

Article - Business Regulation

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§5–310.

(a) Subject to the hearing provisions of § 5–312 of this subtitle, the Director may deny a registration or permit to an applicant, reprimand a person subject to the registration or permit provisions of this title, or suspend or revoke a registration or permit if an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of the applicant, registrant, or permit holder:

(1) fraudulently or deceptively obtains or attempts to obtain a registration or permit;

(2) fraudulently or deceptively uses a registration or permit;

(3) under the laws of the United States or of any state, is convicted of a:

(i) felony; or

(ii) misdemeanor that is directly related to the fitness and qualifications of the applicant, registrant, or permit holder to own or operate a cemetery or crematory or provide burial goods;

(4) fails to provide or misrepresents any information required to be provided under this title;

(5) violates this title;

(6) violates the code of ethics adopted by the Director;

(7) violates a regulation adopted under this title;

(8) fails to provide reasonable and adequate supervision of the operation of the cemetery or crematory or the provision of burial goods by agents, employees, officers, directors, or partners affiliated with a cemetery, crematory, or burial goods business;

(9) refuses to allow an inspection required by this title;

(10) fails to comply with an order of the Director;

(11) fails to comply with any terms of settlement under a binding arbitration agreement;

(12) is found guilty by a court in this State of violating an unfair or deceptive trade practices provision under Title 13 of the Commercial Law Article; or

(13) fails to comply with § 5–513 of the Health – General Article.

(b) (1) If a person is charged with a violation of this title that could result in suspension or revocation of a registration or permit, the Director may seek an immediate restraining order in a circuit court in this State to prohibit the person from engaging in the operation of any cemetery, crematory, or burial goods business.

(2) The restraining order is in effect until:

(i) the court lifts the order; or

(ii) the charges are adjudicated or dismissed.

(c) If a person is charged with a violation of this title that could result in suspension or revocation of a registration or permit, the Director may petition a court to:

(1) appoint a receiver or trustee to take charge of the assets and operate the business of the person in the event that the registration or permit is suspended or revoked; and

(2) take any actions as are appropriate to protect the public interest.

(d) Instead of or in addition to reprimanding a person, or suspending or revoking a registration or permit, the Director may impose a civil penalty:

(1) not to exceed \$5,000 for each violation of this title or an order of the Director under this title; and

(2) not to exceed \$500 for each day a violation continues past the time set for its correction.

(e) To determine the amount of the penalty imposed under this subsection, the Director shall consider:

(1) the seriousness of the violation;

(2) the harm caused by the violation;

(3) the good faith efforts of the person; and

(4) any history of previous violations by the person.

(f) Any civil penalties collected under this section shall be paid into the General Fund of the State.

(g) The Director shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a registration or permit or the reprimand of a registrant or permit holder when an applicant, registrant, or permit holder, or an

agent, employee, officer, director, or partner of an applicant, registrant, or permit holder is convicted of a felony or misdemeanor described in subsection (a)(3) of this section:

- (1) the nature of the crime;
- (2) the relationship of the crime to the activities authorized by this title;
- (3) with respect to a felony, the relevance of the conviction to the fitness and qualifications of the applicant, registrant, or permit holder, or agent, employee, officer, director, or partner to operate a cemetery or provide burial goods;
- (4) the length of time since the conviction; and
- (5) the behavior and activities of the applicant, registrant, or permit holder, or any agent, employee, officer, director, or partner before and after the conviction.

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