
By: **Delegate Cadden**

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - Morticians - Regulation of Crematories**

3 FOR the purpose of requiring a crematory to be licensed by the State Board of
4 Morticians before the crematory may be used for the cremation of human
5 remains; requiring a crematory to provide certain information to the State
6 Board of Morticians; establishing that a crematory shall be responsible for
7 certain activities that occur on the premises of the crematory; requiring that all
8 signs and advertisements for a crematory licensed under this Act display the
9 name that appears on the crematory license; requiring the State Board of
10 Morticians to conduct certain inspections and establish certain standards;
11 authorizing the State Board of Morticians to deny, reprimand, place on
12 probation, suspend, or revoke a crematory license in certain situations;
13 authorizing the State Board of Morticians to enjoin the unauthorized operation
14 of a crematory in certain circumstances; requiring a holder of a crematory
15 license to maintain certain files of cremation and comply with certain
16 requirements and regulations; providing that a crematory operator is not liable
17 under certain circumstances where the crematory operator relies upon a certain
18 cremation authorization form; providing that a crematory operator is not liable
19 for refusing to accept a body or perform a cremation under certain
20 circumstances; prohibiting a person from operating a crematory in the State
21 unless the crematory is licensed by the State Board of Morticians; prohibiting a
22 crematory from operating under any name other than the name that appears on
23 the licensee's license, subject to certain exceptions; altering certain definitions;
24 making a stylistic change; and generally relating to the regulation of
25 crematories.

26 BY repealing and reenacting, with amendments,
27 Article - Health Occupations
28 Section 7-101, 7-102, 7-205, 7-316, 7-316.1, 7-406, 7-409, and 7-501 through
29 7-503
30 Annotated Code of Maryland
31 (1994 Replacement Volume and 1999 Supplement)

32 BY adding to
33 Article - Health Occupations

1 Section 7-310.1 and 7-406.1
2 Annotated Code of Maryland
3 (1994 Replacement Volume and 1999 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - Health Occupations
6 Section 7-314 and 7-317
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1999 Supplement)

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

11 **Article - Health Occupations**

12 7-101.

13 (a) In this title the following words have the meanings indicated.

14 (b) "Apprentice" means an individual licensed by the Board who assists a
15 licensed mortician in the practice of mortuary science, under direct supervision of a
16 licensed mortician.

17 (c) "Apprentice sponsor" means a person who:

18 (1) Is a licensed mortician practicing mortuary science as a licensed
19 mortician in Maryland at least 1 year immediately prior to accepting the applicant as
20 an apprentice; and

21 (2) Provides direct supervision to an apprentice.

22 (d) "Board" means the Maryland State Board of Morticians.

23 (e) (1) "Corporation" means a mortuary science business whose articles of
24 incorporation are in good standing with the Maryland State Department of
25 Assessments and Taxation, or its successor, the initial business for which the license
26 is issued must have been incorporated on or before June 1, 1945 and have
27 "Incorporated", "Inc.", or "Corporation" in its name.

28 (2) "Corporation" does not include, for purposes of issuing a corporation
29 license, a "professional association" (P.A.) or a "professional corporation" (P.C.).

30 (f) "Courtesy card" means a license issued by the Board to licensed
31 practitioners of mortuary science in other states, to make a removal of a dead human
32 body in this State and to return the body to another state or country, to return dead
33 bodies from another state or country to this State, to fill out the family history portion
34 of the death certificate, and to sign the death certificate in the holder's capacity as a
35 licensed practitioner of mortuary science.

1 (g) "Funeral director" means an individual who is licensed by the Board to
2 practice all aspects of mortuary science except for embalming.

3 (h) "Funeral establishment" means any building, structure, or premises from
4 which the business of funeral directing or embalming is conducted.

5 (i) (1) "License" means, unless the context requires otherwise, a license
6 issued by the Board.

7 (2) "License" includes, unless otherwise indicated:

8 (i) A mortician license;

9 (ii) An apprentice license;

10 (iii) A funeral director license;

11 (iv) A surviving spouse license;

12 (v) A corporation license;

13 (vi) A funeral establishment license; [and]

14 (vii) A courtesy card; AND

15 (VIII) A CREMATORY LICENSE.

