



TEXAS FUNERAL SERVICE COMMISSION

FY 18 - 2ND QUARTER NEWSLETTER

December 2017 - February 2017

December 18, 2017

Happy Holidays! How did we get to the end of 2017 already?!? This year really flew by. I hope 2018 brings you great joy and peace.

Governor Abbott appointed two new Commissioners in October. Both Commissioners were welcomed at our December meeting. It is always exciting to welcome new faces and fresh ideas to the Commission.

Please note our office will be short-staffed during these last two weeks of December. Our 10 member staff has asked to spend time with their families during the holiday season. Please be patient and know we will get back to you as soon as possible. And, for those of you whose license expires on December 31, 2017, I would encourage you to renew early.

Yours truly,

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

Janice S. McCoy
Executive Director

Changes at the Commission

In October, Governor Abbott appointed two new members to the Commission. Commissioner Kristin Tips of San Antonio is a licensed funeral director and cemetery operator from San Antonio. Commissioner Dianne Hefley of Amarillo is a licensed realtor and will serve as a public member. The Commission welcomed both members at the December meeting.

We are sad to see Scott Smith and Joyce Odom leave the Commission. These two former Commissioners will be greatly missed.

Invocation Policy

At the December meeting, Commissioners adopted an Invocation Policy. This policy authorizes a licensee in good standing to deliver the Invocation at Commission meetings. If you are interested in giving the invocation at a future meeting, please contact the Executive Director at janice.mccoy@tfsc.texas.gov to have your name added to the list.

The Commission has hired two new employees. Kyle Stanton was hired effective December 4, 2017, as an Inspector/Investigator. Linda Fellingner was hired effective December 29, 2017, as the agency's Accounting Technician/Office Manager.

Upcoming Commission Meetings

The upcoming TFSC meeting will occur on **Tuesday, March 20, 2018** at 9:00 a.m. 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:

- June 19, 2018
- September 11, 2018
- December 11, 2018

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.

Duplicate Licenses

Starting this month, a licensee may order and purchase additional copies of his/her license online. Duplicate copies continue to be \$5 each. A licensee can purchase the copies using the same link used to renew. See the website for further information.

Ownership for Establishment Renewals

The agency continues to return many renewal applications (both online and on paper) due to incorrect ownership provided on the renewal application. The application will not be approved if the ownership does not match the ownership in the agency's database. Providing a wrong owner name on the application will delay the renewal and could result in a late penalty being assessed.

The following is provided as guidance:

- For “Sole Owner” list the name of the individual as the owner
- For “Partnership” all the names of the partners
- For “Corporation” (includes LP, LTD, LLC, S-CORP, INC, etc...) list the name of the Corporation - - do NOT provide the names of the officers of the Corporation

If renewing online, the application will tell you who the agency has listed as owner. Additionally, you may contact Nikki Smith at nikki@tfsc.texas.gov for assistance.

Annual Cremation Report Due

Crematory Owners must file a report by January 30, 2018, listing the number of cremations performed at the crematory during 2017. Failure to file the report will result in a penalty of \$100 per day the report is late.

Change of Address

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

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.

Online Renewals

The online renewal system is administered by the Health Professions Council (an umbrella agency for health-related agencies including the Commission). The HPC runs the help-desk and is responsible for questions about renewing online. TFSC licensing staff is able to help with resetting passwords or emails for the online renewal system. Contact Nikki Smith at nikki@tfsc.texas.gov for assistance.

Mortuary Law Exam

Each individual who takes the online Mortuary Law Exam must accept the Legal Attestation under penalties of law and Commission action. Commission action could include the loss of a license or the refusal to issue a license. A copy of the attestation can be found on the TFSC website.

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.

Filing a Death Certificate

Title 25, Tex. Admin. Code 181.2(a) states, “...the funeral director, or person acting as such, who assumes custody of a dead body or fetus shall obtain an electronically filed report of death

through a Vital Statistics Unit system or complete a report of death....” Funeral directors utilize the Texas Electronic Registration system (TER) to begin the process of filing a death certificate.

Occasionally a family begins the arrangement process with one funeral establishment but then uses a second funeral establishment to finalize arrangements. Under these circumstances, the first funeral home will need to release the death certificate and inform the second funeral home of the Electronic Death Record number for the deceased. Failure to release the record in the TER delays the filing of the death certificate and could be considered unprofessional conduct.

According to the Department of State Health Service-Vital Statistics Unit, the second funeral home can still file the death certificate even if the first funeral home does not relinquish the record. The second funeral home should enter the decedent’s information and a new Electronic Death Record number will be generated.

Disposition of a Body

Texas Health and Safety Code §711.002 sets who has the right to control the disposition of a decedent’s body. 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.

Facts About Funerals Brochure

As part of the inspection process, Commission inspectors will ask to see a copy of the Facts About Funerals brochure being distributed by the funeral establishment. The law requires this document to be provided to prospective customers when funeral services are discussed. The most updated version of the brochure is dated September 2015.

The agency’s rules clarify that the brochure must be originals ordered from the Commission and may only be copied in limited circumstances. If an establishment is copying the brochure, a complaint will be opened and an administrative penalty may be assessed.

A Message from Legal

Out-of-State Providers

Licensed Texas Funeral Directors, Embalmers, and Establishments can be held liable for acts done by third party contractors that the licensee has contracted with to supply goods or services to a consumer. This is true even if the contractor used is an out-of-state person or business.

The Statute’s recognition of third party liability can be found in Tex. Occ. Code Chapter 651.408, which states, “The fact that a funeral director contracts for cemetery or crematory services... does not limit the director’s liability to the consumer for those services.”

If a TFSC licensee contracts with an out-of-state business, whether licensed by another jurisdiction or unlicensed, the Texas licensee can be held liable for errors, negligent or intentional acts, and unprofessional or unlawful conduct, engaged in by the out-of-state business or individual.

Informal/Formal Hearings for Violations

For complaints that result in a finding of violation, a licensee may opt to negotiate the violation and penalty with the agency’s Staff Attorney or opt to participate in an Informal Conference

panel. If no resolution is reached, the case will be set for a hearing at the State Office of Administrative Hearings (SOAH). After SOAH's Administrative Law Judge has issued a Proposal for Decision the case will be taken to a Commission meeting for a final determination by Commissioners.

Deadlines to Respond

Under the rules, a licensee has a specified time to respond to the Commission. Failure to respond can result in additional violations and/or automatic license sanctions.

22 TAC §203.41 – Licensee has 15 days to respond to notice of complaint

22 TAC §203.42(b) – Licensee has 30 days to respond to initial finding of violation

Tex. Occ. Code §651.555 – Licensee has 30 days to pay penalty after final Commission action

Tex. Occ. Code §651.503 – Licensee must file Letter of Warning report in number of days specified by Agreed Order or pay administrative penalty

Criminal Convictions

22 TAC §203.15 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 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.

Just for Fun



Agency Contact Information

Mailing Address

Texas Funeral Service Commission
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

www.tfsc.texas.gov

Agency Directory

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** as of December 18, 2017*