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Division of Publications**

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**For Department of State Use Only**

Sequence Number: 06-03-14  
Rule ID(s): 5723-5728  
File Date: 6/2/14  
Effective Date: 8/31/14

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205*

<b>Agency/Board/Commission:</b>	Board of Funeral Directors and Embalmers
<b>Division:</b>	Department of Commerce and Insurance, Division of Regulatory Boards
<b>Contact Person:</b>	Benton McDonough
<b>Address:</b>	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-8509
<b>Email:</b>	Benton.mcdonough@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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0660-03	Fees
Rule Number	Rule Title
0660-03-.04	Renewals
0660-03-.05	Reciprocal Licenses
Chapter Number	Chapter Title
0660-04	Apprentices
Rule Number	Rule Title
0660-04-.02	Quarterly Reports
Chapter Number	Chapter Title
0660-05	Funeral Directors and Embalmers
Rule Number	Rule Title
0660-05-.01	Application
Chapter Number	Chapter Title
0660-08	Civil Penalties
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0660-08-.01	Civil Penalties
Chapter Number	Chapter Title
0660-09	Requirements for Crematory
Rule Number	Rule Title
0660-09-.01	Requirements for Crematory
Chapter Number	Chapter Title
0660-11	Standards of Service and Practice
Rule Number	Rule Title

(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 0660-03  
Fees

Amendments

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

0660-03-.04 Renewals

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

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

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

Rule 0660-03-.05 Reciprocal Licenses

- (1) An application for a reciprocal funeral director's or embalmer's license shall be accompanied by a non-refundable fee of four hundred thirty-five dollars (\$435.00).

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

Chapter 0660-04  
Apprentices

Amendments

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

Rule 0660-04-.02 Quarterly Reports

Apprentices shall submit a quarterly report of apprenticeship training on a form prescribed by the Board. Such report must be received no later than sixty (60) days following the last day of the quarter for which credit is sought. Failure to file the quarterly report of apprenticeship training within the allotted time shall result in such credit being denied for that period of time.

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

Chapter 0660-05  
Funeral Directors and Embalmers

Amendments

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

0660-05-.01 Application

- (f) Certification of Completion of Apprenticeship Form attesting that either:
1. the applicant for a funeral director license has completed not less than two (2) years of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed funeral director as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship, or
  2. the applicant for an embalmer license has completed not less than one (1) year of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed embalmer as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship.

Authority: T.C.A. §§ 62-5-203, 62-5-305, 62-5-306, 62-5-307, 62-5-308 and 62-5-312

Chapter 0660-08  
Civil Penalties

Amendments

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

0660-08-.01 Civil Penalties

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

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

Chapter 0660-09

## Requirements for Crematory

### Amendments

Rule 0660-09-.01 Requirements for a Crematory is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

#### 0660-09-.01 Requirements for a Crematory

- (1) No person, partnership, firm, association or corporation shall conduct, maintain, manage or operate a crematory facility unless a license as a funeral establishment for such facility has been issued by the Board of Funeral Directors and Embalmers.
- (2) Application for licensure of crematory facility shall be on a form furnished and prescribed by the Board of Funeral Directors and Embalmers and shall be accompanied by an application fee set by the Board for funeral establishment. No license shall be issued unless the crematory facility has been inspected and approved as meeting all requirements as set forth by the Board, the Department of Health, Department of Environment regulation or any local ordinance regulating the same.
- (3) In the event the urn or other container is insufficient to accommodate all of the cremated remains, the excess will be placed by the crematory operator in a secondary container. This secondary container shall be kept with the urn or other container and handled according to the final disposition instructions set forth by the Authorizing Agent(s).
- (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) The entire cremated remains be returned to the family and/or responsible party.
- (7) (a) All cremations of human remains in this state shall be arranged through the holder of a valid, current funeral establishment license issued by the Board;  
  
(b) All cremations of human remains in this state shall be directly supervised by a licensed funeral director during the cremation process; including, but not limited to, the placement of remains in cremation chamber, repositioning of remains, removal from chamber, processing, and placement in an urn or other container.
- (8) Each crematory shall submit its cremation authorization form to the Board for approval, prior to using said form. Every funeral establishment shall use the cremation authorization form approved by the Board and provided by the crematory where the human remains are to be cremated.
- (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.
- (10) At no time shall any crematory be used for any purpose other than the cremation of dead human bodies.
- (11) Any funeral director, embalmer or crematory operator who obtains specific instructions or authorization, as required in T.C.A. § 62-5-507(f), to remove any prosthetic devices, pacemakers, implants, metal hinges, latches, nails, screws, staples, plates, or any other artificial device or structure from a dead human body prior to the cremation or from the cremated remains after cremation shall dispose of the prosthetic devices, pacemakers, implants, metal hinges, latches, nails, screws, staples, plates, or other artificial devices or structures in a lawful non-recoverable manner, so that only human bone fragments remain. While the funeral director, embalmer or crematory operator may receive compensation from a recycling company for retrieving these materials and shipping them to the recycling company, the funeral director, embalmer or crematory operator shall not receive a fee for doing so that exceeds the actual cost to the crematory facility for performing or assisting in the removal and shipping costs of those materials.

