



TEXAS FUNERAL SERVICE COMMISSION

4TH QUARTER NEWSLETTER

June 2015 - August 2015

June 1, 2015

I can't believe it is already summer. My children finish up kindergarten this week. Where did the year go? Seems like just yesterday I was taking their first day of school photo.

The 2015 Texas Legislative Session ended today. There were several bills that impact the funeral service industry that passed the Legislature and are awaiting final action by the Governor. I've highlighted some of them on page six of this newsletter.

We've got quite a few changes on the horizon.

First, we got the legislative authority to move forward with an online mortuary exam. Applicants should plan on the initiative rolling out this fall. The Commission will be updating its Mortuary Law Exam this summer. If you are interested in helping to develop questions, please let me know.

I plan to take the quadrennial rules revision back to the Commissioners for consideration next week. This revision will incorporate all the changes we made over the course of the past year and any required changes due to statutory updates. It will be open for a 30 day comment period in late June/early July time period.

As always, please feel free to share your thoughts and concerns with me.

Yours truly,

A handwritten signature in cursive script that reads "Janice".

Janice S. McCoy
Executive Director

Changes at the Commission

In April, Governor Greg Abbott made changes to the Texas Funeral Service Commission. He appointed Larry Allen of Mesquite to replace Commissioner Sue Evenwel and appointed Greg Compean of Richmond to replace Commissioner Gene Allen. The two new members will serve until February 2021.

Commissioner Compean holds an Associate Degree in Business Administration from Alvin Community College and is a graduate of the Commonwealth College of Mortuary Science. As a licensed Texas Funeral Director and President/Owner of Compean Funeral Home, Inc. Compean is a member of the Houston Metropolitan Funeral Directors Association, Texas Funeral Directors Association, National Hispanic Professional Organization, East End Chamber of Commerce, Hispanic Chamber of Commerce, Camara de Empresarios Latinos de Houston, Knights of Columbus Council 2801, and is a Director on the Harris County Houston Sports Authority.

Commissioner Allen attended Amber University, the Southwestern Law Enforcement Institute School of Police Supervision and graduated from the Dallas County Sheriff's Academy in 1974. Until 1979, Allen served as Deputy of the Dallas County Sheriff's Department before serving as Lieutenant of the Mesquite Police Department and retiring in 2009. He is the current Chairman of the Mesquite Planning and Zoning Commission and the Mesquite Capital Improvement Advisory Commission, and serves as a member of the Mesquite Ministerial Alliance, Mesquite Independent School District Career Technical Education and City of Mesquite Retirees Association. He remains active in the First Baptist Church of Rockwall.

The Commission would like to thank Commissioner Sue Evenwel and Commissioner Gene Allen for their exceptional years of service to the Commission and the state.

Upcoming Commission Meetings

The TFSC meeting will be held **Tuesday, June 9**, beginning at 9:00 am in Room 2-225 of the William P. Hobby Building in Austin, Texas. Licensed Texas funeral directors and embalmers can receive up to four hours of continuing education credit for attending a Commission meeting.

The Commission has tentatively scheduled the following dates for future meetings:

September 15, 2015
December 8, 2015
March 1, 2016
June 14, 2016
September 13, 2016
December 13, 2016

A Message from Licensing

The Licensing Division fulfills the TFSC's mission to protect the public from deceptive practices by performing licensing, registration, examination and continuing education functions.

The current licensing work processes include (1) processing all initial provisional license applications, reciprocal applications and reinstatement applications for funeral directors/embalmers to include DPS/FBI fingerprint background checks; (2) administering examinations for all individual licensees; (3) renewing individual licenses; (4) ensuring licensees are current with their continuing education requirements and (5) processing all initial/renewal establishment applications to include funeral homes, commercial embalming facilities, crematories and certain cemeteries.

Change of Address

Licensees must notify the Commission in writing if they have a change of address. This notification helps ensure that mail and communications to the licensees is not delayed.

