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# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (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)**

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<b>Chapter Number</b>	<b>Chapter Title</b>
0660-10	Continuing Education
<b>Rule Number</b>	<b>Rule Title</b>
0660-10-.03	Continuing Education Requirements

<b>Chapter Number</b>	<b>Chapter Title</b>
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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

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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) "Apprentice" means a person registered as an apprentice pursuant to T.C.A. § 62-5-312.
- (2) "Board" means the State Board of Funeral Directors and Embalmers.
- (3) "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.
- (4) "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.
- (5) "Change in ownership" means a transfer in ownership from one person to another including, but not limited to, 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.
- (6) "Day" means calendar day.
- (7) "Director" means the Executive Director of the Board.
- (8) "Funeral Rule" means the provisions of Title 16, Code of Federal Regulations, Part 453 with respect to funeral industry practices.

- (9) "Licensee" means a funeral director, embalmer or establishment holding a license issued by the Board.
- (10) "Licensing period" means the period of time that a license issued by the Board is in effect.
- (11) "Received" means actual receipt by the Board or Department of Commerce and Insurance.
- (12) "Reinspection" means any inspection of an establishment other than an inspection required by Rule 0660-06-.04.
- (13) "Sponsor" means any person, organization, association, company, institution, or other entity who wishes to develop and present a continuing education program.

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;
  - (g) change in any other information required to be submitted on an application or registration form; and
  - (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, 62-5-315(c) and 62-5-317.

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 and 62-5-304.

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 0660-04 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

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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; and
- (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

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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; and
  - (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, or
  - (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; and
  - (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, 62-5-305, 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

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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

	(2)	Not less than \$250 Not more than \$1,000
	(3)	Nor less than \$250 Not more than \$1,000
	(4)	Nor less than \$250 Not more than \$1,000
	(5)	Nor less than \$250 Not more than \$1,000
	(6)	Nor less than \$250 Not more than \$1,000
	(7)	Nor less than \$250 Not more than \$1,000
	(8)	Nor less than \$250 Not more than \$1,000
	(9)	Nor less than \$250 Not more than \$1,000
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

Repeals

Rule 0660-10-.02 Definitions is repealed.

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

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

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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, 62-5-313(b)(2) 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 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.

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 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.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jill C. Horner	x				
Eugene Williams	x				
W. Clark McKinney	x				
Paula J. Bridges	x				
Dennis L. Hamilton	x				
David W. Murphy	x				
Wayne E. Hinkle	x				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the **State Board of Funeral Directors and Embalmers** on **09/08/2009**, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/30/2009

Rulemaking Hearing(s) Conducted on: (add more dates). 07/14/2009 and 09/08/2009

Date: September 10, 2009

Signature: *Adrian Chick*

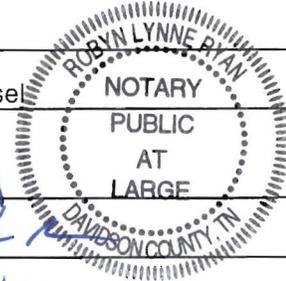
Name of Officer: Adrian Chick

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 9/10/09

Notary Public Signature: *[Signature]*

My commission expires on: 3/10/12



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

*Robert E. Cooper, Jr.*  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
11-25-09  
 Date

**Department of State Use Only**

Filed with the Department of State on: 12/7/09

Effective on: 3/7/10

*Tre Hargett by Mona Kent, PCA*

Tre Hargett  
Secretary of State

RECEIVED  
2009 DEC -7 PM 2:46  
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PUBLICATIONS

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

### The following comments were received at the rulemaking hearing on July 14, 2009:

Chuck Crawford - Proposed Rule 0660-11-.03 is not necessary if current statutes and rules are enforced by the Board.

**Response:** The proposed rules would not overlap or duplicate existing statutes or rules. The proposed rules clarify that licensees must not use the services of unlicensed persons when it is known, or should be known, that the outside services are in violation of statutes or rules.

Al Tacker: Proposed Rule 0660-05-.01 would cause a great hardship for operators by requiring apprentices to be "in the presence of" a licensed funeral director.

**Response:** The requirement of an apprentice being "in the presence of" a licensed funeral director is derived from Tenn. Code Ann. § 62-5-312 and not subject to change by rulemaking.

Bob Batson: Proposed Rule 0660-06-.02 should be amended by removing "or renewed", so as to "grandfather" in all existing establishments. Proposed Rule 0660-11-.06(2) should simply refer to existing language found in the FTC rules. Proposed Rules 0660-11-.02 and 0660-11-.05 contain terms that are ambiguous, and this section should be removed from the proposed rules.

**Response:** The proposed rule is based on Tenn. Code Ann. § 62-5-313 which requires an establishment to be a fixed place of business devoted to the care and preparation of dead human bodies. The proposed rule simply provides guidance to the Board in determining whether an establishment is in compliance with this statute. The language in proposed Rule 0660-11-.06(2) is identical to current rule 0660-06-.04. The meaning of terms contained in proposed Rules 0660-11-.02 and 0660-11-.05 can be reasonably ascertained by the Board.

Tony Hismith: The Executive Director of the Board should be given authority to approve abbreviated establishment names for use on signs.

**Response:** The Board voted to adopt the proposed Rule 0660-01-.03 as contained in the Notice of Rulemaking Hearing. To ensure uniform application of rules and statute, all establishments should advertise under the name licensed with the Board.

Carol Austin indicated that she concurred with Bob Batson in that the word "renewed" should be removed.

**Response:** This comment has been previously addressed.

Malcum Butler indicated that he concurs with Bob Batson regarding New Rule 0660-11-.06.