Chapter 0660-11  
Professional Conduct

Amendments

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

0660-11-.05 Professional Conduct

- (1) All persons engaged in the profession of funeral directing, embalming, or operation of a funeral establishment shall at all times act in a professional manner including, but not limited to, the following:
  - (a) Members of the public shall be treated in a respectful manner.
  - (b) Establishments shall honor financial obligations to suppliers, distributors or other persons with whom they conduct business in a timely manner.
  - (c) Any person who has been assessed a fee pursuant to statute or rules of the Board, and which fee is currently due, shall submit payment within the time provided by written notice.
  - (d) Any licensee, upon receiving notice that a complaint has been opened against the licensee, shall respond within the time specified in the notice. Provided, the director may grant a request for extension submitted within the period of time stated in the original notice.
  - (e) An establishment shall not unreasonably delay the filing of a certificate of death.
  - (f) An embalmer shall make every reasonable effort to return viscera to the body cavity for final disposition. In the event the embalmer is unable to return the viscera to the body cavity, the viscera shall be placed in a non-porous container, labeled as such, and disposed of in an identical manner to the remains.
  - (g) Licensees shall obey any lawful order entered by the Board.

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

\* 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)
Wayne Hinkle	X				
Tony Hysmith	X				
Clark McKinney	X				
W.T. Patterson	X				
Jane Gray Sowell	X				
Robert Starkey	X				
Anita Taylor	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Funeral Directors and Embalmers on 11/14/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/21/12

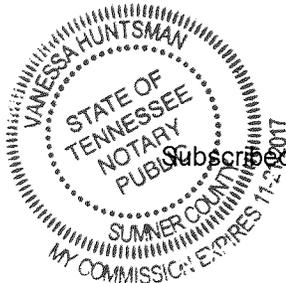
Rulemaking Hearing(s) Conducted on: (add more dates). 11/14/12

Date: 05-14-14

Signature: [Handwritten Signature]

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_



Subscribed and sworn to before me on: 05/14/2014

Notary Public Signature: [Handwritten Signature]

My commission expires on: 11/2/2017

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.

[Handwritten Signature]  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
5-30-14  
 Date

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Filed with the Department of State on: 10/2/14

Effective on: 8/3/14

[Handwritten Signature]  
 Tre Hargett  
 Secretary of State

## 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.

Rule 0660-03-.04

Bob Batson, Executive Director of the Tennessee Funeral Directors Association, commented on the decrease in licensing fees. Mr. Batson commended the Board for recognizing the Board had a deficit, taking steps to address the deficit, and then rewarding the licensees with a licensing fee decrease when the deficit was closed.

Jacky Carver, a funeral director and former member of the board, commented on the licensing fee and asked the Board to look into the possibility of the funeral board getting a law passed that won't allow the funeral board's funds to be swept into the general fund, similar to what the 911 Board was able to accomplish.

The Board responded by thanking Mr. Batson and Mr. Carver. The Board stated that this is an action that would have to be taken up with the legislature. The Board voted to adopt this proposed rule as presented.

Rule 0660-09-.01(8)(b)

Jacky Carver asked the Board to clarify the meaning of "directly supervises" in Rule 0660-09-.01(8)(b), and whether this means, "on the premises" or "in the room with the retort". Mr. Carver stated that in a crematory you will find large openings in the room for combustion and it's terribly cold in the winter and terribly hot in the summer. Furthermore, Mr. Carver explained that his crematory is equipped with cameras so that a funeral director may monitor the temperature and pressure in a separate building.

Mr. Gregory also commented on Rule 0660-09-.01(8)(b), and stated that his facility is locked and a fire alarm is set, so they are able to cremate a body in a secure location with precautions for a fire in case the funeral director on site has to leave the premises to conduct a funeral or go home. Mr. Gregory states that it is carrying it too far if a funeral director has to be in the building because they could not do anything anyway if a fire were to break out.