Continuing Education

All active license holders must complete 16 hours of continuing education prior to a license being renewed. Licensees who are on retired, active status are required to obtain 10 hours of continuing education. Inactive licensees are not required to take any continuing education.

The Commission performs a random audit of continuing education credits. Each month, 10 percent of individual licensees will receive a letter with the renewal notice stating that he/she will have to submit his/her certificates to the Commission prior to renewal.

Failure to complete required continuing education will delay renewal of the license and may cause additional fees and penalties to be imposed. It is the sole responsibility of the licensee to submit continuing education certificates to the Commission, even if the licensee renewed online.

FDIC/EIC

At all times a licensed funeral establishment must have a designated funeral director in charge (FDIC). The FDIC is ultimately responsible for compliance with all mortuary, health and vital statistics laws in the funeral establishment. Commercial Embalming Establishments must have at all times have a designated embalmer in charge (EIC). Funeral establishments that perform embalming services should only designate a FDIC, not both.

Any time a FDIC/EIC changes the establishment must notify the Commission by submitting the prescribed forms within 15 days. All forms - Appointment of FDIC/EIC and Removal of FDIC/EIC - can be found on the TFSC website by following the "Licensing" link.

Public Licensing Information

A person can verify that an individual/establishment is licensed with the Commission by accessing the TFSC website and following the "Public Licensee Search" link.

Duplicate License

A licensee shall conspicuously display his/her license in each place of business at which the licensee practices. All licenses displayed must be the original embossed license issued by the Commission and may not be a copy of the original license.

The fee for a duplicate license is \$5.00 per license if it is ordered at renewal. Licensees who renew online cannot order or pay for the duplicates using the online system. Contact the Commission office within five days of online renewal for instructions on ordering a duplicate license(s). Licensees who renew using a paper application should note how many duplicate licenses are being requested and include \$5.00 per additional license requested.

Outside the renewal period, the duplicate license fee is \$25.00 for the first license and \$5.00 for any subsequent licenses. For example, if a licensee wants three duplicates, the total fee would be \$35.00.

Renewals

Funeral Directors and Embalmers can renew a license online. To renew online, go to www.hpc.state.tx.us/message.php or follow the links from the TFSC website. The website details what information is required for license issuance.

Licensees who renew online and do not receive a license in the mail should contact the Commission. Be prepared to provide the transaction receipt received upon completion of renewal online. Without a receipt, the Commission cannot trace the renewal.

Publications

All licensed funeral homes are required to provide the TFSC promulgated *Facts about Funerals* brochure to customers when funeral services are discussed. Funeral homes must order the brochure from the Commission.

The State of Texas Funeral Services Law Book (Effective Sept. 2013) can be purchased for \$15.00. The law book includes the Commission's governing statute but does not include the Rules of the Commission. Rules of the Commission can be accessed through the TFSC website.

Publication order forms can be found on the TFSC website by following the "Agency News and Information" link to the Publication Order Form. Please use this order form to avoid delays in shipment of orders. All orders must include a physical shipping address or the orders will not be processed.

A Message from Compliance

The Compliance Division fulfills the TFSC's mission to protect the public from deceptive practices by inspecting establishments and investigating complaints. The compliance work processes include (1) ensuring each licensee is in compliance with the rules and regulations that govern the death care industry in the state of Texas through investigation of consumer complaints and (2) inspections of all establishments licensed by the TFSC.

Disposition of a Body

One of the most common questions received by the Compliance Division relates to who has the right to control the disposition of a decedent's body. This information is found in the Texas Health and Safety Code §711.002. Additionally, Subsection (k) outlines the appropriate measures to be taken if there is a dispute among the people who may have the right to control the disposition of a decedent's body.

Embalming

Tex. Occ. Code §651.457 states "A person violates this chapter if the person embalms a body without receiving the *express* written or oral permission of a person authorized to make funeral arrangements for the deceased" (emphasis added).