16 (j) "Licensed apprentice" means, unless the context requires otherwise, an
17 apprentice who is licensed by the Board to assist a licensed mortician in the practice
18 of mortuary science.

19 (k) "Licensed funeral director" means, unless the context requires otherwise, a
20 funeral director who is licensed by the Board to practice funeral direction.

21 (l) "Licensed funeral establishment" means, unless the context requires
22 otherwise, a funeral establishment that is licensed by the Board.

23 (m) "Licensed mortician" means, unless the context requires otherwise, a
24 mortician who is licensed by the Board under this title to practice mortuary science.

25 (n) "Licensee" means an individual or entity licensed by the Board to practice
26 mortuary science to the extent determined by the Board.

27 (o) "Mortician" means an individual who practices mortuary science.

28 (p) (1) "Practice funeral direction" means:

29 (i) To operate a funeral establishment; or

30 (ii) For compensation, to arrange for or make final disposition of a
31 dead human body.

1 (2) "Practice funeral direction" does not include, for compensation:

2 (i) Disinfecting or preserving a dead human body or any of its parts
3 by arterial or cavity injection or any other type of preservation; or

4 (ii) Otherwise preparing a dead human body for disposition.

5 (q) (1) "Practice mortuary science" means:

6 (i) To operate a funeral establishment;

7 (ii) For compensation, to prepare a dead human body for
8 disposition, including disinfecting or preserving a dead human body or any of its parts
9 by arterial or cavity injection; or

10 (iii) For compensation, to arrange for or make final disposition of a
11 dead human body.

12 (2) "Practice mortuary science" does not include the pickup, removal, or
13 transportation of a dead human body, if the unlicensed individual is acting under the
14 direction of a licensed mortician or funeral director.

15 (r) "Pre-need contract" means an agreement between a consumer and a
16 licensed funeral director, licensed mortician, or surviving spouse to provide any goods
17 and services purchased prior to the time of death. Goods and services shall include:

18 (1) A service, including any form of preservation and disposition, that a
19 mortician normally provides in the ordinary course of business; or

20 (2) Merchandise, including a casket, vault, or clothing, that a mortician
21 normally provides in the ordinary course of business.

22 (s) "Surviving spouse" means the legal widow or widower of a licensed funeral
23 director or licensed mortician, whose license was in good standing at the time of
24 death, and who at the time of death, wholly or partly owned and operated a mortuary
25 science business.

26 7-102.

27 (a) This title does not limit the right of an individual to practice a health
28 occupation that the individual is authorized to practice under this article.

29 (b) This title does not apply to the business of operating a cemetery [or
30 crematory], including the sale of cemetery lots, grave sites, mausoleums, monuments,
31 lawn crypts, or vaults.

32 7-205.

33 In addition to the powers and duties set forth elsewhere in this title, the Board
34 has the following powers and duties:

- 1 (1) To adopt bylaws, rules, and regulations to carry out the provisions of
2 this title;
- 3 (2) To adopt a seal;
- 4 (3) To establish procedures for licensing apprentices;
- 5 (4) To keep a list of all individuals currently licensed by the Board;
- 6 (5) To investigate any alleged violation of this title;
- 7 (6) To enforce this title;
- 8 (7) To adopt rules and regulations regarding false and misleading
9 advertising and misrepresentation;
- 10 (8) To inspect licensed funeral establishments AND LICENSED
11 CREMATORIES;
- 12 (9) On receipt of a written and signed complaint, including a referral
13 from the Commissioner of Labor and Industry, conduct an unannounced inspection of
14 the funeral establishment OR CREMATORY to determine compliance at that funeral
15 establishment OR CREMATORY with the Centers for Disease Control's guidelines on
16 universal precautions;
- 17 (10) To establish standards for the practice of mortuary science; [and]
- 18 (11) To establish standards for sanitation and waste disposal in
19 connection with the practice of mortuary science;
- 20 (12) TO ESTABLISH STANDARDS AND PROCEDURES FOR CREMATION; AND
- 21 (13) TO ESTABLISH RECORD KEEPING REQUIREMENTS FOR
22 CREMATORIES.
- 23 7-310.1.
- 24 (A) A PERSON OR OTHER ENTITY MAY ERECT, MAINTAIN, AND OPERATE A
25 CREMATORY AND PROVIDE THE NECESSARY APPLIANCES AND FACILITIES FOR THE
26 CREMATION OF HUMAN REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS
27 TITLE.
- 28 (B) (1) A CREMATORY SHALL BE LICENSED BY THE BOARD BEFORE THE
29 CREMATORY MAY BE USED FOR THE CREMATION OF HUMAN REMAINS.
- 30 (2) IF A BUILDING USED FOR THE OPERATION OF A LICENSED
31 CREMATORY IS ALSO USED FOR THE INCINERATION OF ANIMAL REMAINS, A LICENSE
32 ISSUED UNDER THIS SECTION SHALL APPLY SOLELY TO THE CREMATION OF HUMAN
33 REMAINS.
- 34 (C) TO APPLY FOR A CREMATORY LICENSE, AN APPLICANT SHALL:

1 (1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM DESIGNED
2 BY THE BOARD; AND

3 (2) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

4 (D) THE BOARD SHALL ISSUE A CREMATORY LICENSE TO A CREMATORY THAT
5 COMPLIES WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.

6 (E) A CREMATORY IS RESPONSIBLE FOR ALL CREMATORY ACTIVITIES
7 PERFORMED ON THE PREMISES OF THE CREMATORY, INCLUDING:

8 (1) THE DISPOSITION OF HUMAN REMAINS;

9 (2) THE IDENTIFICATION OF THE DECEASED AS REQUIRED BY § 7-406 OF
10 THIS TITLE AND § 5-502 OF THE HEALTH - GENERAL ARTICLE;

11 (3) THE HOLDING OF REMAINS PRIOR TO CREMATION;

12 (4) THE CREMATION PROCESS; AND

13 (5) THE PROCESSING, PACKING, AND DISPOSITION OF CREMATED
14 REMAINS.

15 (F) IN THE EVENT OF A PARTIAL OR ENTIRE CHANGE IN OWNERSHIP OF THE
16 CREMATORY, THE NEW OWNERS OF THE CREMATORY SHALL, AT LEAST 30 DAYS
17 PRIOR TO THE CHANGE IN OWNERSHIP, PROVIDE THE BOARD WITH THEIR NAMES
18 AND ADDRESSES ON A FORM DESIGNED BY THE BOARD.

19 (G) ALL SIGNS AND ADVERTISEMENTS FOR A CREMATORY LICENSED UNDER
20 THIS SECTION SHALL DISPLAY THE NAME THAT APPEARS ON THE CREMATORY
21 LICENSE.

22 7-314.

23 (a) A license issued under this title expires on the date set by the Board,
24 unless the license is renewed for an additional term as provided in this section. A
25 license may not be renewed for a term longer than 2 years.

26 (b) At least 1 month before a license expires, the Board shall send to the
27 licensee, by first class mail to the last known address of the licensee, a renewal notice
28 that states:

29 (1) The date on which the current license expires;

30 (2) The date by which the renewal application must be received by the
31 Board for the renewal to be issued and mailed before the license expires; and

32 (3) The amount of the renewal fee.

33 (c) Except as otherwise provided in this section, before a license expires, the
34 licensee periodically may renew it for additional terms, if the licensee:

1 (1) Has met the qualifications for licensure and is not under a
2 suspension or revocation order of the Board;

3 (2) Except as otherwise provided under this title, pays to the Board a
4 renewal fee set by the Board;

5 (3) Submits to the Board a renewal application on the form that it
6 requires; and

7 (4) Submits to the Board satisfactory evidence of compliance with any
8 continuing education requirements the Board may adopt by regulation.

