

TEXAS FUNERAL SERVICE LAW UPDATE

Presented by:

Chris Layton

**Commonwealth Institute of
Funeral Service**

Houston, TX

DISCLAIMER

Importance??

- WHY ARE WE HERE?

Continuing Education

- Ensures that licensees maintain and improve their professional skills
- Condition for renewal

Preventative vs. Remedial

- On which side do you want to find yourself?
- Preventative:
 - Up front costs
 - Knowledge of laws; changes, etc.
- Remedial
 - Attorney fees
 - Bad publicity

BEST PRACTICES

- Incorporating laws, rules and regulations into everyday practices.
- Avoiding future negative action.
 - EX: embalming reports.

TEXAS FUNERAL SERVICE COMMISSION

AND ASSOCIATED RULES
& REGULATIONS

TFSC Mission

"The mission of the Texas Funeral Service Commission (TFSC) is to protect the public from deceptive practices by gaining compliance with the laws of the State of Texas and rules of the Commission through a process of impartial enforcement, inspection and education to insure that the final disposition of every citizen is conducted at the highest level of professional standards and ethical conduct."

Texas Funeral Regulations

- Sources

1. **Laws (Statute)** passed by the legislature

- For funeral service:

- Texas Occupations Code or T.O.C. Chapter 651 Cemetery and Crematory Services, Funeral Directing and Embalming.
- Health and Safety Code or HSC:

<http://tlo2.tlc.state.tx.us/statutes/statutes.html>

Chapters: 716, 715, 714, 713, 712, 711, 691, 694, 693, 692, 671, 193.

TFSC Commercial Licensees

- **Crematories - 85**
- **Funeral Establishments - 1299**
- **Embalming Establishments - 44**
- **Cemeteries (goods & services) - 6**

Governing Rules

- The Texas Funeral Service Commission is further responsible for regulating funeral professionals through enforcing the following :
 - Texas Administrative Code, Title 22, Part 10, Chapters: 201, 203, 205, 206, 207, 209
 - (Be aware of Title 25, Ch. 181: custody of body, transportation, preservation, disinterment, etc.)

Memorandum of Understanding (MOU)

- TX Department of Banking
- TX Department of Insurance
- TX Department of Health Services
- (TX Anatomical Board?)

Texas Funeral Regulations

- The Texas legislature only convenes once every two years (legislative session).
- Sometimes laws created by the legislature (statutes) are made with a broad focus so they can be interpreted and detailed by specific state agencies, such as the Texas Funeral Service Commission.

Texas Occupations Code 651

The Texas Legislature enacts the laws governing cemetery and crematory services, funeral directing and embalming – also known as statutes

Texas Occupations Code 651

- Enabling statute providing for the existence of the TFSC
- Defines the Commission's responsibilities, duties and regulatory authority of
 - Cemetery and crematory services
 - Funeral Directing
 - Embalming

TOC 651, Laws address everything from:

- Industry Definitions
- Commissioners
- License requirements
- Fees
- Inspections
- Provisional licenses
- Renewals
- Continuing Education
- Examinations required
- Consumer complaints
- Consumer brochures
- Prohibited practices
- Penalty guidelines
- Employment Reports
- Unethical Conduct
- Plus more

Texas Administrative Code

- When the legislature gives state agencies the authority to further define a law, the state agency creates what is known as an administrative rule. These rules are found in the Texas Administrative Code or TAC.
- Example: The TOC (law) Sec. 651.266 involves Continuing Education of Funeral Licensees. The law states: “The TFSC **by rule** may require continuing education as a condition for license renewal...”

Example Continued

- Notice that this section of the code does NOT define how many continuing education (CE) hours are required, in what areas they are required, administration of the CE program, etc.
- Therefore, look at Texas Admin. Code, Part 10, Chapter 203.30. This rule defines all of the details on how to implement the CE requirement established by the legislature in TOC 651.266

TAC, Rule 203.30

- Approved providers
- Provider responsibilities
- Credit hours required
- Credit hours granted
- Exemptions/waivers
- Failure to comply

Overview of Continuing Education

- 16 hours each 2 year renewal
- 6 mandatory
- May get all 16 hours through independent study
- Non-compliance fee does not waive mandatory hours
- Non-compliance fee may only be used ***every other*** 2 year renewal period

Texas Administrative Code

- Administrative Rules must be formed through very specific procedures that involve the Texas Secretary of State Office. See <http://www.sos.state.tx.us/tac/index.shtml> for a look into the Texas Register and the rule making process.

Texas Administrative Code

- **TITLE 22 EXAMINING BOARDS PART 10 TEXAS FUNERAL SERVICE COMMISSION, Chapters:**
- **CHAPTER 201 LICENSING AND ENFORCEMENT-- PRACTICE AND PROCEDURE**
- **CHAPTER 203 LICENSING AND ENFORCEMENT-- SPECIFIC SUBSTANTIVE RULES**
- **CHAPTER 205 CEMETERIES AND CREMATORIES**
- **CHAPTER 206 GUARANTEED STUDENT LOANS**
- **CHAPTER 207 ALTERNATIVE DISPUTE RESOLUTION**
- **CHAPTER 209 ETHICAL STANDARDS FOR PERSONS LICENSED BY THE COMMISSION**

TOC 651.152

Rules; Procedures; Forms

The Commission shall adopt rules, establish procedures and prescribe forms necessary to administer and enforce this chapter and Chapters 714 and 715, Health and Safety Code

The basic process for making rules

- TFSC staff write a draft rule. For instance, staff would write a description of how many embalming cases a provisional embalmer must have before completion of the provisional program.
- Draft rules are usually presented at a regularly scheduled TFSC Commissioners meeting at TFSC headquarters in Austin. Audience suggestions and comments are solicited and recorded.

The basic process for making rules

- The rule is then taken back to the TFSC Commissioners for "authorization to propose." If authorization is obtained, the proposal is posted on the Proposed and Adopted Rules page, and submitted to the Texas Register for publication. A formal comment period of 30 or more days is held in which written comments are received and sometimes public hearings are held. TFSC staff then begin the process of evaluating comments received and writing the final version of the rule. The proposed rule is then presented for adoption to the Commission at a regular Agenda meeting.

Rulemaking Process

651.1525

- Requires the Commission to seek advice and opinions from persons most affected by the rule (stakeholders) before publishing a proposed rule for public comment - must include consumer and trade groups. Specifies that the guidelines must establish a method to determine who will be most affected by the rules.

Changing the Law

- What do you do if you do not believe a rule or regulation is valid, sufficient or necessary?
- Options?

TOC 651.051

The Texas Funeral Service Commission consists of seven members appointed by the Governor, with the advice and consent of the Senate as follows:

Commission Membership

- 2 members who are licensed as both an embalmer and funeral director for at least 5 years preceding Commission appointment
- 1 member who is a registered cemetery owner or operator; and
- 4 members who represent the public, support consumer protection and are not regulated under TOC 651

Sec. 651.057

- Modifies the terms of appointment of the Commission member serving as the presiding officer. Requires governor to alternate between public member and nonpublic members when appointing the presiding officer and sets the officer's term at 3 years.

TFSC Commissioners

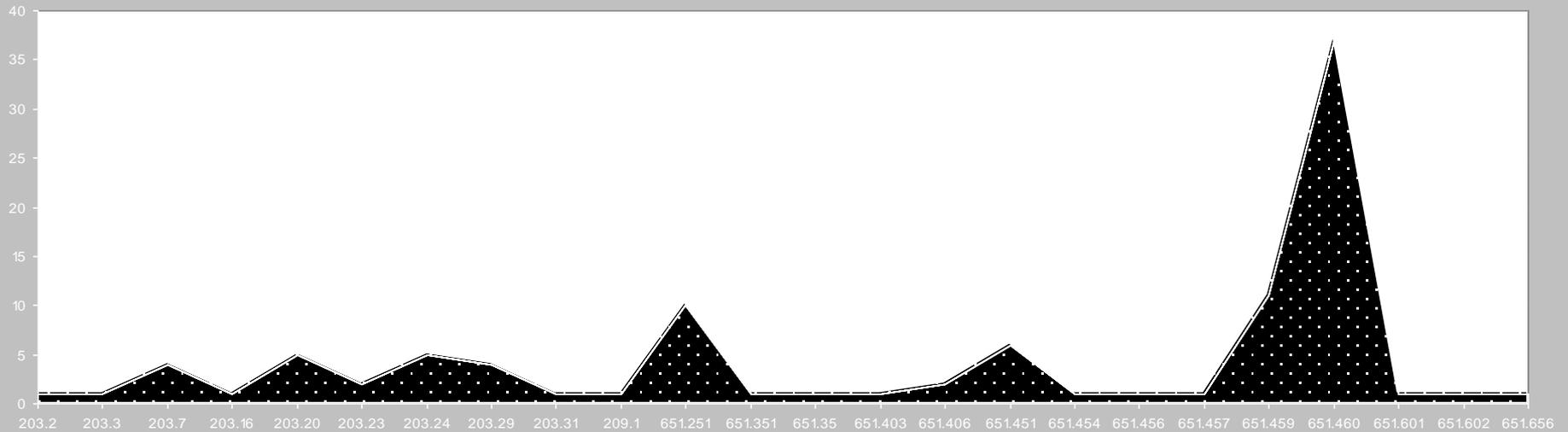
- Laurens B. Fish III (Austin), Presiding Officer/Term Expires 2/1/09
- Carol M. Becker (Aledo)/Term Expires 2/01/2013
- Doug Carmichael (Pampa)/Term Expires 2/1/11
- Sue Evenwel (Mt. Pleasant)/Term Expires 2/1/09
- Janice Howard (Missouri City)/Term Expires 2/1/07
- Joyce Odom (San Antonio)/Term Expires 2/1/11
- Norberto Salinas (Mission)/Term Expires 2/1/13

VIOLATIONS – FY 2007

As of September, 2007, the Commission acted upon 242 (318 FY 06) complaint cases. Of those 242 complaint cases acted upon, 108 (101 FY 06) violations of statute or rule were cited.