Tracy Bond, with Middle Tennessee Cremation Center, stated that she believes a funeral director should directly supervise a cremation since they are required to directly supervise embalmings and burials. Ms. Bond stated that when they sued the City of Mt. Juliet to allow them to build their crematory, she states that they based their argument on the idea that the laws of Tennessee hold that cremating a body is considered funeral directing. Therefore, if a funeral director must be present for a burial, then they should be present for a cremation as well. The funeral director should at least be in the building if not in the same room as the retort.

Steve Spann, of Gupton College, made comments regarding the Rule 0660-09-.01(8)(b) and whether the Board intended a licensed funeral director to actually be in the same building as the crematory when a cremation is taking place or on the premises?

The Board discussed the issue regarding a funeral director's presence during a cremation. The Board stated that their intention was that a licensed funeral director must be on the premises during a cremation and that would mirror the explanation under the supervision of funeral director and direct supervision for funeral directing and embalming. The Board voted to adopt this proposed rule as presented.

Rule 0660-09-.01(11)

Mr. Carver asked for clarification on Rule 0660-09-01(11) where the rule states, "no time shall any crematory be used for any purpose other..." Mr. Carver needed clarification as to whether this meant everything in the building or just the equipment such as the retort and ancillary equipment like the pulverizer?

The Board discussed that some establishments were cremating pets alongside their human retort, and this new rule clarifies that the crematory is for humans only and not pets. The Board stated that it would stand to reason that any crematory would also include the equipment thereof, the retort, the pulverizing machine, various things in the crematory. Furthermore, the Board argued that if you were to say at no time shall any preparation room be

used for any purpose other than the preparation of a dead human body, naturally that would include your machines used for injection, aspirators, other equipment in the preparation. The Board voted to adopt this proposed rule as presented.

Rule 0660-09-.01(12)

Finally, Mr. Carver commented on Rule 0660-09-.01(12) regarding compensation of the establishment for the fee of recycling artificial devices or structures from dead human bodies, and whether the establishment must disclose on their form that they sign that they are receiving compensation for that service?

Mr. Gregory commented on Rule 0660-09-.01(12) and compensation for recycling artificial devices and structures in dead human bodies. Mr. Gregory wanted to know who determines the cost, should the establishment break out the cost of removing these structures, and how will the Board determine the cost? Mr. Gregory stated that if the cost is not to exceed his cremation costs, then he is comfortable with that; however, he does not want to get into a situation where he is having to explain to the family that he is charging thirty-five dollars (\$35.00) to recycle their decedent's hip or knee joint.

Ms. Bond also requested clarification on Rule 0660-09-.01(12) regarding the fee for recycling artificial devices and structures.

The Board discussed that this rule was suggested to prevent funeral homes from charging an excessive fee for the removal of any of the items listed and there is no intent to require a funeral home to breakdown or charge a specific fee for it and there is no intent for the inspector to review the fee. The Board voted to adopt this proposed rule as presented.

Rule 0660-09-.01(5)

William Gregory, a funeral director from Nashville, Tennessee, commented on Rule 0660-09-.01(5). Mr. Gregory commented that co-mingling of remains has become commonplace compared to five (5) or six (6) years ago. Mr. Gregory stated that families co-mingle ashes in ashuraries and scattering gardens. They also have a lot of families that wish to have keepsake urns and when parents both pass away; the surviving family members co-mingle the remains in the keepsake urn. Furthermore, Mr. Gregory noted that due to the economic downturn, fewer families can afford companion columbariums or niches, so the family elects to put two (2) urns in one (1) niche. However, most niches are too small for two (2) urns, so the family co-mingles the ashes in one (1) large urn. Mr. Gregory wanted to make sure the new rules did not restrict this practice.

The Board voted to adopt this proposed rule as presented, regarding no more than one cremated remains being placed in any container without written permission from the personal representative responsible for the remains.

Rule 0660-09-.01(6)

William Gregory, a funeral director from Nashville, Tennessee, commented on Rule 0660-09-.01(6). Mr. Gregory commented that co-mingling of remains has become commonplace compared to five (5) or six (6) years ago. Mr. Gregory stated that families co-mingle ashes in ashuraries and scattering gardens. They also have a lot of families that wish to have keepsake urns and when parents both pass away; the surviving family members co-mingle the remains in the keepsake urn. Furthermore, Mr. Gregory noted that due to the economic downturn, fewer families can afford companion columbariums or niches, so the family elects to put two (2) urns in one (1) niche. However, most niches are too small for two (2) urns, so the family co-mingles the ashes in one (1) large urn. Mr. Gregory wanted to make sure the new rules did not restrict this practice.

