

Chapter 692

2017 EDITION

Funeral Service Practitioners; Embalmers; Death Care Consultants; Funeral Establishments; Cemetery and Crematory Operators

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OCCUPATIONS AND PROFESSIONS

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;

(c) A columbarium, for permanent cinerary interments;

(d) A scattering garden or other designated area above or below ground where a person may pay to establish a memorial of cremated remains; or

(e) A cenotaph, the primary purpose of which is to provide an area where a person may pay to establish a memorial to honor a person whose remains may be interred elsewhere or whose remains cannot be recovered.

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

(4) "Final disposition" means the burial, interment, cremation, dissolution or other disposition of human remains authorized by the board by rule.

(5) "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.

(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 final 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; 2009 c.709 §1]

692.020 [Amended by 1973 c.411 §1; repealed by 1983 c.810 §29]

692.025 License required for funeral service practitioner, embalmer, death care consultant, 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. Regardless of any title used by the individual, an individual practices as a funeral service practitioner if the individual is engaged directly or indirectly in offering funeral services for payment or supervising or otherwise controlling the transportation, care, preparation, processing and handling of dead human bodies before the bodies undergo final disposition, 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. Regardless of any title used by the individual, 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) An individual may not practice as a death care consultant unless the individual is licensed as a death care consultant under ORS 692.143. Regardless of any title used by the individual, an individual practices as a death care consultant if the individual offers, for payment, consultations directly relating to the performance of funeral or final disposition services.

(4) A person may not operate a funeral establishment unless the establishment meets the requirements under this subsection. A place is a funeral establishment if the place is customarily used for the care, preparation or viewing of dead human bodies before the bodies undergo final disposition, 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.

(5) A person may not operate an immediate disposition company unless the immediate disposition company meets the

requirements under this subsection. An immediate disposition company must:

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

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

(6) A person or city, county or other municipal corporation may not conduct the business of an operating cemetery without first receiving a certificate of authority to conduct the business of an operating cemetery under ORS 692.275.

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

(8) An applicant for a license or certificate described in this section and a principal of a licensed establishment described in this section 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; 2009 c.709 §2]

692.030 [Amended by 1973 c.411 §2; repealed by 1983 c.810 §29]

692.040 Application of chapter. This chapter does not apply to any of the following:

(1) A public institution, medical college, county medical society, anatomical association, college of embalming or institution approved by the State Mortuary and Cemetery Board to accept bodies for education or research purposes under ORS 97.170.

(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 licensed funeral service practitioner for delivery to a licensed funeral service practitioner, a licensed funeral establishment, an authorized cemetery, an authorized crematorium or another authorized facility for final disposition of human remains 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 death care consultant, a cemetery or a crematorium as described in ORS 692.025 or another authorized facility for final disposition of human remains as described in ORS 692.275.

(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 out of the state 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 death care consultant, a cemetery or a crematorium as described in ORS 692.025 or another authorized facility for final disposition of human remains as described in ORS 692.275. [Amended by 1957 c.596 §2; 1983 c.810 §5; 1985 c.207 §10; 1999 c.724 §5; 2009 c.709 §11; 2015 c.651 §7]

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 license on an application form provided by the board.

(b) The individual must pass an examination offered by the board under ORS 692.070 after the individual applies for the funeral service practitioner license.

(c) The individual must complete training as a funeral service practitioner trainee 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) An applicant meets the requirements of subsection (1)(c) or (2) of this section if the applicant provides the board with documentation of military training or experience that the board determines is substantially equivalent to the education or experience required by subsection (1)(c) or (2) of this section.

(4) Notwithstanding subsection (2) of this section, an applicant who has four years of experience as a licensed funeral service practitioner or embalmer in this state or in another state and who is in good standing with the board or with the licensing authority from another state is considered to have met any educational requirement necessary 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; 2012 c.43 §25; 2015 c.367 §1]

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; examination schedule. (1) The State Mortuary and Cemetery Board shall offer an examina-

tion to individuals applying for a license to practice as a funeral service practitioner.

(2) At a minimum, the examination must test applicants on state and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of dead human bodies and relating to survivor death benefits.

