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Sequence Number: 04-21-09
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 File Date: 04/30/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Department of Commerce and Insurance
Division:	Division of Regulatory Boards
Contact Person:	Adrian Chick
Address:	500 James Robertson Parkway, 12 th Floor Nashville, Tennessee 37243
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman, ADA Coordinator Department of Commerce and Insurance 500 James Robertson Parkway Nashville, Tennessee 37243
Address:	Nashville, Tennessee 37243
Phone:	(615) 741-0481
Email:	don.coleman@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	710 James Robertson Parkway		
Address 2:	2 nd Floor Conference Room		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	07/14/09		
Hearing Time:	8:30 a.m.	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
0660-01	General Provisions
Rule Number	Rule Title

0660-01-.01	Definitions
0660-01-.02	Paper Size
0660-01-.03	Changes
0660-01-.04	Compliance with Statutes and Rules

Chapter Number	Chapter Title
0660-02	Examinations
Rule Number	Rule Title
0660-02-.02	Grading Procedures

Chapter Number	Chapter Title
0660-03	Fees
Rule Number	Rule Title
0660-03-.06	License Certificates
0660-03-.07	Reinspections
0660-03-.08	Change of Ownership
0660-03-.09	Change of Location
0660-03-.10	Database Update

Chapter Number	Chapter Title
0660-04	Apprentices
Rule Number	Rule Title
0660-04-.01	Registration
0660-04-.02	Quarterly Reports
0660-04-.03	Change in Sponsor

Chapter Number	Chapter Title
0660-05	Funeral Directors and Embalmers
Rule Number	Rule Title
0660-05-.01	Application

Chapter Number	Chapter Title
0660-06	Funeral Establishments
Rule Number	Rule Title
0660-06-.01	Application
0660-06-.02	Fixed Place of Business
0660-06-.03	Change of Ownership

Chapter Number	Chapter Title
0660-07	Rules of Procedure for Hearing Contested Cases
Rule Number	Rule Title

Chapter Number	Chapter Title
0660-08	Civil Penalties
Rule Number	Rule Title
0660-08-.01	Civil Penalties

Chapter Number	Chapter Title
0660-10	Continuing Education
Rule Number	Rule Title
0660-10-.03	Continuing Education Requirements

Chapter Number	Chapter Title
0660-11	Standards of Service and Practice
Rule Number	Rule Title
0660-11-.01	Purpose
0660-11-.02	Preparation Rooms

0660-11-.03	Use of Outside Services
0660-11-.04	Public Areas
0660-11-.05	Professional Conduct
0660-11-.06	Unfair or Deceptive Acts or Practices
0660-11-.07	Records
0660-11-.08	Burial Associations

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0660-01
Registration of Apprentices

Amendments

Chapter 0660-01 Registration of Apprentices is amended by deleting the language of the chapter in its entirety and by substituting instead the following language so that, as amended, the chapter shall read:

Chapter 0660-01
General Provisions

Table of Contents

0660-01-.01	Definitions
0660-01-.02	Paper size
0660-01-.03	Changes
0660-01-.04	Compliance with statutes and rules

0660-01-.01 Definitions. The following definitions apply to all rules promulgated by the Board of Funeral Directors and Embalmers.

- (1) "Board" means the State Board of Funeral Directors and Embalmers.
- (2) "Burial association" means a voluntary association, charitable and benevolent in nature, which provides death benefits to members by means of an assessment of all of the members.
- (3) "Cash advance item" means any item of service or merchandise described to a purchaser as a cash advance, accommodation, cash disbursement, or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to: cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities and death certificates.
- (4) "Change in ownership" means a transfer in ownership from one person to another, including the following situations:
 - (a) A sole proprietor becomes a member of a partnership or corporation or LLC;
 - (b) A partnership dissolves;
 - (c) One partnership is replaced by another through the removal, addition or substitution of a partner; or
 - (d) Two (2) or more corporations merge and the originally-licensed corporation does not survive.
- (5) "Day" means calendar day.
- (6) "Director" means the Executive Director of the Board.
- (7) "Funeral Rule" means the provisions of Title 16, Code of Federal Regulations, Part 453 with respect to funeral industry practices.
- (8) "Received" means actual receipt by the Board or Department of Commerce and Insurance.

