

## **TFSC Administrative Penalties and Sanctions Schedule Attachment to Rule 203.43 (Title 22, Part 10, Chapter 203)**

### **Class A**

**1<sup>st</sup> Violation: \$250**

**2<sup>nd</sup> Violation: \$750**

**3<sup>rd</sup> Violation: \$1,000 and/or sanction**

**4+ Violation: Up to \$5,000 and/or sanction**

- Occ. Code 651.157(e) -- Failure to have premises open at all times to inspection
- Occ. Code 651.261 -- Failure to conspicuously display holder's license in each location
- Occ. Code 651.304(a) -- Failure by provisional licensee to timely notify Commission of employment
- Occ. Code 651.304(d) -- Failure by FD/Embalmer to prepare affidavit of completed cases if provisional leaves employment
- Occ. Code 651.351(d)(1) -- Failure by Funeral Establishment to meet building, health & safety codes
- Occ. Code 651.351(d)(3) -- Failure by Funeral Establishment to include facilities in which funeral services may be conducted
- Occ. Code 651.351(d)(4) -- Failure by Funeral Establishment to have access to rolling stock
- Occ. Code 651.351(d)(5) -- Failure to maintain preparation room (i.e. have necessary equipment/supplies)
- Occ. Code 651.351(d)(6) -- Failure by Funeral Establishment to include facilities to comply with sanitary codes
- Occ. Code 651.351(d)(7) -- Failure by Funeral Establishment to include required casket display
- Occ. Code 651.351(f) -- Failure by Funeral Establishment to include required casket display
- Occ. Code 651.403 -- Failure to promptly notify Commission of FDIC change
- Occ. Code 651.404 -- Failure to provide consumer brochure
- Occ. Code 651.407(c) -- Failure to retain written consent for two years
- Occ. Code 651.454(a)(1) -- Failure to provide consumer brochure
- Occ. Code 651.454(a)(4) -- Failure to provide general price information by telephone within reasonable time
- Occ. Code 651.454(b)(1) -- Restrict, hinder, or attempted to restrict or hinder advertising or disclosure of prices and other information regarding the availability of funeral services and funeral merchandise that is not unfair or deceptive to consumers
- Occ. Code 651.457(a)(3) -- Allowed the presence/participation of a student for credit or satisfaction of academic requirements during the embalming of a dead human body without complying with 651.407
- Occ. Code 651.503 -- Failure to file written report in 15 days as required for "Letter of Warning" finding
- H&S 716.103 -- Failure to place ID in container

## **Class B**

**1<sup>st</sup> Violation: \$500**

**2<sup>nd</sup> Violation: \$1,000**

**3<sup>rd</sup> Violation: Up to \$3,500 and/or sanction**

**4+ Violation: Up to \$5,000 and/or sanction**

- Occ. Code 651.405 -- Failure of Funeral Establishment to include all provisions/notifications on GPL
- Occ. Code 651.4055 -- Failure of Crematory to include all provisions/notifications on GPL
- Occ. Code 651.406 -- Failure of Funeral Establishment to include all provisions/notifications on Purchase Agreement
- Occ. Code 651.4065 -- Failure of Crematory to include all provisions/notifications on Purchase Agreement
- Occ. Code 651.4085 -- Failure of FD or agent to be present when casket is interred or entombed unless out of state
- Occ. Code 651.454(a)(2) -- Failure to provide to a prospective customer inquiring in person about any funeral service or merchandise a retail price list for the prospective customer to keep
- Occ. Code 651.454(a)(3) -- Failure to explain to a prospective customer that a contractual agreement for funeral services or merchandise may not be entered into before a retail price list is provided to the prospective customer
- Occ. Code 651.454(b)(2) -- Restricted, hindered, or attempted to restrict or hinder: an agreement for funeral services between a consumer and a funeral director or embalmer
- Occ. Code 651.454(c) -- Solicited business or offered an inducement to secure or attempt to secure business for the funeral establishment unless the solicitation was made under a permit issued under Chapter 154, Finance Code
- Occ. Code 651.455(a)(1) -- Used false statement to mislead or deceive the public regarding a legal, religious, or cemetery requirement for funeral merchandise or funeral, cemetery, or crematory services
- Occ. Code 651.455(a)(2) -- Used false statement to mislead or deceive the public regarding the preservative qualities of funeral merchandise or funeral, cemetery, or crematory services in preventing or substantially delaying natural decomposition of human remains
- Occ. Code 651.455(a)(3) -- Used false statement to mislead or deceive the public regarding the airtight or watertight properties of a casket or outer enclosure
- Occ. Code 651.455(a)(4) -- Used false statement to mislead or deceive the public regarding the licenses held by the personnel in the operation of the cemetery, crematory, or funeral establishment
- Occ. Code 651.455(a)(5) -- Used false statement to mislead or deceive the public regarding an activity regulated under this chapter, including the sale of funeral related goods or services
- Occ. Code 651.456(3) -- Violated state law regarding transportation, storage, refrigeration, inurnment, interment, or disinterment of dead human body
- Occ. Code 651.459(a)(3) -- Engaged in negligence in the practice of embalming or funeral directing that is likely to or does deceive, defraud, or otherwise injure the public

