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By: Delegate Cadden

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

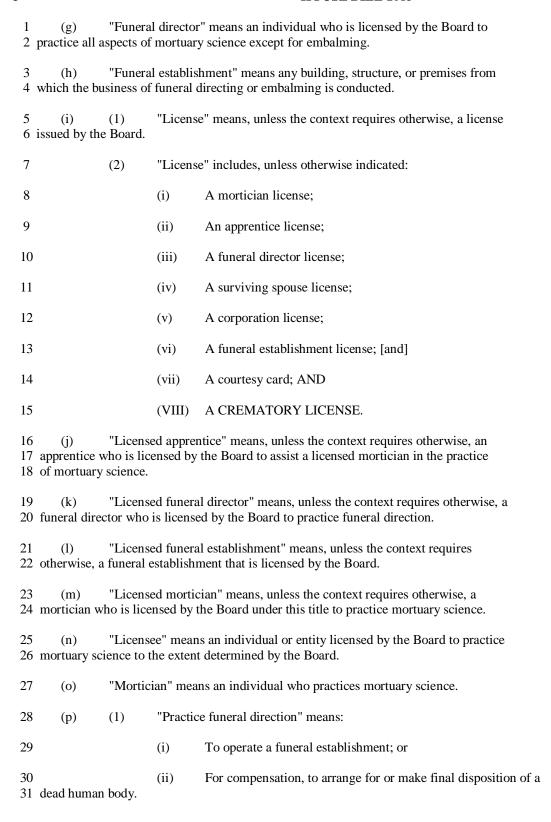
1 AN ACT concerning

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
- Morticians to conduct certain inspections and establish certain standards;
- authorizing the State Board of Morticians to deny, reprimand, place on
- probation, suspend, or revoke a crematory license in certain situations;
- authorizing the State Board of Morticians to enjoin the unauthorized operation
- of a crematory in certain circumstances; requiring a holder of a crematory
- 15 license to maintain certain files of cremation and comply with certain
- requirements and regulations; providing that a crematory operator is not liable
- under certain circumstances where the crematory operator relies upon a certain
- cremation authorization form; providing that a crematory operator is not liable
- 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
- 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

- 2 **HOUSE BILL 1085** 1 Section 7-310.1 and 7-406.1 Annotated Code of Maryland 2 3 (1994 Replacement Volume and 1999 Supplement) 4 BY repealing and reenacting, without amendments, 5 Article - Health Occupations Section 7-314 and 7-317 6 7 Annotated Code of Maryland (1994 Replacement Volume and 1999 Supplement) 8 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 "Apprentice" means an individual licensed by the Board who assists a (b) 15 licensed mortician in the practice of mortuary science, under direct supervision of a 16 licensed mortician. 17 "Apprentice sponsor" means a person who: (c) 18 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 "Corporation" does not include, for purposes of issuing a corporation
- 29 license, a "professional association" (P.A.) or a "professional corporation" (P.C.).
- 30 "Courtesy card" means a license issued by the Board to licensed (f)
- 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.