9 (d) (1) The Board shall renew the license of and issue a renewal certificate
10 to each licensee who meets the requirements of this section.

11 (2) The secretary of the Board may issue a renewal certificate during the
12 interim between meetings of the Board.

13 (e) (1) Before an apprentice license expires, the licensee may renew it for an
14 additional 1-year term only if the licensee:

15 (i) Submits to the Board a renewal application on the form that the
16 Board requires;

17 (ii) Continues to participate in a training program; and

18 (iii) Pays to the Board a renewal fee set by the Board.

19 (2) An apprentice license may be renewed only two times.

20 (f) Before a courtesy card expires, the licensee may renew it for additional
21 terms if the licensee:

22 (1) Submits to the Board a renewal application on the form that the
23 Board requires;

24 (2) Submits documentation to the Board that the out-of-state license is
25 in good standing; and

26 (3) Pays to the Board a renewal fee set by the Board.

27 (g) If, when the license of an individual otherwise would expire, the licensee is
28 on active duty as a member of the armed forces but not on a career basis, the license
29 is renewed automatically for a 1-year term without application or payment of a fee.

30 7-316.

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

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license
2 for the applicant or licensee or for another;
- 3 (2) Fraudulently or deceptively uses a license;
- 4 (3) Commits fraud or misrepresentation in the practice of mortuary
5 science;
- 6 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
7 crime involving moral turpitude, whether or not any appeal or other proceeding is
8 pending to have the conviction or plea set aside;
- 9 (5) Aids or abets an unauthorized person in the practice of mortuary
10 science;
- 11 (6) Advertises falsely or in a misleading manner;
- 12 (7) Solicits mortuary science business, either personally or by an agent,
13 from a dying individual or the relatives of a dead or dying individual, other than
14 through general advertising;
- 15 (8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any
16 other person to obtain business, either in general or for a licensee or funeral
17 establishment;
- 18 (9) Directly or indirectly pays or offers to pay to obtain mortuary science
19 business;
- 20 (10) Solicits or accepts any payment or rebate for recommending any
21 crematory, mausoleum, or cemetery or causing a dead human body to be disposed of
22 there;
- 23 (11) Refuses to surrender custody of a dead human body on the demand of
24 a person who is entitled to its custody;
- 25 (12) Sells or offers to sell any share, certificate, or interest in a mortuary
26 science business with a promise or offer to perform services to the buyer at a cost less
27 than that offered to the general public;
- 28 (13) Fails, after proper demand, to refund promptly any payments
29 received under a pre-need contract with interest;
- 30 (14) At the time funeral arrangements are made, fails to give the contract
31 required by § 7-404 of this title;
- 32 (15) Violates any State, municipal, or county law, rule, or regulation on
33 the handling, custody, care, or transportation of dead human bodies or the disposal of
34 instruments, materials, and wastes relevant to preparation of a dead human body for
35 final disposition;
- 36 (16) Practices mortuary science under a name other than:

- 1 (i) The name that appears on the license of that person; or
- 2 (ii) The name of a partnership in accordance with § 7-401 of this
3 title;
- 4 (17) Signs an application for a funeral establishment license if the signer
5 knew or should have known that grounds existed for which the funeral establishment
6 license later was denied, suspended, or revoked;
- 7 (18) Violates any provision of this title or of the laws relating to
8 cremation;
- 9 (19) Is disciplined by a licensing or disciplinary authority of any other
10 state or country or convicted or disciplined by a court of any state or country for an act
11 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 12 (20) Willfully makes or files a false report or record in the practice of
13 mortuary science;
- 14 (21) Willfully fails to file or record any report as required under law,
15 willfully impedes or obstructs the filing or recording of the report, or induces another
16 to fail to file or record the report;
- 17 (22) Submits a false statement to collect a fee;
- 18 (23) Provides professional services while:
- 19 (i) Under the influence of alcohol; or
- 20 (ii) Using any narcotic or controlled dangerous substance, as
21 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
22 amounts or without valid medical indication;
- 23 (24) Violates any rule or regulation adopted by the Board;
- 24 (25) Is professionally, physically, or mentally incompetent;
- 25 (26) Commits an act of unprofessional conduct in the practice of mortuary
26 science;
- 27 (27) Refuses, withholds from, denies, or discriminates against an
28 individual with regard to the provision of professional services for which the licensee
29 is licensed and qualified to render because the individual is HIV positive;
- 30 (28) Except in an emergency life-threatening situation where it is not
31 feasible or practicable, fails to comply with the Centers for Disease Control's
32 guidelines on universal precautions;
- 33 (29) Fails to allow an inspection under § 7-205(8) of this title;

