

TITLE 22 EXAMINING BOARDS

Part 10 Texas Funeral Service Commission

Chapter 203 Licensing and Enforcement - Specific Substantive Rules

Subchapter A. Licensing

Proposal to Amend Title 22 Texas Administrative Code <*> 203.8 – Continuing Education

The Texas Funeral Service Commission (Commission) proposes to amend of Title 22 Texas Administrative Code <*> 203.8 – Continuing Education. The rule currently requires sets out the minimum continuing education requirements for license renewal.

The Commission has determined that amending the rule will provide clarification for both continuing education providers and licensees who must comply with the rule.

Specifically, the rule allows, but does not require, the Commission to accept continuing education courses that have previously been approved by the Academy of Professional Funeral Service Practice, Inc. It provides that some of the required 16 hours must be taken in-person. It eliminates the options for a licensee to pay a non-compliance fee instead of complying with the continuing education requirement.

Janice McCoy, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local governments, or local economies.

Ms. McCoy has determined there will be no adverse economic effect on small businesses or micro-businesses required to comply with the amendment, as proposed.

There may be an anticipated economic cost to individuals who are required to comply with the amendment requiring some hours to be completed in person. There is no anticipated negative impact on local employment.

In addition, Ms. McCoy has determined for the first five-year period the amendment is in effect, the public benefit anticipated as a result of the amendment will be increased clarity for how continuing education is implemented for both providers and licensees.

The Commission has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the Commission is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at PO Box 12217, Capitol Station, Austin, Texas 78711-1440, 512-479-5064 (fax) or electronically to info@tfsc.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Occupations Code <*> 651.266, which authorizes the Texas Funeral Service Commission to adopt rules related to continuing education for its licensees.

No other statutes, articles, or codes are affected by this section.

<*> 203.8 – Continuing Education

(a) Each person holding an active license and practicing as a funeral director or embalmer in this state is required to participate in continuing education as a condition of license renewal.

(b) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Approved provider--Any person or organization conducting or sponsoring a specific program of instruction that has been approved by the Commission.

(2) Approved program--A continuing education program activity that has been approved by the Commission. The program shall contribute to the advancement, extension, and enhancement of the professional skills and knowledge of the licensee in the practice of funeral directing and embalming by providing information relative to the funeral service industry and be open to all licensees.

(3) Hour of continuing education--A 50 minute clock hour completed by a licensee in attendance at an approved continuing education program.

(c) Approval of continuing education providers.

(1) A person or entity seeking approval as a continuing education provider shall file a completed application on a form provided by the Commission and include the continuing education provider fee and the fee for each course submitted. Governmental agencies are exempt from paying this fee.

(2) National or state funeral industry professional organizations may apply for approval of seminars or other courses of study given during a convention.

(3) An application for approval must be accompanied by a syllabus for each course to be offered which specifies the course objectives, course content and teaching methods to be used, and the number of credit hours each course is requesting to be granted, and a resume and description of the instructor's qualifications. In lieu of agency review of course materials, the Commission may accept courses approved by the Academy of Professional Funeral Service Practice, Inc. (APFSP). These submission requirements may be waived for APFSP approved courses.

(4) A provider is not approved until the Commission accepts the application and issues a Provider Number for the provider and a course number for each course offered under that Provider Number. The Commission may refuse to approve a provider's application for any valid reason, as determined by the Commission.

(5) A Provider Number and course number are valid for one year, expiring on December 31st of each year, regardless of when the number was granted.

(d) Responsibilities of approved providers.

(1) The provider shall verify attendance at each program and provide a certificate of attendance to each attendee. The certificate of attendance shall contain:

(A) the name of the provider and approval number;

(B) the name of the participant;

(C) the title of the course or program, including the course or program number;

(D) the number of credit hours given;

(E) the date and place the course was held;

(F) the signature of the provider or provider's representative; and

(G) the signature of the attendee.

(2) The provider shall provide a mechanism for evaluation of the program by the participants, to be completed at the time the program concludes.

(3) The provider shall maintain the attendance records and evaluations for a minimum of two years after the course is presented. A copy of the evaluations and/or attendance roster shall be submitted to the Commission upon request.

(4) The provider shall be responsible for ensuring that no licensee receives continuing education credit for time not actually spent attending the program.

(5) The Commission may monitor any continuing education course with or without prior notice.

(e) Credit hours required.

(1) Licensed funeral directors and embalmers who actively practice in this state are required to obtain 16 hours of continuing education every two year renewal period. A licensee may receive credit for a course only once during a renewal period.

(2) Persons in Retired, Active or Disabled, Active status are required to obtain the six mandatory continuing education outlined in subsection (f) of this section.

(3) Persons in Retired, Inactive or Disabled, Inactive status are exempt from continuing education requirements. Persons converting from an inactive status to a Retired, Active or Disabled, Active status shall obtain the six mandatory continuing education outlined in subsection (f) of this section.

(4) Persons in an active military status are eligible for exemption from the continuing education requirements, upon request. A copy of the active duty orders must be included in the request. Upon release from active duty and return to residency in the state, the individual shall meet the continuing education requirements before the next renewal period after the release and return.