**Response:** This comment has been previously addressed.

**The following written comments were received after the July 14, 2009 hearing, and were read at the September 8, 2009 meeting:**

Anthony Jackson indicated that, with regard to proposed Rule 0660-11-.05(e), it is sometimes difficult to file a death certificate in a timely manner due to the fact that they have to wait for the doctor's signature.

**Response:** Proposed Rue 0660-11-.05(e) only prohibits the "unreasonable" delay in filing of a certificate of death.

Carol Austin restated her previous comments as noted above.

**Response:** This comment has been previously addressed.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

### **Economic Impact Statement:**

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rules would apply to all funeral establishments regardless of size, but do not increase fees for issuance of licenses or renewals.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The proposed rules do not create any additional reporting, recordkeeping or other costs for compliance.

3. A statement of the probable effect on impacted small businesses and consumers;

The proposed rules will have no particular effect on small businesses, and will affect all businesses, regardless of size, in the same way.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome on small businesses;

The proposed rules are not burdensome, intrusive or costly. There are no alternative methods of achieving the purpose and objectives of the proposed rules.

5. A comparison of the proposed rule with any federal or state counterparts;

The proposed rules, as with current rules, adopt the Federal Trade Commission's trade regulations known as the "Funeral Rule". There are no other federal or state counterparts.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rules.

There are no small business exemptions that would be consistent with the protection of the public health, safety and welfare.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Chapter 0660-01 General Provisions. This chapter contains definitions used through the rules, states that compliance is the responsibility of the licensee, and provides web addresses for statute and rules pertaining to the funeral industry.

Chapter 0660-02 Examinations. This chapter makes minor changes to rules regarding examinations.

Chapter 0660-03 Fees. This chapter clarifies current rules relating to issuance of duplicate certificates, fees for reinspections, and other administrative fees.

Chapter 0660-04 Apprentices. This chapter provides details for registration as an apprentice.

Chapter 0660-05 Funeral Directors and Embalmers. This chapter provides details on how to apply for licensure as a funeral director or embalmer, what documents must be submitted, and how to submit proof that an apprenticeship has been completed.

Chapter 0660-06 Funeral Establishments. This chapter describes the application process for a funeral establishment license including the specific documentation required. This chapter also provides guidance for the Board in determining whether a particular applicant or licensee is in compliance with statutes.

Chapter 0660-07 Rules of Procedure for Hearing Contested Cases. This chapter updates the cite to rules of the secretary of state.

Chapter 0660-08 Civil Penalties. This chapter increases the minimum civil penalty that may be assessed for violations to \$250.

Chapter 0660-10 Continuing Education. This chapter clarifies that continuing education requirements do not apply during the first year of licensure, unless a person previously licensed is being required by statute to reapply.

Chapter 0660-11 Standards of Service and Practice. This chapter introduces professional standards applicable to the preparation rooms, use of outside services, maintenance of public areas and professional conduct towards the public and other members of the funeral industry. This chapter also includes provisions (although not new) relative to unfair or deceptive acts, record retention and burial associations.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The "Funeral Rule", codified at 16 Code of Federal Regulations Part 453, requires funeral establishments, funeral directors and embalmers to comply with specific trade regulations regarding disclosures to consumers and price information. The proposed rules adopt these standards.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules will effect funeral directors, embalmers and funeral establishments licensed in Tennessee. The only comments for or against these rules has been noted.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known attorney general opinions directly relating to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules do not increase or decrease existing licensing fees and there is no expected change in revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Adrian Chick, Assistant General Counsel  
Department of Commerce and Insurance  
500 James Robertson Parkway, 12<sup>th</sup> Floor  
Nashville, TN 37243  
(615) 741-3072

Robert Gribble, Executive Director  
State Board of Funeral Directors and Embalmers  
500 James Robertson Parkway, 2<sup>nd</sup> Floor  
Nashville, TN 37243  
(615) 741-5062

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Adrian Chick, Assistant General Counsel  
Department of Commerce and Insurance  
500 James Robertson Parkway, 12<sup>th</sup> Floor  
Nashville, TN 37243  
(615) 741-3072

Robert Gribble, Executive Director  
State Board of Funeral Directors and Embalmers  
500 James Robertson Parkway, 2<sup>nd</sup> Floor  
Nashville, TN 37243  
(615) 741-5062

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Adrian Chick, Assistant General Counsel  
Department of Commerce and Insurance  
500 James Robertson Parkway, 12<sup>th</sup> Floor  
Nashville, TN 37243  
(615) 741-3072

Robert Gribble, Executive Director  
State Board of Funeral Directors and Embalmers  
500 James Robertson Parkway, 2<sup>nd</sup> Floor  
Nashville, TN 37243  
(615) 741-5062

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Adrian Chick, Assistant General Counsel  
Department of Commerce and Insurance  
500 James Robertson Parkway  
Nashville, TN 37243



**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower  
 Nashville, TN 37243  
 Phone: 615-741-2650  
 Fax: 615-741-5133  
 Email: register.information@tn.gov

**For Department of State Use Only**

Sequence Number: 12-07-09  
 Rule ID(s): 1547-1556  
 File Date: 12/07/2009  
 Effective Date: 03/07/2010

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	State Board of Funeral Directors and Embalmers
<b>Division:</b>	Regulatory Boards
<b>Contact Person:</b>	Adrian Chick
<b>Address:</b>	500 James Robertson Pkwy, 12 <sup>th</sup> Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741-3072
<b>Email:</b>	adrian.chick@tn.gov

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised (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

REDLINE VERSION

<b>Chapter Number</b>	<b>Chapter Title</b>
0660-03	Fees
<b>Rule Number</b>	<b>Rule Title</b>
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

