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Sequence Number: 09-08-12  
 Notice ID(s): 1886-1591  
 File Date: 9/21/12

**Notice of Rulemaking Hearing**

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Board of Funeral Directors and Embalmers
<b>Division:</b>	Department of Commerce and Insurance, Division of Regulatory Boards
<b>Contact Person:</b>	Benton McDonough
<b>Address:</b>	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower Nashville, Tennessee 37243
<b>Phone:</b>	615-741-8509
<b>Email:</b>	Benton.mcdonough@tn.gov

*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:*

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, Nashville, Tennessee 37243
<b>Phone:</b>	615-741-3449
<b>Email:</b>	Don.Coleman@tn.gov

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

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Tower, Room 160		
City:	Nashville		
Zip:	37243		
Hearing Date :	11/14/2012		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> _x_ CST/CDT	<input type="checkbox"/> EST/EDT

**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. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0660-03	Fees
Rule Number	Rule Title
0660-03-.04	Renewals

0660-03-.05	Reciprocal Licenses
<b>Chapter Number</b>	<b>Chapter Title</b>
0660-04	Apprentices
<b>Rule Number</b>	<b>Rule Title</b>
0660-04-.02	Quarterly Reports
<b>Chapter Number</b>	<b>Chapter Title</b>
0660-05	Funeral Directors and Embalmers
<b>Rule Number</b>	<b>Rule Title</b>
0660-05-.01	Application
<b>Chapter Number</b>	<b>Chapter Title</b>
0660-08	Civil Penalties
<b>Rule Number</b>	<b>Rule Title</b>
0660-08-.01	Civil Penalties
<b>Chapter Number</b>	<b>Chapter Title</b>
0660-09	Requirements for Crematory
<b>Rule Number</b>	<b>Rule Title</b>
0660-09-.01	Requirements for a Crematory
<b>Chapter Number</b>	<b>Chapter Title</b>
0660-11	Standards of Service and Practice
<b>Rule Number</b>	<b>Rule Title</b>
0660-11-.05	Professional Conduct

Chapter 0660-03  
Fees

Amendments

Rule 0660-03-.04 - Renewals is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0660-03-.04 Renewals

- (1) Funeral Director. The fee for biennial renewal of a funeral director's license shall be two hundred thirty-five dollars (\$235.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (2) Embalmer. The fee for biennial renewal of an embalmer's license shall be two hundred thirty-five dollars (\$235.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (3) Funeral Establishment. The fee for biennial renewal of a funeral establishment license shall be five hundred seventy-five dollars (\$575.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).

Authority: T.C.A. §§ 62-5-203, 62-5-207, 62-5-315, and 62-5-316(b).

Rule 0660-03-.05 Reciprocal Licenses is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

Rule 0660-03-.05 Reciprocal Licenses

- (1) An application for a reciprocal funeral director's or embalmer's license shall be accompanied by a non-refundable application fee of two hundred dollars (\$200.00).
- (2) The fee for a reciprocal funeral director's or embalmer's license shall be two hundred thirty-five dollars (\$235.00).
- (3) Any non-resident applicant for a reciprocal funeral director's or embalmer's license failing to meet the minimum qualifications described in T.C.A. § 62-5-311(b)(2), based solely upon a failure to meet T.C.A. § 62-5-305(b)(6) or (b)(7) for funeral directors or T.C.A. § 62-5-307(b)(6) or (b)(7) for embalmers may meet such qualifications provided that the nonresident applicant has been licensed by another state or provincial authority in

good standing for five (5) consecutive years immediately preceding their application, and has been employed as a funeral director or embalmer, or both, for such time.

Authority: T.C.A. §§ 62-5-203 and 62-5-311.

Chapter 0660-04  
Apprentices

Amendments

Rule 0660-04-.02 Quarterly Reports is amended by adding a new sentence to the end of the rule so that, as amended, the rule shall read:

Rule 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. Failure to file the quarterly report of apprenticeship training within the allotted time shall result in such credit being denied for that period of time.

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

Chapter 0660-05  
Funeral Directors and Embalmers

Amendments

Subparagraph (1)(f) of Rule 0660-05-.01 Application is amended by adding language to the end of parts (1)(f)(1) and (1)(f)(2) so that, as amended, the parts shall read as follows:

0660-05-.01 Application

- (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 as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship, 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 as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship.

Authority: T.C.A., §62-5-203, 62-5-305, 62-5-306, 62-5-307 and 62-5-312.

Chapter 0660-08  
Civil Penalties

Amendments

Paragraph (3) of Rule 0660-08-.01 Civil Penalties is amended by deleting "and" immediately following subparagraph (3)(e), adding "; and" at the end of subparagraph (3)(f), and creating a new subparagraph (3)(g), so that, as amended, paragraph (3) shall read:

0660-08-.01 Civil Penalties

(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;
- (f) The interests of the public; and
- (g) The length of time that has elapsed between the alleged violation and filing of the complaint.

