
By: **Delegates Cadden, Doory, Leopold, Love, Rosso, Sophocleus, Vallario,
and Weir**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation and Health Occupations - Regulation of Crematories**

3 FOR the purpose of requiring crematories that are operated as part of a cemetery or
4 independent of a cemetery, except those crematories that are owned and
5 operated by a funeral director, mortician, or surviving spouse licensed in
6 accordance with Title 7 of the Health Occupations Article, to obtain a permit
7 from the Office of Cemetery Oversight before the crematories may be used for
8 the cremation of human remains; requiring the registration of certain
9 individuals prior to engaging in the operation of a crematory; requiring certain
10 crematories to obtain a permit prior to engaging in the operation of a crematory;
11 requiring certain crematories to comply with certain requirements regarding
12 preneed burial contracts; requiring crematories which are owned and operated
13 by a funeral director, mortician, or surviving spouse licensed in accordance with
14 Title 7 of the Health Occupations Article to obtain a license from the State Board
15 of Morticians before the crematories may be used for the cremation of human
16 remains; authorizing the operation of crematory establishments; expanding the
17 powers and duties of the Board; establishing certain investigatory procedures
18 for the Board; requiring a crematory licensee to notify the Board when certain
19 circumstances change; requiring certain authorization be provided to the
20 crematory prior to cremation; providing that a crematory authority that
21 cremates or disposes of human remains pursuant to a signed cremation
22 authorization form is immune to any liability arising from the crematory
23 authority's reliance on the authorization form; requiring a crematory to provide
24 certain receipts and maintain certain records; providing that certain procedures
25 be followed regarding identification of human remains; providing that a
26 crematory operator is not liable for refusing to accept human remains or
27 perform a cremation under certain circumstances; prohibiting the cremation of
28 human remains with a pacemaker or other potentially hazardous implant in
29 place; prohibiting the simultaneous cremation of the human remains of more
30 than one person without certain authorization; providing for the handling of
31 cremated remains; providing for the disposal of cremated remains which remain
32 in the possession of a crematory for a certain period of time without instruction
33 for their disposal by an authorizing agent; providing for the inspection of
34 crematories; requiring the Office and the Board to cooperate with other

1 governmental agencies to ensure the regulation of crematories; providing for the
2 enforcement of this Act; establishing certain penalties for the violation of this
3 Act; requiring the Office and the Board to concur in the proposal and adoption of
4 each agency's regulations governing crematories; defining certain terms;
5 altering certain definitions; making a stylistic change; and generally relating to
6 the regulation of crematories by the Office of Cemetery Oversight and the State
7 Board of Morticians.

8 BY repealing and reenacting, with amendments,
9 Article - Business Regulation
10 Section 5-101, 5-102, 5-204, 5-301 through 5-304, 5-306, 5-308, 5-310, 5-311,
11 5-401 through 5-403, 5-701, and 5-901 through 5-903
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2000 Supplement)

14 BY adding to
15 Article - Business Regulation
16 Section 5-7A-01 through 5-7A-15, inclusive, to be under the new subtitle
17 "Subtitle 7A. Crematories"
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2000 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Health Occupations
22 Section 7-101, 7-102, 7-205, 7-301, 7-315, 7-316, 7-316.1, 7-317, 7-321,
23 7-411, 7-501, 7-502, and 7-508
24 Annotated Code of Maryland
25 (2000 Replacement Volume)

26 BY adding to
27 Article - Health Occupations
28 Section 7-310.1 through 7-310.4, 7-315.1; and 7-3A-01 through 7-3A-14,
29 inclusive, to be under the new subtitle "Subtitle 3A. Crematories"
30 Annotated Code of Maryland
31 (2000 Replacement Volume)

32 BY repealing
33 Article - Health Occupations
34 Section 7-406
35 Annotated Code of Maryland
36 (2000 Replacement Volume)

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

Article - Business Regulation

1

2 5-101.

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

4 (B) "AUTHORIZING AGENT" MEANS A PERSON LEGALLY ENTITLED TO ORDER
5 THE CREMATION OF HUMAN REMAINS OR LEGALLY AUTHORIZED TO CONTROL THE
6 FINAL DISPOSITION OF HUMAN REMAINS.

7 [(b)] (C) (1) "Burial goods" means goods that are used in connection with
8 burial.

9 (2) "Burial goods" includes:

10 (i) a casket;

11 (ii) a grave liner;

12 (iii) a memorial;

13 (iv) a monument;

14 (v) a scroll;

15 (vi) an urn;

16 (vii) a vase; and

17 (viii) a vault.

18 [(c)] (D) "Burial goods business" means a business that provides burial goods.

19 [(d)] (E) (1) "Cemetery" means land used or to be used for burial.

20 (2) "Cemetery" includes a structure used or to be used for burial.

21 (F) "CREMATED REMAINS" MEANS ALL HUMAN REMAINS RECOVERED AFTER
22 COMPLETION OF CREMATION AND, IF DONE, PULVERIZATION.

23 (G) "CREMATION" MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO
24 BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, WHICH MAY
25 INCLUDE ANY MECHANICAL OR THERMAL PROCESS.