SUMMARY OF VIOLATIONS

The Commission acted upon 318 complaint cases* during FY2006. Of those 318 complaint cases* acted upon, 101 violations of statute or rule were cited. The violations were for the following sections of Occupations Code 651 and/or Texas Administrative Code 203 and 209.



Act	Number of Violations	Description	Penalty Range Assessed
203.2	1	Clarification of First Call	Letter of Warning
203.3	1	Funeral Director In Charge	\$1,000 Probated
203.7	4	Price Disclosures	\$100-\$2,000
203.16	1	Minimum Standards for Embalming	Letter of Warning
203.20	5	Cash Advance Items	Letter of Warning - \$1,500
203.23	2	Location of Retained records	Letter of Warning
203.24	5	Unprofessional Conduct	Letter of Warning - \$750 Probated
203.29	4	Funeral Establishment Names	Letter of Warning - \$500
203.31	1	Inspections of Licensed or Registered Facilities	\$1,000
209.1	1	Ethical Standards	\$1,500
651.251	10	License Required	Letter of Warning - \$2,000
651.351	1	Funeral Establishment License Requirements	Letter of Warning
651.352	1	Commercial Embalmer's Establishment License	\$850
651.403	1	Designation of Funeral Director In Charge	Letter of Warning
651.406	2	Purchase Agreement - Funeral Establishment	\$2,000
651.451	6	Certain Fraudulent and Deceptive Acts	\$100-\$1,000
651.454	1	Other Unethical Conduct In Soliciting Customers	\$1,000
651.456	1	Unethical Conduct Regarding Custody of Dead Human Body	Letter of Warning
651.457	1	Unethical Conduct By A Funeral Establishment	Letter of Warning
651.459	11	Other Unethical Conduct In Providing Funeral Services	Letter of Warning - \$2,000
651.460	38	Prohibited Practices Related To Failure to Comply	Letter of Warning - \$2,000
651.601	1	Injunction	Permanent Injunction
651.602	1	Criminal Penalty	Class B Misdemeanor
651.656	1	Crematory Establishment License Required	Letter of Warning

*Jurisdictional and non-jurisdictional

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http://www.tfsc.state.tx.us/documents/agencyDocs/TFSC%20Disciplinary%20Actions.pdf

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Getting Started Latest Headlines

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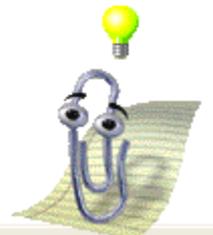
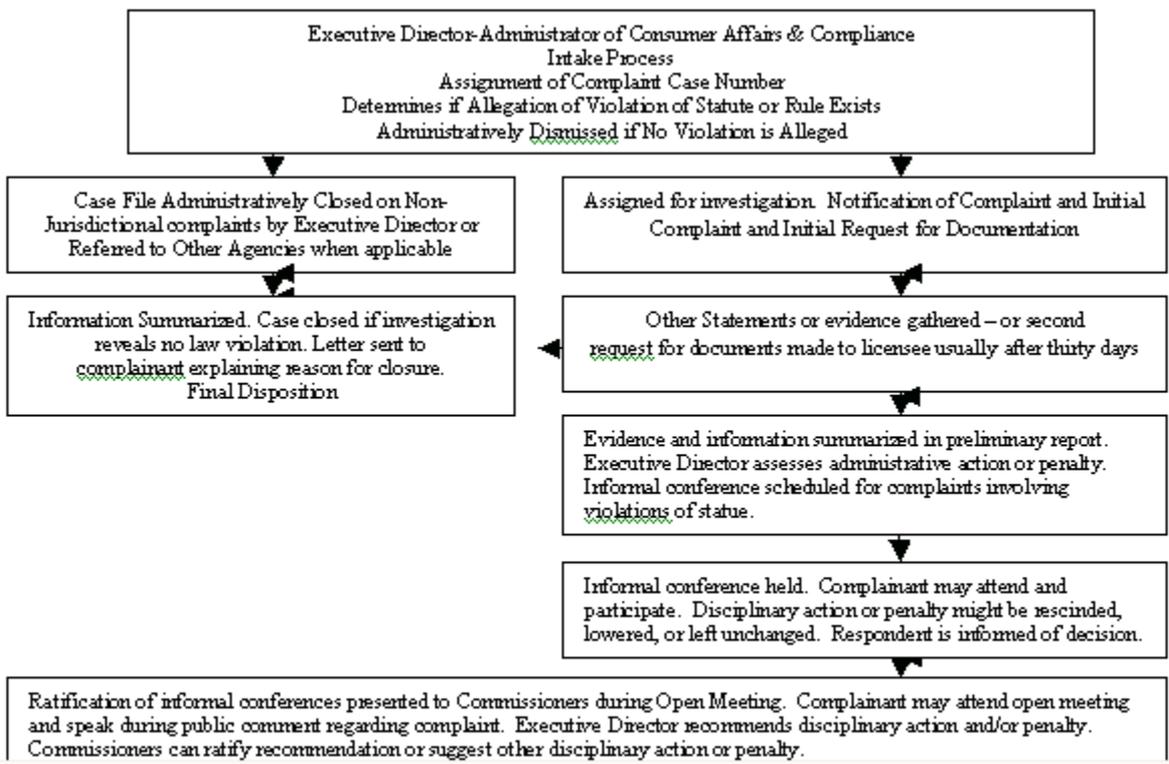
**TEXAS FUNERAL SERVICE COMMISSION
DISCIPLINARY ACTIONS BEGINNING SEPTEMBER, 2006**