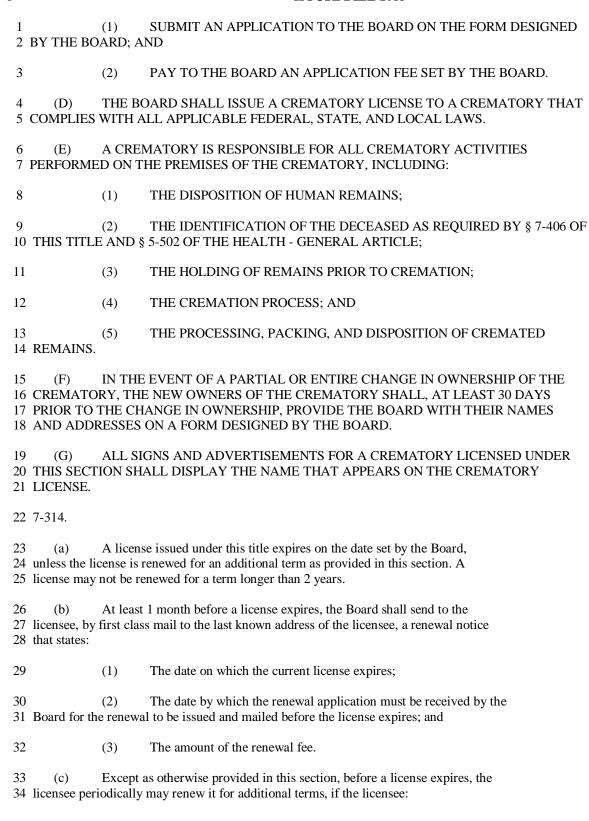
1		(2)	"Practic	e funeral direction" does not include, for compensation:	
2 3	(i) Disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection or any other type of preservation; or				
4			(ii)	Otherwise preparing a dead human body for disposition.	
5	(q)	(1)	"Practice mortuary science" means:		
6			(i)	To operate a funeral establishment;	
	disposition, i			For compensation, to prepare a dead human body for ing or preserving a dead human body or any of its parts or	
10 11	dead human	body.	(iii)	For compensation, to arrange for or make final disposition of a	
	(2) "Practice mortuary science" does not include the pickup, removal, or transportation of a dead human body, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director.				
	(r) "Pre-need contract" means an agreement between a consumer and a licensed funeral director, licensed mortician, or surviving spouse to provide any goods and services purchased prior to the time of death. Goods and services shall include:				
18 19	A service, including any form of preservation and disposition, that a mortician normally provides in the ordinary course of business; or				
20 21	(2) Merchandise, including a casket, vault, or clothing, that a mortician normally provides in the ordinary course of business.				
24	(s) "Surviving spouse" means the legal widow or widower of a licensed funeral director or licensed mortician, whose license was in good standing at the time of death, and who at the time of death, wholly or partly owned and operated a mortuary science business.				
26	7-102.				
27 28	7 (a) This title does not limit the right of an individual to practice a health 8 occupation that the individual is authorized to practice under this article.				
	(b) This title does not apply to the business of operating a cemetery [or crematory], including the sale of cemetery lots, grave sites, mausoleums, monuments, lawn crypts, or vaults.				
32	7-205.				
33 34	In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:				

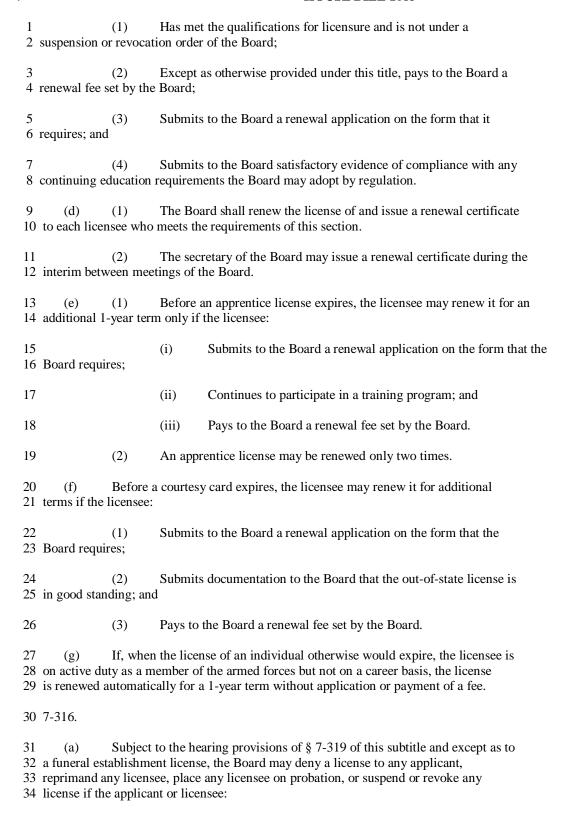
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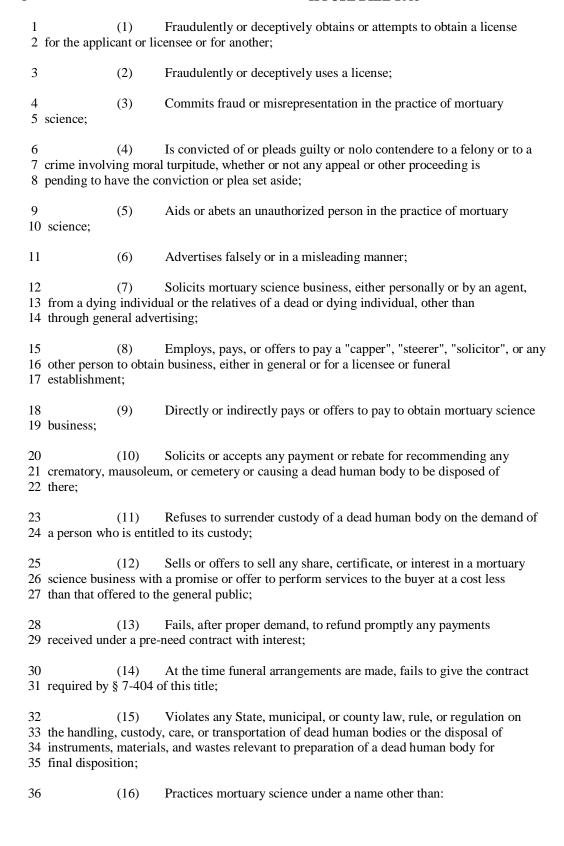
HOUSE BILL 1085