The Board voted to adopt the proposed rule as presented, regarding the prohibition against co-mingling remains for storage or disposition, and keeping cremains separate unless authorized by personal representatives.

### **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)

### **Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:**

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state, or local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rules:

The rules are clear and concise. Further, the rules are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

These rules provide uniform and reasonable standards for all individuals licensed by the Board of Funeral Directors and Embalmers in order to assist with ensuring the health, safety, and welfare of the citizens of Tennessee.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

These rules provide uniform standards for all individuals licensed by the Tennessee Board of Funeral Directors and Embalmers.

5. Consolidation or simplification of compliance or reporting requirements:

All rules regulating the funeral industry in Tennessee are contained in these rules, and these rules clearly specify the requirements for all licensees.

6. Performance standards for small businesses:

The Board expects all small businesses to abide by the requirements of these rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

These rules do not result in the unnecessary creation of entry barriers or other effects that will stifle entrepreneurial activity, curb innovation, or increase costs.

## **Economic Impact Statement:**

### 1. Types of small businesses and estimate of number of small businesses directly affected:

Funeral establishments would be affected by these rules. Tennessee has a total of 572 funeral establishments, approximately 450 of which could be considered small businesses. These establishments will be affected by these rule changes, as they employ some of the 3,108 licensed funeral directors and embalmers that will be affected by these rules.

### 2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business reporting or recordkeeping that will result from the promulgation of these rules.

### 3. Probable effect on small businesses and consumers:

These rules should have a positive effect on both small businesses and consumers. Specifically, reducing renewal fees for funeral directors, embalmers, and crematory operators, and increasing the fees on reciprocal licenses to make them comparable to instate licensees should have a positive effect on small businesses and therefore on consumers.

### 4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

### 5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

### 6. Effect of possible exemption of small businesses:

An exemption of small businesses from the aforementioned requirements could be a detriment to health, safety and welfare of the citizens of Tennessee.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not reasonably viewed as having a projected impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

Rule 0660-03-.04 Renewals amends the current rule and decreases the biennial renewal fee for a funeral director's or embalmer's license from two hundred and seventy-five dollars (\$275.00) down to two hundred and thirty-five dollars (\$235.00). Furthermore, the rules effectively increase the fees for a reciprocal license from an initial application fee of two hundred dollars (\$200.00) and licensing fee for funeral director's or embalmer's license of one hundred dollars (\$100.00) to one fee of four hundred thirty-five dollars (\$435.00) to bring the reciprocal licenses in line with in state licenses.

Rule 0660-04-.02 Quarterly Reports amends the current rule so that the failure to file a quarterly report as an apprentice no later than sixty (60) days following the last day of the quarter for which credit is sought will result in the individual not receiving apprenticeship credit for that quarter.

Rule 0660-05-.01 Application amends the current rule so that quarterly reports of apprenticeship are required prior to receiving a certification of completion of apprenticeship, which is required to obtain a funeral director's or embalmer's license.

Rule 0660-08-.01 Civil Penalties amends the current rule so that the Board of Funeral Directors and Embalmers may consider the length of time elapsed between an alleged violation and the filing of a complaint when determining the proper assessment of a civil penalty.

Rule 0660-09-.01 Requirements for Crematory amends the current rule and establishes the requirements in the event an urn cannot hold all of the cremains of one individual; who is responsible for overseeing the cremation process; which cremation authorization forms are to be completed for the cremation process; what is permitted to be cremated in a crematory; and how an individual should go about disposing of items that were removed from a body prior to cremation and may be recycled.

Rule 0660-11-.05 Professional Conduct amends the current rule and establishes the actions to be taken by an embalmer in the event viscera are removed from the body, and requires licensees to obey lawful orders entered by the Board of Funeral Directors and Embalmers.

- (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;

Tennessee Code Annotated § 62-5-203 provides that, "The board has the power to select from its members a president and to adopt, promulgate and enforce rules and regulations for the transaction of its business and the management of its affairs, the standards of service and practice to be followed in the profession of funeral directing and the betterment and promotion of the educational standards of the profession of funeral directors and embalmers in this state, as it may deem expedient, consistent with the laws of this state."

- (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;

Persons who are licensed as funeral directors and embalmers, and registered as apprentices pursuant to Title 62, Chapter 5, Section 3 will be most directly affected by these rules.

- (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 opinions of the Attorney General and Reporter or any judicial rulings that directly relate to the 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;

The rules are expected to have no impact on state and local government revenues and expenditures.