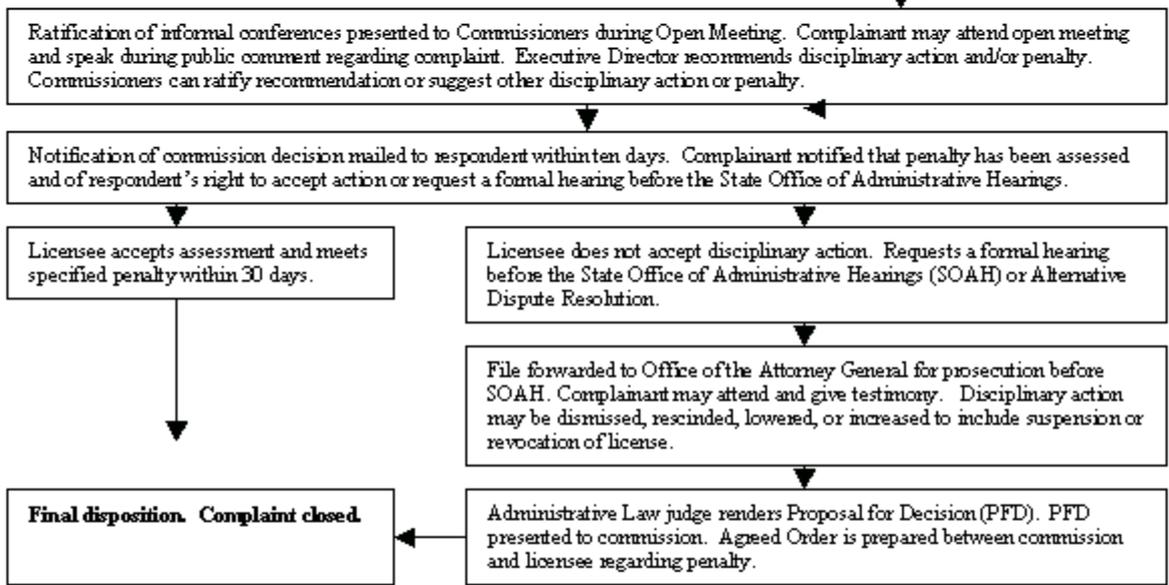
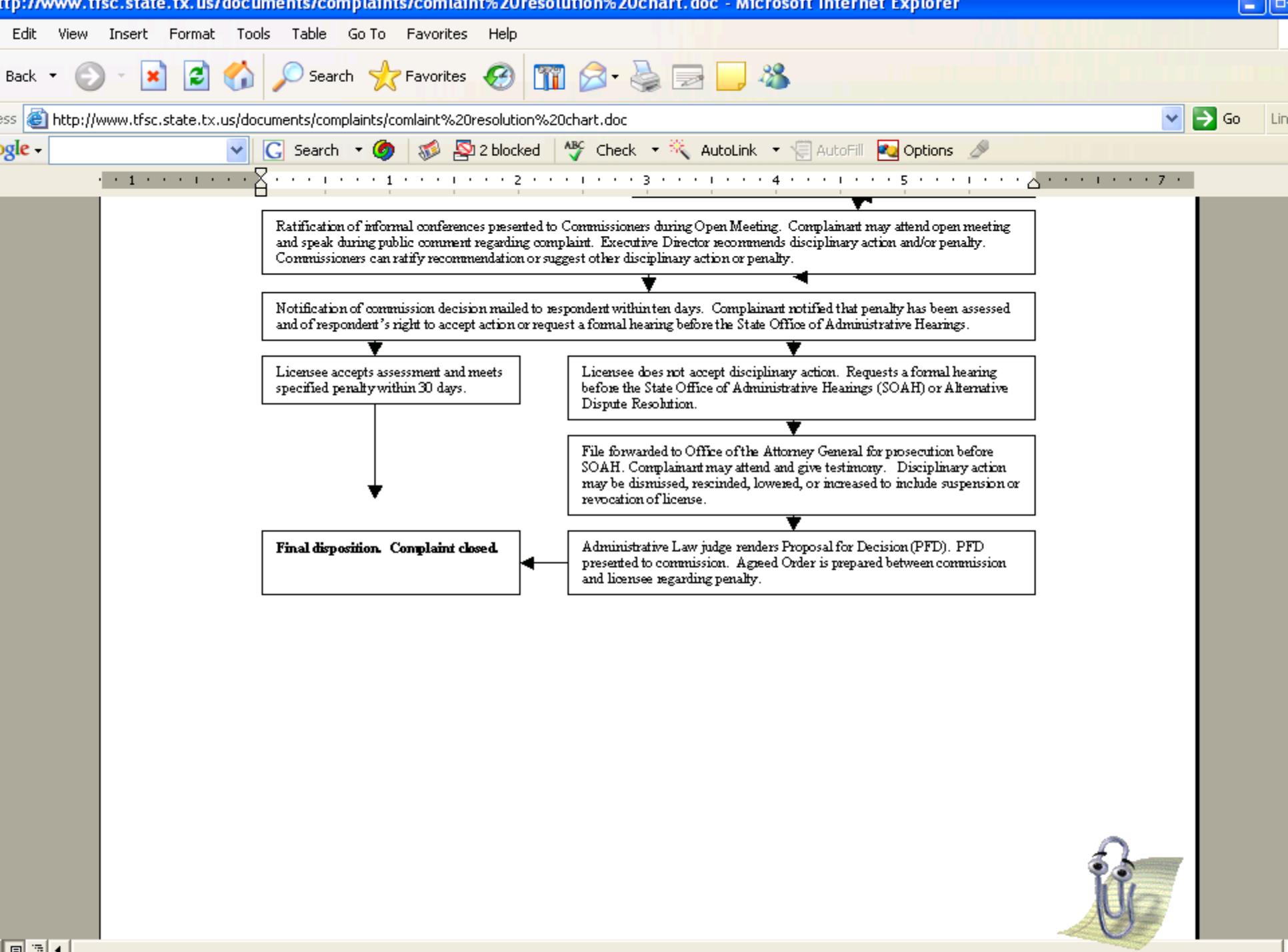
<u>NAME</u>	<u>CITY</u>	<u>NATURE/VIOLATION</u>	<u>DISCIPLINARY ACTION</u>	<u>DATE</u>
Acosta, Archie	Portland	Certain Fraudulent and Deceptive Acts	Administrative Action	1/18/07
Aguilar, Oscar	Sulphur Springs	Violations of Ethical Conduct	Administrative Penalty/Action	1/11/07
All Faiths Funeral Service	Austin	Violation of Ethical Conduct and Commission rules	Administrative Penalty	10/25/06
All Faiths Funeral Service	Austin	Failure to Comply With Other Legal Requirements	Administrative Action	10/25/06
Alpine Funeral Home	Fort Worth	Violation of Ethical Conduct	Administrative Action	9/25/06
Austin-Peel & Son Funeral Home	Austin	Violation of Ethical Conduct	Administrative Action	1/10/07
Carroll-Lehr Funeral Home	Athens	Failure to Comply With Other Legal Requirements	Administrative Action	9/27/06
Diggs Funeral Home	Bellville	Failure to Comply With Other Legal Requirements	Administrative Action	9/22/06
Dodson, Jon	Lampasas	Violation of Ethical Conduct and Commission rules	Administrative Penalty	9/21/06
Downs Funeral Home	Marshall	Violations of Ethical Conduct	Administrative Action	12/27/06
Earthman Funeral Directors	Houston	Failure to Comply With Other Legal Requirements	Administrative Action	10/17/06
Esperanza Funeral Home	Houston	Failure to Comply With Other Legal Requirements	Administrative Action	10/10/06

Complaint Resolution

- Complaint received
- Intake Process
- Case file assignment
- Assess jurisdiction
- Notify complainant
- Fact finding
- Summary report
- Unsupported allegations administratively closed
- Summarize Allegations
- Penalty or Action Assessed
- Informal Conference
- Present at Open Mtg. to Commissioners
- Review, Ratify or Other Action
- Penalty Assessment
- 30 days to accept Assessment or request hearing with SOAH
- SOAH

Texas Funeral Service Commission Resolution of Complaints Process





Texas Funeral Regulations

- The key is not only understanding how laws and rules are made, but where to find them, and what they contain.
 - Use of web links to locate the code and rules already mentioned is highly recommended.

Keeping Up-to-Date

- TFSC website
- TFDA (website & magazine)
- Secretary of State (Texas Register)
- Continuing Education Programs
- Texas Legislature Online
 - Actual bills
 - Proposed Legislation
 - Tabled bills (importance?)
- Health & Safety Code

Keeping Up-to-Date

- Sharing with employees?
- Ignorance an excuse?
- Who is responsible for mishap?
 - FDIC (651.402)
 - Owner/Manager
 - Licensee

www.tfsc.state.tx.us

- Check TFSC website 24/7 for:
 - Licensing Information
 - Governing Laws
 - Continuing Education Requirements and Approved Providers
 - Provisional Information
 - Commission Newsletter
 - Upcoming Commission Meetings & Events
 - Current Forms



GOVERNING LAWS

COMPLAINT PROCEDURES

LICENSING

**CEMETERIES AND
CREMATORIES**

CONTINUING EDUCATION

**AGENCY NEWS AND
INFORMATION**

LINKS

FACTS ABOUT FUNERALS

****NEW:** [TFSC Disciplinary Actions](#)

****NEW:** [EMBALMING CASE REPORT](#)

[TEXAS MORTUARY LAW EXAM
2007 CONTINUING EDUCATION
ANNOUNCEMENT](#)

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-Chet Robbins, Executive Director



Texas Legislature Online

<http://www.capitol.state.tx.us/>



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Bills 1 through 5 out of 5 matches.

Show Caption Show Excerpt Sort by Bill Number

 [80\(R\) HB 1619 - Introduced version - Bill Text](#)

Caption: Relating to fees charged by a perpetual care cemetery.

Excerpt: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Section 651.4055(b), Occupations Code, is amended to read as follows: (b) A retail price list must contain: (1) the name, address, and telephone number of the cemetery or crematory; (2) the effective date for the stated prices; (3) notice required by Subsection (c); (4) if the cemetery is a perpetual care cemetery, the retail price of any item or service listed in Section 601.405(a) that the cemetery provides; and (5) [(4)] ...
[Show other documents like this...](#)

 [80\(R\) HB 56 - Introduced version - Fiscal Note](#)

Excerpt: The bill would amend the Occupations Code to allow commercial embalming establishments to hold a crematory establishment license. Based on information provided by the agency, it is assumed that the agency would be able to absorb any costs related to the implementation of the bill. No fiscal implication to units of local government is anticipated.
[Show other documents like this...](#)

 [80\(R\) SB 623 - Introduced version - Bill Text](#)

Caption: Relating to the regulation of funeral homes, cemeteries, and crematories.

Excerpt: SECTION 4. Subchapter C, Chapter 711, Health and Safety Code, is amended by adding Section 711.0395 to read as follows: Sec. 711.0395. SECTION 5. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows: Sec. 716.0035. SECTION 31. The following are repealed: (1) Section 716.004(b), Health and Safety Code; and (2) Sections 651.304(b) and (c), 651.651(3), and 651.656(d), Occupations Code.
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 [80\(R\) HB 1288 - Introduced version - Bill Text](#)

Caption: Relating to the regulation of funeral homes, cemeteries, and crematories.

Excerpt: SECTION 4. Subchapter C, Chapter 711, Health and Safety Code, is amended by adding Section 711.0395 to read as follows: Sec. 711.0395. SECTION 5. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows: Sec. 716.0035. SECTION 31. The following are repealed: (1) Section 716.004(b), Health and Safety Code; and (2) Sections 651.304(b) and (c), 651.651(3), and 651.656(d), Occupations Code.
[Show other documents like this...](#)

 [80\(R\) HB 56 - Introduced version - Bill Text](#)

Caption: Relating to the operation of crematory establishments by commercial embalming establishments.

Excerpt: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Section 651.656(b), Occupations Code, is amended to read as

Enter a bill number. Examples are HB 4, SJR 56, HR 143.

Bill Number: Legislature:

Information Type:

Bill Status Hotline

877-824-7038 (in Texas only, toll-free)
512-463-2182 (outside of Texas)

Hotline hours and availability

Session:
Monday through Friday from 8 a.m. until 5 p.m., or until the Legislature adjourns for the day.

Interim:
Telephone lines are closed.

Visit the [Legislative Reference Library](#) website for more information concerning the hotline.