(3) The board shall make an examination schedule publicly available and shall send an examination schedule to each applicant at least 10 days before each examination. An examination schedule must denote the time and place of each examination. [Amended by 1981 c.719 §1; 1983 c.810 §7; 1989 c.177 §4; 1997 c.638 §5; 2015 c.367 §2]

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; rules. (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 meets the qualifications described in this section.

(2) An individual must apply for a license by applying to the State Mortuary and Cemetery 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 training as an embalmer trainee under ORS 692.190.

(b) The individual must provide written evidence of graduation from an accredited program of funeral service education or from a program that provides an equivalent education as identified by the State Mortuary and Cemetery Board by rule.

(c) The individual must obtain a passing score on the examination described in ORS 692.130 or show evidence satisfactory to the State Mortuary and Cemetery Board that the individual has successfully passed the National Board Examination as administered by the International Conference of Funeral Service Examining Boards or its successor organization.

(d) The individual must demonstrate knowledge of applicable state law in an examination offered by the State Mortuary and Cemetery Board under ORS 692.130.

(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 State Mortuary and Cemetery

Board that the individual has passed the National Board Examination, the State Mortuary and Cemetery Board may examine the individual as provided in ORS 692.130. However, the State Mortuary and Cemetery Board may not issue an embalmer license until an individual has completed the training required under ORS 692.190.

(5) An applicant meets the requirements of subsection (3)(a) of this section if the applicant provides the State Mortuary and Cemetery Board with documentation of military experience that the board determines is substantially equivalent to the experience required by subsection (3)(a) of this section. [1983 c.810 §8; 1993 c.308 §5; 2012 c.43 §26; 2015 c.367 §4]

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; examination schedule; rules. (1) The State Mortuary and Cemetery Board shall offer an examination to individuals applying for a license to practice as an embalmer.

(2) The board shall make an examination schedule publicly available and shall send an examination schedule to each applicant at least 10 days before each examination. An examination schedule must denote the time and place of each examination.

(3) The board shall specify the material to be included in an examination for a license to practice as an embalmer. The board may require inclusion of any question or examination prepared by the International Conference of Funeral Service Examining Boards or its successor organization.

(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; 2015 c.367 §5]

692.140 Reciprocity for embalmers or funeral service practitioners; rules. (1) For an applicant from another state, the State Mortuary and Cemetery Board shall issue a license to practice as a funeral service practitioner or embalmer, or shall register an individual who applies to be a trainee of a funeral service practitioner or embalmer, if:

(a) The applicant 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 demonstrated the requisite qualifications to be a funeral service practitioner, embalmer or trainee of a funeral service

practitioner or embalmer in a manner prescribed by the board by rule.

(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:

(A) Currently is, or previously was, authorized to practice in another state or profession that is substantially equivalent, as determined by the board, to a funeral service practitioner, embalmer or trainee of a funeral service practitioner or embalmer; and

(B) Is in good standing in that state to practice the profession, or was in good standing in that state at the time that the applicant ceased practicing the profession.

(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; 2015 c.367 §7]

692.143 License to practice as death care consultant; application; qualifications of applicant; fees; rules. The State Mortuary and Cemetery Board shall issue a license to an individual to practice as a death care consultant if the individual:

(1) Applies to the board for a death care consultant license on an application form provided by the board;

(2) Passes an examination offered by the board that tests applicants on state and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of dead human bodies;

(3) Pays fees required by the board by rule; and

(4) Meets any other requirement established by the board by rule. [2009 c.709 §4; 2015 c.367 §11]

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) A trainee 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; 2015 c.367 §13]

692.150 [Repealed by 1983 c.810 §29]

692.160 License, certificate and registration fees; expiration date; 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 service practitioner license, an embalmer license, a death care consultant license, a funeral establishment license, an immediate disposition company license, a certificate of authority for a cemetery, a certificate of authority for a crematorium, a certificate of authority for any other facility for final disposition of human remains, registration as a funeral service practitioner trainee, registration as an embalmer trainee, 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, crematorium or other facility for final disposition of human remains.

