

# SENATE BILL 463

J2

(8lr1083)

## ENROLLED BILL

—*Education, Health, and Environmental Affairs/Health and Government  
Operations*—

Introduced by **Senator Conway (Chair, Education, Health, and Environmental  
Affairs Committee)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Sunset Extension and**  
3 **Program Evaluation**

4 FOR the purpose of continuing the State Board of Morticians and Funeral Directors in  
5 accordance with the provisions of the Maryland Program Evaluation Act (sunset  
6 law) by extending to a certain date the termination provisions relating to the  
7 statutory and regulatory authority of the Board; *altering the composition of the*  
8 *Board*; requiring that an evaluation of the Board and the statutes and  
9 regulations that relate to the Board be performed on or before a certain date;  
10 requiring that pre-need contracts contain a certain disclosure statement;  
11 requiring the Board to submit certain reports on or before certain dates;  
12 *requiring the Governor to appoint the additional consumer member of the Board*  
13 *authorized under this Act by a certain date; providing that the term of the*

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber / conference committee amendments.



1 additional consumer member shall begin on a certain date; providing that a  
 2 certain position on the Board terminates on a certain date; and generally  
 3 relating to the State Board of Morticians and Funeral Directors.

4 BY repealing and reenacting, with amendments,  
 5 Article – Health Occupations  
 6 Section 7-202(a), 7-316(a)(29), 7-405(c) and (h), and 7-602  
 7 Annotated Code of Maryland  
 8 (2005 Replacement Volume and 2007 Supplement)

9 BY repealing and reenacting, without amendments,  
 10 Article – Health Occupations  
 11 Section 7-405(a) and (b)  
 12 Annotated Code of Maryland  
 13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, without amendments,  
 15 Article – State Government  
 16 Section 8-403(a)  
 17 Annotated Code of Maryland  
 18 (2004 Replacement Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,  
 20 Article – State Government  
 21 Section 8-403(b)(40)  
 22 Annotated Code of Maryland  
 23 (2004 Replacement Volume and 2007 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Health Occupations**

27 7-202.

28 (a) (1) The Board consists of [12] 11 members.

29 (2) Of the [12] 11 Board members:

30 (i) [8] 6 shall be licensed morticians or licensed funeral  
 31 directors; and

32 (ii) [4] 5 shall be consumer members.

33 (3) All Board members shall be residents of the State.

1           (4) The Governor shall appoint each member with the advice of the  
2 Secretary, and with the advice and consent of the Senate.

3           (5) The Board may not have more than one member who is employed by  
4 or affiliated with, directly or indirectly, the same corporation, professional association,  
5 or other entity, that owns, directly or through a subsidiary corporation, professional  
6 association, or other entity, one or more funeral homes.

7 7-316.

8           (a) Subject to the hearing provisions of § 7-319 of this subtitle and except as  
9 to a funeral establishment license, the Board may deny a license to any applicant,  
10 reprimand any licensee, place any licensee on probation, or suspend or revoke any  
11 license if the applicant or licensee:

12                   (29) Fails to allow an inspection under [§ 7-205(8)] § **7-205(A)(8)** of  
13 this title;

14 7-405.

15           (a) (1) In this section the following words have the meanings indicated.

16                   (2) “Beneficiary” means a person for whose benefit a pre-need contract  
17 is purchased and who will receive the merchandise or services offered under the  
18 contract.

19                   (3) “Buyer” means a person that purchases a pre-need contract.

20                   (4) “Seller” means a person who agrees to provide services or  
21 merchandise, directly or indirectly, under a pre-need contract.

22                   (5) “Trustee” means a person that has responsibility for making  
23 pre-need arrangements in a manner that entitles the beneficiary to be eligible for  
24 benefits that restrict assets.

25           (b) (1) Only a licensed mortician, a licensed funeral director, or a holder of  
26 a surviving spouse license may offer or agree, directly or indirectly, to provide services  
27 or merchandise under a pre-need contract.

28                   (2) Notwithstanding the provisions of paragraph (1) of this subsection,  
29 a licensed mortician or a licensed funeral director who is employed by a funeral  
30 establishment may execute pre-need contracts on behalf of the funeral establishment  
31 with which the mortician or funeral director is employed.

32                   (3) Any funeral establishment on whose behalf pre-need contracts are  
33 executed under this subsection must comply with the requirements of this section.

1 (c) (1) A pre-need contract shall contain:

2 (i) The name of each party to the contract and, if the  
3 beneficiary is an individual other than the buyer, the name of the beneficiary of the  
4 contract;

5 (ii) A description of any service or merchandise to be provided  
6 under the pre-need contract;

7 (III) **A DISCLOSURE STATEMENT THAT CLEARLY:**

8 **1. STATES THAT ALL FUNERAL COSTS MAY NOT BE**  
9 **COVERED UNDER THE PRE-NEED CONTRACT; AND**

10 **2. LISTS ALL FUNERAL GOODS AND SERVICES THAT**  
11 **ARE REASONABLY EXPECTED TO BE REQUIRED AT THE TIME OF NEED, BUT ARE**  
12 **NOT INCLUDED IN THE CONTRACT;**

13 [(iii)] (IV) The total price of the services and merchandise agreed  
14 on; and

15 [(iv)] (V) The method of payment.