Tips on Finding A Bill

1. Use [Bill Lookup](#) when you already know the bill number.
2. Use [Text Search](#) when you do not know the bill number but know content.
3. Use [Bill Search](#) to search using multiple criteria such as author, committee, subject, or action.

Document Formats

Bill text, fiscal notes, and bill analyses are available in Adobe Acrobat PDF format. If you do not have the Adobe Acrobat reader, select this link to [download](#) the viewer. 

FTP Downloads

A [FTP site](#) is available as an alternative to accessing text of documents through a web browser.

Bill: HB 56 Legislative Session: 80(R) Council Document: 80R 415 YDB-D Add to Bill List| Add to Alert Li

Last Action: 01/29/2007 H Referred to Public Health

Caption Version: Introduced

Caption Text: Relating to the operation of crematory establishments by commercial embalming establishments.

Author: Isett, Carl

Subjects: Health--General (I0385) Occupational Regulation--Health Occupations (I0540) CREMATORIES & CREMATION (S0553)

House Committee: Public Health

Status: In committee

Actions: (descending date order)

Table with 5 columns: Description, Comment, Date, Time, Journal Page. Rows include 'H Referred to Public Health', 'H Read first time', and 'H Filed'.

What's New?

HB 755

Relating to disciplinary action taken against a person required to file a death certificate.

HB 1739

**Relating to
electronic submission
of certain information
on a death certificate.**

HB 56

**Relating to the
operation of a crematory
establishment by a
commercial embalming
establishment**

TAC 203.38 Reinstatement of Funeral Director and/or Embalmer Licenses

Licensee may after 5 years from the effective date of such cancellation or revocation, petition the Commission or Board for reinstatement of license.

TAC 203.7 (A)

(A) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

http://www.tfsc.state.tx.us/documents/agencyDocs/current%20newsletter.doc - Microsoft Internet Explorer

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1 2 3 4 5 6 7



TEXAS FUNERAL SERVICE COMMISSION

4th QUARTER NEWSLETTER

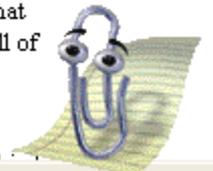
JUNE-AUGUST 2005

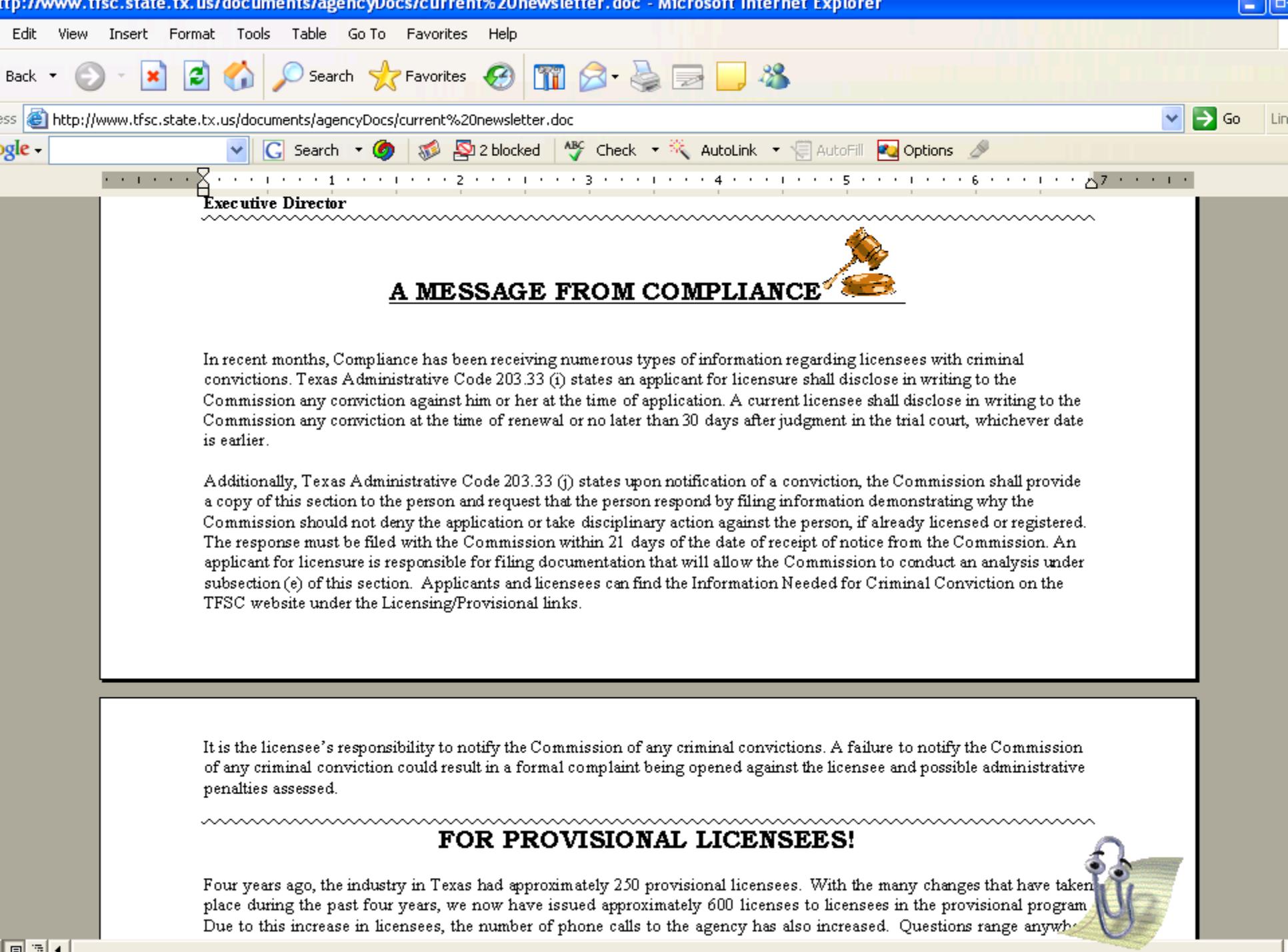
FROM THE EXECUTIVE DIRECTOR:

I have noticed within the last ninety (90) days an increase of sanctions by the Commission due to a licensee not responding when requested to do so. I strongly recommend all licensees pay particular attention to any correspondence sent from the Commission. Not responding to the Commission, when requested, is a violation of Texas Occupations Code 651 as well as Texas Administrative Code 203.24.

As all of you should know license renewals are now staggered (individual as well as establishment). Please pay attention to the date of expiration on all licenses held by you, the licensee. One cannot operate legally without a valid license. It is the licensee's responsibility to renew the license prior to expiration. The expiration date is clearly shown on the license.

A new law book is being prepared by the Commission staff and will be available September 1, 2005, in hard copy. As always the information can be downloaded from our website by clicking on the Governing Laws link. I can tell you that Texas Occupations Code, Chapter 651 and Chapter 716 of the Health and Safety Code did not change. I encourage all of you to visit our website frequently during the upcoming year for the most current information regarding general information.





Executive Director

A MESSAGE FROM COMPLIANCE



In recent months, Compliance has been receiving numerous types of information regarding licensees with criminal convictions. Texas Administrative Code 203.33 (i) states an applicant for licensure shall disclose in writing to the Commission any conviction against him or her at the time of application. A current licensee shall disclose in writing to the Commission any conviction at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier.

Additionally, Texas Administrative Code 203.33 (j) states upon notification of a conviction, the Commission shall provide a copy of this section to the person and request that the person respond by filing information demonstrating why the Commission should not deny the application or take disciplinary action against the person, if already licensed or registered. The response must be filed with the Commission within 21 days of the date of receipt of notice from the Commission. An applicant for licensure is responsible for filing documentation that will allow the Commission to conduct an analysis under subsection (e) of this section. Applicants and licensees can find the Information Needed for Criminal Conviction on the TFSC website under the Licensing/Provisional links.

It is the licensee's responsibility to notify the Commission of any criminal convictions. A failure to notify the Commission of any criminal conviction could result in a formal complaint being opened against the licensee and possible administrative penalties assessed.

FOR PROVISIONAL LICENSEES!

Four years ago, the industry in Texas had approximately 250 provisional licensees. With the many changes that have taken place during the past four years, we now have issued approximately 600 licenses to licensees in the provisional program. Due to this increase in licensees, the number of phone calls to the agency has also increased. Questions range anywhere



FOR PROVISIONAL LICENSEES!

Four years ago, the industry in Texas had approximately 250 provisional licensees. With the many changes that have taken place during the past four years, we now have issued approximately 600 licenses to licensees in the provisional program. Due to this increase in licensees, the number of phone calls to the agency has also increased. Questions range anywhere from "how many cases do I have" to "what is your mailing address."

As a reminder it is the **responsibility of the provisional licensee and their sponsors** to keep track of his/her paper work and how many cases reported. Pursuant to Texas Administrative Code 203.6 (f) a provisional licensee shall retain copies of all training reports with supporting documentation for all case credit claimed for two (2) years from the date of the training report. Audits of provisional files will be conducted once a month only and **requests must be submitted in writing**, as they require a great deal of time. Please do not call the agency and inquire about the status of your provisional license, instead **please submit your request in writing**.