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

R. Benton McDonough, Assistant General Counsel, Department of Commerce and Insurance.  
Robert B. Gribble, Executive Director for the Tennessee Board of Funeral Directors and Embalmers.

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

R. Benton McDonough, Assistant General Counsel, Department of Commerce and Insurance.  
Robert B. Gribble, Executive Director for the Tennessee Board of Funeral Directors and Embalmers.

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

500 James Robertson Parkway, Nashville, Tennessee 37243  
Telephone: (615) 741-8509 or (615) 741-5062; E-mail: [Benton.mcdonough@tn.gov](mailto:Benton.mcdonough@tn.gov) or [Robert.gribble@tn.gov](mailto:Robert.gribble@tn.gov)

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

**Department of State  
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<b>Agency/Board/Commission:</b>	Board of Funeral Directors and Embalmers
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<b>Contact Person:</b>	Benton McDonough
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**Revision Type (check all that apply):**

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

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0660-03	Fees
Rule Number	Rule Title
0660-03-.04	Renewals
0660-03-.05	Reciprocal Licenses
Chapter Number	Chapter Title
0660-04	Apprentices
Rule Number	Rule Title
0660-04-.02	Quarterly Reports
Chapter Number	Chapter Title
0660-05	Funeral Directors and Embalmers
Rule Number	Rule Title
0660-05-.01	Application
Chapter Number	Chapter Title
0660-08	Civil Penalties
Rule Number	Rule Title
0660-08-.01	Civil Penalties
Chapter Number	Chapter Title
0660-09	Requirements for Crematory
Rule Number	Rule Title
0660-09-.01	Requirements for Crematory
Chapter Number	Chapter Title
0660-11	Standards of Service and Practice
Rule Number	Rule Title

(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 0660-03  
Fees

Amendments

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

0660-03-.04 Renewals

- (1) Funeral Director. The fee for biennial renewal of a funeral director's license shall be ~~two hundred seventy-five dollars (\$275.00)~~ two hundred and thirty-five dollars (\$235.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (2) Embalmer. The fee for biennial renewal of an embalmer's license shall be ~~two hundred seventy-five dollars (\$275.00)~~ two hundred and thirty-five dollars (\$235.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (3) Funeral Establishment. The fee for biennial renewal of a funeral establishment license shall be five hundred seventy five dollars (\$575.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).

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

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

Rule 0660-03-.05 Reciprocal Licenses

- (1) An application for a reciprocal funeral director's or embalmer's license shall be accompanied by a non-refundable application fee of ~~two hundred dollars (\$200.00)~~ four hundred thirty-five dollars (\$435.00).
- ~~(2) The fee for a reciprocal funeral director's or embalmer's license shall be one hundred dollars (\$100.00).~~

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

Chapter 0660-04  
Apprentices

Amendments

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

Rule 0660-04-.02 Quarterly Reports

Apprentices shall submit a quarterly report of apprenticeship training on a form prescribed by the Board. Such report must be received no later than sixty (60) days following the last day of the quarter for which credit is sought. Failure to file the quarterly report of apprenticeship training within the allotted time shall result in such credit being denied for that period of time.

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

Chapter 0660-05  
Funeral Directors and Embalmers

Amendments

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

0660-05-.01 Application

- (f) Certification of Completion of Apprenticeship Form attesting that either:
1. the applicant for a funeral director license has completed not less than two (2) years of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed funeral director; as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship, or
  2. the applicant for an embalmer license has completed not less than one (1) year of apprenticeship as a bona fide paid employee of an establishment working not less than forty (40) hours per week in the presence of and under the direction and supervision of a licensed embalmer; as evidenced by the applicant submitting quarterly reports of apprenticeship training within the allotted time throughout the duration of the apprenticeship.

Authority: T.C.A. §§ 62-5-203, 62-5-305, 62-5-306, 62-5-307, 62-5-308 and 62-5-312

Chapter 0660-08  
Civil Penalties

Amendments

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

0660-08-.01 Civil Penalties

- (3) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (b) The circumstances leading to the violation;
  - (c) The severity of the violation and 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; and
  - (g) The length of time that has elapsed between the alleged violation and filing of the complaint.