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

<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>
0660-06	Funeral Establishments
<b>Rule Number</b>	<b>Rule Title</b>
0660-06-.01	Application
0660-06-.02	Fixed Place of Business
0660-06-.03	Change of Ownership

<b>Chapter Number</b>	<b>Chapter Title</b>
0660-07	Rules of Procedure for Hearing Contested Cases
<b>Rule Number</b>	<b>Rule Title</b>

<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>
0660-10	Continuing Education
<b>Rule Number</b>	<b>Rule Title</b>
0660-10-.03	Continuing Education Requirements

<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-.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



REDLINE VERSION

(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>)

RULES  
OF  
TENNESSEE BOARD OF FUNERAL  
DIRECTORS AND EMBALMERS  
CHAPTER 0660-1  
REGISTRATION OF APPRENTICES

TABLE OF CONTENTS

~~0660-1-01 Applicants for Funeral Director's License~~                      ~~0660-1-02 Applicants for Embalmer's License~~

~~0660-1-01 — APPLICANTS FOR FUNERAL DIRECTOR'S LICENSE. Any applicant for a funeral director's license required by T.C.A. §62-5-305 to register as an apprentice with the Board of Funeral Directors and Embalmers shall complete the form furnished by the Board. The applicant must be at least sixteen (16) years of age, and must be working as a full-time employee (i.e., working at least 40 hours per week) under the personal supervision and instruction of a licensed funeral director in the State of Tennessee.~~

~~Authority: T.C.A. §§62-5-203 and 62-5-305. Administrative History: Original rule certified May 24, 1974. Repeal and new rule filed June 15, 1980; effective September 29, 1980. Amendment filed August 26, 1986; effective November 29, 1986.~~

~~0660-1-02 — APPLICANTS FOR EMBALMER'S LICENSE. Any applicant for an embalmer's license required by T.C.A. §62-5-307 to file a certificate of registration with the Board of Funeral Directors and Embalmers at the beginning of his apprenticeship must be at least sixteen (16) years of age, and must certify that he will be working full-time (i.e., working at least 40 hours per week) as a paid assistant in the preparation and care of dead human bodies under a licensed embalmer and funeral director having an established place of business in the State of Tennessee.~~

~~Authority: T.C.A. §62-5-203 and 62-5-307. Administrative History: Original rule certified May 24, 1974. Repeal and new rule filed June 15, 1980; effective September 29, 1980. Amendment filed August 29, 1986; effective November 29, 1986. Amendment filed August 30, 1991; effective October 14, 1991.~~

**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, unless noted otherwise:**

- (1)    **"Apprentice" means a person registered as an apprentice pursuant to T.C.A. § 62-5-312.**
- (2)    **"Board" means the State Board of Funeral Directors and Embalmers.**

- (3) "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.
- (4) "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.
- (5) "Change in ownership" means a transfer in ownership from one person to another including, but not limited to, 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.
- (6) "Day" means calendar day.
- (7) "Director" means the Executive Director of the Board.
- (8) "Funeral Rule" means the provisions of Title 16, Code of Federal Regulations, Part 453 with respect to funeral industry practices.
- (9) "Licensee" means a funeral director, embalmer or establishment holding a license issued by the Board.
- (10) "Licensing period" means the period of time that a license issued by the Board is in effect.
- (11) "Received" means actual receipt by the Board or Department of Commerce and Insurance.
- (12) "Reinspection" means any inspection of an establishment other than an inspection required by Rule 0660-06-.04.
- (13) "Sponsor" means any person, organization, association, company, institution, or other entity who wishes to develop and present a continuing education program.

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.

**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;
  - (g) change in any other information required to be submitted on an application or registration form; and
  - (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, 62-5-315(c) and 62-5-317.

**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 at <http://www.tennesseeanytime.org/laws/>.
- (4) The Board may post relevant information, including changes or proposed changes to rules via the internet at <http://tennessee.gov/commerce/boards/funeral/>.
- (5) The text of the Federal Trade Commission Funeral Rule may be accessed via the internet at <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 0660-2  
EXAMINATIONS

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0660-2-.01 Examination Procedures

0660-2-.02 Grading Procedures

0660-2-.01 EXAMINATION PROCEDURES.

- (1) Tennessee Board.
  - (a) Examination given by the Tennessee Board of Funeral Directors and Embalmers for the purpose of testing applicants for license to practice funeral directing or embalming shall be supervised by the Director of Regulatory Boards of the Department of Commerce and Insurance.
  - (b) All examinations shall be fairly and equitably administered, and no assistance shall be provided any examinee.
  - (c) At the end of each examination given by the Board, the papers shall be collected by the Director of Regulatory Boards, or his designee, and shall be mailed immediately to the private testing agency which prepared the examination for grading.
- (2) National Conference.
  - (a) In lieu of a funeral director examination given by the Board, the Board will accept the results of examinations (or parts thereof) covering Funeral Service Acts which are devised by the Conference of Funeral Service Examining Boards.
  - (b) In lieu of an embalmer examination given by the Board, the Board will accept the results of examinations (or parts thereof) covering Funeral Service Sciences which are devised by the Conference of Funeral Service Examining Boards.
- (3) Each examination shall include, but not be limited to, questions relating to the laws and rules governing the practice (funeral directing or embalming) in which the applicant wishes to engage.

REDLINE VERSION

Authority: T.C.A. §§62-5-203, 62-5-204 and 62-5-301. Administrative History: Original rule certified May 24, 1974. Repealed and new rule filed June 13, 1980; effective September 29, 1980. Amendment filed February 20, 1985; effective March 22, 1985. Amendment filed December 12, 1985; effective January 11, 1986.

0660-2-.02 GRADING PROCEDURES.

