

SUBJECT: Changing funeral director or embalmer provisional license requirements

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Crownover, Blanco, Coleman, Guerra, R. Miller, Sheffield,
Zedler, Zerwas

0 nays

3 absent — Naishtat, Collier, S. Davis

WITNESSES: For — Rodney Molitor and Johnnie B. Rogers, Service Corporation International; Kevin Hull, Service Corporation International, Cook-Walden Funeral Home and Cemeteries; Bill Vallie, Texas Funeral Directors Association; (*Registered, but did not testify*: Heather Goad, Bill Haley, and Charles Hauboldt, Texas Funeral Directors Association)

Against — None

On — Janice McCoy, Texas Funeral Service Commission

BACKGROUND: Occupations Code, sec. 651.301 requires a person to obtain a provisional license before learning the practice of funeral directing or embalming under the supervision of a licensed funeral director or embalmer.

Sec. 651.302 requires the Texas Funeral Service Commission (TFSC) to issue a provisional license to practice funeral directing to an applicant who:

- is at least 18 years old;
- has graduated high school or the equivalent or is enrolled in a college of mortuary science;
- is employed by and is under the instruction and supervision of a funeral director; and
- files an application and pays any application or license fee.

Requirements under the same section to issue a provisional license to practice embalming are similar but do not require employment or personal supervision by an embalmer.

A provisional funeral director or embalmer must serve for at least one year as a provisional license holder under the personal supervision and instruction of a funeral director or embalmer to be eligible to apply for a standard license. The term of a provisional license program cannot exceed 24 consecutive months.

A provisional license holder whose license was canceled by TFSC due to failure to timely pay the renewal fee and associated penalty can apply for reinstatement up to 18 months after the date of cancellation.

DIGEST:

CSHB 1219 would revise the requirements of the funeral director and embalmer provisional license program and the terms for renewing or reinstating a provisional license. The bill also would make several technical and conforming changes to the Occupations Code.

Provisional license program. The bill would require the Texas Funeral Service Commission (TFSC) to waive the requirement that an applicant for a funeral director or embalming provisional license either be enrolled in or a graduate of an accredited school of mortuary science and to issue a provisional license if the applicant was otherwise qualified. The waiver could not exceed 12 months, and the provisional license would expire at the end of the waiver period. An applicant would be required to submit to a criminal background check before submitting an application for a license.

CSHB 1219 would lower the number of cases with which a provisional license holder was required to assist from 60 to 45. The bill would continue to allow provisional license holders to count cases completed for school credit as part of the 45 cases required in the provisional license program. TFSC would be required to prescribe by rule case reporting requirements and to provide the case report forms for provisional license

holders.

When conducting funeral arrangements, provisional license holders would be required to disclose to family members and other people involved in the funeral arrangements that the license holder had a provisional license and worked under the personal supervision of a licensed funeral director.

During the provisional license term, a provisional license holder would be required to work at a funeral establishment or commercial embalming facility licensed by TFSC and under the direct and personal supervision of a funeral director or embalmer. If this requirement was not met, TFSC would cancel the provisional license.

After completing the provisional license program, applicants would be eligible for a standard license if they also met other existing requirements. A provisional license holder who is otherwise eligible for a standard license and who has completed the provisional license program would be able to receive a license regardless of the provisional license's expiration date.

License renewal or reinstatement. A provisional license would be valid for 12 consecutive months and could be renewed once for no longer than an additional 12 months. TFSC would be required to cancel a provisional license if the provisional license holder failed to complete the program within 24 consecutive months. If TFSC waived the provisional license education requirements for any period of time, the provisional license holder would be allowed to renew the license for no more than 24 months and would have to complete the provisional license program within 36 consecutive months.

The bill would allow a provisional license holder who did not complete the program within the prescribed period to reapply for a provisional license. This reapplication could be done only once. The provisional license holder would have to comply with the same requirements as the original application. Cases performed under a previous provisional license program could not count towards the new provisional license program, but

TFSC could adopt rules that would allow for an exception if the provisional license holder requested a hardship exemption.

CSHB 1219 would allow a provisional license holder whose provisional license was canceled by TFSC for failure to renew the license and pay the associated penalty to apply for reinstatement. The applicant would have to reapply by the date the license would have expired if it had been renewed. This also would be the expiration date of the reinstated provisional license. A provisional license holder would not be allowed to work as a funeral director or embalmer while the license was suspended or canceled.

Technical and conforming changes. The bill would amend language throughout Occupations Code, ch. 651 to conform it with provisions in CSHB 1219. It would use the terms “funeral establishment” and “commercial embalming facility” in some places to distinguish between the business and the person in charge, who would continue to be called a “funeral director” or “embalmer.” It also would repeal certain sections of the Occupations Code to conform with other changes resulting from the bill.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1219 would bring more people into the funeral directing and embalming industry by making provisional licenses more accessible. The bill also would allow individuals to gain valuable experience in the industry before committing to a formal education in mortuary studies.

There is a statewide shortage of professionals in this industry, particularly in rural areas. One reason for this shortage is that people currently entering the profession have education in the industry but little or no practical experience. They become overwhelmed by the job and often leave to pursue a different profession. Funeral directing and embalming is a difficult profession that is not only taxing on a person’s mental health but also is demanding of time. The bill would allow potential funeral directors and embalmers to get firsthand experience in the industry before having to enroll in and pay for school.

The bill would return licensing standards to what they were two decades ago. Under those laws, individuals were able to work in the industry before having to attend mortuary school. Returning to those standards would not result in more problems or rule violations because during that time, funeral directors and embalmers supervised the apprentices just as this bill would require. TFSC enforced the supervision requirements and penalized any violators just as it would under this bill.

OPPONENTS
SAY:

CSHB 1219 would allow individuals to circumvent licensing requirements by not requiring them to finish or enroll in school before practicing funeral directing or embalming. This would place a larger burden on TFSC because it is in charge of protecting the public by regulating funeral homes and enforcing rules. With the increase in provisional license holders practicing funeral directing or embalming, the number of rule violations could increase.

NOTES:

CSHB 1219 differs from the bill as filed in that the substitute would:

- require, rather than allow, TFSC to waive the educational requirements related to granting a provisional license;
- allow a provisional license holder to receive a standard license once all requirements were met, regardless of the provisional license's expiration date;
- lower the minimum number of cases required in the provisional license program from 60 to 45;
- allow a case that was completed for school credit also to be counted towards the 45 case provisional license program requirement; and
- require a provisional license holder to inform the family that they hold a provisional license and are working under the supervision of a licensed funeral director or embalmer.

The companion bill, SB 1031 by Watson, was referred to the Senate Committee on Business and Commerce on March 11.