- (9) "Reinspection" means any inspection of an establishment other than an inspection required by Rule 0660-06-.04.

Authority: T.C.A. § 62-5-203.

0660-01-.02 Paper size.

- (1) All documents submitted to the Board shall be on 8.5 x 11 inch paper.
- (2) All documents required to be submitted to field representatives pursuant to any inspection shall be on 8.5 x 11 inch paper.
- (3) The requirements of this rule may be waived by the Director.

Authority: T.C.A. §§ 62-5-203 and 62-5-205.

Rule 0660-01-.03 Changes.

- (1) In addition to any other requirement of the Board's rules or any statute pertaining to the profession of funeral directing or embalming, the following shall be reported in writing to the Board by the licensee within ten (10) days of the effective date of the change:
 - (a) change in ownership of a funeral establishment;
 - (b) change of location of a funeral establishment;
 - (c) change in the identity of the licensed funeral director managing, supervising and responsible for a funeral establishment;
 - (d) change in mailing address of any funeral director, embalmer or apprentice;
 - (e) change in the identity of the individual sponsoring an apprentice;
 - (f) change in the licensed funeral establishment employing an apprentice; and
 - (g) change in any other information required to be submitted on an application or registration form.
 - (h) a conviction of a misdemeanor involving fraud, dishonesty or moral turpitude or a conviction of any felony.
- (2) A licensee shall not permit any advertisement, price list, brochure, business card, signage, internet web site, or other written medium that is likely to be viewed by the public, to refer to the funeral establishment by any name other than the exact name listed on the establishment application approved by the Board.

Authority: T.C.A. §§ 62-5-203, 62-5-312 and 62-5-315(c).

0660-01-.04 Compliance with statutes and rules.

- (1) Each licensee shall ensure that such licensee acts in compliance with these rules and any statutes pertaining to the profession of funeral directing, embalming or operation of a funeral establishment.
- (2) Failure of the Board to take disciplinary action with respect to any condition, document, event or circumstance shall not be construed as a waiver by the Board of any statute or rule nor shall the

fact that a complaint has not previously been opened be considered a determination of compliance by the Board.

- (3) The text of all statutes and rules of the state of Tennessee may be accessed via the internet. The current URL (web address) is <http://www.tennesseeanytime.org/laws/>.
- (4) The Board may post relevant information, including changes or proposed changes to rules via the internet. The current URL is <http://tennessee.gov/commerce/boards/funeral/>.
- (5) The text of the Federal Trade Commission Funeral Rule may be accessed via the internet. The current URL is <http://www.ftc.gov/bcp/edu/pubs/business/adv/bus05.pdf>
- (6) This rule shall not be construed as affecting the procedure for petition of a declaratory order which shall be according to the provisions of T.C.A. § 4-5-223 and Chapter 1360-04-01 of the Rules of the Tennessee Department of State.

Authority: T.C.A. §§ 4-5-223, 56-1-308, 62-5-203 and 62-5-317.

Chapter 0660-02 Examinations

Amendments

Rule 0660-02-.02 Grading Procedures is amended by deleting paragraph (2) and renumbering the remaining paragraphs appropriately.

Authority: T.C.A. §§ 62-5-203 and 62-5-301.

Chapter 0660-03 Fees

Amendments

Rule 0660-03-.06 Duplicates is amended by deleting the language of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0660-03-.06 License Certificates.

- (1) The fee for a duplicate computer generated license certificate shall be thirty dollars (\$30.00).
- (2) The fee for an initial/duplicate wall license certificate shall be sixty dollars (\$60.00).

Authority: T.C.A. §§ 62-5-203 and 62-5-315(d).

Rule 0660-03-.07 Reinspections is amended by deleting the language of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read:

0660-03-.07 Reinspections.

- (1) The fee for any reinspection shall be two hundred dollars (\$200.00).
- (2) Any reinspection fee shall be paid to and received by the Board by the date specified in a written invoice sent by the Director.

Authority: T.C.A. §§ 62-5-203, 62-5-207, 62-5-304 and 62-5-317.

Rule 0660-03-.08 Change of Ownership is amended by deleting the language of the rule in its entirety and by substituting the following language so that, as amended, the rule shall read:

0660-03-.08 Change of Ownership.