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

(c) A fee covering the renewal of a funeral service practitioner license, an embalmer license or a death care consultant 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 trainee or an embalmer trainee.

(f) An examination fee for a funeral service practitioner license, an embalmer license or a death care consultant 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, certificate of authority or registration.

(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, embalmers and death care consultants 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, to operators of crematoriums or to operators of other facilities for final disposition of human remains 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 death care consultant, to each licensed operator of a funeral establishment or immediate disposition company and to each cemetery, crematorium and other facility for final disposition of hu-

man remains 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 board shall mail the notice 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; 2009 c.709 §12; 2015 c.367 §14]

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 and registrations. (1) When a licensee or a trainee registered under ORS 692.190 has allowed a license or a registration to lapse, the State Mortuary and Cemetery Board may reinstate the license or reregister the trainee if the licensee or trainee:

(a) Applies for reinstatement or reregistration not later than the 90th day after the lapse; and

(b) Pays all fees owing to the date of reinstatement or reregistration as well as a reinstatement or reregistration fee established under ORS 692.160.

(2) Upon the lapse of a license or registration, the board shall send the notice of lapse to the licensee or trainee by registered or certified mail at the last-known address of the licensee or trainee. [Amended by 1971 c.115 §11; 1973 c.411 §6; 1983 c.810 §15; 2015 c.367 §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 a complaint 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, crematoriums or other facilities for final disposition of human remains.

(c) Except as provided in this paragraph, solicitation of human remains 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 evidence that 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 a trainee in any act involving the disposition of dead human bodies before the bodies undergo final disposition 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, death care consultant practice or the operation of cemeteries, crematoriums or other facilities for final disposition of human remains. A certified copy of the conviction is 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.

(n) Impairment as defined in ORS 676.303.

(2) All amounts recovered under this section shall be deposited in the State Mortuary and Cemetery Board Account established under 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; 2009 c.709 §13; 2009 c.756 §84; 2015 c.367 §16]

692.190 Application for registration as funeral service practitioner trainee or embalmer trainee; requirements; rules.

(1) An individual who wishes to train to be a funeral service practitioner or embalmer shall apply to the State Mortuary and Cemetery Board for registration as a funeral service practitioner trainee or an embalmer trainee upon a form provided by the board. The individual must consent to a background check, including any information required by the Department of State Police. The application must be accompanied by the fee established under ORS 692.160.

(2) A funeral service practitioner trainee must be supervised by a funeral service practitioner practicing in this state who is licensed by and in good standing with the board.

(3) An embalmer trainee must be under the direct supervision of an embalmer practicing in this state who is licensed by and in good standing with the board.

(4) A trainee registered under this section may not perform activities regulated under this chapter unless:

(a) The activities are performed under the supervision of a licensee; and

(b) The activities fall within the scope of the training for which the trainee is registered.

(5) To complete training required to be a funeral service practitioner or an embalmer, an individual must:

(a) Complete and document the requisite number of cases as determined by the board by rule;

(b) Demonstrate the requisite competencies as determined by the board by rule; and

(c) Meet any other requirement established by the board by rule.

(6)(a) A licensed funeral service practitioner who is in good standing with the board or a licensed embalmer who is in good standing with the board may serve as a preceptor for interns enrolled in an accredited funeral service education program that is registered with the board.

(b) A licensed funeral service practitioner or licensed embalmer must notify the board in a manner and form prescribed by the board by rule when beginning or ceasing service as a preceptor under this subsection.

(c) A preceptor must directly supervise the activities of interns. An intern may not perform activities regulated under this chapter unless:

(A) The activities are performed under the supervision of a preceptor; and

(B) The activities are performed for or as part of the funeral service education program.

(7) The board shall adopt rules under which the board may confer credit for training performed by:

(a) An applicant under ORS 692.140; or

(b) An applicant whose registration under this section 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; 2011 c.74 §1; 2015 c.367 §9]

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 trainee registration; reregistration; investigation; confidentiality.

(1) The State Mortuary and Cemetery Board may suspend or revoke the registration of a trainee, after notice and upon hearing, if the board finds any of the causes specified in ORS 692.180 in regard to the trainee.