- (1) Examinations will be graded by the private testing agency which prepared them. Such agency shall send the grades on examinations given by the Board directly to the Director of Regulatory Boards.
- ~~(2) The Director shall immediately transmit a copy of the examination results to the Office of the Attorney General.~~
- ~~(3)~~(2) The examination results shall be presented to the Board of Funeral Directors and Embalmers by the Director of Regulatory Boards at the first meeting of the Board following receipt of the grades by the Director.
- ~~(4)~~(3) The passing grade for both funeral director and embalmer examinations shall be seventy-five (75%).
- ~~(5)~~(4) An examination may be regarded upon the examinee's written request, accompanied by payment of any cost incurred by the Board for providing such service.

Authority: T.C.A. §§62-5-203, 62-5-204 and 62-5-301. Administrative History: Original rule certified May 24, 1974. Repealed and new rule filed June 13, 1980; effective September 29, 1980. Amendment filed December 12, 1985; effective January 11, 1986.

CHAPTER 0660-3  
FEES

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0660-3-.01 Student and Apprentice Registration	0660-3-.06 <del>Duplicates</del> <b><u>License Certificates</u></b>
0660-3-.02 Applicants for Licenses	0660-3-.07 Reinspections
0660-3-.03 Licenses	0660-3-.08 Change of Ownership
0660-3-.04 Renewals	0660-3-.09 Change of Location
0660-3-.05 Reciprocal Licenses	0660-3-.10 Database Update

0660-3-.01 STUDENT AND APPRENTICE REGISTRATION.

- (1) Funeral Director student or apprentice. The fee for registration as a funeral director student or apprentice shall be seventy dollars (\$70.00).
- (2) Embalmer student or apprentice. The fee for registration as an embalmer apprentice shall be seventy dollars (\$70.00).

Authority: T.C.A. §§62-5-203, 62-5-204, 62-5-207, 62-5-305(b), 62-5-307, and 62-5-307(d). Administrative History: Original rule was certified May 24, 1974. Amendment filed June 14, 1977; effective July 14, 1977. Repeal and new rule filed June 13, 1980; effective September 29, 1980. Amendment filed December 12, 1985; effective January 11, 1986. Amendment filed August 31, 1989; effective October 15, 1989. Amendment filed April 4, 2002; effective June 18, 2002.

0660-3-.02 APPLICANTS FOR LICENSES.

## REDLINE VERSION

- (1) Funeral Director. An application for a funeral director's license shall be accompanied by a non-refundable application fee of two hundred dollars (\$200.00).
- (2) Embalmer. An application for an embalmer's license shall be accompanied by a non-refundable application fee of two hundred dollars (\$200.00).
- (3) Funeral Establishment. An application for a funeral establishment license shall be accompanied by a non-refundable application/initial license fee of five hundred seventy-five dollars (\$575.00).

Authority: T.C.A. §§62-5-203, 62-5-204, 62-5-207, 62-5-304, 62-5-304(a), 62-5-305(a), 62-5-306(c), 62-5-307(a), 62-5-308(c), and 62-5-311. Administrative History: Original rule filed June 13, 1980; effective September 29, 1980. Amendment filed December 12, 1985; effective January 11, 1986. Amendment filed August 31, 1989; effective October 15, 1989. Amendment filed April 4, 2002; effective June 18, 2002.

### 0660-3-.03 LICENSES.

- (1) Funeral Director. The fee for a funeral director's license shall be two hundred seventy-five dollars (\$275.00).
- (2) Embalmer. The fee for an embalmer's license shall be two hundred seventy-five dollars (\$275.00).

Authority: T.C.A. §§62-5-203, 62-5-204, 62-5-207, 62-5-306(c), and 62-5-308(c). Administrative History: Original rule filed June 13, 1980; effective September 29, 1980. Amendment filed December 12, 1985; effective January 11, 1986. Amendment filed August 31, 1989; effective October 15, 1989. Amendment filed April 4, 2002; effective June 18, 2002.

### 0660-3-.04 RENEWALS.

- (1) Funeral Director. The fee for biennial renewal of a funeral director's license shall be two hundred seventy-five dollars (\$275.00). 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 seventy-five dollars (\$275.00). 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). Administrative History: Original rule filed August 31, 1989; effective October 15, 1989. Amendment filed April 4, 2002; effective June 18, 2002.

### 0660-3-.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 one hundred dollars (\$100.00).

REDLINE VERSION

Authority: T.C.A. §§62-5-203 and 62-5-311. Administrative History: Original rule filed August 31, 1989; effective October 15, 1989.

~~0660-3-.06 DUPLICATES. The fee for a duplicate license shall be thirty dollars (\$30.00).~~

~~Authority: T.C.A. §§62-5-203 and 62-5-315(d). Administrative History: Original rule filed August 31, 1989; effective October 15, 1989.~~

**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).**

~~0660-3-.07 REINSPECTIONS.~~

~~The fee for any reinspection of a licensed establishment, or of an establishment applying for a license, shall be two hundred dollars (\$200.00).~~

~~Authority: T.C.A. §§62-5-203, 62-5-207, and 62-5-304. Administrative History: Original rule filed April 4, 2002; effective June 18, 2002.~~

**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 and 62-5-304.**

0660-3-.08 CHANGE OF OWNERSHIP.

Any person acquiring ownership of an existing licensed funeral establishment shall remit the same fee **and application** as that required for a funeral establishment by Rule 0660-03-.02(3), payable upon submission of the report **written notice** required by Rule ~~0660-4-.03(2)~~ **0660-01-.03**.

~~Authority: T.C.A. §§62-5-203, 62-5-207, and 62-5-315(e). Administrative History: Original rule filed April 4, 2002; effective June 18, 2002.~~

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

0660-3-.09 CHANGE OF LOCATION.