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

Chapter 0660-09  
Requirements for Crematory

Amendments

Rule 0660-09-.01 Requirements for a Crematory is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

0660-09-.01 Requirements for a Crematory

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

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

Authority: T.C.A. §§ 62-5-203, 62-5-101, 62-5-309, 62-5-304, 62-5-507, and 62-5-508

Chapter 0660-11  
Professional Conduct

Amendments

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

0660-11-.05 Professional Conduct

- (1) All persons engaged in the profession of funeral directing, embalming, or operation of a funeral establishment shall at all times act in a professional manner including, but not limited to, the following:
  - (a) Members of the public shall be treated in a respectful manner.
  - (b) Establishments shall honor financial obligations to suppliers, distributors or other persons with whom they conduct business in a timely manner.
  - (c) Any person who has been assessed a fee pursuant to statute or rules of the Board, and which fee is currently due, shall submit payment within the time provided by written notice.
  - (d) Any licensee, upon receiving notice that a complaint has been opened against the licensee, shall respond within the time specified in the notice. Provided, the director may grant a request for extension submitted within the period of time stated in the original notice.
  - (e) An establishment shall not unreasonably delay the filing of a certificate of death.
  - (f) An embalmer shall make every reasonable effort to return viscera to the body cavity for final disposition. In the event the embalmer is unable to return the viscera to the body cavity, the viscera shall be placed in a non-porous container, labeled as such, and disposed of in an identical manner to the remains.
  - (g) Licensees shall obey any lawful order entered by the Board.

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

\* 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)
Wayne Hinkle	X				
Tony Hysmith	X				
Clark McKinney	X				
W.T. Patterson	X				
Jane Gray Sowell	X				
Robert Starkey	X				
Anita Taylor	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Funeral Directors and Embalmers on 11/14/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/21/12

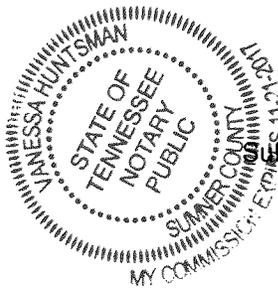
Rulemaking Hearing(s) Conducted on: (add more dates). 11/14/12

Date: 05-14-14

Signature: [Handwritten Signature]

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_



Subscribed and sworn to before me on: 05/14/2014

Notary Public Signature: [Handwritten Signature]

My commission expires on: 11/21/2017

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.

[Handwritten Signature]  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
5-30-14  
 Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
 Tre Hargett  
 Secretary of State

## 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.

### Rule 0660-03-.04

Bob Batson, Executive Director of the Tennessee Funeral Directors Association, commented on the decrease in licensing fees. Mr. Batson commended the Board for recognizing the Board had a deficit, taking steps to address the deficit, and then rewarding the licensees with a licensing fee decrease when the deficit was closed.

Jacky Carver, a funeral director and former member of the board, commented on the licensing fee and asked the Board to look into the possibility of the funeral board getting a law passed that won't allow the funeral board's funds to be swept into the general fund, similar to what the 911 Board was able to accomplish.

The Board responded by thanking Mr. Batson and Mr. Carver. The Board stated that this is an action that would have to be taken up with the legislature. The Board voted to adopt this proposed rule as presented.

### Rule 0660-09-.01(8)(b)

Jacky Carver asked the Board to clarify the meaning of "directly supervises" in Rule 0660-09-.01(8)(b), and whether this means, "on the premises" or "in the room with the retort". Mr. Carver stated that in a crematory you will find large openings in the room for combustion and it's terribly cold in the winter and terribly hot in the summer. Furthermore, Mr. Carver explained that his crematory is equipped with cameras so that a funeral director may monitor the temperature and pressure in a separate building.

Mr. Gregory also commented on Rule 0660-09-.01(8)(b), and stated that his facility is locked and a fire alarm is set, so they are able to cremate a body in a secure location with precautions for a fire in case the funeral director on site has to leave the premises to conduct a funeral or go home. Mr. Gregory states that it is carrying it too far if a funeral director has to be in the building because they could not do anything anyway if a fire were to break out.

Tracy Bond, with Middle Tennessee Cremation Center, stated that she believes a funeral director should directly supervise a cremation since they are required to directly supervise embalmings and burials. Ms. Bond stated that when they sued the City of Mt. Juliet to allow them to build their crematory, she states that they based their argument on the idea that the laws of Tennessee hold that cremating a body is considered funeral directing. Therefore, if a funeral director must be present for a burial, then they should be present for a cremation as well. The funeral director should at least be in the building if not in the same room as the retort.

Steve Spann, of Gupton College, made comments regarding the Rule 0660-09-.01(8)(b) and whether the Board intended a licensed funeral director to actually be in the same building as the crematory when a cremation is taking place or on the premises?