- Occ. Code 651.459(a)(5) -- Directly or indirectly employed a person to solicit individuals or institutions by whose influence dead human bodies are turned over to a particular funeral director, embalmer, or funeral establishment
- Occ. Code 651.459(b) -- Stated or implied that a customer's concern with the cost of any funeral service or funeral merchandise was improper or indicated a lack of respect for the deceased
- Occ. Code 651.460(a)(1) -- Failed to provide a customer with a purchase agreement as required by Section 651.406
- Occ. Code 651.460(a)(2) -- Failed to retain and make available to the Commission copies of all price lists, written notices, embalming documents, and memoranda of agreement required for two years after the date of distribution or signing
- Occ. Code 651.460(a)(3) -- Violates chapter or Rule of Commission
- Occ. Code 651.460(a)(5) -- Associated with a funeral establishment, whether licensed or not, and failed to comply with Chapter 651 or Commission rule
- Occ. Code 651.460(a)(6) -- Knowingly violates Section 711.002(l), Health and Safety Code
- Occ. Code 651.460(b)(1) -- Failure by a funeral establishment to substantially comply with requirements of Section 651.351 (i.e., have a preparation room at all)
- H&S 716.102 -- Failure to furnish receipt of remains
- H&S 716.153 -- Simultaneous cremation without authorization
- H&S 716.155 -- Commingling remains without authorization
- H&S 716.251 -- Failure of crematory to maintain records for five years

## **Class C**

**1<sup>st</sup> Violation: \$1,000**

**2<sup>nd</sup> Violation: \$1,500**

**3<sup>rd</sup> Violation: Up to \$4,000 and/or sanction**

**4+ Violation: Up to \$5,000 and/or sanction**

- Occ. Code 651.306 -- FD/Embalmer is not physically present when supervising provisional licensee
- Occ. Code 651.401(b) -- Failure of licensed funeral director to direct removal of body
- Occ. Code 651.401(d) -- Unlicensed person commits first call violations
- Occ. Code 651.406(e) -- Failure of Funeral Establishment to remit funds to transferring funeral home
- Occ. Code 651.407(a) -- Use of dead human body by mortuary school without written consent
- Occ. Code 651.451(7) -- Permitted another to use the person's license or registration to perform an activity regulated under 651
- Occ. Code 651.453 -- Advertised in misleading or deceptive way or used the name of person who is falsely represented to be the license holder
- Occ. Code 651.456(1) -- Took custody of body without permission
- Occ. Code 651.456(2) -- Refused to promptly surrender a body to authorized agent (or representative)
- Occ. Code 651.457(a)(1) -- Embalmed a body without receiving the express written or oral permission of a person authorized to make funeral arrangements for the deceased; or making a documented reasonable effort over a period of at least three hours to obtain the permission
- Occ. Code 651.457(a)(4) -- Placed a chemical or substance on or in a dead human body to disinfect or preserve the body or to restore body tissues and structures without holding an embalmer's license or provisional embalmer's license
- Occ. Code 651.458 -- Made a distinction in providing funeral information to a customer
- Occ. Code 651.459(a)(1) -- Wilfully made a false statement on a death certificate, including forgery of a physician's signature; or a document required by this law/rule
- Occ. Code 651.459(a)(2) -- Engaged in fraudulent, unprofessional, or deceptive conduct in providing funeral services or merchandise to a customer
- Occ. Code 651.459(a)(3) -- Engaged in dishonest conduct, wilful conduct, in the practice of embalming or funeral directing that is likely to or does deceive, defraud, or otherwise injure the public
- Occ. Code 651.459(a)(4) -- Caused the execution of a document by the use of fraud, deceit, or misrepresentation
- Occ. Code 651.459(a)(6) -- Misappropriated funds held by a license holder, a funeral establishment, an employee or agent of the funeral establishment, or another depository, that created an obligation to provide a funeral service or merchandise, including retaining for an unreasonable time excess funds paid by or on behalf of the customer for which the customer is entitled to a refund
- Occ. Code 651.459(c) -- FDIC fails to provide a funeral director or an embalmer for direction or personal supervision for a first call