The fee for changing the location or place of business of any licensed establishment shall be five hundred seventy-five dollars (\$575.00), payable upon submission of the written notification required by Rule ~~0660-4-.03(1)~~ **0660-01-.03** of the Rules of the Board of Funeral Directors and Embalmers.

~~Authority: T.C.A. §§62-5-203 and 62-5-207. Administrative History: Original rule filed April 4, 2002; effective June 18, 2002.~~

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

0660-3-.10 DATABASE UPDATE.

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. Administrative History: Original rule filed April 4, 2002; effective June 18, 2002.~~

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

CHAPTER 0660-4  
REPORTS

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~~0660-4-.01 Multiple Business Establishments — 0660-4-.03 Changes~~

~~0660-4-.02 Branches —~~

~~0660-4-.01 MULTIPLE BUSINESS ESTABLISHMENTS. Every person, firm, partnership, or corporation operating multiple business establishments shall designate, in writing, to the Board of Funeral Directors and Embalmers the name and address of each and every licensed funeral director in its employ, and the address of the place of business under his direction and supervision.~~

~~Authority: T.C.A., § 62-504. Administrative History: Original Rule was certified May 24, 1974. Repealed and New Rule filed June 13, 1980; effective September 29, 1980.~~

~~0660-4-.02 BRANCHES. Every person, firm, partnership, or corporation desiring to open and operate a separate establishment or place of business concerned with the management of funerals shall, prior to such opening and operation, advise the Board of Funeral Directors and Embalmers in writing of the address of the licensed funeral director assigned to this separate establishment.~~

~~Authority: T.C.A., §62-504. Administrative History: Original Rule filed June 13, 1980; effective September 29, 1980.~~

~~0660-4-.03 CHANGES:~~

- ~~(1) The Board of Funeral Directors and Embalmers shall be notified in writing within ten days of the effective date of any change in:
  - ~~(a) the location, address, or number of separate places of business operated by the holder of a funeral establishment license;~~
  - ~~(b) the identity of the licensed funeral director in charge of a place of business; and~~
  - ~~(c) the address of the holder of any license issued by the Board.~~~~

- ~~(2) Upon a change of ownership of any licensed funeral establishment, the new owner(s) shall, in addition to complying with subsection (1) of this rule, appear before the Board within sixty (60) days of the change of ownership in order to request a new license for the establishment; provided that where the ownership of a licensed funeral home changes by reason of the death of the previous owner and the ownership of the establishment is contested in probate proceedings, the new owner(s) need not appear until sixty (60) days after the entry of the order adjudicating such license.~~
- ~~(3) The Board of Funeral Directors and Embalmers shall have the power to punish violations of this rule by assessing a civil penalty against the new owner(s) in an amount not to exceed one thousand dollars (\$1,000) for each separate violation. Each day a violation continues constitutes a separate violation. In determining the amount of any 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 of the violation;~~
  - ~~(c) The seriousness of the violation and the risk of harm to the public;~~
  - ~~(d) Any economic advantage gained by the violator as a result of non-compliance; and~~
  - ~~(e) The interest of the public.~~

~~Authority: T.C.A., §62-5-203 and 56-1-308. Administrative History: Original Rule filed June 13, 1980; effective September 29, 1980. Amendment filed May 12, 2000; effective September 28, 2000.~~

**Chapter 0660-4**  
**Apprentices**

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- 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 a 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; and**
- (2) an official transcript or diploma certified by the 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 0660-5  
BURIAL ASSOCIATIONS

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<del>0660-5-.01</del> Definition of Burial Association	<del>0660-5-.03</del> Cause of Investigation
<del>0660-5-.02</del> Business Ethics	

~~0660-5-.01~~ — ~~DEFINITION OF BURIAL ASSOCIATION.~~ For the purpose of this Chapter, a “burial association” shall be defined as a voluntary association, charitable and benevolent in nature, which provides death benefits to members by means of an assessment of all of the members.

~~Authority:~~ T.C.A., §62-504. ~~Administrative History:~~ Original Rule was filed June 24, 1974; effective July 24, 1974. Amended: filed March 23, 1977; effective April 22, 1977. Repealed and new Rule filed June 13, 1980; effective September 29, 1980.

~~0660-5-.02~~ — ~~BUSINESS ETHICS.~~ If any person or entity subject to the supervision of the Board of Funeral Directors and Embalmers 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 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.

~~Authority:~~ T.C.A., §62-504. ~~Administrative History:~~ Original Rule filed June 13, 1980; effective September 29, 1980.

~~0660-5-.03~~ — ~~CAUSE OF AN INVESTIGATION.~~ 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 unprofessional conduct of such gravity as to warrant revocation or suspension of the license.

~~Authority:~~ T.C.A., §62-504. ~~Administrative History:~~ Original Rule filed June 13, 1980; effective September 29, 1980.

**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 the educational institution showing the applicant has graduated from a high school or has earned a GED recognized by a state department of education; and**
  - (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, or**
  - (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; and**
  - (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 set forth in T.C.A. 62-5-312(c).

