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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 830
MORTUARY AND CEMETERY BOARD

FILED

07/26/2023 12:11 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending licensing requirements to remove barriers.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/21/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Chad Dresselhaus
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800 NE Oregon Street
Suite 430
Portland, OR 97232

Filed By:
Chad Dresselhaus
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/16/2023

TIME: 1:00 PM - 2:00 PM

OFFICER: Chad Dresselhaus

HEARING LOCATION

ADDRESS: Oregon Mortuary & Cemetery Board (OMCB), 800 NE Oregon Street, Suite 430, Portland, OR 97232-2195

SPECIAL INSTRUCTIONS:

This hearing will be held virtually.

REMOTE MEETING DETAILS

PHONE NUMBER: 1-503-446-4951

SPECIAL INSTRUCTIONS:

Please reach out to the Rules Coordinator for the Teams link to participate.

Chad Dresselhaus: (971) 673-1502

Chad.W.Dresselhaus@omcb.oregon.gov

NEED FOR THE RULE(S)

Amends language and formatting to remove licensing barriers and to be more consistent with other health professional regulatory boards.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Board direction.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Adoption of these rules will remove licensing barriers for applicants.

FISCAL AND ECONOMIC IMPACT:

No fiscal or economic impact is anticipated.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. No state agencies, units of local government, or members of the public are anticipated to be economically affected.
 2. There is an anticipated benefit to small businesses due to the removal of licensing barriers.
 - 2a. These rules apply primarily to individual applicants.
 - 2b. No additional reporting, recordkeeping and administrative activities and costs is anticipated.
 - 2c. No additional costs of professional services, equipment supplies, labor and increased administration is anticipated.
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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Our Board Members include individuals who represent small businesses and many small business owners have shared that removal of licensing barriers will be advantageous.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

These rules were a result of thorough research of other health professional regulatory boards' licensing requirements; communications with stakeholders/applicants/licensees; collaboration with Mt. Hood Community College's Funeral Service Program; and Board direction.

RULES PROPOSED:

830-011-0020, 830-020-0030

AMEND: 830-011-0020

RULE SUMMARY: Amends language and formatting to remove licensing barriers and to be more consistent with other health professional regulatory boards.

CHANGES TO RULE:

830-011-0020

Trainee (Apprenticeship) - Generally ¶

(1) Apprenticeship for embalmer, funeral service practitioner, or intern apprentice must be served under persons who are and have been licensed and working in Oregon for at least one ~~year~~ aggregate year within the last ten years. ¶

(a) A funeral service practitioner may supervise up to three apprentices at a time and an embalmer may supervise up to three apprentices at a time. ¶

(b) Notwithstanding (a), a combination embalmer/funeral service practitioner may supervise no more than three persons with any combination of trainee (apprentice) licenses. ¶

(c) Notwithstanding (a), a funeral service practitioner, an embalmer or a combination embalmer/funeral service practitioner may serve as preceptor for intern apprentices from an accredited funeral service education provider in addition to any trainee (apprentice) embalmers or funeral service practitioners; if that individual's license meets the requirements for the internship program as identified by the educational institution; however, no licensee may have more than a total of three trainees (apprentices) or interns at any one time. ¶

(d) The licensee who supervises an apprentice must be working and located in the same licensed facility or

facilities as the trainee (apprentice) ~~the or she~~supervisor is supervising.¶

(2)(a) To qualify for a license as an embalmer, an apprentice embalmer must assist in the embalming of at least 35 human remains during the apprenticeship period under the direct supervision of a licensed embalmer and must meet the time and competency requirements published by the Board at the time of initial application.¶

(ab) An apprentice embalmer must maintain a log book of embalmings under supervision, with accurate and current entries, and the apprentice and ~~his or her~~the apprentice's supervisor must furnish this record to the Board upon request. The apprentice may use a supplemental page to log any arrangements or other competencies performed at an alternate facility as directed by their supervisor. Such page ~~MUST~~must be brought back and included in the log at the end of that specific assignment. The log book must be retained for a period of one year after full licensure as an embalmer, or, if not licensed as an embalmer, for six years after the last log entry and must include the following:¶

(A) Name of the deceased;¶

(B) Date of death;¶

(C) Date and place of embalming;¶

(D) Name of licensed facility making the embalming arrangements;¶

(E) Supervisor's written confirmation for each embalming performed by their apprentice; and¶