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

Chapter 0660-09  
Requirements for Crematory

Amendments

Rule 0660-9-.01 Requirements for a Crematory is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0660-9-.01 Requirements for a Crematory

- (1) No person, partnership, firm, association or corporation shall conduct, maintain, manage or operate a crematory facility unless a license as a funeral establishment for such facility has been issued by the Board of Funeral Directors and Embalmers.
- (2) Application for licensure of crematory facility shall be on a form furnished and prescribed by the Board of Funeral Directors and Embalmers and shall be accompanied by an application fee set by the Board for funeral establishment. No license shall be issued unless the crematory facility has been inspected and approved as meeting all requirements as set forth by the Board, the Department of Health, Department of Environment regulation or any local ordinance regulating the same.
- (3) No more than one (1) dead human body shall be placed in a retort at one (1) time, unless written permission has been received from the personal representative for each body.
- (4) In the event the urn or other container is insufficient to accommodate all of the cremated remains, the excess will be placed by the crematory operator in a secondary container. This secondary container shall be kept with the urn or other container and handled according to the final disposition instructions set forth by the Authorizing Agent(s).
- (5) No more than one cremated remains may be placed in any container, unless written permission has been received from the personal representative responsible for the remains.
- (6) Cremated remains may not be commingled for storage or disposition. Each individual cremated remains must be kept separate and properly identified on the container, unless otherwise authorized by personal representatives.
- (7) That the entire cremated remains be returned to the family and/or responsible party.
- (8)(a) All cremations of human remains in this state shall be arranged through the holder of a valid, current funeral establishment license issued by the board;
- (b) All cremations of human remains in this state shall be directly supervised by a licensed funeral director during the cremation process; including, but not limited to, the placement of remains in cremation chamber, repositioning of remains, removal from chamber, processing, and placement in an urn or other container.
- (9) Each crematory shall submit its cremation authorization form to the Board for approval, prior to using said form. Every funeral establishment shall use the cremation authorization form approved by the Board and provided by the crematory where the human remains are to be cremated.
- (10) Acceptance of a license issued by the Board gives a Board representative the right to inspect the crematory and the records of the crematory at any time.

(11) At no time shall any crematory be used for any purpose other than the cremation of dead human bodies.

(12) Any funeral director, embalmer or crematory operator who obtains specific instructions or authorization, as required in T.C.A. 62-5-507(f), to remove any prosthetic devices, pacemakers, implants, metal hinges, latches, nails, screws, staples, plates, or any other artificial device or structure from a dead human body prior to the cremation or from the cremated remains after cremation, the funeral director, embalmer or crematory operator shall dispose of the prosthetic devices, pacemakers, implants, metal hinges, latches, nails, screws, staples, plates, or other artificial devices or structures in a lawful non-recoverable manner, so that only human bone fragments remain. While the funeral director or crematory operator may receive compensation from a recycling company for retrieving these materials and shipping them to the recycling company, the funeral director, embalmer or crematory operator shall not receive a fee for doing so that exceeds the actual cost to the crematory facility for performing or assisting in the removal and shipping costs of those materials.

Authority: T.C.A. §§ 62-5-203, 62-5-101 and 62-5-309.

Chapter 0660-11  
Professional Conduct

Amendments

Rule 0660-11-.05 Professional Conduct is amended by creating new subparagraphs (f) and (g) so that, as amended, the rule shall read:

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 they conduct 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.
  - (f) An embalmer shall make every reasonable effort to return viscera to the body cavity for final disposition. In the event the embalmer is unable to return the viscera to the body cavity, the viscera shall be placed in a non-porous container, labeled as such, and disposed of in an identical manner to the remains.
  - (g) Licensees shall obey any lawful order entered by the Board.

Authority: T.C.A. §§ 62-5-203 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.

Date: September 21, 2012

Signature: *Robert Benton McDonough*

Name of Officer: Robert Benton McDonough

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 21st Day of September, 2012

Notary Public Signature: *Delores Wilson*

My commission expires on: Nov 7 2012

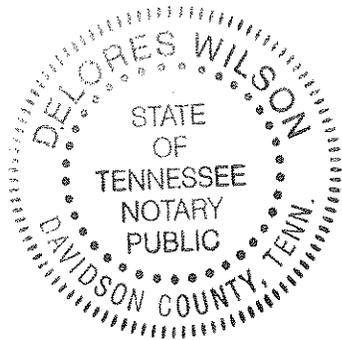
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*Tre Hargett*

Tre Hargett  
Secretary of State



My Commission Expires NOV 7, 2012