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

CHAPTER 0660-6  
FUNERAL INDUSTRY PRACTICES

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0660-6-.01 Unlicensed Assistants	0660-6-.04 Cash Advance Items
0660-6-.02 Federal Trade Commission Rules	0660-6-.05 Violations
0660-6-.03 Records	

~~0660-6-.01 UNLICENSED ASSISTANTS.~~

- ~~(1) An unlicensed assistant may only perform the duties of a funeral director as defined in T.C.A. §62-5-101(3)(A) in accordance with the provisions of T.C.A. §62-5-313.~~
- ~~(2) For the purpose of this chapter, the phrase "under the direction and supervision of all licensed funeral director" contained in T.C.A. §62-5-313 shall mean that the presence of said licensee is required for the unlicensed assistant to act in the following critical areas:~~
- ~~(a) Provision of information regarding, and negotiation of arrangements for, the provision of funeral services and/or merchandise and execution of agreements providing thereof, whether these acts occur before or after death of the named beneficiary, and~~
- ~~(b) Coordination and conduct of public post death rites and ceremonies and/or subsequent final disposition of human remains, regardless of the method of disposition chosen.~~
- ~~(3) No licensee shall affix or allow to be affixed his/her signature or license number to any contract, agreement, plan, or memorandum regarding provision of funeral services and/or merchandise, whether such document is executed before or after death of the beneficiary named therein, unless said licensee has personally handled all consultation regarding, and consummation of, said agreement, contract, plan or memorandum.~~
- ~~(4) Any licensee permitting an unlicensed person to negotiate, consummate, execute, or fulfill a contract, agreement, plan, or memorandum, or series thereof, which document provided for delivery of funeral services and/or funeral merchandise, whether such action occurs before or after death of the beneficiary therein named shall be deemed guilty of unprofessional conduct and aiding and abetting an unlicensed person in the practice of funeral directing unless said licensee has been in the presence of both the buyer and the unlicensed assistant throughout the entire process of interaction between the buyer and the unlicensed assistant which culminates in said contract, agreement, plan, memorandum, or series or combination thereof.~~

~~Authority: T.C.A. §§62-5-101, 62-5-203 and 62-5-313. Administrative History: Original rule filed January 28, 1975; effective April 28, 1975. Repealed and new rule filed June 13, 1980; effective September 29,~~

1980. Repeated and new rule filed February 20, 1985; effective March 22, 1985. Amendment to rule filed August 30, 1991; effective October 14, 1991.

0660 6 .02 — FEDERAL TRADE COMMISSION RULES.

(1) — No funeral director, embalmer, or funeral establishment shall:

- (a) — engage in any unfair or deceptive acts or practices defined in Title 16, Code of Federal Regulations, Part 453; or
- (b) — fail to comply with any preventive requirements specified in Title 16, Code of Federal Regulations, Part 453.

Authority: T.C.A. §62-5-203. Administrative History: Original rule filed January 28, 1975; effective April 28, 1975. Repeated and new rule filed June 13, 1980; effective September 29, 1980. Repeated and new rule filed February 20, 1985; effective March 22, 1985.

0660 6 .03 — RECORDS. All records subject to inspection by Federal Trade Commission officials as provided in 16 CFR §453.6 shall be made available to the Board of Funeral Directors and Embalmers (or its authorized representatives) under the same terms prescribed therein.

Authority: T.C.A. §62-5-203. Administrative History: Original rule filed January 28, 1975; effective April 28, 1975. Repeated and new rule filed June 13, 1980; effective September 29, 1980. Repeated and new rule filed February 20, 1985; effective March 22, 1985.

0660 6 .04 — CASH ADVANCE ITEMS. The amount charged for any "cash advance item" (as defined in 16 CFR 453.1 (e)) 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 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. Administrative History: Original rule filed January 28, 1975; effective April 28, 1975. Repeated and new rule filed June 13, 1980; effective September 29, 1980. Repeated and new rule filed February 20, 1985; effective March 22, 1985.

0660 6 .05 — VIOLATIONS. Any violation of the provisions of this chapter by a funeral director, embalmer, or funeral establishment may constitute grounds for disciplinary action by the Board under T.C.A. §§62-5-317 (a) (4), 62-5-317 (b) (1), and/or 62-5-317 (b) (2).

Authority: T.C.A. §62-5-203. Administrative History: Original rule filed January 28, 1975; effective April 28, 1975. Repeated and new rule filed June 13, 1980; effective September 29, 1980. Repeated and new rule filed February 20, 1985; effective March 22, 1985.

Chapter 0660-06  
Funeral Establishments

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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 must include at least 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.**

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

- (a) a change of ownership;**
- (b) a change of location;**
- (c) an initial establishment license.**

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

CHAPTER 0660-7  
RULES OF PROCEDURE FOR HEARING CONTESTED CASES

For Rules of Procedure for Hearing Contested Cases see Rules of the Secretary of State, Chapter ~~1360-4-7~~ **1360-04-01**.

*Authority: T.C.A. Section 4-5-09. Administrative History: Original Chapter filed November 22, 1978, effective January 8, 1979.*

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

CHAPTER 0660-8  
CIVIL PENALTIES

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0660-8-.01 Civil Penalties

0660-8-.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  
Nor less than \$ ~~200~~ **250**

REDLINE VERSION

2. Not more than \$1,000  
Nor less than \$ ~~25~~250
  3. Not more than \$1,000  
Nor less than \$~~25~~250
  4. Not more than \$1,000  
Nor less than \$~~25~~250
  5. Not more than \$1,000  
Nor less than \$ ~~200~~250
  6. Not more than \$1,000  
Nor less than \$~~10~~250
  7. Not more than \$1,000  
Nor less than \$~~25~~250
  8. Not more than \$1,000  
Nor less than \$~~300~~250
  9. Not more than \$1,000  
Nor less than \$~~25~~250
- T.C.A. §62-5-317(b)1.
2. Not more than \$1,000  
Nor less than \$ ~~100~~250
  3. Not more than \$1,000  
Nor less than \$ ~~300~~250
  4. Not more than \$1,000  
Nor less than \$ ~~300~~250
  5. Not more than \$1,000  
Nor less than \$ ~~300~~250
  6. Not more than \$1,000  
Nor less than \$~~200~~250