1 (30) Fails to comply with inspection requirements in the time specified by
2 the Board; or

3 (31) Fails to provide the Board the certification required under § 7-405(i)
4 of this title.

5 (b) [(1)] Subject to the hearing provisions of § 7-319 of this subtitle [and
6 paragraph (2) of this subsection], the Board may reprimand, place on probation, deny,
7 suspend, or revoke a funeral establishment license for any of the grounds listed in
8 subsection (a) of this section.

9 [(2) The Board may not reprimand, place on probation, deny, suspend, or
10 revoke a funeral establishment license because of a violation of a provision of this title
11 by an employee of the establishment, unless the employee has a proprietary interest
12 in the business that is conducted from the establishment.]

13 (C) SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS SUBTITLE, THE
14 BOARD MAY DENY, REPRIMAND, PLACE ON PROBATION, SUSPEND, OR REVOKE A
15 CREMATORY LICENSE IF THE APPLICANT OR LICENSEE:

16 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
17 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

18 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

19 (3) COMMITS FRAUD OR MISREPRESENTATION IN THE OPERATION OF A
20 CREMATORY;

21 (4) IS CONVICTED OR PLEADS GUILTY OR NOLO CONTENDERE TO A
22 FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY
23 APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA
24 SET ASIDE;

25 (5) AIDS OR ABETS AN UNAUTHORIZED PERSON IN THE OPERATION OF A
26 CREMATORY;

27 (6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;

28 (7) SOLICITS CREMATION BUSINESS, EITHER PERSONALLY OR BY AN
29 AGENT, FROM A DYING INDIVIDUAL OR THE RELATIVES OF A DEAD OR DYING
30 INDIVIDUAL, OTHER THAN THROUGH GENERAL ADVERTISING;

31 (8) EMPLOYS, PAYS, OR OFFERS TO PAY A "CAPPER", "STEERER",
32 "SOLICITOR", OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN GENERAL OR
33 FOR A LICENSEE OR CREMATORY;

34 (9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO OBTAIN
35 CREMATION BUSINESS;

1 (10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR
2 RECOMMENDING ANY MORTUARY SCIENCE BUSINESS, FUNERAL ESTABLISHMENT,
3 MAUSOLEUM, OR CEMETERY OR CAUSING A DEAD HUMAN BODY TO BE DISPOSED OF
4 THERE;

5 (11) REFUSES TO SURRENDER CUSTODY OF A DEAD HUMAN BODY ON
6 THE DEMAND OF A PERSON WHO IS ENTITLED TO CUSTODY OF THE BODY;

7 (12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR INTEREST
8 IN A CREMATION BUSINESS WITH A PROMISE OR OFFER TO PERFORM SERVICES TO
9 THE BUYER AT A COST LESS THAN OFFERED TO THE GENERAL PUBLIC;

10 (13) OPERATES A CREMATORY UNDER A NAME OTHER THAN THE NAME
11 THAT APPEARS ON THE LICENSE OF THAT CREMATORY;

12 (14) VIOLATES ANY PROVISION OF THIS TITLE OR OF THE LAWS
13 RELATING TO CREMATION;

14 (15) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF
15 ANOTHER STATE OR COUNTRY OR IS CONVICTED OR DISCIPLINED BY A COURT OF
16 ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
17 ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

18 (16) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE
19 OPERATION OF A CREMATORY;

20 (17) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED
21 UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF
22 THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

23 (18) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

24 (19) PROVIDES PROFESSIONAL SERVICES WHILE:

25 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

26 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
27 SUBSTANCE, AS DEFINED IN ARTICLE 27 OF THE CODE, OR OTHER DRUG THAT IS IN
28 EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

29 (20) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE BOARD;

30 (21) IS PROFESSIONALLY INCOMPETENT;

31 (22) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT IN THE
32 OPERATION OF A CREMATORY;

33 (23) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST
34 AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR
35 WHICH THE LICENSEE IS LICENSED AND QUALIFIED TO RENDER BECAUSE THE
36 INDIVIDUAL IS HIV POSITIVE;

1 (24) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE
2 IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE GUIDELINES OF
3 THE CENTERS FOR DISEASE CONTROL ON UNIVERSAL PRECAUTIONS;

4 (25) FAILS TO ALLOW AN INSPECTION UNDER § 7-205(8) OF THIS TITLE; OR

5 (26) FAILS TO COMPLY WITH INSPECTION REQUIREMENTS IN THE TIME
6 SPECIFIED BY THE BOARD.

7 7-316.1.

8 (a) An action may be maintained in the name of the State or the Board to
9 enjoin:

10 (1) The unauthorized practice of mortuary science; [or]

11 (2) THE UNAUTHORIZED OPERATION OF A CREMATORY; OR

12 [(2)] (3) Conduct that constitutes a ground for disciplinary action under
13 § 7-315 of this subtitle.

14 (b) An action under this section may be brought by:

15 (1) The Board;

16 (2) The Attorney General; or

17 (3) A State's Attorney.

18 (c) An action under this section shall be brought in the county where the
19 defendant:

20 (1) Resides; or

21 (2) Engages in the practice of mortuary science OR OPERATES A
22 CREMATORY.

23 (d) Proof of actual damage or proof that a person will sustain damage if an
24 injunction is not granted is not required for an action under this section.

25 (e) Criminal prosecution for the unauthorized practice of mortuary science
26 under § 7-501 of this title or disciplinary action under § 7-316 of this subtitle does not
27 prohibit an action to enjoin under this section.

28 7-317.

29 (a) If, after the Board brings an action under § 7-316 of this title, the Board
30 finds that there are grounds to place a licensee on probation or suspend or revoke a
31 license, the Board may impose a penalty not exceeding \$5,000:

32 (1) Instead of suspending or revoking the license; or

1 (2) In addition to placing the licensee on probation or suspending or
2 revoking the license.

3 (b) The Board shall pay any penalty collected under this section into the
4 General Fund of the State.

5 7-406.

6 A licensee shall:

7 (1) [maintain] MAINTAIN a complete file of a cremation that includes:

8 (I) [the] THE signature of the next of kin, person identifying the
9 body, or person responsible for disposition[.,];

10 (II) THE time of death[.,]; and

11 (III) [the] THE date and time of cremation;

12 (2) COMPLY WITH THE REQUIREMENTS FOR CREMATION SET FORTH IN
13 TITLE 5 OF THE HEALTH - GENERAL ARTICLE; AND

14 (3) COMPLY WITH REGULATIONS ADOPTED BY THE BOARD REGARDING
15 CREMATION.

16 7-406.1.

17 (A) (1) A PERSON SIGNING A CREMATION AUTHORIZATION FORM SHALL BE
18 DEEMED TO WARRANT THE TRUTHFULNESS OF ANY FACTS SET FORTH IN THE
19 CREMATION AUTHORIZATION FORM, INCLUDING THE IDENTITY OF THE DECEASED
20 WHOSE REMAINS ARE SOUGHT TO BE CREMATED AND THE AUTHORITY OF THAT
21 PERSON TO ORDER SUCH A CREMATION.

22 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM SHALL BE
23 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
24 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
25 CREMATION AUTHORIZATION FORM.

26 (B) (1) A CREMATORY OPERATOR SHALL HAVE AUTHORITY TO CREMATE
27 HUMAN REMAINS ON RECEIPT OF A CREMATION AUTHORIZATION FORM SIGNED BY
28 AN AUTHORIZING AGENT.