Guidelines to follow when submitting training reports:

- 1.) **WHEN A PROVISIONAL LICENSEE COMPLETES HIS/HER CASE WORK PLEASE DO NOT WAIT UNTIL THE 10TH OF THE MONTH TO MAIL THE TRAINING REPORTS TO THE COMMISSION. MAIL THEM THE DAY THEY ARE COMPLETE.**
- 2.) **It is the provisional licensee's responsibility to keep copies of everything the licensee sends to the Commission for a minimum of two years.**
- 3.) **If the licensee wants confirmation that the reports were received by the Commission the packet should be mailed certified/return receipt requested. PLEASE DO NOT TELEPHONE the agency and ask if your reports have been received. The Commission receives approximately 25,000 sheets of paper from provisional licensees each month and it takes time to check and record all the information. Certified mail can be tracked online with the US Postal Service.**
- 4.) **It is the responsibility of each licensee to ensure the training reports are submitted on time. Any report postmarked later than the 10th day of the following month will not be accepted for credit and a 'notwithstanding' will be given for that month's cases. Each 'notwithstanding' adds a month on to the provisional program.**
- 5.) **Do not combine months...each month must be submitted on its own report!**
- 6.) **It is the responsibility of the provisional licensee to make sure their training reports are completed correctly. Any missing documentation or signatures will result in the licensee not receiving credit for that case or month.**
- 7.) **Training reports that are not legible will not be accepted for credit. This is an official document and should be treated as such.**
- 8.) **WHEN YOU HAVE MET ALL THE REQUIREMENTS OF THE PROGRAM, YOU WILL BE.**



INFORMATION EVERY LICENSEE NEEDS TO KNOW

NEW REPORT OF DEATH FORM

Please be advised that the Texas Department of Health has implemented a new “report of death” form. Contact your local registrar for additional information.

“Mortuary Law” for the State of Texas is found primarily in the **Texas Occupations Code Chapter 651** and the **Texas Administrative Code Chapters 201, 203, 205, 207, and 209**. All codes can be found on the agency website www.tfsc.state.tx.us under “Governing Laws”.

Licensees are expected to know what is considered a prohibited act and this information is found in the Texas Occupations Code Chapter 651, sections 651.451-651.460. The administrative penalties associated with these prohibited acts are found in the Texas Administrative Code Chapter 201 under Disciplinary Guidelines. Texas law allows a penalty range of not less than \$100 or more than \$5,000 for each violation. A suspension or revocation may also be warranted.

Many changes have been made to the existing laws and rules. Changes to the statutes and rules may be viewed using the link on our website.

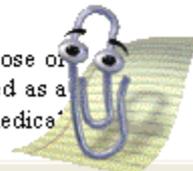
CEMETERY AND CREMATORY NEWS

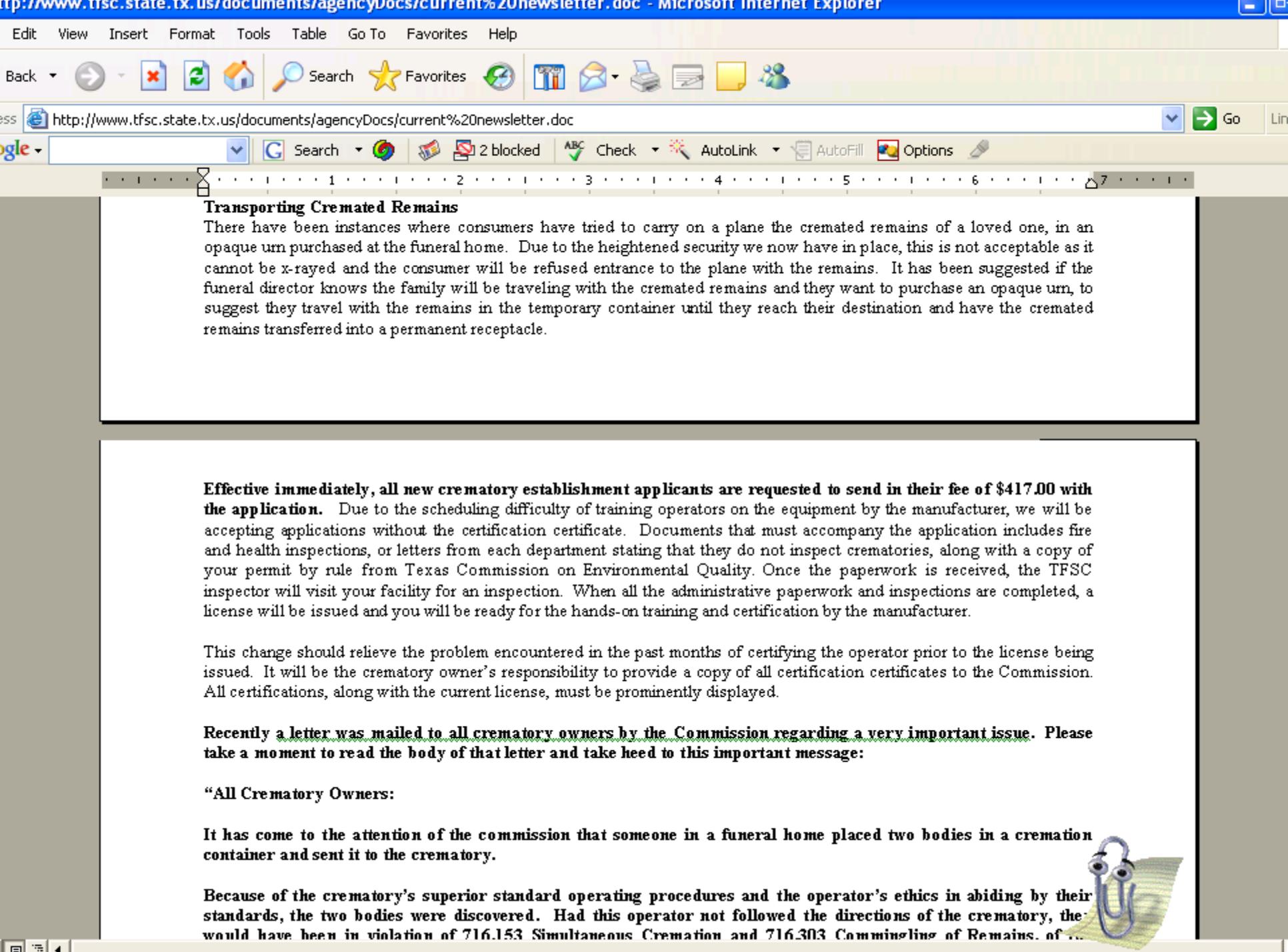
Information Retention on Cremation

Article 49.09 (b) of the Code of Criminal Procedure states” A person may not cremate or direct the cremation of a body subject to investigation under Article 49.04 unless the body is identified and the person has received from the justice of the peace a certificate signed by the justice stating that: (1) an autopsy was performed on the body under Article 49.10 of this code; or (2) no autopsy was necessary. (c) An owner or operator of a crematory shall retain a certificate received under Subsection (b) of this article for a period of 10 years from the date of cremation of the body named on the certificate.”

Attorney General Opinion

Opinion No. GA-0218 states that Chapter 716 of the Health and Safety Code permits a person authorized to dispose of remains of a deceased individual to contract directly for cremation services, but only if the crematory is also licensed as a funeral establishment or if the authorizing agent receives written authorization from either a justice of the peace or medical examiner of the county in which the death occurred.





Transporting Cremated Remains

There have been instances where consumers have tried to carry on a plane the cremated remains of a loved one, in an opaque urn purchased at the funeral home. Due to the heightened security we now have in place, this is not acceptable as it cannot be x-rayed and the consumer will be refused entrance to the plane with the remains. It has been suggested if the funeral director knows the family will be traveling with the cremated remains and they want to purchase an opaque urn, to suggest they travel with the remains in the temporary container until they reach their destination and have the cremated remains transferred into a permanent receptacle.

Effective immediately, all new crematory establishment applicants are requested to send in their fee of \$417.00 with the application. Due to the scheduling difficulty of training operators on the equipment by the manufacturer, we will be accepting applications without the certification certificate. Documents that must accompany the application includes fire and health inspections, or letters from each department stating that they do not inspect crematories, along with a copy of your permit by rule from Texas Commission on Environmental Quality. Once the paperwork is received, the TFSC inspector will visit your facility for an inspection. When all the administrative paperwork and inspections are completed, a license will be issued and you will be ready for the hands-on training and certification by the manufacturer.

This change should relieve the problem encountered in the past months of certifying the operator prior to the license being issued. It will be the crematory owner's responsibility to provide a copy of all certification certificates to the Commission. All certifications, along with the current license, must be prominently displayed.

Recently a letter was mailed to all crematory owners by the Commission regarding a very important issue. Please take a moment to read the body of that letter and take heed to this important message:

"All Crematory Owners:

It has come to the attention of the commission that someone in a funeral home placed two bodies in a cremation container and sent it to the crematory.

Because of the crematory's superior standard operating procedures and the operator's ethics in abiding by their standards, the two bodies were discovered. Had this operator not followed the directions of the crematory, they would have been in violation of 716.153 Simultaneous Cremation and 716.303 Commingling of Remains. of the



The Texas Funeral Service Commission; therefore, is strongly suggesting that each crematory owner put a procedure in place to examine the contents of each container prior to placing it in the retort. By doing this, you will not only insure that this type of incident does not happen to you, it should also assure you that there is nothing else in the container that can damage your equipment.

It is unfortunate that we, in today's society, no longer have the ability to operate on trust of our fellow human beings, and must constantly be aware of everything around us."