- 7. Not more than \$1,000  
Nor less than ~~\$25~~250
- 8. Not more than \$1,000  
Nor less than \$ ~~300~~250
- 9. Not more than \$1,000  
Nor less than ~~\$25~~250
- 10. Not more than \$1,000  
Nor less than \$ ~~200~~250
- 11. Not more than \$1,000  
Nor less than \$ ~~25~~250
- 12. Not more than \$1,000  
Nor less than \$ ~~25~~250
- 13. Not more than \$1,000  
Nor less than \$ ~~25~~250
- 14. Not more than \$1,000  
Nor less than \$ ~~25~~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 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; and

- (e) ~~The interest to the public.~~ **Whether the violator has been guilty of similar violations in the past and any discipline imposed for the past violations; and**
- (f) **The interest to the public.**

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

CHAPTER 0660-9  
REQUIREMENTS FOR A CREMATORY

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0660-9-.01 Requirements for a Crematory

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 Environmental 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) 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.
- (5) 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.
- (6) That the entire cremated remains be returned to the family and/or responsible party.
- (7) All cremations of human remains in this state be arranged through the holder of a valid, current funeral establishment license issued by the Board and supervised by a licensed funeral director, to include placement of cremated remains in container.
- (8) Each crematory shall submit its cremation authorization form to the Board for approval, prior to using said form.
- (9) 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.

Authority: T.C.A. §§62-5-203, 62-5-101 and 62-5-309. Administrative History: Original rule filed August 30, 1991; effective October 14, 1991.

CHAPTER 0660-10  
CONTINUING EDUCATION

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0660-10-.04 Qualifying Continuing Education Programs	0660-10-.09 Reciprocity
0660-10-.05 Duties of Program Sponsors	

0660-10-.01 PURPOSE. The Tennessee State Board of Funeral Directors and Embalmers is authorized by T.C.A. §62-5-203 to establish continuing education requirements and standards for funeral directors and embalmers. The purposes of this chapter are to prescribe the basic continuing education requirements for present and future funeral directors and embalmers and to establish standards by which continuing education programs will be evaluated for the awarding of credit for participation in such programs or other continuing education activities.

Authority: T.C.A. §§62-5-203 and 62-5-601. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

~~0660-10-.02 DEFINITIONS.~~

- ~~(1) "Board" means the Tennessee State Board of Funeral Directors and Embalmers;~~
- ~~(2) "Licensee" means any person who holds a license issued by the Tennessee State Board of Funeral Directors and Embalmers;~~
- ~~(3) "Licensing period" means the period of time that a funeral director's or embalmer's license is in effect in Tennessee;~~
- ~~(4) "Sponsor" means any person, organization, association, company, institution, or other entity who wishes to develop and present a continuing education program.~~

~~Authority: T.C.A. §62-5-203. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.~~

0660-10-.03 CONTINUING EDUCATION REQUIREMENTS.

- (1) As a prerequisite to license renewal, each licensee shall submit with the license renewal application satisfactory proof of having completed a minimum of ten (10) hours of continuing education coursework during the licensing period. All coursework must be approved by the Board for credit to be awarded.
- (2) Continuing education credit may be obtained by licensees through attendance at only those continuing education courses which have been approved by the Board.
- (3) Licensees may not carry-over continuing education hours from one licensing period to the next.
- ~~(4) The requirements of this chapter do not apply to new licensees during the first licensing period.~~

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

0660-10-.04 QUALIFYING CONTINUING EDUCATION PROGRAMS.

- (1) In order to qualify for credit toward satisfaction of the requirements of rule 0660-10-.03, a continuing education program must be a structured program which contributes directly to the professional competence of the licensee.
- (2) Programs may be considered by the Board for the award of continuing education credit and qualified for approval if:
  - (a) An outline is prepared by the sponsor and preserved;
  - (b) The content of each presentation is well organized and presented in a sequential manner;
  - (c) The program is at least one (1) hour (1 credit hour = 50 minutes) in length;
  - (d) A record of registration of attendance is maintained by the sponsor;
  - (e) The program contributes directly to the advancement and extension of professional knowledge and skill in the practice of funeral science;
  - (f) The program is conducted by individuals considered experts in the subject matter of the program by reason of their education, training or experience;
  - (g) The program is available to all funeral directors and embalmers licensed in this state; and
  - (h) The program addresses one or more of the following subjects: ethics, communications, sociology, psychology, funeral directing, business law, business management, funeral service law, funeral merchandising, accounting, embalming, restorative arts, cremation, microbiology, pathology, chemistry, anatomy or any other subject approved by the Board.
- (3) (a) Program sponsors shall submit a program schedule and outline to the Board, which must be received by the Board not less than sixty (60) days prior to the date of the program. Such schedule and outline shall include the following information:
  - 1. The name of the course;
  - 2. The name of the sponsoring organization;
  - 3. The objectives of the program;