Any person acquiring ownership of an existing licensed funeral establishment shall remit the same fee and application as required for a funeral establishment by Rule 0660-03-.02(3), payable upon submission of the written notice required by Rule 0660-01-.03.

Authority: T.C.A. §§ 62-5-203, 62-5-207 and 62-5-315(c).

Rule 0660-03-.09 Change of Location is amended by deleting the cite "0660-4-.03(1)" and by substituting instead "0660-01-.03".

Authority: T.C.A. §§ 62-5-203, 62-5-207, 62-5-304 and 62-5-315(c).

Rule 0660-03-.10 Database Update is amended by adding the following language so that, as amended, the rule shall read:

The fee for changing any entry in the Board's computer database with regard to information required to be reported or submitted to the Board shall be sixty dollars (\$60.00) per request, provided however that no fee shall be charged for updating the database with regard to the mailing address or legal name of an individual licensee.

Authority: T.C.A. §§ 62-5-203 and 62-5-207.

Chapter 0660-04 Reports

Amendments

Chapter 0660-4 Reports is amended by deleting the language of the chapter in its entirety and by substituting instead the following language so that, as amended, the chapter shall read as follows:

Chapter 0660-4 Apprentices

Table of Contents

0660-04-.01 Registration
0660-04-.02 Quarterly Reports
0660-04-.03 Change in Sponsor

0660-04-.01 Registration.

A person beginning a required apprenticeship shall submit to the Board a completed registration form and payment of the registration fee as set forth in Chapter 0660-03 of these rules along with the following documentation:

- (1) a copy of an official photo identification issued by a governmental agency, such as a valid (permanent, current, unexpired and legible) driver's license, U.S. passport, or federal,

state, county or city employee I.D. card showing the individual's date of birth and address;

- (2) an official transcript or diploma certified by an educational institution showing the applicant has graduated from a high school or has earned a GED recognized by a state department of education.

Authority: T.C.A. §§ 62-5-203 and 62-5-312.

0660-04-.02 Quarterly reports.

Apprentices shall submit a quarterly report of apprenticeship training on a form prescribed by the Board. Such report must be received no later than sixty (60) days following the last day of the quarter for which credit is sought.

Authority: T.C.A. §§ 62-5-203 and 62-5-312.

0660-04-.03 Change in sponsor.

An apprentice shall notify the Board of a change in the individual sponsoring the apprentice or a change in the establishment employing the apprentice within ten (10) days of the change.

Authority: T.C.A. §§ 62-5-203 and 62-5-312.

Chapter 0660-05 Burial Associations

Amendments

Chapter 0660-05 Burial Associations is amended by deleting the chapter in its entirety and by substituting instead the following so that, as amended, the chapter shall read as follows:

Chapter 0660-05 Funeral Directors and Embalmers

Table of Contents

0660-05-.01 Application

0660-05-.01 Application.

- (1) Each person desiring to obtain a new or initial funeral director or embalmer license shall submit to the Board a completed application on a form prescribed by the Board and the fee(s) as required by Chapter 0660-03 of these rules along with the following documentation:
 - (a) a copy of an official photo identification issued by a governmental agency, such as a valid (permanent, current, unexpired, legible) driver's license, U.S. passport, or federal, state, county or city employee I.D. card showing the individual's date of birth and address;
 - (b) two (2) letters of recommendation by a licensed funeral director and/or embalmer which attest to the good moral character and competence of the applicant. Such letters shall be signed and dated on printed stationery;

- (c) an official transcript or diploma certified by an educational institution showing the applicant has graduated from a high school or has earned a GED recognized by a state department of education;
 - (d) for a funeral director applicant, an official transcript showing completion of a study in funeral service education consisting of not less than thirty (30) semester hours, forty-five (45) quarter hours or the equivalent, from a school accredited by the American Board of Funeral Service Education, and, if applicable, official test results of the Arts section of the National Board Examination;
 - (e) for an embalmer applicant, an official transcript evidencing an associate of arts degree by successful completion of a mortuary science program consisting of not less than sixty (60) semester hours, ninety (90) quarter hours or the equivalent, with a program accredited by the American Board of Funeral Service Education, and official test results of the Science section of the National Board Examination;
 - (f) Certification of Completion of Apprenticeship Form attesting that either:
 - 1. the applicant for a funeral director license has completed not less than two (2) years of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed funeral director, or
 - 2. the applicant for an embalmer license has completed not less than one (1) year of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed embalmer.
- (2) The apprenticeship requirements listed in subparagraph (f) of this rule do not apply to persons already registered as apprentices as of December 31, 2007 as specified in T.C.A. 62-5-312(c).

