



# TEXAS FUNERAL SERVICE COMMISSION

## FY 18 - 4TH QUARTER NEWSLETTER

### June 2018 - August 2018

June 25, 2018

Howdy! Happy Summer! Boy it is hot. Yesterday I dropped my daughter off at Girl Scout camp - helping her make up the top bunk in a cabin with no AC was brutal! Maybe I should have told her she'd be cooler in a bottom bunk - avoid that rising heat!

We are definitely moving into the "dog days of summer." Did you know the term the "dog days of summer" refers to the weeks between July 3 and August 11? The term comes from the ancient Greeks who blamed Sirius for the hot temperatures, drought, discomfort, and sickness that occurred during the summer. Sirius is also known as the Dog Star and can be found in the Canis Major constellation.

Another fun fact is that July is National Ice Cream Month! I've heard vanilla is the most popular flavor, with chocolate coming in a distant second, but my go is always chocolate or mint chocolate chip!

The agency finalized its five-year strategic plan earlier this month. The plan outlined the agency's two primary operational goals - licensing and compliance and set out specific actions items needed to achieve those goals. You can review the plan on the agency's website.

Also, the agency issued a FAQ on how TFSC governing laws relate to the disposition of embryonic and fetal tissue remains. The FAQ can be found on the agency's website. If the FAQ doesn't answer your specific question, please let me know.

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

## **Updates at the Commission**

### **Changes to Administrative Rules**

At the June TFSC meeting, Commissioners adopted two amendments to the agency's administrative rules:

- Adoption of 22 TAC §201.18 relating to Agency Staff Training and Education
- Adoption of amendments to 22 TAC §205.11 relating to Prerequisites for Cremation

The adopted rules were filed with the Texas Secretary of State on June 22, 2018 and become final in 20 days. Links to the amendments can be found at <http://www.tfsc.texas.gov/news.html>.

### **Criminal Convictions**

As required by the Texas Legislature, the agency is currently reviewing its policy on the impact of criminal convictions on license applications and renewals. The current policy can be found in the agency's rules at 22 TAC §203.15, 22 TAC §203.16, and 22 TAC §203.17.

Presiding Officer Jean Olinger appointed Commissioners Larry Allen, Gregory Compean, and Jon Scepanski to serve on a committee to review the agency's policy. The committee is expected to make a report to the full Commission at the September meeting.

## **Upcoming Commission Meetings**

The next TFSC meeting will occur on **Tuesday, September 11, 2018** at 9:00 a.m. in Room 2-225 of the William P. Hobby Building in Austin, Texas.

If you (licensee in good standing) are interested in giving the invocation at a future meeting, please contact the Executive Director at [janice.mccoy@tfsc.texas.gov](mailto:janice.mccoy@tfsc.texas.gov) to have your name added to the agency's Invocation Registry.

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

- December 11, 2018
- March 19, 2019
- June 18, 2019
- September 10, 2019
- December 10, 2019

### **For Your Information**

Did you know Texas has a Disaster Volunteer Registry? It allows both volunteer health professionals and lay volunteers wishing to support medical preparedness and response to register as a responder with participating organizations to provide services during a disaster or public health emergency.

Get more information here: <https://www.texasdisastervolunteerregistry.org/>

## **TFSC Sunset Review**

The TFSC has been undergoing review by the Texas Sunset Commission since April 2018. The Sunset report with staff recommendations is expected to be released in late July or early August. The Sunset Commission is tentatively scheduled to hear public testimony about the TFSC on August 29-30, 2018. A final vote on the recommendations by the Sunset Commission is tentatively scheduled for November 14-15, 2018.

## **A Message from Legal**

### **Third Quarter Update**

During the Third Quarter of FY18, the staff attorney was asked to mediate six complaints in which staff found violations had occurred. Those six complaints were successfully resolved with an Agreed Order between the Commission and the respondent for a total penalty amount of \$11,125.00.

Two "Proposals for Decisions" (PFD) on complaints that were appealed to the State Office of Administrative Hearings were taken to the Commission for final action. In both instances, the Commission voted to adopt the PFD as written.