In recent months, the Commission has noticed an increase in the number of complaints related to the use of the term "prepare the body" by a funeral director. To the licensed funeral director "prepare a body" may mean to embalm the deceased. However, a family member may understand "prepare a body" to mean something else to include removal, bathing, or dressing the body.

Using the industry lingo "prepare the body" instead of expressly asking for permission to embalm may lead to embalming being performed without express permission being granted. While it may seem to be semantics, by making sure the family member knows he/she is being asked for permission to embalm, the funeral director could avoid possible administrative penalties and/or sanctions.

The Director of Compliance encourages all funeral director to stop using the term "prepare" in lieu of the term "embalm."

A Message from Legal

The laws governing the death care industry are found in Texas Occupations Code (Tex. Occ. Code) Chapter 651, Texas Health and Safety Code Chapter 716, and Texas Administrative Code (TAC) Title 22, Part 10. All the laws and rules can be found on the TFSC website by following the "Governing Laws" link.

Criminal Convictions

TAC §203.33(j) requires a current licensee to disclose in writing any conviction at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier. It also requires an applicant to disclose in writing any conviction against him/her at the time of application. Licensees and applicants with a criminal conviction must fill out a questionnaire which can be found on the TFSC website.

The Commission may suspend or revoke a license or refuse to issue a license on the grounds that the licensee or applicant has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the occupation of funeral director or embalmer.

Public Information

The Public Information Act gives a person the right to access government records without disclosing why the records are being requested. While all government information is presumed to be available to the public, certain exceptions may apply to the disclosure of the information. In the case of the TFSC, information concerning open complaints and investigations is exempt from disclosure.

84th Legislature Update

The Legislature enacted the following bills impacting the funeral, crematory and cemetery industry in Texas. Some of the listed bills are awaiting action by Governor Abbott.

For more details go to <http://www.capitol.state.tx.us/BillLookup/BillNumber.aspx>

HB 1219 - Relating to a provisional license to practice funeral directing or embalming; amending provisions subject to a criminal penalty

HB 1415 - Relating to establishment or use of cemeteries in certain municipalities

HB 1662 - Relating to the exemption of certain property from municipal drainage service charges

HB 2206 - Relating to transfer of the oversight of the Texas State Cemetery to the State Preservation Board

HB 3070 - Relating to the disposition of remains

SB 292 - Relating to a request for a waiver of the waiting period before human remains may be cremated

SB 656 - Relating to perpetual care cemeteries

SB 988 - Relating to the prohibited disposition of a decedent's remains by a person charged with certain criminal conduct against the decedent; providing an administrative penalty

For Your Information

Military Funeral Honors

Anyone providing Military Funeral Honors for an eligible veteran should visit the Department of Defense Military Funeral Honors website at www.dmdc.osd.mil/mfh for information. The website serves as a resource tool for funeral directors as they assist veterans' families by arranging Military Funeral Honors. The core elements of the Funeral Honors ceremony, which will be conducted on request, include: Flag Folding, Flag Presentation and the Playing of Taps.

If the family of an eligible veteran requests Funeral Honors through their funeral director, the funeral director should contact the appropriate Military Service to arrange for the Funeral Honors detail. The Department of Defense has established a toll free line (1-877-MIL-HONR) for use only by Funeral Directors to request honors. The Services request at least 48-hours in order to organize the Funeral Honors detail.

Texas State Veterans Cemetery

Veterans are eligible to be buried in a Texas State Veterans Cemetery. Funeral homes should work with the families who choose to have their loved ones buried in a Texas State Veterans Cemetery to determine the type of interment the family wishes. Options to be considered are a full-casketed burial, in-ground burial of cremated remains, a columbarium niche for cremated remains, or the scattering of ashes in the memorial garden.