29 (2) THERE SHALL BE NO LIABILITY FOR A CREMATORY OPERATOR WHO
30 CREMATES HUMAN REMAINS PURSUANT TO A SIGNED CREMATION AUTHORIZATION,
31 OR THAT RELEASES OR DISPOSES OF THE CREMATED REMAINS PURSUANT TO A
32 SIGNED CREMATION AUTHORIZATION.

33 (C) A CREMATORY OPERATOR IS NOT RESPONSIBLE OR LIABLE FOR ANY
34 VALUABLES DELIVERED TO THE CREMATORY OPERATOR WITH HUMAN REMAINS.

1 (D) A CREMATORY OPERATOR IS NOT LIABLE FOR REFUSING TO ACCEPT A
2 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY OPERATOR RECEIVES
3 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
4 SETTLED IF:

5 (1) THE CREMATORY OPERATOR IS AWARE OF ANY DISPUTE
6 CONCERNING THE CREMATION OF HUMAN REMAINS;

7 (2) THE CREMATORY OPERATOR HAS A REASONABLE BASIS FOR
8 QUESTIONING THE REPRESENTATIONS MADE BY THE AUTHORIZING AGENT; OR

9 (3) THE CREMATORY OPERATOR HAS ANY OTHER LAWFUL REASON.

10 (E) (1) IF A CREMATORY OPERATOR IS AWARE OF A DISPUTE CONCERNING
11 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
12 OPERATOR MAY REFUSE TO RELEASE THE CREMATED REMAINS UNTIL THE DISPUTE
13 HAS BEEN RESOLVED OR THE CREMATORY OPERATOR HAS BEEN PROVIDED WITH A
14 COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF THE CREMATED
15 REMAINS.

16 (2) A CREMATORY OPERATOR IS NOT LIABLE FOR REFUSING TO
17 RELEASE OR DISPOSE OF CREMATED REMAINS IN ACCORDANCE WITH THIS
18 SUBSECTION.

19 7-409.

20 All inspections of funeral establishments OR CREMATORIES shall be
21 unannounced.

22 7-501.

23 (A) Except as otherwise provided in this title, a person may not practice,
24 attempt to practice, offer to practice, or assist in the practice of mortuary science in
25 this State unless licensed by the Board.

26 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT
27 OPERATE, ATTEMPT TO OPERATE, OFFER TO OPERATE, OR ASSIST IN THE OPERATION
28 OF A CREMATORY IN THIS STATE UNLESS THE CREMATORY IS LICENSED BY THE
29 BOARD.

30 7-502.

31 Unless authorized to practice mortuary science OR OPERATE A CREMATORY
32 under this title, a person OR ENTITY may not represent to the public by title, by
33 description of services, methods, or procedures, or otherwise, that the person OR
34 ENTITY is authorized to practice mortuary science OR OPERATE A CREMATORY in this
35 State.

1 7-503.

2 (a) Except as provided in subsection (b) of this section, a licensee may not
3 practice mortuary science OR OPERATE A CREMATORY under any name other than
4 the name that appears on that [person's] LICENSEE'S license.

5 (b) (1) The name appearing on the license may be a trade or copyrighted
6 name which may be sold to another licensee as part of the goodwill of the funeral
7 establishment OR CREMATORY.

8 (2) If the sale of the trade name or copyrighted name is made part of a
9 sale of a funeral establishment OR CREMATORY:

10 (i) The buyer must:

11 1. Notify the Board of the sale of the trade or copyrighted
12 name; and

13 2. Apply for a funeral ESTABLISHMENT license OR
14 CREMATORY LICENSE in the name of the new owner; and

15 (ii) The funeral establishment license OR CREMATORY LICENSE
16 must indicate that the trade or copyrighted name will continue to be used by the new
17 owner.

18 (3) The sale of a funeral establishment OR CREMATORY does not
19 preclude the buyer from advertising the funeral establishment OR CREMATORY as the
20 successor to the funeral establishment OR CREMATORY acquired.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2000.