ONLINE ESTABLISHMENT RENEWALS ARE HERE!

As most of you know individual licenses can be renewed using **TexasOnline**. Establishment licenses can now be renewed via **TexasOnline**. Many changes are being developed to enable the use of technology to accommodate our licensees.

LICENSING INFORMATION

Please note that all new establishment applicants (funeral home, commercial embalming facility, and crematory) must submit the licensing fee of \$417.00 for the new license. This is a change in procedure for the issuing of new establishment licenses. However, be advised that the establishment is NOT LICENSED until all inspections are completed, all administrative paperwork is received and processed, and the license issued by the agency.

Provisional license applicants and reciprocal license applicants will be able to apply for their initial license online within the next couple of months. The projected "go live" date of June 12, 2005, has come and gone. However, we anticipate the application being available within the next few weeks.

Applicants will be allowed to fill out the application online pay for their initial license with a credit card. However, with all online licensing filling out the application and paying the fee does not constitute license issuance. Licenses are issued only when all requested information has been reviewed and approved by the agency.

QUARTERLY NEWSLETTER

- **Cremation continues to be on the “rise” in Texas. Two years ago there were approximately 50 crematories located in Texas. As of this writing there are currently 85. In 2005, according to our records 37,247 people were disposed of by cremation. In 2006, 39,544, bodies were cremated; an increase of 2,297. Approximately 155,000 people died in Texas last year. That means a little over 25% of the families chose cremation...Many funeral directors in the larger cities, like Dallas and Houston, informed me they are performing 50% cremations vs. traditional funerals. The important thing to remember is that it is a consumer choice.**

CREMATION

- Who is performing cremations for you?
- Under what conditions?
- How often, or have you ever personally inspected the cremation facility?
 - Surprise inspection?
- Do you wait for the body to be placed in the retort?
- Properly trained and licensed?

QUARTERLY NEWSLETTER

- The Consumer Affairs and Compliance Division of the Commission receive many phone calls throughout the day. Many of the calls entail questions to Commission staff that can easily be answered through research on the licensee's part by visiting the Commission website at www.tfsc.state.tx.us and clicking on the link titled "Governing Laws".

GOVERNING LAWS

[Chapter 651 Texas Occupations Code](#)

COMPLAINT PROCEDURES

[Texas Administrative Code](#)

LICENSING

**CEMETERIES AND
CREMATORIES**

[Chapter 181, Health and Safety Code](#)

CONTINUING EDUCATION

[Chapter 193, Health and Safety Code](#)

**AGENCY NEWS AND
INFORMATION**

LINKS

FACTS ABOUT FUNERALS

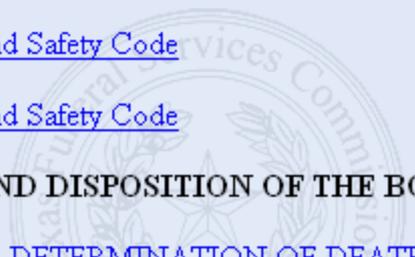
****NEW: TFSC Disciplinary Actions**

****NEW: EMBALMING CASE REPORT**

**TEXAS MORTUARY LAW EXAM
2007 CONTINUING EDUCATION
ANNOUNCEMENT**

TITLE 8. DEATH AND DISPOSITION OF THE BODY

- [CHAPTER 671. DETERMINATION OF DEATH AND AUTOPSY REPORTS](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000671.00.pdf>)
- [CHAPTER 673. SUDDEN INFANT DEATH SYNDROME](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000673.00.pdf>)
- [CHAPTER 691. ANATOMICAL BOARD OF THE STATE OF TEXAS](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000691.00.pdf>)
- [CHAPTER 692. TEXAS ANATOMICAL GIFT ACT](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000692.00.pdf>)
- [CHAPTER 693. REMOVAL OF BODY PARTS, BODY TISSUE, AND CORNEAL TISSUE](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000693.00.pdf>)
- [CHAPTER 694. BURIAL](#) (<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000694.00.pdf>)
- [CHAPTER 711. GENERAL PROVISIONS RELATING TO CEMETERIES](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000711.00.pdf>)
- [CHAPTER 712. PERPETUAL CARE CEMETERIES](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000712.00.pdf>)
- [CHAPTER 713. LOCAL REGULATION OF CEMETERIES](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000713.00.pdf>)
- [CHAPTER 714. MISCELLANEOUS PROVISIONS RELATING TO CEMETERIES](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000714.00.pdf>)
- [CHAPTER 715. CERTAIN HISTORIC CEMETERIES](#)
(<http://tlo2.tlc.state.tx.us/statutes/docs/HS/content/pdf/hs.008.00.000715.00.pdf>)
- [CHAPTER 716. CREMATORIES](#)



QUARTERLY NEWSLETTER

- **One of the most common questions asked relates to who has the right to control the disposition of a decedent's body. This information is found under the Health and Safety Code, specifically chapter 711.002. Additionally, under subsection "k" of Health and Safety Code, chapter 711.002, a licensee can find the appropriate measures to be taken if there is a dispute amongst persons who may have the right to control the disposition of a decedent's body.**

QUARTERLY NEWSLETTER

- **Another phone call frequently received by the Commission is the situation of a funeral home refusing to release a body after being requested to do so by the authorizing agent for the decedent. The Commission would like to remind all licensees that in accordance with Texas Occupations Code 651.456 (2) a person violates this chapter if the person: refuses to promptly surrender a dead human body to a person or agent authorized to make funeral arrangements for the deceased. If a licensee is found to have violated this chapter, the licensee may be subject to an administrative penalty of up to \$5,000.00.**

QUARTERLY NEWSLETTER

- **In recent months, Compliance has been receiving numerous types of information regarding licensees with criminal convictions. Texas Administrative Code 203.33 (i) states an applicant for licensure shall disclose in writing to the Commission any conviction against him or her at the time of application. A current licensee shall disclose in writing to the Commission any conviction at the time of license renewal or no later than 30 days after judgment in the trial court, whichever date is earlier.**

QUARTERLY NEWSLETTER

- **Criminal Conviction Continued...**
- **Applicants and licensees can find the “Information Needed for Criminal Conviction” on the TFSC website under the “Licensing” link. It is the licensee’s responsibility to notify the Commission of any criminal convictions. A failure to notify the Commission of any criminal conviction could result in a formal complaint being opened against the licensee and possible administrative action against the individual’s license.**

QUARTERLY NEWSLETTER

- **Criminal Conviction Continued...**
- **An applicant for licensure is responsible for filing documentation that will allow the Commission to conduct an analysis under subsection (e) of this section. Applicants and licensees can find the Information Needed for Criminal Conviction on the TFSC website under the Licensing/Provisional links.**

Felony Convictions

**Texas Occupation Code
651.502, License Denial;
Effect if a Criminal
Conviction**

TAC 203.32

License Denial

Any licensed funeral director or embalmer shall be subject to license suspension, revocation or denial if in default of an obligation to, guarantee by, or an interest protected by the state:

- Student loan default
- Child support
- Franchise tax

TAC 203.33

Criminal Convictions

The Commission may suspend or revoke a license or disqualify a person from receiving a license on the grounds they have been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities related to the funeral profession.

TAC 203.33

Felony Conviction

- The Commission shall revoke the license of a person who is imprisoned following a felony conviction
- A person in prison is ineligible for licensure

Commission Considerations in Criminal Convictions

- Past criminal activity
- Age when crime was committed
- Elapsed time since conviction
- Conduct & work since conviction
- Evidence of rehabilitative effort
- Letters of recommendation
- Support of dependents
- Payment of court costs, fees, and fines

Types of Criminal Convictions Considered

- Murder
- Assault
- Burglary
- Robbery
- Theft
- Sexual assault
- Injury to a child
- Injury to elderly
- Child abuse or neglect
- Tampering with a government record
- Forgery
- Perjury
- Bribery
- Harassment
- Insurance claim fraud
- Mail fraud

Disclosure to Commission

- An applicant for licensure must disclose in writing to the Commission any convictions at the time of application.
- A current licensee must disclose in writing to the Commission any convictions at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier.

Upon Notification of Conviction

The Commission will request that the person respond by filing information demonstrating why the Commission should not deny the application or take disciplinary action. The response must be filed within 21 days of the date of receipt of notice from the Commission.

QUARTERLY NEWSLETTER

- Pursuant to Texas Administrative Code 203.3(a) Each licensed funeral establishment must at all times have a designated funeral director in charge, who is ultimately responsible for compliance with all mortuary, health, and vital statistics laws in the funeral establishment. A funeral establishment must designate a funeral director in charge at the time it receives its establishment license. **Any time the funeral director in charge changes, the funeral establishment must notify the commission, on a form prescribed by the commission, within 15 days.**

QUARTERLY NEWSLETTER

- **Corrections to a deficiency found during the inspection of a funeral establishment, commercial embalming establishment, crematory or cemetery must be submitted to the inspector within 15 days of the inspection. Failure to do so could result in administrative action against the establishment license.**

Provisional Program

What's new??

Provisional License Program

- In an attempt to improve the quality of training of our provisional licensees, and to keep the integrity of the death care industry in tact in the state of Texas, the TFSC has made some dramatic changes in the way the sponsor and provisional licensee must interact. Both the provisional licensee and the sponsor shall share in the success or failure of the provisional program.