(5) Individuals licensed in Texas, but not practicing in the state, are exempt from continuing education. Any individual who returns to practice in this state shall meet the continuing education requirements before the next renewal period after the return to practice in Texas.

(f) The following are mandatory continuing education hours and subjects for each renewal period:

(1) ~~(A)~~ Ethics--two credit hours--this course must at least cover principals of right and wrong, the philosophy of morals, and standards of professional behavior.

(2) ~~(B)~~ Law Updates--two credit hours--this course must at least cover the most current versions of Occupations Code Chapter 651, and the Rules of the Commission.

(3) ~~(C)~~ Vital Statistics Requirements and Regulations--two credit hours--this course must at least cover Health and Safety Code Chapters 193, 711 - 715, and Tex. Admin. Code, Title 25, Chapter 181.

~~(3) It is the responsibility of the licensee to track the number of hours accumulated during a licensing period.~~

(g) Of the 16 hours of continuing education, four hours must be taken in-person, including one of the mandatory continuing education classes outlined in subsection (f) of this section. The remaining 12 hours may be taken through Internet presentation with a maximum of two hours per course. For those licensees who are only required to take the six mandatory continuing education outlined in subsection (f) of this section, two hours must be in-person.

(h) ~~(f)~~ The Commission will grant the following credit hours toward the continuing education requirements for license renewal.

(1) One credit hour is given for each hour of participation, ~~except~~ in accredited college courses taken for school credit. Such college courses will be evaluated by the Commission on an individual basis for a certification fee set by the Commission. College hour credit does not count toward the mandatory continuing education outlined in subsection (f) ~~(e)(2)~~ of this section.

(2) A person is eligible for a maximum of two ~~five~~ credit hours per renewal period for provisional licensee supervision, regardless of the number of provisional licensees supervised.

(3) A presenter or instructor of approved continuing education is eligible for a maximum of two ~~five~~ credit hours per renewal period per course for instruction, regardless of the number of times the course is presented.

~~(4) All required hours may be obtained through independent study, including home study or Internet presentation with a maximum of three hours credit per course.~~

~~(5)~~ A person is eligible for a maximum of two ~~four~~ credit hours per renewal period for attendance at Commission meetings, provided the licensee signs in and is present during the entirety of the meeting.

(5) Individuals who have completed continuing education with non-approved providers may submit that course work for approval. The application and \$25 non-refundable fee must be submitted within 30 days of completing the course. Submission of application and fee does not guarantee the TFSC will allow the hours to count toward the hours required for renewal.

(i) ~~(g)~~ Exemptions, waivers, reactivation, and conversion.

(1) An individual whose renewal date is 12 months or less following initial licensure is not required to obtain continuing education hours prior to renewal of the license. An individual whose renewal date is more than 12 months following first licensure is required to complete the mandatory continuing education outlined in subsection ~~(f)~~ ~~(e)~~(2) of this section.

~~(2) Individuals licensed in Texas, but not practicing in the state, are required to obtain the mandatory continuing education outlined in subsection (e)(2) of this section. Any individual who returns to practice in this state shall, before the next license renewal period, meet the continuing education requirements before resuming any funeral directing and/or embalming activities in the state.~~

~~(3) Persons in Retired, Inactive or Disabled, Inactive status are exempt from continuing education requirements.~~

~~(4) Persons in Retired, Active or Disabled, Active status are required to obtain 10 hours of continuing education, including the mandatory continuing education outlined in subsection (e)(2) of this section.~~

~~(5) Persons converting from an inactive status to a Retired, Active or Disabled, Active status shall obtain the continuing education hours required in paragraph (4) of this subsection.~~

~~(6) Persons in an active military status are eligible for exemption from the continuing education requirements, upon request. A copy of the active duty orders must be included in the request. Upon release from active duty and return to residency in the state, the individual shall meet the continuing education requirements before the next renewal period after the release and return.~~

~~(7) The Commission may allow a licensee to carry over to the next renewal period up to 10 credit hours earned in excess of the continuing education renewal requirements, except for the mandatory continuing education outlined in subsection (e)(2) of this section.~~

(8) The Executive Director may authorize full or partial hardship exemptions from the requirements of this section based on personal or family circumstances and may require documentation of such circumstances.

(A) The hardship request must be submitted in writing at least 30 days prior to the expiration of the license.

(B) Hardship exemptions will not be granted for consecutive licensing periods.

~~(j) (h) Failure to comply.~~

~~(1) The Commission will not renew the license of an individual who fails to obtain the required 16 hours of continuing education outlined in subsection (e) of this section , except as provided by paragraph (2) of this subsection.~~

~~(2) A noncompliance fee must be paid before a license is eligible for renewal if the individual has not obtained the required 16 hours of continuing education.~~

~~(A) The noncompliance fee may only be used in lieu of obtaining the required continuing education for every other biennial renewal period.~~

~~(B) The noncompliance fee and allowance for every other renewal period does not eliminate the necessity of obtaining the mandatory continuing education outlined in subsection (e)(2) of this section.~~

~~(k) (i)~~ Any licensee receiving or submitting for credit continuing education hours in a fraudulent manner shall be required to obtain all continuing education on site and not online for two consecutive renewal periods and shall be subject to any applicable disciplinary action.

The agency certifies legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.