(2) A trainee whose registration has been 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 a trainee 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 provide credit for 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 trainee conduct or as part of a contested case proceeding, consent order or stipulated agreement involving trainee conduct is confidential as provided under ORS 676.175. [Amended by 1973 c.411 §9; 1983 c.810 §17; 1997 c.791 §54; 2015 c.367 §17]

692.240 [Amended by 1971 c.115 §13; repealed by 1971 c.734 §21]

692.250 [Repealed by 1971 c.734 §21]

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

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

(2) Violation of ORS 692.025 (4).

(3) Failure to comply with the rules of the board. [1957 c.596 §6; 1971 c.734 §149; 1983 c.810 §18; 1989 c.177 §10; 1997 c.638 §10; 2009 c.709 §14]

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 report 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 reports of death in another state may file an Oregon report 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; 2013 c.366 §80]

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 of authority for operating cemetery, crematorium or facility for final disposition; fees; registration of certain cemeteries; rules applicable to crematoriums. (1) A person may not conduct the business of an operating cemetery unless the person has a certificate of authority to do so. A person may apply for a certificate of authority on a form provided by the State Mortuary and Cemetery Board. The application must 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, must 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, must register the cemetery with the board on a form provided by the board. No fee may be required of a cemetery registrant.

(3) A person may not operate a crematorium unless the person has a certificate of authority to do so. A person may apply for a certificate of authority to operate a crematorium on a form provided by the board. The application must 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 must be registered separately.

(5) The board may consider the recommendations of national associations related to cremation in adopting rules regulating crematoriums.

(6) A person may not operate a facility for final disposition of human remains other than a cemetery or a crematorium unless the person has a certificate of authority to do so. A person may apply for a certificate of authority on a form provided by the board. The application must be accompanied by an application fee established under ORS 692.160.

(7) This section applies to operating cemeteries or other cemeteries owned by any city, county or other municipal corporation.

(8) 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; 2009 c.709 §5]

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 to carry out the purposes and enforce the provisions of this chapter. The board consists of 11 members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) One member must be a funeral service practitioner.

(b) Two members must be representatives of an immediate disposition company or a licensed funeral establishment, and at least one of the two must be a licensed embalmer.

(c) Three members must be representatives of cemeteries, one representing a for-profit cemetery, one representing a nonprofit cemetery and one representing a cemetery owned or operated by a city, county or special district.

(d) One member must be a representative of a crematorium or other facility for final disposition of human remains under ORS 692.275 that is not a cemetery.

(e) Four members must be representatives of the public, one of whom must be a member of a recognized senior citizen organization.

(2)(a) For each vacancy on the board under subsection (1)(a) to (d) of this section, the Governor may select a board member from a list of three to five nominees submitted by professional organizations that represent individuals licensed, certified or registered by the board or facilities regulated by the board.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

- (A) Geographic areas of this state; and
- (B) Ethnicity.

(3)(a) The term of office of the members of the board shall be four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than four terms end each year. Except as provided in paragraph (c) of this subsection, a member is eligible for no more than two consecutive terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective to fill the vacancy. The four-year term of a board member appointed to a vacant position begins on the date of appointment.

(b) A board member shall be removed immediately from the board if, during the member's term, the member:

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
- (C) Is not a licensed funeral service practitioner or a retired funeral service practitioner whose license was in good standing at the time of retirement, if the board member was appointed to serve on the board as a funeral service practitioner; or
- (D) Is not an authorized representative of a cemetery, crematorium, funeral establishment or immediate disposition company, or other facility that is regulated by and in

good standing with the board, if the board member was appointed to serve on the board as a representative of the facility.

(c) A member who is a representative of the public may serve more than two consecutive terms if no other member of the public applies to fill an open position. [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; 2009 c.535 §35; 2009 c.756 §85; 2017 c.103 §1]

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 may adopt and enforce rules for the protection of the public health, safety and welfare relating to the following:

(a) The licensing of or issuance of certificates of authority for funeral service practitioners, embalmers, death care consultants, funeral establishments, crematoriums, cemeteries and other facilities for final disposition of human remains.