Provisional License Program

- Sponsors of each provisional licensee shall retain copies of all training reports with supporting documentation for all case credit claimed for two years from the date of the training report. (TAC 203.27)

Provisional License Program

- Each sponsor shall be responsible for keeping a running total of all case work done on a monthly basis and make available to the Commission if an audit is requested. Additionally, each sponsor shall make available to the provisional licensee the total number of cases for which the provisional licensee has received credit and for each month individually. In each case where a provisional licensee has more than one sponsor, a primary "sponsor" shall be designated to keep all documentation and will be responsible for keeping track of the provisional licensee's provisional program. (TAC 203.27)

Provisional License Program

- **The primary sponsor who will be responsible for keeping all documentation pertaining to the provisional program. To include all training reports submitted and supporting documentation, amendment forms, and any other documentation submitted to the agency. (TAC 203.27)**

Provisional License Program

- Each sponsor shall review any and all submitted training/case reports, check for accuracy in completion of the proper documentation, and verify that the provisional licensee actually worked on each case reported. Each sponsor shall keep a record of how many cases the provisional licensee did not get credit for due to incomplete reports, failure to submit reports by the 10th of the following month, or filing of a "notwithstanding". (TAC 203.27)

Provisional License Program

- All training reports are due to the Commission (*training reports only*) and the primary sponsor (*training reports including supporting documentation consisting of the instructor's embalming affidavit and the authorization to embalm for all embalming cases*) on the 10th day of the following month.
- The original training report (with the original signatures) must be submitted to the Commission and a copy of said report must be filed with the primary sponsor.

Provisional License Program

- **Any training reports submitted to either the Commission or the sponsor after the tenth of the following month will not be counted for credit and will add an extra month to the minimum 12 months.**
- **Failure to submit reports by the 10th of the following month is a violation of T.O.C. 651.304.**

Provisional License Program

- The provisional licensing program must be served a **minimum** of **12 consecutive** months or a **maximum** of 24 months.
- Provisional licensees must work in a licensed funeral establishment or a licensed commercial embalming establishment a minimum of **17** hours per week **OR** 73 hours a month.
- **FAILURE TO COMPLETE ALL REQUIRMENTS OF THE PROVISIONAL PROGRAM, INCLUDING THE EXAMINATION REQUIRIEMENTS, WITHIN 24 MONTHS FROM THE DATE OF ISSUE WILL RESULT IN CANCELLATION OF THE PROVISIONAL LICENSE AND PROGRAM.**

Provisional License Program

- Provisional licensees must report a minimum of **60** required cases for each provisional program (prov. fun dir and a prov. emb. to do 60 funeral directing cases and 60 embalming cases).
- During the last three months of the provisional program 10 of the 60 cases must be complete cases.
- each provisional embalmer is required to complete 6 autopsy cases.
- Only two provisional licensees may receive credit for work performed on any dead human body.

Provisional License Program

- It is recommended that each training report be sent **certified mail, return receipt requested** so that all reports can be tracked by the licensee online.
- Training reports should be mailed/submitted in 1 mailing/envelope.
- Months cannot be combined; each month must be reported separately.

Provisional Program

- **THE PROVISIONAL PROGRAM IS AN OPPORTUNITY TO BECOME A LICENSED PROFESSIONAL. ALL PROFESSIONAL PLEASE MAKE SURE YOU REVIEW ALL PAPERWORK BEFORE YOU SUBMIT IT TO THE SPONSOR AND THE AGENCY. REPORTS RECEIVED WITH STAINS ON THEM WILL NOT BE ACCEPTED FOR CREDIT. WOULD YOU OR YOUR EMPLOYER GIVE A CONSUMER A PURCHASE AGREEMENT WITH UNKNOWN SUBSTANCES STAINING THE PAPER? WE THINK NOT...SO WHY SEND THEM TO THE COMMISSION OR PRESENT THEM TO YOUR SPONSOR THAT WAY? ALLOW YOURSELVES THE OPPORTUNITY TO LEARN AND BE PROUD OF YOUR SELECTED PROFESSION. (From Newsletter, March 2007)**

Provisional License Program

- Once the provisional licensee has met all the requirements of the provisional program the sponsor shall notify the Commission in writing by submitting copies of training reports submitted for credit.
(TAC 203.27)

Provisional License Program

- The Commission will start a provisional licensure program over if the provisional licensee fails to file a training report in a timely manner twice during the provisional program in accordance with T.A.C. 203.6.

Provisional License Program

- Provisional licensees must immediately notify the Commission and primary sponsor in writing of any changes in:
 - employment;
 - personal address;
 - name;
 - supervisor; and/or sponsor.
- **If more than one sponsor is listed a primary sponsor must be indicated.** This is accomplished by submitting an amendment to personal supervision.

Provisional License Program

- **Must be enrolled in or a graduate of an accredited mortuary program (BE CAREFUL!!!!!!)**
- **Must be employed at a licensed establishment a minimum of 17 hours per week or 73 hours per month**
- **Submit application and fees to the Commission prior to starting the program**

Provisional License Program

- **How to Receive Case Credit:**
 - **To receive a case credit you must perform 6 functions denoted with an asterisk on the training report**
 - **Note: A provisional licensee is required to document ALL casework done while in the program.**

How to get “Complete” case credit

Must perform ten functions listed on the training report, six of which must be noted with an asterisk.

Completes are not counted until the last three months of your provisional program

Documenting Embalming Cases

- Each case on training report must have Instructor's Embalming Affidavit **and** Authorization to Embalm
- Each Affidavit must be completed correctly within 30 days of embalming procedure
- **Without this documentation you will not receive credit for cases**

Supervisor Responsibility

- **Must personally supervise and instruct the Provisional Licensee**
- **Must personally sign and date the embalming affidavits within thirty (30) days of the embalming procedure**
- **Must sign the Training Reports as they correspond with the cases performed that month**

Direct Supervision

- **Means in the same room**
- **Requires the physical presence of a licensed funeral director or embalmer at the specified place and time the service is provided (this is the person who signs the training reports and other paperwork)**

Sponsor Responsibility

Ensures the provisional licensee gets the cases needed and that the paperwork is correct. At times coordinating with the other Supervisors to make it happen.

Examination Requirements

Not required to start the provisional program but must be completed prior to becoming licensed

- 1. Must pass the National Board Exam with 75% or better**
- 2. Must pass the Texas State Mortuary Law Exam with 75% or better**

**TEXAS MORTUARY LAW EXAM
2007 CONTINUING EDUCATION
ANNOUNCEMENT**

in writing and in the possession of the Licensed Embalmer at the time of the procedure - applies only to temporary students and not licensed as Provisional Licensees.

FILE NAME	Microsoft Word File	Adobe Acrobat File (PDF)
APPLICATION FOR PROVISIONAL FUNERAL DIRECTOR		
APPLICATION FOR PROVISIONAL EMBALMER		
FDIC LETTER (This letter is part of the Application.)		
INSTRUCTION ON THE PROVISIONAL LICENSE PROGRAM		
FUNERAL DIRECTOR TRAINING REPORT		
EMBALMER TRAINING REPORT		
AMENDMENT TO REGISTRATION OF PROVISIONAL LICENSE		
INSTRUCTOR'S EMBALMING AFFIDAVIT		
TEXAS MORTUARY SCHOOLS		
ELIGIBILITY FOR PROVISIONAL LICENSE		
INFORMATION NEEDED FOR CRIMINAL CONVICTION		
INFORMATION EVERY LICENSEE SHOULD KNOW		
MORTUARY LAW EXAM APPLICATION		

Provisional Sponsor Information

Anyone submitting an application for a provisional license must include the FDIC letter and the Instruction on the Provisional License Program document. In addition you, not the mortuary school, must provide proof of enrollment or provide a copy of your transcripts.

National Board Exams

Administered by the International Conference of Funeral Service
Examining Board, Inc.

- **Funeral Director, only, is required to take the State Board Examination**
- **Embalmer, only, is required to take the science portion of the National Board Exam**
- **A Dual Licensee is required to take both portions (arts/science) of the National Board Exam**

Continuing Education

- Ensures that licensees maintain and improve their professional skills
- Condition for renewal

Commission Must Approve Providers

- Provider not approved until the TFSC assigns a provider number and course number
- Educationally sound?
- Demonstrated quality



Variety of Provider Sources:

- Private businesses
- Accredited colleges and universities
- National or state funeral industry associations
- Other state agencies
- Accredited mortuary colleges



Types of Approved Courses

- **Institutes**
- **Seminars**
- **Workshops**
- **Conferences**
- **Independent study programs
(to include on-line or web-based courses).**

Credit Hours Required

- 16 hours each 2 year renewal period
- Includes 6 mandatory hours

Mandatory Hours

- Ethics - 2 credit hours
- Law updates - 2 credit hours
 - T.O.C. 651
 - T.A.C. 201, 203 and 205
- Vital statistics - 2 credit hours
 - Health and safety code chapters 193, 711 - 715
 - T.A.C chapter 181

Free Online Vital Statistics Course

The Texas Department of State Health Services, Vital Statistics offers a free Vital Statistics course for home study.

