

## **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**

1. 651.157 - Failure to have premises open at all times to inspection
2. 651.261 - Failure to conspicuously display holder's license in each location
3. 651.304(a) - Failure by provisional licensee to timely notify Commission of employment
4. 651.304(d) - Failure by FD/Embalmer to prepare affidavit of completed cases if provisional leaves employment
5. 651.351(d)(1) – Failure by Funeral Establishment to meet building, health & safety codes
6. 651.351(d)(3) - Failure by Funeral Establishment to include facilities in which funeral services may be conducted
7. 651.351(d)(4) - Failure by Funeral Establishment to have access to rolling stock
8. 651.351(d)(5) - Failure to maintain preparation room (i.e. have necessary equipment/supplies)
9. 651.351(d)(6) - Failure by Funeral Establishment to include facilities to comply with sanitary codes
10. 651.351(d)(7) / 651.351(f) - Failure by Funeral Establishment to include required casket display
11. 651.403 - Failure to promptly notify Commission of FDIC change
12. 651.404 / 651.454(a)(1) - Failure to provide consumer brochure
13. 651.407 - Failure to retain written consent for two years
14. 651.454(a)(4) - Failure to provide general price information by telephone within reasonable time
15. 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
16. 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
17. 651.503 – Failure to file written report in 15 days as required for “Letter of Warning” finding

## **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**

1. 651.405 - Failure of Funeral Establishment to include all provisions/notifications on GPL
2. 651.4055 - Failure of Cemetery/Crematory to include all provisions/notifications on GPL
3. 651.406 - Failure of Funeral Establishment to include all provisions/notifications on Purchase Agreement
4. 651.4065 - Failure of Cemetery/Crematory to include all provisions/notifications on Purchase Agreement
5. 651.4085 - Failure of FD or agent to be present when casket is interred or entombed unless out of state
6. 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
7. 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
8. 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
9. 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
10. 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
11. 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 --
12. 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
13. 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
14. 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
15. 651.456(3) - Violated state law regarding transportation, storage, refrigeration, inurnment, interment, or disinterment of dead human body
16. 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
17. 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
18. 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
19. 651.460(a)(1) - Failed to provide a customer with a purchase agreement as required by Section 651.406

20. 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
21. 651.460(a)(5) - Associated with a funeral establishment, whether licensed or not, and failed to comply with Chapter 651 or Commission rule
22. 651.460(a)(6) – Knowingly violates Section 711.002(1), Health and Safety Code
23. 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)

## **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**

1. 651.306 - FD/Embalmer is not physically present when supervising provisional licensee
2. 651.401(c) - Unlicensed person commits first call violations
3. 651.407 - Use of dead human body by mortuary school without written consent
4. 651.451(7) - Permitted another to use the person's license or registration to perform an activity regulated under 651
5. 651.453 - Advertised in misleading or deceptive way or used the name of person who is falsely represented to be the license holder
6. 651.456(1) - Took custody of body without permission
7. 651.456(2) - Refused to promptly surrender a body to authorized agent (or representative)
8. 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
9. 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
10. 651.458 - Made a distinction in providing funeral information to a customer
11. 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
12. 651.459(a)(2) - Engaged in fraudulent, unprofessional, or deceptive conduct in providing funeral services or merchandise to a customer
13. 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
14. 651.459(a)(4) - Caused the execution of a document by the use of fraud, deceit, or misrepresentation
15. 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
16. 651.459(c) - FDIC fails to provide a funeral director or an embalmer for direction or personal supervision for a first call
17. 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
18. 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
19. 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

## **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**

1. 651.452(1) - Conviction of misdemeanor related to the practice of funeral directing or embalming or of a felony
2. 651.452(2-3) – Ongoing/current substance abuse or determined by court to be of unsound mind
3. 651.460 (a)(3) - Fails to comply with Order of Commission or pay administrative penalty
4. 651.251 - Engaged or professed to be engaged in business of funeral directing/embalming unless licensed by Commission
5. 651.351(a) - Funeral Establishment may not conduct business unless licensed
6. 651.352 - Commercial embalming facility may not conduct business unless licensed
7. 651.353 - Cemetery may not conduct business unless licensed and not exempt under (d)
8. 651.656 - Crematory may not conduct business unless licensed
9. 651.451(1) - Presented to Commission license, certificate, registration, or diploma that was illegally or fraudulently obtained
10. 651.451(2) - Used fraud or deception in passing the examination, including impersonating or acting as a proxy for another person in the examination
11. 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
12. 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
13. 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
14. 651.451(6) - Impersonated a funeral director, embalmer, or other person regulated under 651
15. 651.451(8) - Presented false certification of work done as a provisional license holder
16. 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