The funeral home should ask the family to provide a copy of the military discharge form (DD Form 214) or other military service documents to ensure eligibility. If the funeral is for the spouse of a veteran, the funeral home should request a copy of the marriage certificate. The funeral home should contact the family's Veterans cemetery of choice and make all of the arrangements for the burial service.

Although viewing facilities are not available at the cemetery, and funeral services cannot be held at Texas State Veterans Cemeteries, a family may request that a final committal service be performed. Military Honors are performed during these committal services. Committal services are held in committal shelters, followed by burial at the grave site. Floral arrangements will accompany the casket or urn from the committal shelter to the grave site.

Some families may have retained cremated remains and wish to place them at a Texas State Veterans cemetery. If this is the case, the family may contact the cemetery directly, without going through a funeral home.

Contact the Veterans Land Board toll free at 1-800-252-VETS (8387) for questions.

Cemetery Ingress/Egress

Health & Safety Code §711.041 provides that any person who wishes to visit a cemetery or private burial grounds for which there is no public access shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. The owner of the property may determine reasonable hours of visitation and routes needed to access the cemetery.

Perpetual Care Cemetery

A cemetery operated as a perpetual care cemetery means that a perpetual care fund for its maintenance has been established in conformity with state law. Perpetual care means the maintenance, repair and care of the cemetery. The Texas Department of Banking (DOB), not the Commission, licenses perpetual care cemeteries.

Cemetery brokers must register with the DOB. A cemetery broker is defined as a person who sells the exclusive burial right in a cemetery for another person, essentially an unaffiliated third party. The law clarifies the procedures a cemetery broker must take in documenting the sale of a plot with a cemetery organization.

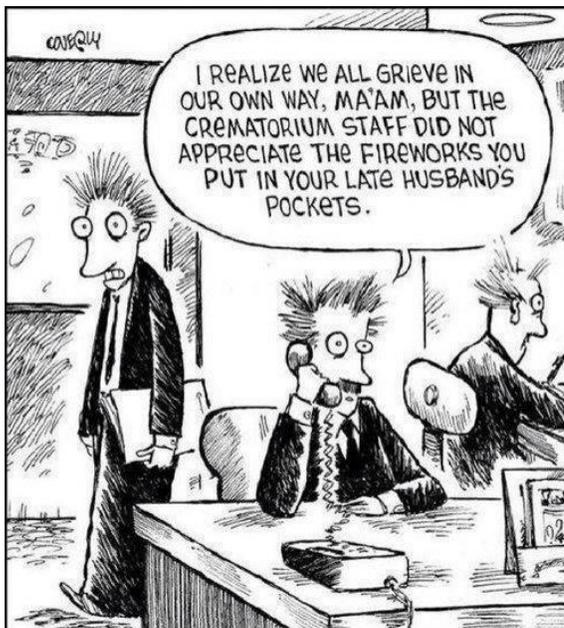
Preneed Funeral Contracts

The Texas Department of Banking (DOB) regulates prepaid funeral merchandise or services. Prepaid funeral merchandise and services are defined as goods and services sold on a prepaid basis directly to the public for use in connection with future funeral services. Along with the normal funeral service items, prepaid funeral merchandise and services also include opening and closing of the grave and outer-burial containers. The term does not include a grave, marker, monument, tombstone, crypt, niche, plot, or lawn crypt unless it is sold in contemplation of trade for a funeral service or funeral merchandise.

Any funeral home or cemetery that sells prepaid funeral merchandise or services in Texas must have: (1) a trust-funded permit issued by the DOB or (2) sell through an insurance-funded permit holder.

Further information can be accessed at the DOB's website at www.dob.texas.gov.

Just for Fun



Happy Fourth of July!

Agency Contact Information

Mailing Address

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 PO Box 12217, Capitol Station
 Austin, TX 78711

Physical Address

Texas Funeral Service Commission
 333 Guadalupe Street, Ste. 2-110
 Austin, TX 78701

Web Address

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Agency Directory

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