(F) Number of hours worked per week.¶

(3) To qualify for a license as a funeral service practitioner, an apprentice funeral service practitioner must assist in the planning of at least 25 funerals or dispositions per year through some form of direct contact with the family or representative of the deceased and must meet the time and competency requirements published by the Board at the time of initial application.¶

(a) An apprentice funeral service practitioner must keep a log book on the premises of the licensed facility where ~~the or she~~apprentice is supervised, showing all arrangements made or participated in by the apprentice. The apprentice may use a supplemental page to log any arrangements or other competencies performed at an alternate facility as directed by their supervisor. Such page ~~MUST~~must be brought back and included in the log at the end of that specific assignment. The apprentice, under supervision, must make accurate and current entries. The apprentice and ~~his or her~~the apprentice's supervisor must furnish the log book to the Board upon request.¶

(b) The log book must be retained for a period of one year after licensure as a funeral service practitioner, or, if not licensed, for six years from the last log entry, and must include the following:¶

(A) Name of deceased and person authorizing final disposition arrangements;¶

(B) Date of death;¶

(C) Date and place arrangements were made;¶

(D) Description of apprentice's direct participation with family;¶

(E) Number of days and hours worked per week;¶

(F) Specific competency demonstrated;¶

(G) Supervisor's written confirmation for each arrangement made by their apprentice; and¶

(H) Name of the licensed facility responsible for the final disposition arrangements.¶

(4) Intern apprentices must serve their apprenticeships in accordance with the internship guidelines established by an accredited funeral service education program and as recognized and approved by the Board. A copy of the guidelines is available from the Board upon request.¶

(5) Applicants for an apprenticeship certificate must ~~make~~submit an application in accordance with ORS Chapter 692. The application must be ~~made~~submitted on the most current form provided by the Board and be accompanied by ~~the fee prescribed~~¶

(a) The fee listed by ~~in~~ OAR 830-020-0040, a certified;¶

(b) A copy of the applicant's birth certificate, ~~and s~~;¶

(c) A valid US federal or state-issued photo ID; and¶

(d) Satisfactory proof of high school graduation or equivalency.¶

(e) If an applicant for an apprentice certificate ~~does not have~~is unable to provide a high school diploma, ~~hone or she~~ must present satisfactory evidence that he or she possesses the equivalent of a high school education received in a private, public, or trade school, or he or she must successfully pass the high school equivalency test (General Education Development Test) given by the local high school, or some similar equivalency test conducted by a similar agency. ~~f the following must be submitted~~¶

(A) Satisfactory evidence that the applicant has passed a high school equivalency test (General Education Development Test); or¶

(B) A copy of transcripts from a college or university accredited by an agency recognized by the US Department of Education or equivalent.¶

(6) Prior to becoming licensed as a funeral service practitioner, apprentices must provide a certified copy of a transcripts from a school ~~accredited by an Association of Schools and Colleges demon~~college or university accredited by an agency recognized by the US Department of Education or equivalent that ~~illustrating~~

completion of an ~~Associate's degree or higher degree~~. Prior to becoming licensed as an embalmer, apprentices must provide proof of completion of an accredited course of funeral service education.¶

~~(67)~~ The effective date of the apprenticeship will be the date the completed application, fee, and the required certificates are received and validated in the office of the Board and the application is approved by the Board. A letter will be sent notifying the apprentice of the status of ~~his or their~~ apprenticeship or application.¶

~~(78)~~ The certificate of apprenticeship must be issued to the applicant as a trainee (apprentice) to a specified licensee in good standing. If the apprentice intends to change the licensee to whom apprenticed, ~~the or she~~ an apprentice must immediately file a request for approval of the transfer with the Board and pay the required fee. A certificate must be reissued upon payment of an administrative charge. When an apprentice ceases to work under a specific licensee, the apprenticeship certificate becomes null and void. It is the responsibility of the supervising licensee to notify the Board's office of any termination in employment or supervision of the apprentice.¶

~~(89)~~ Trainee (Apprentice) funeral service practitioner and embalmer certificates will not be granted to any person for a period longer than 48 aggregate months. When an apprentice has completed ~~his or her~~ their apprenticeship, ~~the or she~~ will no longer be licensed as an apprentice, but must qualify either as a licensed embalmer or licensed funeral service practitioner.¶