16 (2) A pre-need contract shall be executed in duplicate and be signed  
17 by each party.

18 (3) The seller shall give one of the duplicate originals of the pre-need  
19 contract to the buyer.

20 (h) A seller of a pre-need contract shall disclose to the consumer[:

21 (1) All goods and services that are reasonably expected to be required  
22 at the time of need, but are not included in the pre-need contract; and

23 (2) The] **THE** buyer's cancellation and refund rights under subsection  
24 (d) of this section.

25 7-602.

26 Subject to the evaluation and reestablishment provisions of the Program  
27 Evaluation Act, this title and all rules and regulations adopted under this title shall  
28 terminate and be of no effect after July 1, [2008] **2018**.

29 **Article - State Government**

30 8-403.

1 (a) On or before December 15 of the 2nd year before the evaluation date of a  
2 governmental activity or unit, the Legislative Policy Committee, based on a  
3 preliminary evaluation, may waive as unnecessary the evaluation required under this  
4 section.

5 (b) Except as otherwise provided in subsection (a) of this section, on or before  
6 the evaluation date for the following governmental activities or units, an evaluation  
7 shall be made of the following governmental activities or units and the statutes and  
8 regulations that relate to the governmental activities or units:

9 (40) Morticians **AND FUNERAL DIRECTORS**, State Board of (§ 7–201  
10 of the Health Occupations Article: July 1, [2007] **2017**);

11 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,  
12 2008, the Board of Morticians and Funeral Directors shall submit a report to the  
13 Senate Education, Health, and Environmental Affairs Committee and the House  
14 Health and Government Operations Committee, in accordance with § 2–1246 of the  
15 State Government Article, regarding:

16 (1) any observed changes in licensure patterns;

17 (2) a plan to reduce the Board's fund balance to 25% of biennial  
18 operating costs; and

19 (3) the status of nonstatutory recommendations contained in the  
20 Sunset Review: Evaluation of the State Board of Morticians and Funeral Directors  
21 conducted by the Department of Legislative Services.

22 SECTION 3. AND BE IT FURTHER ENACTED, That:

23 (1) The Board of Morticians and Funeral Directors shall notify the  
24 Senate, Education, Health, and Environmental Affairs Committee and the House  
25 Health and Government Operations Committee of the resolution in the matter of  
26 Charles Brown, et al. v. David Hovatter, et al.

27 (2) Within 6 months after the matter of Charles Brown et al. v. David  
28 Hovatter, et al. is resolved the Board of Morticians and Funeral Directors shall submit  
29 a report to the Senate Education, Health, and Environmental Affairs Committee and  
30 the House Health and Government Operations Committee, in accordance with §  
31 2–1246 of the State Government Article, on:

32 (i) any proposals to alter the laws or regulations regarding  
33 corporate licenses;

34 (ii) whether a surviving spouse or executor license is still  
35 necessary; and

1 (iii) whether the requirement that an individual be a licensed  
2 mortician to qualify for a funeral establishment license is necessary.

3 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1,  
4 2008, and each year thereafter, the Board of Morticians and Funeral Directors shall  
5 report to the Senate Education, Health, and Environmental Affairs Committee and  
6 the House Health and Government Operations Committee, in accordance with §  
7 2-1246 of the State Government Article, regarding effectiveness of pre-need  
8 regulations.

9 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1,  
10 2010, the Board of Morticians and Funeral Directors shall submit a report to the  
11 Senate Education, Health, and Environmental Affairs Committee and the House  
12 Health and Government Operations Committee, in accordance with § 2-1246 of the  
13 State Government Article, on the outcome of reestablishing the funeral director license  
14 including the number of: (1) students enrolled in the funeral director program at the  
15 Community College of Baltimore County; (2) applicants for a funeral director  
16 apprenticeship license; and (3) funeral director licenses issued.

17 SECTION 6. AND BE IT FURTHER ENACTED, That:

18 (1) On or before June 30, 2009, the Governor shall appoint the  
19 additional consumer member of the State Board of Morticians and Funeral Directors  
20 authorized under Section 1 of this Act, and, subject to item (2) of this section, the  
21 additional consumer member shall fill the vacancy on the Board, previously held by a  
22 licensed member, that existed as of February 25, 2008;

23 (2) The 4-year term of the additional consumer member of the Board  
24 appointed under item (1) of this section shall begin on July 1, 2009; and

25 (3) The positions on the Board held by licensed members whose second  
26 terms expire at the end of June 30, 2009, shall be terminated at the end of June 30,  
27 2009.

28 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect July 1, 2008.