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4. The length (in hours) of the program and the date(s) on which the program will be presented;
  5. The names, educational backgrounds and relevant qualifications of all instructors or speakers participating in the program;
  6. The location(s) at which the program will be presented; and
  7. The name and address of the person authorized by the sponsor to certify attendance.
- (b) The Board may grant leave to amend a program schedule and outline upon receipt of a proper application therefor. Such application must be submitted pursuant to paragraph (3)(a) of this rule, and must be received by the Board not less than thirty (30) days prior to the date of the program. Such amendment shall identify the program to which it refers and shall contain a description of the purpose and substance of the amendment. In evaluating any such application for amendment, the Board may consider:
1. The occurrence of any material change of law or fact after the submission of the original program schedule that affects the subject matter of the program;
  2. The desirability of adding any particular speaker or means of instruction which had been unavailable at the time the original program schedule was submitted;
  3. The inability of a scheduled speaker to participate due to reasons unforeseen at the time of the submission of the original program schedule; or
  4. Any other reason not foreseeable at the time of the submission of the original program schedule which would result in undue hardship to sponsors, producers, customers or other participants unless the program were amended.
- (4)
- (a) Upon receipt of a program schedule and outline as required by this rule, the Board shall notify the program sponsor of approval or disapproval of the program no less than thirty (30) days prior to the scheduled date of the program. Any notice of disapproval shall state the reason(s) therefor.
  - (b) Upon receipt of any proposed amendment to a program schedule and outline submitted in accordance with this rule, the Board shall notify the program sponsor of approval or disapproval no less than ten (10) days prior to the scheduled date of the program. Any notice of disapproval shall state the reason(s) therefor.
- (5) Subject to compliance with paragraphs (1), (2), and (3) of this rule, continuing education hours for credit may be obtained in programs offered in the following formats:
- (a) Cassette and audiovisual presentations;
  - (b) Professional seminars;
  - (c) Courses at accredited mortuary schools;
  - (d) Programs sponsored by professional associations and organizations recognized by the Board;
  - (e) Correspondence courses which require an examination;

- (f) Continuing education television or video series; or
  - (g) Other program formats approved by the Board.
- (6) Sponsors of continuing education programs shall be responsible for obtaining from the Board approval for their respective continuing education programs prior to the dates on which such programs are to be presented.
- (7) Continuing education credit allowed under T.C.A. §62-5-604 for service by a licensee as an instructor, discussion leader, or speaker will not be allowed for repeated presentations by the licensee unless the presentation has been substantially revised.
- (8) The Board may maintain a list of sponsors providing programs which satisfy the continuing education requirements for licensees. This information may be made available to any licensee upon request.

Authority: T.C.A. §§62-5-203, 62-5-603, 62-5-604, 62-5-605, and 62-5-606. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999. Amendment filed August 29, 2002; effective December 27, 2002.

#### 0660-10-.05 DUTIES OF PROGRAM SPONSORS.

- (1) The sponsor shall keep detailed records of each continuing education program. The records to be maintained shall include:
- (a) The date and location of the program presented;
  - (b) The name and qualifications of each instructor or presenter;
  - (c) A registration form showing the printed names, signatures and license numbers for all licensees in attendance; and
  - (d) A written outline of the program agenda.
- (2) Approval of any continuing education program may be withdrawn by the Board if the sponsor of such program fails to comply with the provisions of this chapter.
- (3) Each licensee shall, when making application for license renewal, submit on a form prescribed by the Board a signed statement setting forth the continuing education programs in which the licensee has participated during the licensing period. Such licensee shall retain documentation supporting such statement for a period of three (3) years subsequent to the date of submission.
- (4) If any continuing education hours claimed in a statement submitted by a licensee pursuant to paragraph (3) of this rule are disapproved, the Board shall notify such licensee of the reason for such disapproval. The Board may allow a period of time not to exceed one hundred eighty (180) days for the correction of any deficiencies.
- (5) Within thirty (30) days of the conclusion of a continuing education program, the sponsor shall submit to the Board documentation identifying the program and listing the attending licensees. Failure to comply with this requirement may result in the Board's disallowance of credit for such program.

Authority: T.C.A. §§62-5-203, 62-5-605(3), 62-5-609, and 62-5-611. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

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0660-10-.06 WITHDRAWAL OF APPROVAL.

- (1) Any changes made to a program by the sponsor after approval is granted must be approved by the Board. Failure of the sponsor to obtain approval of changes in a program shall be grounds for withdrawal of approval of the program by the Board.
- (2) Approval of any continuing education program may be withdrawn by the Board if the program fails to comply with the relevant statutes or the provisions of this chapter.

Authority: T.C.A. §§62-5-203 and 62-5-611. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

0660-10-.07 EXTENSIONS OF TIME.

- (1) The Board may, upon written request by the licensee, extend for reasonable and just cause, the time within which the licensee must comply with the requirements of this chapter.
- (2) Any licensee who is granted an extension of time under this rule shall remain subject to the provisions of this chapter and shall note such extension on any report or correspondence thereafter submitted until such time as the extension expires or until the licensee meets the continuing education requirements for license renewal.
- (3) Any request for an extension of time shall be submitted for consideration by the full Board.

Authority: T.C.A. §§62-5-203 and 62-5-601. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

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0660-10-.08 FAILURE TO OBTAIN REQUIRED CONTINUING EDUCATION.

- (1) A licensee who is not granted an extension and who fails to obtain the required number of continuing education hours prior to the expiration date appearing on the license shall be denied renewal until the Board receives documentation that the licensee has obtained the required continuing education.
- (2) A licensee who is not granted an extension and who fails to obtain the required number of continuing education hours prior to the expiration date appearing on the license shall not engage in any activity which requires a license until or unless the Board renews the license after the licensee demonstrates that all requirements for renewal, including the continuing education requirements and payment of all applicable late fees, have been met.

Authority: T.C.A. §§62-5-203, 62-5-601(c), and 62-5-610. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

0660-10-.09 RECIPROCITY. The Board may recognize for continuing education credit attendance by licensees at continuing education programs in other states so long as the program is recognized and approved by the appropriate governmental agency of that state. Licensees claiming credit for attendance at continuing education programs in other states shall comply with all reporting requirements of this chapter.

Authority: T.C.A. §§62-5-203 and 62-5-602. Administrative History: Original rule filed May 28, 1999; effective August 11, 1999.

**Chapter 0660-11**  
**Standards of Service and Practice**

**New Rules**

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**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.**

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- (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, 62-5-313(b)(2) 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 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.

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- (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.

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- (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 unprofessional conduct of such gravity as to warrant revocation or suspension of the license.

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