The Board discussed the issue regarding a funeral director's presence during a cremation. The Board stated that their intention was that a licensed funeral director must be on the premises during a cremation and that would mirror the explanation under the supervision of funeral director and direct supervision for funeral directing and embalming. The Board voted to adopt this proposed rule as presented.

### Rule 0660-09-.01(11)

Mr. Carver asked for clarification on Rule 0660-09-01(11) where the rule states, "no time shall any crematory be used for any purpose other..." Mr. Carver needed clarification as to whether this meant everything in the building or just the equipment such as the retort and ancillary equipment like the pulverizer?

The Board discussed that some establishments were cremating pets alongside their human retort, and this new rule clarifies that the crematory is for humans only and not pets. The Board stated that it would stand to reason that any crematory would also include the equipment thereof, the retort, the pulverizing machine, various things in the crematory. Furthermore, the Board argued that if you were to say at no time shall any preparation room be

used for any purpose other than the preparation of a dead human body, naturally that would include your machines used for injection, aspirators, other equipment in the preparation. The Board voted to adopt this proposed rule as presented.

#### Rule 0660-09-.01(12)

Finally, Mr. Carver commented on Rule 0660-09-.01(12) regarding compensation of the establishment for the fee of recycling artificial devices or structures from dead human bodies, and whether the establishment must disclose on their form that they sign that they are receiving compensation for that service?

Mr. Gregory commented on Rule 0660-09-.01(12) and compensation for recycling artificial devices and structures in dead human bodies. Mr. Gregory wanted to know who determines the cost, should the establishment break out the cost of removing these structures, and how will the Board determine the cost? Mr. Gregory stated that if the cost is not to exceed his cremation costs, then he is comfortable with that; however, he does not want to get into a situation where he is having to explain to the family that he is charging thirty-five dollars (\$35.00) to recycle their decedent's hip or knee joint.

Ms. Bond also requested clarification on Rule 0660-09-.01(12) regarding the fee for recycling artificial devices and structures.

The Board discussed that this rule was suggested to prevent funeral homes from charging an excessive fee for the removal of any of the items listed and there is no intent to require a funeral home to breakdown or charge a specific fee for it and there is no intent for the inspector to review the fee. The Board voted to adopt this proposed rule as presented.

#### Rule 0660-09-.01(5)

William Gregory, a funeral director from Nashville, Tennessee, commented on Rule 0660-09-.01(5). Mr. Gregory commented that co-mingling of remains has become commonplace compared to five (5) or six (6) years ago. Mr. Gregory stated that families co-mingle ashes in ashuraries and scattering gardens. They also have a lot of families that wish to have keepsake urns and when parents both pass away; the surviving family members co-mingle the remains in the keepsake urn. Furthermore, Mr. Gregory noted that due to the economic downturn, fewer families can afford companion columbariums or niches, so the family elects to put two (2) urns in one (1) niche. However, most niches are too small for two (2) urns, so the family co-mingles the ashes in one (1) large urn. Mr. Gregory wanted to make sure the new rules did not restrict this practice.

The Board voted to adopt this proposed rule as presented, regarding no more than one cremated remains being placed in any container without written permission from the personal representative responsible for the remains.

#### Rule 0660-09-.01(6)

William Gregory, a funeral director from Nashville, Tennessee, commented on Rule 0660-09-.01(6). Mr. Gregory commented that co-mingling of remains has become commonplace compared to five (5) or six (6) years ago. Mr. Gregory stated that families co-mingle ashes in ashuraries and scattering gardens. They also have a lot of families that wish to have keepsake urns and when parents both pass away; the surviving family members co-mingle the remains in the keepsake urn. Furthermore, Mr. Gregory noted that due to the economic downturn, fewer families can afford companion columbariums or niches, so the family elects to put two (2) urns in one (1) niche. However, most niches are too small for two (2) urns, so the family co-mingles the ashes in one (1) large urn. Mr. Gregory wanted to make sure the new rules did not restrict this practice.

The Board voted to adopt the proposed rule as presented, regarding the prohibition against co-mingling remains for storage or disposition, and keeping cremains separate unless authorized by personal representatives.

### **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)

### **Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:**

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state, or local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rules:

The rules are clear and concise. Further, the rules are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

These rules provide uniform and reasonable standards for all individuals licensed by the Board of Funeral Directors and Embalmers in order to assist with ensuring the health, safety, and welfare of the citizens of Tennessee.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

These rules provide uniform standards for all individuals licensed by the Tennessee Board of Funeral Directors and Embalmers.

5. Consolidation or simplification of compliance or reporting requirements:

All rules regulating the funeral industry in Tennessee are contained in these rules, and these rules clearly specify the requirements for all licensees.

