

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-391)**

Overview and Legal and Fiscal Impact

The regulations update and make changes to the chapter in COMAR that governs the handling of complaints against licensees of the State Board of Morticians and Funeral Directors.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Morticians and Funeral Directors: Complaint Procedures:
COMAR 10.29.11.01-.06

Legal Analysis

Summary of Regulations

The regulations update and make changes to the chapter in COMAR that governs the handling of complaints against licensees of the board. Specifically, the regulations:

- authorize a complaint to come to the board by any means from the public or from a member of the board;
- require complaints received to be recorded on a complaint log;
- require the board to vote to close a complaint with no board action if the board concurs with the determination of the Complaint Committee of the board that a complaint does not fall within the board's jurisdiction;
- require the board to vote to open a complaint for further investigation if the Complaint Committee determines that the complaint would fall within the board's jurisdiction;
- require board staff to refer a complaint that falls under the jurisdiction of another agency to the appropriate agency;

- define the term “mortuary services” as any service provided that requires a license issued by the board; and
- update references to § 4-333 of the General Provisions Article relating to the circumstances under which a custodian of public records must deny, or allow, inspection of a record.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites § 7-205(7) of the Health Occupations Article as statutory authority for the regulations. The regulations are authorized by § 7-205(a) of the Health Occupations Article. Section 7-205(a)(1) authorizes the board to adopt regulations to carry out provisions of law relating to the practice of mortuary science and funeral direction. Section 7-205(a)(5) and (6) additionally authorize the board to investigate any alleged violation of the title and to enforce the title.

Additionally, the department references § 4-333 of the General Provisions Article under the regulations. Section 4-333 sets forth the circumstances under which a custodian of public records must deny, or allow, inspection of a public record.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department has agreed to correct the reference to § 7-205(a) of the Health Occupations Article as statutory authority for the regulations and to remove the word “alleged” before “complaint” wherever it appeared in the regulations.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations update and clarify complaint procedures for the State Board of Morticians and Funeral Directors. The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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