- Occ. Code 651.460(a)(4) -- Allowed the use of a dead human body by an embalming establishment for research or educational purposes without complying with Section 651.407
- Occ. Code 651.460(b)(2) -- A funeral establishment or a person acting on behalf of the funeral establishment violated Chapter 193 or 361, Health and Safety Code
- Occ. Code 651.460(b)(3) -- A funeral establishment, a person acting on behalf of the funeral establishment, or a person directly or indirectly connected with the funeral establishment violated Chapter 154, Finance Code, or a rule adopted under that chapter
- Occ. Code 651.460(b)(4) -- Funeral Establishment allows unlicensed person to perform work that requires license
- Occ. Code 651.460(c) -- Crematory allows unlicensed person to perform work that requires license
- H&S 716.051 – Cremates body without proper authorization

## **Class D**

**1<sup>st</sup> Violation: Up to \$5,000 and/or sanction**

**2<sup>nd</sup> Violation: Up to \$5,000 and sanction**

**3<sup>rd</sup> Violation: Up to \$5,000 and sanction**

**4+ Violation: \$5,000 and Revocation**

- Occ. Code 651.251 -- Engaged or professed to be engaged in business of funeral directing/embalming unless licensed by Commission
- Occ. Code 651.351(a) -- Funeral Establishment may not conduct business unless licensed
- Occ. Code 651.352 -- Commercial embalming facility may not conduct business unless licensed
- Occ. Code 651.451(1) -- Presented to Commission license, certificate, registration, or diploma that was illegally or fraudulently obtained
- Occ. Code 651.451(2) -- Used fraud or deception in passing the examination, including impersonating or acting as a proxy for another person in the examination
- Occ. Code 651.451(3) -- Purchased, sold, bartered, or used, or offered to purchase, sell, barter, or use, a license, registration, certificate, or transcript of a license, registration, or certificate in or incident to an application to the Commission for a license or registration issued under this chapter
- Occ. Code 651.451(4) -- Altered, with fraudulent intent, a license, registration, or certificate issued under Chapter 651 or a transcript of a license, registration, or certificate
- Occ. Code 651.451(5) -- Used a license, registration, certificate, or diploma issued or a transcript of a license, registration, certificate, or diploma that was fraudulently purchased, issued, counterfeited, or materially altered
- Occ. Code 651.451(6) -- Impersonated a funeral director, embalmer, or other person regulated under 651
- Occ. Code 651.451(8) -- Presented false certification of work done as a provisional license holder
- Occ. Code 651.452(1) -- Conviction of misdemeanor related to the practice of funeral directing or embalming or of a felony
- Occ. Code 651.452(2)(3) -- Ongoing/current substance abuse or determined by court to be of unsound mind
- Occ. Code 651.459 (a)(7) -- Performed acts of funeral directing or embalming that are outside the licensed scope and authority of the license holder, or performed acts of funeral directing or embalming in a capacity other than that of an employee, agent, subcontractor, or assignee of a licensed funeral establishment that has contracted to perform those acts
- Occ. Code 651.460 (a)(3) -- Fails to comply with Order of Commission or pay administrative penalty
- Occ. Code 651.656 -- Crematory may not conduct business unless licensed
- H&S 716.004 -- Cremates body in 48 hours without permission