~~(910)~~ Notwithstanding ~~(89)~~, the Board may consider a request for extension of the apprenticeship period for reasonable and extenuating circumstances beyond the control of the trainee (apprentice).¶

~~(101)~~ Trainee (Apprentice) supervisors are responsible for all assigned activities and any arrangements made by the trainee (apprentice) at any location.¶

~~(112)~~ In lieu of meeting apprenticeship requirements, an applicant for Oregon funeral service practitioner or embalmer licensure is deemed to have satisfied the respective apprenticeship requirement upon submitting satisfactory proof to the Board that the person has practiced, respectively, as a funeral service practitioner or embalmer licensed in good standing in this state or another state identified by the Board to have requirements substantially similar to Oregon: ~~F~~ for a minimum of one year.¶

~~(123)~~ Embalmer applicants who meet the requirements set forth in section ~~(102)~~ of this rule may be required to demonstrate competency by way of a practical examination at a time and place designated by the Board.¶

~~(134)~~ Funeral service practitioner applicants who meet the requirements set forth in section ~~(102)~~ of this rule must successfully complete a written examination and receive a score of not less than 75 percent, based on the total number of questions.¶

~~(145)~~ An applicant or licensee whose application for license has been denied or revoked or who voluntarily surrendered the license may not reapply for a minimum period of three years unless otherwise specified in a Board order denying, revoking or accepting a voluntarily surrender of the application or license.

Statutory/Other Authority: ORS 692.160, 692.320, 2015 HB 2471

Statutes/Other Implemented: ORS 692.045, 692.070, 692.105, 692.130, 692.190, 2015 HB 2471

AMEND: 830-020-0030

RULE SUMMARY: Amends language and formatting to remove licensing barriers and to be more consistent with other health professional regulatory boards.

CHANGES TO RULE:

830-020-0030

Reciprocal Licensure ¶¶

(1) An applicant for reciprocal licensure must apply to the Board on the most current form provided by the Board. The application must be accompanied by the following:¶¶

(a) The reciprocal fee ~~as prescribed by~~ as prescribed by in OAR 830-020-0040;¶¶

(b) A ~~certified~~ copy of the applicant's birth certificate;¶¶

(c) A valid US federal or state-issued photo ID;¶¶

(d) ~~A certified copy of transcripts from a school accredited by an Association of Schools and Colleges or a college or university accredited by an agency recognized by the US Department of Education or equivalent that illustrates~~ completion of an ~~Associate's~~ degree or higher ~~degree~~ (for funeral service practitioner licensure) or proof of passing an accredited course of funeral service education (for embalmer licensure);¶¶

(~~de~~) A certification from the state(s) the applicant is or was licensed in that includes: length of apprenticeship, if any, examination score, date licensed, status of license at the present time, and whether the applicant's license has ever been suspended or revoked or other disciplinary action taken;¶¶

(~~ef~~) Proof that the applicant is or was licensed and has practiced, respectively, as a funeral service practitioner or an embalmer in another state with substantially similar requirements as identified by the Board for at least one full year before the respective application date; and¶¶

(2) An applicant for reciprocal funeral service practitioner license must pass the Board's funeral service practitioner examination as a means of providing satisfactory proof to the Board that the applicant has the requisite qualifications for licensing as a funeral service practitioner in this state. The examination must include questions related to:¶¶

(a) Oregon and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of human remains; and survivor death benefits.¶¶

(b) Reciprocal applicants for funeral service practitioner license must receive a score of not less than 75 percent, based on the total number of questions, in order to pass the examination. Reciprocal applicants are eligible to take the examination at the regularly scheduled examination dates if their examination application is received at least 14 days prior to the examination date.¶¶

(3) Applicants for reciprocal embalmer licensure must show evidence satisfactory to the Board that the applicant has successfully passed the National Board Examination as administered by the Conference of Funeral Service Examining Boards or an equivalent examination written by the Conference of Funeral Service Examining Boards. The examination must include two sections, funeral service arts and funeral service sciences, and the applicant must receive a cumulative average score of at least 75 percent on the sections with not less than 70 percent on either of these two sections. The applicant may be required to also take an exam on applicable Oregon laws.¶¶

(4) A license must not be issued to a reciprocal applicant before a complete background check has been performed and Board approval has been received.

Statutory/Other Authority: ORS 692.160, 692.320, 2015 HB 2471

Statutes/Other Implemented: ORS 692.140, 2015 HB 2471