### **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

### **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.

Third party liability can be found in Tex. Occ. Code Sec. 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."

## **A Message from Compliance**

### **Third Quarter Update**

During the third quarter, the compliance division conducted 408 inspections of its licensed facilities – 339 funeral homes, 15 commercial embalming facilities, and 51 crematories.

The compliance division received 34 new complaints and resolved 36 complaints during the third quarter with 14 of the investigations resulting in disciplinary action. At the end of the quarter, there were 37 pending complaints.

### **Filing a Death Certificate**

25 TAC §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.

### **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.

### **Disposition of a Body**

Texas Health and Safety Code §711.002 lays out 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.

## **A Message from Licensing**

### **Third Quarter Update**

During the third quarter, the licensing division issued 120 new provisional licenses and 13 reciprocal licenses. A total of 536 individual licenses were renewed.

There were 24 new entities licensed – 21 funeral homes, 2 commercial embalming facilities, and 1 crematory. The division renewed 370 entity licenses.

### **Duplicate Licenses**

An individual licensee may order and purchase additional copies of his/her license online. Duplicate copies cost \$5.00. A licensee can purchase the copies using the same link used to renew. See the agency website for further information.

### Ownership for Establishment Renewals

The agency continues to receive renewal applications (both online and on paper) with 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. Alternatively, contact Nikki Smith at [nikki@tfsc.texas.gov](mailto:nikki@tfsc.texas.gov) for assistance.

### 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 licensees is not delayed.

### Continuing Education

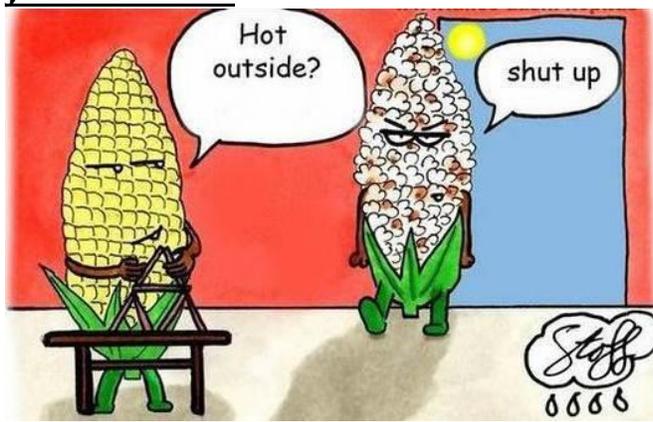
The Commission performs a random audit of continuing education credits. Each month, 10 percent of individual licensees will receive a letter with the renewal notice stating that he/she will have to submit his/her certificates to the Commission prior to renewal.

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](mailto:nikki@tfsc.texas.gov) for assistance.

### Just for Fun



## Agency Contact Information

### **Mailing Address**

Texas Funeral Service Commission  
PO Box 12217  
Austin, TX 78711

### **Physical Address**

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

### **Web Address**

[www.tfsc.texas.gov](http://www.tfsc.texas.gov)

### **Agency Directory**

Executive Director	Janice McCoy	(512) 936-2474
Staff Attorney	Kyle Smith	(512) 936-2480
Legal Assistant/PIO	Kathy Sparks	(512) 936-2469
Administrator of Compliance	Rodney van Oudekerke	(512) 936-2470
Administrator of Licensing / Establishment & Crematory Licensing Specialist	Nikki Smith	(512) 936-2479
Chief Financial Officer	Jennifer Noack	(512) 936-2474
Accounting/Office Manager	Linda Fellingner	(512) 936-2468
Provisional Licensing Specialist	Maria Haynes	(512) 936-6552
Reciprocal & Reinstatement Licensing Specialist / Brochures	Robert Puig	(512) 936-2421
Investigator	Marty Manzi	(512) 936-2484
Inspector	Kyle Bass	(512) 936-2488
Inspector/Investigator	Kyle Stanton	(512) 936-2490
Main Number		(512) 936-2474
Toll Free Number		(888) 667-4881
Fax Number		(512) 479-5064
Email		<a href="mailto:info@tfsc.texas.gov">info@tfsc.texas.gov</a>

*\* as of December 18, 2017*