Authority: T.C.A. §§ 62-5-203, 62-5-306, 62-5-307 and 62-5-312.

Chapter 0660-06
Funeral Industry Practices

Amendments

Chapter 0660-06 Funeral Industry Practices is amended by deleting the chapter in its entirety and by substituting instead the following language so that, as amended, the chapter shall read as follows:

Chapter 0660-06
Funeral Establishments

Table of Contents

0660-06-.01	Application
0660-06-.02	Fixed place of business
0660-06-.03	Change of ownership
0660-06-.04	Inspection required
0660-06-.01	Application.

- (1) Each person desiring to obtain an establishment license shall submit to the Board a completed application on a form prescribed by the Board and the fee(s) as required by Chapter 0660-03 of these rules along with the following documentation:
 - (a) a list containing names and addresses for all employees designating whether they are licensed as a funeral director and/or embalmer or unlicensed assistant and designating whether they are full-time or part-time employees;
 - (b) a letter of approval from the local zoning authority which shall include at a minimum the following information:
 1. the specific activity for which the location is approved, such as "funeral home", "crematory", etc.;
 2. parking space availability required for the location, or a statement indicating that the zoning authority has no requirements with respect to parking.
 - (c) a letter from the appropriate authority indicating that the proposed establishment is properly connected to sewer services, or in the case of a location without available sewer service a letter indicating that the septic system is in proper working order and approved for the intended use.

Authority: T.C.A. §§ 62-5-203 and 62-5-304.

0660-06-.02 Fixed place of business.

- (1) An establishment shall not be operated, and no establishment license shall be granted or renewed, unless the applicant has a fixed place of business or establishment that is devoted to the care and preparation of dead human bodies.
- (2) The Board, in determining whether an applicant's proposed fixed place of business or establishment is devoted to the care and preparation of dead human bodies, may consider factors including, but not limited to, the following:
 - (a) Any indication in the proposed establishment's name that suggests the establishment will be engaged in any activity other than the care and preparation of dead human bodies;
 - (b) Any evidence at the proposed place of business that suggests activity other than that incidental to the care and preparation of dead human bodies;
 - (c) If the establishment is located within a business complex, whether the establishment is clearly separated from any other entity located within the complex and clearly distinguished by professional signage.

Authority: T.C.A. §§ 62-5-203, 62-5-313(a) and 62-5-317.

0660-06-.03 Change of ownership.

Upon a change in ownership, the new owner shall apply for a new establishment license and shall not operate more than seventy-five (75) days without either issuance of a new license or appearing before the Board and obtaining an extension of time.

Authority: T.C.A. §§ 62-5-203, 62-5-315(c) and 62-5-317.

0660-06-.04 Inspection required.

The Board, in addition to routine annual inspections, shall require an inspection of an establishment prior to approving an application for the following:

- (1) a change of ownership;
- (2) a change of location;
- (3) an initial establishment license.

Authority: T.C.A. §§ 62-5-203 and 62-5-315(c).

Chapter 0660-07
Rules of Procedure for Hearing Contested Cases

Amendments

Chapter 0660-07 Rules of Procedure for Hearing Contested Cases is amended by deleting the language in its entirety and substituting instead the following language so that, as amended, the rule shall read:

For Rules of Procedure for Hearing Contested Cases see Rules of Tennessee Department of State,
Administrative Procedures Division, Chapter 1360-04-01.

Authority: T.C.A. §§ 4-5-219(c) and 62-5-203.

Chapter 0660-08
Civil Penalties

Amendments

Rule 0660-08-.01 Civil Penalties is amended by deleting the language of the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0660-08-.01 Civil Penalties.