1 2	this title;	(1)	To adopt bylaws, rules, and regulations to carry out the provisions of			
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 9	advertising ar	(7) nd misre	To adopt rules and regulations regarding false and misleading presentation;			
10 11	CREMATO	(8) RIES;	To inspect licensed funeral establishments AND LICENSED			
14 15	2 (9) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the funeral establishment OR CREMATORY to determine compliance at that funeral establishment OR CREMATORY with the Centers for Disease Control's guidelines on universal precautions;					
17		(10)	To establish standards for the practice of mortuary science; [and]			
18 19		(11) with the p	To establish standards for sanitation and waste disposal in practice of mortuary science;			
20		(12)	TO ESTABLISH STANDARDS AND PROCEDURES FOR CREMATION; AND			
21 22	CREMATO	(13) RIES.	TO ESTABLISH RECORD KEEPING REQUIREMENTS FOR			
23	7-310.1.					
26	CREMATO	RY AND	ON OR OTHER ENTITY MAY ERECT, MAINTAIN, AND OPERATE A PROVIDE THE NECESSARY APPLIANCES AND FACILITIES FOR THE UMAN REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS			
28 29	` /	` /	A CREMATORY SHALL BE LICENSED BY THE BOARD BEFORE THE Y BE USED FOR THE CREMATION OF HUMAN REMAINS.			
32	CREMATO		IF A BUILDING USED FOR THE OPERATION OF A LICENSED LSO USED FOR THE INCINERATION OF ANIMAL REMAINS, A LICENSE IIS SECTION SHALL APPLY SOLELY TO THE CREMATION OF HUMAN			

(C) TO APPLY FOR A CREMATORY LICENSE, AN APPLICANT SHALL:



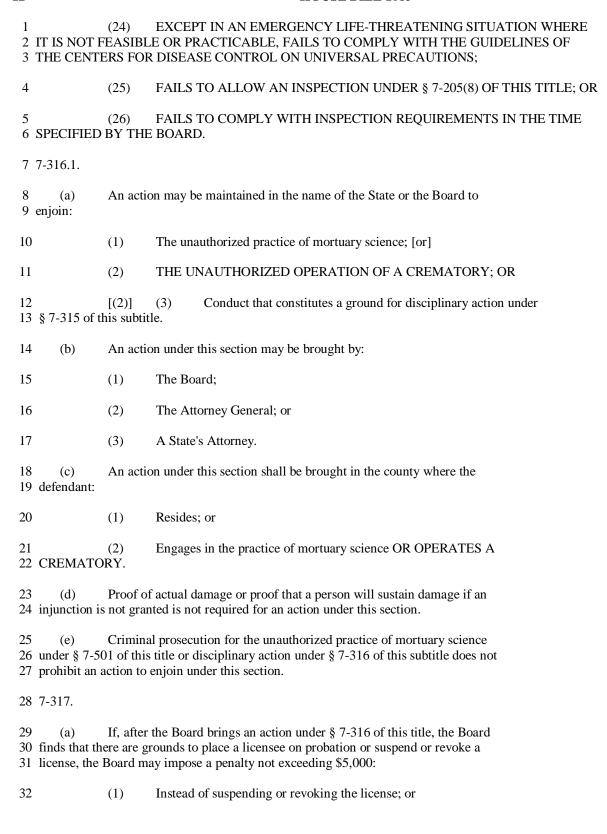


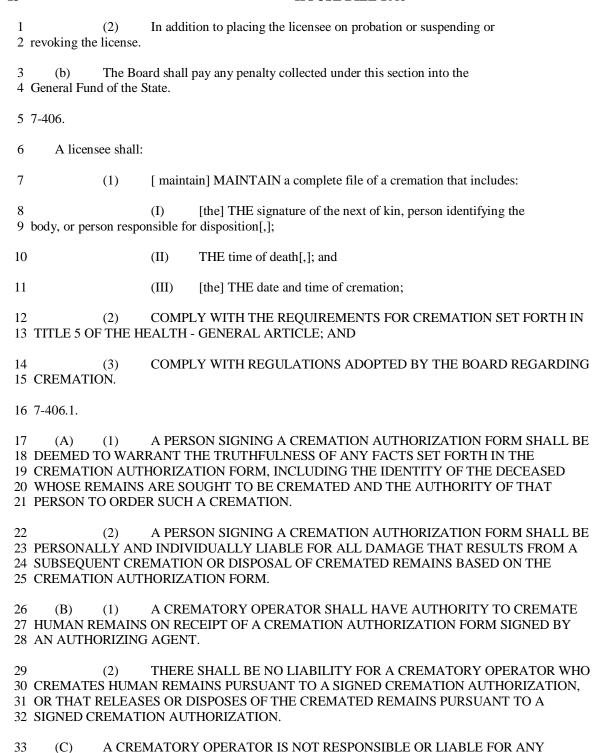


1		((i)	The name that appears on the license of that person; or
2 3	title;	((ii)	The name of a partnership in accordance with § 7-401 of this
		have kı	nown tha	application for a funeral establishment license if the signer at grounds existed for which the funeral establishment ided, or revoked;
7 8	cremation; (18	8) '	Violates	any provision of this title or of the laws relating to
	(19) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;			
12 13	mortuary science		Willfully	makes or files a false report or record in the practice of
	Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;			
17	(22	2) 5	Submits	a false statement to collect a fee;
18	(23	3) l	Provides	professional services while:
19		((i)	Under the influence of alcohol; or
	defined in Artic amounts or with	cle 27 o	of the Co	Using any narcotic or controlled dangerous substance, as de, or other drug that is in excess of therapeutic cal indication;
23	(24	4)	Violates	any rule or regulation adopted by the Board;
24	(25	5) 1	Is profess	sionally, physically, or mentally incompetent;
25 26	science; (20	6) (Commits	an act of unprofessional conduct in the practice of mortuary
		regard	to the pr	withholds from, denies, or discriminates against an evision of professional services for which the licensee der because the individual is HIV positive;
	feasible or prac guidelines on un	ticable,	, fails to	n an emergency life-threatening situation where it is not comply with the Centers for Disease Control's ions;
33	(29	9) 1	Fails to a	llow an inspection under 8 7-205(8) of this title:

- 10 **HOUSE BILL 1085** (30)Fails to comply with inspection requirements in the time specified by 1 2 the Board; or (31)Fails to provide the Board the certification required under § 7-405(i) 4 of this title. Subject to the hearing provisions of § 7-319 of this subtitle [and (b) 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 The Board may not reprimand, place on probation, deny, suspend, or [(2)]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.] SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS SUBTITLE, THE 13 (C) 14 BOARD MAY DENY, REPRIMAND, PLACE ON PROBATION, SUSPEND, OR REVOKE A 15 CREMATORY LICENSE IF THE APPLICANT OR LICENSEE: FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO 16 (1)17 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER; 18 FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; (2) 19 COMMITS FRAUD OR MISREPRESENTATION IN THE OPERATION OF A 20 CREMATORY; IS CONVICTED OR PLEADS GUILTY OR NOLO CONTENDERE TO A 21 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 AIDS OR ABETS AN UNAUTHORIZED PERSON IN THE OPERATION OF A (5) 26 CREMATORY: ADVERTISES FALSELY OR IN A MISLEADING MANNER; 27 (6)28 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; EMPLOYS, PAYS, OR OFFERS TO PAY A "CAPPER", "STEERER", 31
- 32 "SOLICITOR", OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN GENERAL OR
- 33 FOR A LICENSEE OR CREMATORY;
- (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;





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.

22 October 1, 2000.

1	7-503.				
	(a) Except as provided in subsection (b) of this section, a licensee may not practice mortuary science OR OPERATE A CREMATORY under any name other than the name that appears on that [person's] LICENSEE'S license.				
	(b) (1) The name appearing on the license may be a trade or copyrighted name which may be sold to another licensee as part of the goodwill of the funeral establishment OR CREMATORY.				
8 9	8 (2) If the sale of the trade name or copyrighted name is made part of a sale of a funeral establishment OR CREMATORY:				
10) (i)	The buy	er must:		
11 12	l 2 name; and	1.	Notify the Board of the sale of the trade or copyrighted		
13 14	3 4 CREMATORY LICENS	2. SE in the name	Apply for a funeral ESTABLISHMENT license OR of the new owner; and		
	()		eral establishment license OR CREMATORY LICENSE ted name will continue to be used by the new		
	The sale of a funeral establishment OR CREMATORY does not preclude the buyer from advertising the funeral establishment OR CREMATORY as the successor to the funeral establishment OR CREMATORY acquired.				
21	SECTION 2. AND F	BE IT FURTHI	ER ENACTED, That this Act shall take effect		