6. Performance standards for small businesses:

The Board expects all small businesses to abide by the requirements of these rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

These rules do not result in the unnecessary creation of entry barriers or other effects that will stifle entrepreneurial activity, curb innovation, or increase costs.

## **Economic Impact Statement:**

### 1. Types of small businesses and estimate of number of small businesses directly affected:

Funeral establishments would be affected by these rules. Tennessee has a total of 572 funeral establishments, approximately 450 of which could be considered small businesses. These establishments will be affected by these rule changes, as they employ some of the 3,108 licensed funeral directors and embalmers that will be affected by these rules.

### 2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business reporting or recordkeeping that will result from the promulgation of these rules.

### 3. Probable effect on small businesses and consumers:

These rules should have a positive effect on both small businesses and consumers. Specifically, reducing renewal fees for funeral directors, embalmers, and crematory operators, and increasing the fees on reciprocal licenses to make them comparable to instate licensees should have a positive effect on small businesses and therefore on consumers.

### 4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

### 5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

### 6. Effect of possible exemption of small businesses:

An exemption of small businesses from the aforementioned requirements could be a detriment to health, safety and welfare of the citizens of Tennessee.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not reasonably viewed as having a projected impact on local governments.

## **Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

Rule 0660-03-.04 Renewals amends the current rule and decreases the biennial renewal fee for a funeral director's or embalmer's license from two hundred and seventy-five dollars (\$275.00) down to two hundred and thirty-five dollars (\$235.00). Furthermore, the rules effectively increase the fees for a reciprocal license from an initial application fee of two hundred dollars (\$200.00) and licensing fee for funeral director's or embalmer's license of one hundred dollars (\$100.00) to one fee of four hundred thirty-five dollars (\$435.00) to bring the reciprocal licenses in line with in state licenses.

Rule 0660-04-.02 Quarterly Reports amends the current rule so that the failure to file a quarterly report as an apprentice no later than sixty (60) days following the last day of the quarter for which credit is sought will result in the individual not receiving apprenticeship credit for that quarter.

Rule 0660-05-.01 Application amends the current rule so that quarterly reports of apprenticeship are required prior to receiving a certification of completion of apprenticeship, which is required to obtain a funeral director's or embalmer's license.

Rule 0660-08-.01 Civil Penalties amends the current rule so that the Board of Funeral Directors and Embalmers may consider the length of time elapsed between an alleged violation and the filing of a complaint when determining the proper assessment of a civil penalty.

Rule 0660-09-.01 Requirements for Crematory amends the current rule and establishes the requirements in the event an urn cannot hold all of the cremains of one individual; who is responsible for overseeing the cremation process; which cremation authorization forms are to be completed for the cremation process; what is permitted to be cremated in a crematory; and how an individual should go about disposing of items that were removed from a body prior to cremation and may be recycled.

Rule 0660-11-.05 Professional Conduct amends the current rule and establishes the actions to be taken by an embalmer in the event viscera are removed from the body, and requires licensees to obey lawful orders entered by the Board of Funeral Directors and Embalmers.

- (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;

Tennessee Code Annotated § 62-5-203 provides that, "The board has the power to select from its members a president and to adopt, promulgate and enforce rules and regulations for the transaction of its business and the management of its affairs, the standards of service and practice to be followed in the profession of funeral directing and the betterment and promotion of the educational standards of the profession of funeral directors and embalmers in this state, as it may deem expedient, consistent with the laws of this state."

- (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;

Persons who are licensed as funeral directors and embalmers, and registered as apprentices pursuant to Title 62, Chapter 5, Section 3 will be most directly affected by these rules.

- (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 opinions of the Attorney General and Reporter or any judicial rulings that directly relate to the 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;

The rules are expected to have no impact on state and local government revenues and expenditures.

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

R. Benton McDonough, Assistant General Counsel, Department of Commerce and Insurance.  
Robert B. Gribble, Executive Director for the Tennessee Board of Funeral Directors and Embalmers.

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

R. Benton McDonough, Assistant General Counsel, Department of Commerce and Insurance.  
Robert B. Gribble, Executive Director for the Tennessee Board of Funeral Directors and Embalmers.

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

500 James Robertson Parkway, Nashville, Tennessee 37243  
Telephone: (615) 741-8509 or (615) 741-5062; E-mail: [Benton.mcdonough@tn.gov](mailto:Benton.mcdonough@tn.gov) or [Robert.gribble@tn.gov](mailto:Robert.gribble@tn.gov)

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