

CHAPTER 583

(Senate Bill 463)

AN ACT concerning

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

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

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

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

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

BY repealing and reenacting, with amendments,
Article – State Government
Section 8-403(b)(40)
Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

Article – Health Occupations

7-202.

- (a) (1) The Board consists of [12] 11 members.
- (2) Of the [12] 11 Board members:
- (i) [8] 6 shall be licensed morticians or licensed funeral directors; and
- (ii) [4] 5 shall be consumer members.
- (3) All Board members shall be residents of the State.
- (4) The Governor shall appoint each member with the advice of the Secretary, and with the advice and consent of the Senate.
- (5) The Board may not have more than one member who is employed by or affiliated with, directly or indirectly, the same corporation, professional association, or other entity, that owns, directly or through a subsidiary corporation, professional association, or other entity, one or more funeral homes.

7-316.

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

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

7-405.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Beneficiary” means a person for whose benefit a pre-need contract is purchased and who will receive the merchandise or services offered under the contract.

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

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

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

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

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

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

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

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

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

(III) A DISCLOSURE STATEMENT THAT CLEARLY:

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

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

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

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

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

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

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

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

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

7-602.

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

Article – State Government

8-403.

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

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

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

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

(1) any observed changes in licensure patterns;

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

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

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

SECTION 6. AND BE IT FURTHER ENACTED, That:

(1) On or before June 30, 2009, the Governor shall appoint the additional consumer member of the State Board of Morticians and Funeral Directors

authorized under Section 1 of this Act, and, subject to item (2) of this section, the additional consumer member shall fill the vacancy on the Board, previously held by a licensed member, that existed as of February 25, 2008;

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

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

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

Approved by the Governor, May 22, 2008.