

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1031

(Delegate Anderson, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Morticians and Funeral Directors - Funeral Establishments -
Unannounced Inspections

This bill establishes a process for the State Board of Morticians and Funeral Directors to conduct unannounced inspections of the preparation and body storage areas of a funeral establishment (1) in response to valid information provided to the board resulting in a complaint being opened concerning the preparation or body storage areas of a licensed funeral establishment but only if the board has provided a copy of the complaint to the establishment or (2) of a funeral establishment that the board has placed on probationary status. The board must provide the results of an unannounced inspection to the holder of the funeral establishment license or the supervising mortician within 24 hours after completion of the inspection.

The bill also specifies that, under specified circumstances, a general unannounced inspection of a funeral establishment may include advance notice that *an inspector* may be in the region of the funeral establishment *for the purpose of conducting an inspection*.

Fiscal Summary

State Effect: Potential minimal reduction in special fund expenditures for the State Board of Morticians and Funeral Directors beginning in FY 2015 due to reduced travel expenses. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A trained staff member of the board who is qualified to do inspections may call the supervising mortician of a licensed funeral establishment and request immediate access to the preparation and body storage areas of the funeral establishment. The supervising mortician must immediately provide the staff member with the location of the key or access code to the preparation or body storage areas. An employee of a licensed funeral establishment is not required to accompany a staff member during an inspection of a preparation or body storage area. An unannounced inspection must be conducted during the hours that the business of mortuary science is being conducted at the licensed funeral establishment.

Current Law: All inspections of funeral establishments must be unannounced and may take place at any time without notice from the board. An unannounced inspection may include advance notice that an investigator may be in the region of the funeral establishment if (1) the advance notice is no more than 14 days prior to the inspection; (2) no specific date or time is provided for the inspection; and (3) the advance notice is provided solely to ensure that a licensed mortician or funeral director will be on-site for the inspection.

To ensure that all funeral establishments meet State and federal standards, the board's investigator inspects each funeral establishment. Board regulations require an inspection to be done biennially, in furtherance of an investigation, and upon the sale or change in ownership of the establishment; however, statute is silent on the frequency of such inspections. Each inspection reviews such areas as the health, sanitation, and proper usage of the facility. An inspection also ensures that proper documentation is furnished to clients, establishment signs and advertising are accurate, and proper records are maintained.

Regulations specify that an owner, supervising mortician, supervising funeral director, or licensed designee must be available to accompany the inspector during the inspection and sign the inspection report. The board must review an inspection report, make a determination as to whether a deficiency exists, and notify the establishment in writing of the results of the inspection. If a licensee passes an inspection, the licensee must prominently display on the premises a statement issued by the board that the establishment has successfully passed an inspection. If the board finds a deficiency, the board must send to the owner notification of the deficiency or failure to pass the inspection within two weeks of the inspection. Generally, an owner must correct a deficiency within 30 days after receipt of notification. The board may require immediate correction of a deficiency if the board considers the correction necessary in the interest of public health.

Failure to allow an inspection of the establishment must result in an immediate suspension of an establishment license, subject to a subsequent opportunity for a hearing. Failure to comply with a notice to correct deficiencies or violations within the 30-day period, or any reasonable extension granted by the board, must result in an immediate suspension of an establishment license or the denial of a renewal of an establishment license, subject to a subsequent opportunity for a hearing.

Background: The State Board of Morticians and Funeral Directors issues licenses for apprentices, morticians, funeral directors, the surviving spouse of a mortician or funeral director (who continues to operate the funeral establishment in the event of the mortician's or funeral director's death), funeral establishments, and corporations. In fiscal 2013, the board issued 92 new and 879 renewal licenses, and investigated 142 complaints. There are 295 funeral establishments in Maryland. In fiscal 2013, the board conducted 265 inspections of funeral establishments.

According to the board, in about 10% of inspections, the board inspector arrives at a funeral establishment for an unannounced inspection but is not allowed entry as the license holder or supervising mortician or funeral director is not present. This requires the inspector to return to the establishment at a later time, reducing the investigator's efficiency and increasing travel expenditures. The inability to conduct an unannounced inspection also hinders sensitive investigations by the board, such as identification of unlicensed individuals practicing embalming or problems in the preparation and body storage areas of the facility. The bill is intended to protect the public and licensees who follow Maryland law and regulations and preserve the integrity of the inspection process.

Additional Information

Prior Introductions: Similar bills, SB 357/HB 313 of 2013, received hearings in the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations committees, respectively, but were withdrawn.

Cross File: SB 586 (Senator Conway) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510