440. [1977 c.886 §35; 1987 c.31 §18; 1987 c.414 §151; 1989 c.333 §20; 1993 c.45 §273; 1993 c.267 §23; 1995 c.343 §19b; 2001 c.104 §121; 2005 c.117 §12; 2005 c.648 §120; 2012 c.104 §38; 2013 c.568 §9]

Note: The amendments to 345.450 by section 9, chapter 568, Oregon Laws 2013, become operative July 1, 2014. See section 142, chapter 568, Oregon Laws 2013, as amended by section 146, chapter 568, Oregon Laws 2013. The text that is operative until July 1, 2014, including amendments by section 38, chapter 104, Oregon Laws 2012, is set forth for the user's convenience.

345.450. (1) In addition to the fees required by ORS 345.080, before issuing any license under ORS 345.010 to 345.450 to a school teaching hair design, barbering, esthetics or nail technology, and annually thereafter, the Higher Education Coordinating Commission shall collect a nonrefundable annual inspection fee of \$100.

(2) The inspection fee collected under subsection (1) of this section shall be transferred to the Oregon Health Licensing Agency for inspections performed under ORS 345.440.

345.460 [Formerly 690.275; 1989 c.333 §21; 1989 c.491 §52a; 1993 c.45 §274; repealed by 1995 c.343 §72]

345.470 [Formerly 690.087; 1989 c.333 §22; 1993 c.45 §275; repealed by 1995 c.343 §72]

345.505 [1975 c.557 §1; 1979 c.271 §1; 1985 c.579 §4; 1989 c.619 §5; 1991 c.67 §87; 1993 c.45 §276; 1999 c.59 §92; 1999 c.717 §6; 2007 c.407 §5; repealed by 2011 c.301 §1]

345.515 [1975 c.557 §2; 1993 c.45 §277; repealed by 2011 c.301 §1]

345.525 [1975 c.557 §3; 1979 c.271 §2; 1993 c.45 §278; 1995 c.769 §3; 2005 c.22 §241; repealed by 2011 c.301 §1]

345.535 [1975 c.557 §4; 1989 c.491 §53; 2009 c.595 §218; repealed by 2011 c.301 §1]

345.545 [1975 c.557 §5; 1979 c.387 §3; repealed by 2011 c.301 §1]

345.555 [1975 c.557 §6; repealed by 2011 c.301 §1]

345.565 [1975 c.557 §7; repealed by 2011 c.301 §1]

345.575 [1975 c.557 §8; repealed by 2011 c.301 §1]

345.585 [1975 c.557 §12; 1989 c.333 §23; 1993 c.45 §279; 1995 c.343 §20; 1997 c.383 §14; 2011 c.301 §11; renumbered 342.197 in 2011]

PENALTIES

345.990 Criminal penalties. Violation of any provision of ORS 345.020, 345.030, 345.070, 345.115 or 345.325 is a Class B misdemeanor. [Amended by 1975 c.478 §26; subsection (2) enacted as 1975 c.557 §9; 1993 c.45 §280; 2011 c.301 §8]

345.992 Civil penalties. (1) In addition to any other penalty provided by law, any person who violates any provision of ORS

345.020, 345.030, 345.070, 345.115 or 345.117, or who engages in an unlawful trade practice as defined by ORS 646.608 shall incur a civil penalty for each violation in the amount prescribed by the schedule adopted under ORS 345.995.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1975 c.478 §23; 1991 c.734 §17]

345.995 Schedule of civil penalties; rules. (1) After consultation with the advisory committee established under ORS 345.330, the Higher Education Coordinating Commission shall adopt by rule a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.450. A civil penalty may not exceed \$500 per violation. The commission shall consult with the Attorney General before adopting the schedule of penalties for violations of ORS 345.120 (2)(d).

(2) In imposing a penalty for violation of ORS 345.010 to 345.450 pursuant to the schedule or schedules authorized by this section, the commission shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of ORS 345.010 to 345.450 or rules adopted pursuant thereto.

(c) The economic and financial conditions of the person incurring a penalty.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the commission considers proper and consistent with the public welfare.

(4) The commission may impose penalties that may be remitted or mitigated on condition that a particular violation not continue or occur after a certain period not to exceed 15 days.

(5) From each penalty recovered under this section, the commission may retain reasonable costs related to the investigation and assessment of the penalty. This subsection does not apply to penalties that are required to be deposited in the Tuition Protection Fund established under ORS 345.110. [1975 c.478 §24; 1991 c.67 §88; 1993 c.45 §281; 2012 c.104 §39; 2013 c.643 §§1,2]

345.997 Civil penalty credited to General Fund. All penalties recovered under ORS 345.992 shall be paid into the State Treasury and credited to the General Fund. [1975 c.478 §25; 1989 c.706 §11; 1991 c.734 §18]