(b) The registration of trainees.

(c) The practice of funeral service practitioners, embalmers and death care consultants, and the operation of funeral establishments, immediate disposition companies, crematoriums, cemeteries and other facilities for final disposition of human remains.

(d) Sanitary conditions of funeral establishments, crematoriums, cemeteries, other facilities for final disposition of human remains and any location at which human remains are stored, temporarily held or processed prior to final disposition.

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

(2)(a) Subject to paragraphs (c), (d) and (e) of this subsection, the board:

(A) Shall inspect, at least once every two years, the premises and records of funeral establishments, cemeteries, crematoriums, immediate disposition companies and other facilities used for the final disposition of human remains and any other location at which human remains may be stored, temporarily held or processed prior to final disposition; and

(B) May make random inspections or establish a self-inspection program to supplement inspections required by subparagraph (A) of this paragraph.

(b) The board shall employ one or more persons to perform inspections under this subsection and to aid in the enforcement of the provisions of this chapter and ORS chapters 97 and 432 or rules adopted under this chapter and ORS chapters 97 and 432, except that the board may not employ a person under this paragraph if the person is a member of the board or actively engaged in a profession or practice regulated by this chapter. However, a person who is a member of the board or actively engaged in a practice or profession regulated by this chapter may perform inspections pursuant to a self-inspection program established under paragraph (a) of this subsection.

(c) The board may inspect records under this subsection only to the extent that is necessary to ensure compliance with the provisions of this chapter and ORS chapters 97 and 432 or rules adopted under this chapter or ORS chapters 97 and 432.

(d) The board may not inspect any area used as living quarters under this subsection.

(e) The board may adopt rules setting forth criteria by which an exempt operating cemetery is exempt from inspections described in paragraph (a)(A) of this subsection.

(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 and rules adopted under this chapter.

(4) The board shall have a common seal and, subject to any applicable provision of the State Personnel Relations Law, may employ staff, fix the compensation for staff 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; 2009 c.709 §6; 2009 c.756 §86; 2015 c.367 §18; 2015 c.516 §1]

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 trainees of funeral service practitioners and embalmers, 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 ex-

tensive in scope, the board may publish the changes in supplementary form. [Amended by 1983 c.810 §23; 2015 c.367 §19]

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, embalmers and death care consultants. 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; 2009 c.709 §15]

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 [1987 c.252 §4; repealed by 2015 c.516 §2]

692.389 [1987 c.252 §5; repealed by 2015 c.516 §2]

692.391 [1987 c.252 §6; repealed by 2015 c.516 §2]

692.393 [1987 c.252 §7; repealed by 2015 c.516 §2]

MISCELLANEOUS

692.400 Duty to report prohibited conduct. Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a person licensed or registered under this chapter who has reasonable cause to believe that a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report the prohibited conduct in the manner provided in ORS 676.150. [2009 c.536 §35]

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 in the report of death and the final disposition permit. In the event of cremation, the disc shall stay with the cremated remains. [1985 c.207 §20; 2013 c.366 §81]

692.410 Environmentally sound practices; rules. The State Mortuary and Cemetery Board shall adopt rules promoting environmentally sound death care practices. [2009 c.709 §7]

Note: 692.410 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.

692.415 Report of death filing fee; use of funds; rules. (1) The State Mortuary and Cemetery Board shall impose and collect a filing fee of \$20 for each report of death and shall deposit the total amount of the fee collected to the credit of the State Mortuary and Cemetery Board Account established under ORS 692.375. Of the fee, at least \$6 must be used by the board to carry out the purposes of ORS 97.170 (5). The board shall use the remainder of the fee in the same manner as other funds credited to the account under ORS 692.375.

(2) The board shall adopt rules regarding the use of the fee described in subsection (1) of this section and shall consider historical data related to expenditures made for the purposes of carrying out ORS 97.170 (5) and 692.375. Expenditures relating to the administration of the fee may not exceed five percent of the moneys collected. [Formerly 413.825]

Note: 692.415 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.

PENALTIES

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