<http://www.dshs.state.tx.us/vs/field/funcred.shtm>

Credit Hours Granted

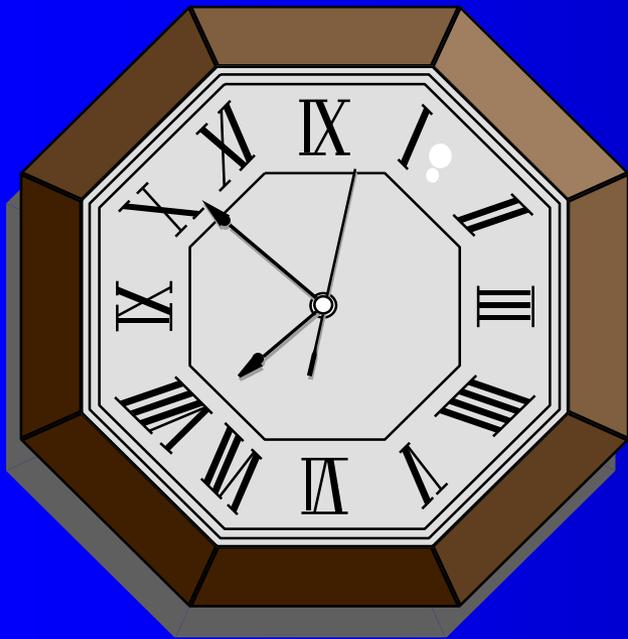
- One credit hour for each hour of participation
- Supervisor of provisional - maximum of 5
- Presenter or instructor of CE - maximum of 5
- All 16 hours may be obtained through independent study (maximum of 3 hours credit per course)
- Maximum of 4 hours per renewal for commission meetings

Carrying Over Credit Hours

- Maximum of 10 hours
- Mandatory classes not eligible to be carried over
- Not all hours eligible to be carried over



Credit Hours Required Reduced for Retirees

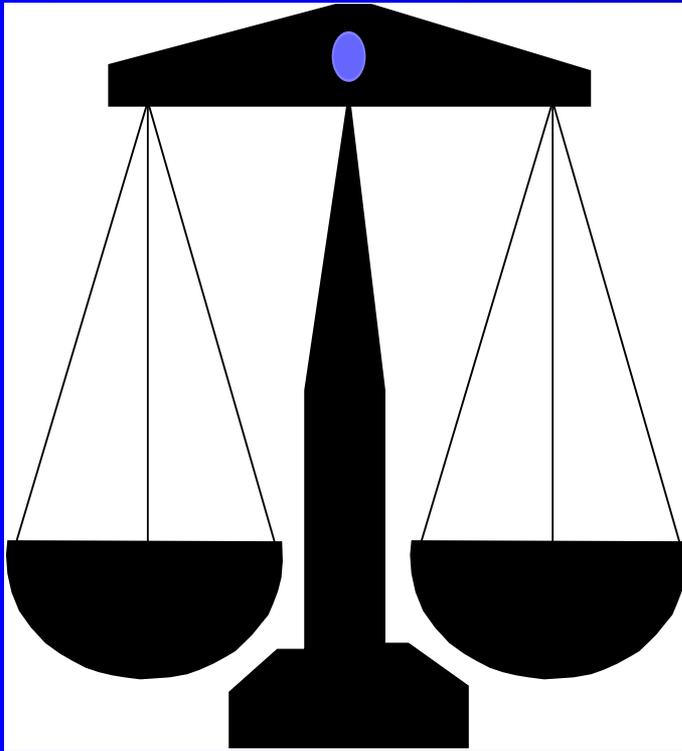


- Active Retired on 65th birthday
- Continuing Education requirements reduced
- 10 hours required
- includes 3 mandatory courses

CE Exemptions/Waivers

- First time renewal of license, if renewal is within 12 months of initial licensure by examination
- Retired, inactive
- Active military
- Documented hardship approved in writing, by Executive Director, at least 30 days before renewal.

Failure to Comply



- Rejection of renewal
- \$300 non-compliance fee
 - May be used **every other** 2 year renewal period
 - Does not waive mandatory hours

License Renewal

- Unpaid Child Support?
- Default on student Loans?
- Computer based renewal
- Month of birth

Section 651.165

A person whose license has expired may not engage in activities that require a license until the license has been renewed.

License Renewal

- **The responsibility of keeping a license current is that of the license holder. Notices of approaching license expiration are mailed 45-60 days prior to the expiration of the license. Failure to receive said notice does not exempt the license holder from paying the renewal fee and late fees if the license is not renewed prior to the expiration of the license.**

T.A.C. Chapter 201.11

- Disciplinary Guidelines
- Administrative penalties
 - \$100 to \$5,000 for each violation
 - Point system

651.457 TOC

- “Three Hour Rule”
 - REASONABLE
 - DOCUMENTED effort over a period of 3 hours to contact NOK/RP
- TAC CH. 181.4 “Twenty-four hour rule”
 - After 24 hours, dead human body must be:
 - Refrigerated
 - Embalmed
 - Encased

T.A.C. Chapter 203.16

- Embalming Reports
 - Are you filling these out regularly (after each procedure)?
 - Accuracy
 - Retain for 2 years
 - Consider litigation issues

T.A.C. Chapter 203.16

- MINIMUM requirements:
 - 1% HCHO solution by volume
 - 1 gallon of solution for each 50 lbs. Of body weight.
 - Packing
 - Ventilation (verified?)
 - Entry to preparation room secured?

T.A.C. Chapter 203.22

- Authorization to Embalm
 - Must use TFSC form (download from website)
 - Retain for 2 years
 - Must be in writing if a mortuary student assists

T.A.C. Chapter 203.2 & 651.401 TOC

- **Who is making your first call removals?**
- **“reasonable probability” of no contact with a family.**
- **Licensee ordering removal is held “strictly accountable”**

Unethical Conduct

- (1) Takes custody of a dead human body without the permission of:
 - (A) the person or the agent of the person authorized to make funeral arrangements for the deceased, or
 - (B) A medical examiner or a justice of the peace who has jurisdiction

Unethical Conduct

- (2) refuses to promptly surrender a dead human body to a person or agent authorized to make funeral arrangements for the deceased

T.A.C. Chapter 205

- CEMETERIES
- CREMATORIES

Crematories

Sec. 716.004, HSC

Waiting Period for Cremation

- Prohibits a crematory from cremating remains fewer than 48 hours after the time of death listed on the death certificate, unless the requirement is waived in writing by justice of the peace or medical examiner (in the county where death occurred) or by court order.

Sec. 716.051, HSC

- Adds new Section, CREMATION AUTHORIZATION. Prohibits a crematory from cremating remains until it receives a cremation authorization form signed by an authorizing agent and a death certificate or other record of death authorizing cremation.

Sec 716.052, HSC

Cremation Authorization Form

- Cremation Authorization Form. Sets requirements for cremation authorization form, specifying all information that must be provided by the authorizing agent. Specifies information that must be included by a crematory, including notification of procedures for receipt of the remains by the authorizing agent.

Sec. 716.052, HSC

- Requires a funeral director or other representative of the funeral establishment that contracts to provide for the cremation to sign the cremation authorization form.
- Requires a crematory to provide an authorization form to an authorizing agent upon request.

Sec. 716.101, HSC

- Adds new Section, UNIDENTIFIED HUMAN REMAINS. Prohibits a crematory from accepting unidentified human remains for cremation.

Sec. 716.102, HSC

- Adds new Section, Receipt Acknowledging Acceptance of Remains. Requires that a crematory provide a receipt to any funeral establishment representative who brings human remains to the crematory and retain a copy for its records. Specifies what information must be included in the receipt.

Sec. 716.103, HSC

- Adds a new Section, Identification Responsibility of Crematory. Requires the crematory to label a cremation container with the name of the deceased provided by the authorizing agent, unless the crematory knows that the name is incorrect.

Sec. 716.104, HSC

- Adds new Section, Identification Responsibilities of Funeral Director or Establishment. Requires a signed written statement to a crematory that the remains were positively identified as the deceased person listed on the authorization form by the authorizing agent.

Sec. 716.104, HSC

- Provides that the authorizing agent or a delegated representative may identify the deceased in person or by photo. Provides that the authorizing agent may waive the right of identification.

Sec. 716.152, HSC

- Adds new Section, Cremation Process. Provides that a crematory is not required to accept a cremation container that evidences leakage of body fluids.

Sec. 716.152, HSC Cremation Process

- Requires a crematory employee to verify and remove the identification label from the cremation container and place it near the cremation chamber control panel until the cremation process is complete.

Sec. 716.152, HSC Cremation Process

- Requires the crematory to remove all recoverable cremation residue from the cremation chamber and dispose of it after the cremation process, the extent practicable.

Sec. 716.153, HSC

Simultaneous Cremation

- Adds new Section prohibiting a crematory from cremating the remains of more than one person at a time in the same cremation chamber without the written consent of the authorizing agent of each deceased person.

Sec. 716.154, HSC

- Adds new Section, Pacemakers.
- Prohibits a crematory from knowingly cremating remains containing a pacemaker or other potentially hazardous implant.

Sec. 716.203, HSC

- Establishes that a crematory, funeral establishment, funeral director, cemetery, or other person that contracts to provide for cremation, accept remains, or release or dispose of remains as provided on the cremation authorization form is not criminally or civilly liable for the authorized activity.

Sec. 716.203, HSC

- Provides that a crematory or funeral establishment is not civilly liable for any representation made by an authorizing agent or the agent's representative in the authorization form.

Sec. 716.251, HSC

- Adds new Section, Crematory Establishment Records.
- Requires that a crematory keep certain records relating to cremations performed at the facility until the fifth anniversary after each cremation.

Discussion ? Q&A?