- (1) With respect to any person, partnership, firm, association or corporation required to be licensed by the Board, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties against such person for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-5-317(a) (1)	Not more than \$1,000 Not less than \$250
(2)	Not more than \$1,000 Nor less than \$250
(3)	Not more than \$1,000 Nor less than \$250
(4)	Not more than \$1,000 Nor less than \$250
(5)	Not more than \$1,000 Nor less than \$250
(6)	Not more than \$1,000 Nor less than \$250
(7)	Not more than \$1,000

		Nor less than	\$250
	(8)	Not more than	\$1,000
		Nor less than	\$250
	(9)	Not more than	\$1,000
		Nor less than	\$250
T.C.A. § 62-5-317(b)	(1)	Not more than	\$1,000
		Nor less than	\$250
	(2)	Not more than	\$1,000
		Nor less than	\$250
	(3)	Not more than	\$1,000
		Nor less than	\$250
	(4)	Not more than	\$1,000
		Nor less than	\$250
	(5)	Not more than	\$1,000
		Nor less than	\$250
	(6)	Not more than	\$1,000
		Nor less than	\$250
	(7)	Not more than	\$1,000
		Nor less than	\$250
	(8)	Not more than	\$1,000
		Nor less than	\$250
	(9)	Not more than	\$1,000
		Nor less than	\$250
	(10)	Not more than	\$1,000
		Nor less than	\$250
	(11)	Not more than	\$1,000
		Nor less than	\$250
	(12)	Not more than	\$1,000
		Nor less than	\$250
	(13)	Not more than	\$1,000
		Nor less than	\$250
	(14)	Not more than	\$1,000
		Nor less than	\$250
	(15)	Not more than	\$1,000
		Nor less than	\$250
	(16)	Not more than	\$1,000
		Nor less than	\$250
	(17)	Not more than	\$1,000
		Nor less than	\$250

- (2) Each day of continued violation shall constitute a separate violation.
- (3) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of non-compliance;
 - (e) Whether the violator has been guilty of similar violations in the past and any discipline imposed for the past violations; and
 - (f) The interests of the public.

Authority: T.C.A. §§ 56-1-308, 62-5-203 and 62-5-317.

Chapter 0660-10
Continuing Education

Amendments

Rule 0660-10-.03 Continuing Education Requirements is amended by deleting the language of subsection (4) and by substituting instead the following language so that, as amended, subsection (4) shall read:

- (4) Except as provided in subsection (5), the requirements of this chapter do not apply to new licenses during the first licensing period.

Rule 0660-10-.03 Continuing Education Requirements is further amended by adding the following language as new subsection (5) so that, as amended, subsection (5) shall read:

- (5) A person required to reapply as for initial licensure by T.C.A. § 62-5-316(b), as a prerequisite to issuance of a new license, shall submit with the application satisfactory proof of having completed a minimum of ten (10) hours of continuing education coursework within ninety (90) days of the date of application.

Authority: T.C.A. §§ 62-5-203, 62-5-601(c), 62-5-601(e), 62-5-601(f) and 62-5-601(g).

Chapter 0660-11
Standards of Service and Practice

New Rules

Table of Contents

- 0660-11-.01 Purpose
- 0660-11-.02 Preparation Rooms
- 0660-11-.03 Use of Outside Services
- 0660-11-.04 Public Areas
- 0660-11-.05 Professional Conduct
- 0660-11-.06 Unfair or Deceptive Acts or Practices
- 0660-11-.07 Records
- 0660-11-.08 Burial Associations

0660-11-.01 Purpose.

These standards of service and practice shall be the minimum standards to be followed by persons engaging in the profession of funeral directing, embalming or operation of a funeral establishment.

Authority: T.C.A. § 62-5-203.

0660-11-.02 Preparation Rooms.

- (1) Each preparation room shall be equipped with a permanently installed ventilation fan of appropriate size and in good working order.

- (2) An establishment shall take reasonable steps to ensure that the preparation room is secured to prevent unauthorized entry.
- (3) Preparation rooms shall have no windows that would permit persons outside to see into the preparation room.
- (4) All surfaces, instruments, tables, fixtures and equipment shall be cleaned and sanitized and all waste and soiled clothing properly disposed of as soon as practicable after preparation of a body.
- (5) The preparation room shall be maintained in an orderly manner, free from clutter.
- (6) The preparation room shall be used for no purpose other than the preparation of dead human bodies.

Authority: T.C.A. § 62-5-203 and 62-5-317.

0660-11-.03 Use of outside services.

No funeral director, embalmer or establishment shall utilize the services of an independent contractor, trade embalmer, or any other outside provider if the funeral director, embalmer or establishment knows, or reasonably should know, that such independent contractor, trade embalmer, or other outside provider is in violation of any statute or rule pertaining to the Board.

Authority: T.C.A. §§ 62-5-203 and 62-5-317.

0660-11-.04 Public Areas.

- (1) Each establishment shall have public restroom accommodations which shall be maintained in good working order, clean and stocked with toilet tissue, towels and hand soap.
- (2) All public areas shall be kept in a good state of repair.
- (3) All sidewalks, entrances and walkways shall be free from debris, ice or other obstacles to the extent practicable.

Authority: T.C.A. §§ 62-5-203 and 62-5-317.

0660-11-.05 Professional Conduct.

- (1) All persons engaged in the profession of funeral directing, embalming or operation of a funeral establishment shall at all times act in a professional manner including, but not limited to, the following:
 - (a) Members of the public shall be treated in a respectful manner;
 - (b) Establishments shall honor financial obligations to suppliers, distributors or other persons with whom it conducts business in a timely manner;
 - (c) Any person who has been assessed a fee pursuant to statute or rules of the Board, and which fee is currently due, shall submit payment within the time provided by written notice.
 - (d) Any licensee, upon receiving notice that a complaint has been opened against the licensee, shall respond within the time specified in the notice. Provided, the director may

grant a request for extension submitted within the period of time stated in the original notice.

- (e) An establishment shall not unreasonably delay the filing of a certificate of death.

Authority: T.C.A. §§ 62-5-203 and 62-5-317.

0660-11-.06 Misleading, Deceptive or Unfair Acts or Practices.

- (1) No funeral director, embalmer or establishment shall:
 - (a) engage in any unfair or deceptive acts or practices defined in the Funeral Rule;
 - (b) fail to comply with any preventive requirements specified in the Funeral Rule; or
 - (c) engage in any other act, omission or practice that is misleading or deceptive.
- (2) The amount charged for any cash advance item shall not exceed the amount paid for such item by the funeral establishment; except, however, that the establishment shall not be required to pass on to the customer any discount which is openly and regularly made available to the establishment, if such establishment discloses to the customer the fact that it does or may receive such discount.

Authority: T.C.A. §§ 62-5-203 and 62-5-317.

0660-11-.07 Records.

- (1) All records subject to inspection by Federal Trade Commission officials as provided in the Funeral Rule shall be made available to the Board (or its authorized representatives) under the same terms.
- (2) A licensee shall submit, upon request of the Board or the Board's designee, any records kept by the licensee in the normal course of business.

Authority: T.C.A. § 62-5-203.

0660-11-.08 Burial Associations.

- (1) If any person or entity subject to the supervision of the Board directly or indirectly engages in the establishment, management, operation or control of a burial association (a) for personal profit or benefit, or (b) in any manner which is contrary to the applicable state statutes or rules, such person or entity shall be deemed by the Board to be guilty of unprofessional conduct; provided however, that necessary and incidental expenses of operating the burial association may be included in the death benefit assessment without being considered profit to the association.
- (2) If any person or entity subject to the supervision of the Board issues certificates for membership in a burial association directly or indirectly in violation of applicable state statutes or rules, it will be presumed that the association is being operated for personal profit of the person or entity, and the Board will cause an investigation to be made to determine whether there is subterfuge resulting in the unprofessional conduct of such gravity as to warrant revocation or suspension of the license.

Authority: T.C.A. §§ 4-5-203 and 62-5-317.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



My Commission Expires September 25, 2011

Date: April 30, 2009

Signature: Adrian Chick

Name of Officer: Adrian Chick

Title of Officer: Asst. General Counsel

Subscribed and sworn to before me on: 4/30/09

Notary Public Signature: Nicole Canter

My commission expires on: 9/25/10

Department of State Use Only

Filed with the Department of State on: April 30, 2009

Tre Hargett

Tre Hargett
Secretary of State

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