26 (H) "CREMATORY" MEANS A PERSON THAT CHARGES A FEE FOR THE
27 CREMATION OF HUMAN REMAINS.

28 (I) "CREMATORY AUTHORITY" MEANS A LEGAL ENTITY THAT HAS BEEN
29 APPROVED BY THE OFFICE TO OPERATE AS A CREMATORY AND PERFORM
30 CREMATIONS.

1 (J) "CREMATORY ESTABLISHMENT" MEANS THE BUILDING OR PORTION OF A
2 BUILDING THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR THE
3 CREMATION OF HUMAN REMAINS.

4 [(e)] (K) "Director" means the Director of the Office of Cemetery Oversight.

5 [(f)] (L) "Engage in the operation of a cemetery" means owning, controlling, or
6 managing a cemetery, including performing activities necessary for:

7 (1) the establishment or improvement of a cemetery;

8 (2) interment; and

9 (3) the care, preservation, or embellishment of a cemetery.

10 (M) "ENGAGE IN THE OPERATION OF A CREMATORY" MEANS OWNING,
11 CONTROLLING, OPERATING, OR MANAGING A CREMATORY.

12 (N) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
13 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING INTERMENT AND
14 SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE AUTHORIZING AGENT
15 DESIRES THE HUMAN REMAINS RETURNED FROM THE MEDICAL INSTITUTION, THE
16 DELIVERY OF HUMAN REMAINS TO A MEDICAL INSTITUTION.

17 (2) "FINAL DISPOSITION" DOES NOT INCLUDE THE ACT OF CREMATION.

18 (O) "HUMAN REMAINS" MEANS THE BODY OF A DECEASED PERSON, OR PART
19 OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON, INCLUDING
20 THE BODY, PART OF A BODY, OR LIMB IN ANY STATE OF DECOMPOSITION.

21 [(g)] (P) "Interment" means all final disposition of human remains, including:

22 (1) earth burial;

23 (2) mausoleum entombment; and

24 (3) niche or columbarium interment.

25 [(h)] (Q) "Office" means the Office of Cemetery Oversight.

26 [(i)] (R) "Permit" means a permit issued by the Director to allow a
27 partnership, limited liability company, or corporation to operate a business through
28 which a registrant may engage in the operation of a cemetery or provide burial goods.

29 [(j)] (S) (1) "Preneed goods" means burial goods that are sold before the
30 buyer's death.

31 (2) "Preneed goods" does not include burial space.

32 [(k)] (T) "Provide burial goods" means:

1 (1) to sell, erect, or inscribe burial monuments; AND

2 (2) to sell burial goods.

3 [(l)] (U) "Registration" means a registration issued by the Director
4 authorizing an individual to operate a cemetery, OR TO OPERATE A CREMATORY, or to
5 provide burial goods.

6 [(m)] (V) "Registered cemeterian" means an individual registered to operate a
7 cemetery as a sole proprietor or on behalf of a permit holder.

8 (W) "REGISTERED CREMATORY OPERATOR" MEANS A PERSON REGISTERED TO
9 OPERATE A CREMATORY AS A SOLE PROPRIETOR OR ON BEHALF OF A PERMIT
10 HOLDER.

11 [(n)] (X) "Registered seller" means an individual registered to provide burial
12 goods as a sole proprietor or on behalf of a permit holder.

13 5-102.

14 (a) The registration and permitting provisions of this title do not apply to:

15 (1) a person that owns and operates a bona fide religious, nonprofit
16 cemetery in this State; or

17 (2) a not for profit organization created before 1900 by an act of the
18 General Assembly.

19 (b) This title does not apply to:

20 (1) the operation of a funeral establishment, including the sale of burial
21 goods in the ordinary course of the funeral establishment's business;

22 (2) THE OPERATION OF A CREMATORY WHICH IS OWNED AND
23 OPERATED BY A FUNERAL DIRECTOR, MORTICIAN, OR SURVIVING SPOUSE LICENSED
24 UNDER TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE;

25 [(2)] (3) a licensed funeral director acting within the scope of the funeral
26 director's license; or

27 [(3)] (4) a mortician acting within the scope of the mortician's license.

28 5-204.

29 (a) With the advice of the Advisory Council and after consultation with
30 representatives of the cemetery industry, the Director shall adopt:

31 (1) rules and regulations to carry out this title; and

32 (2) a code of ethics for engaging in the operation of a cemetery OR
33 CREMATORY, or providing burial goods.

1 (b) Upon receipt of a written complaint, or at the discretion of the Director, the
2 Director may conduct an investigation and an inspection of the records and site of a
3 registered cemeterian, REGISTERED CREMATORY OPERATOR, registered seller, and
4 permit holder.

5 (c) The Director may hold hearings on any matter covered by this title.

6 (d) To enforce this title, the Director may:

7 (1) administer oaths;

8 (2) examine witnesses; and

9 (3) receive evidence.

10 (e) (1) The Director may issue a subpoena for the attendance of a witness to
11 testify or for the production of evidence in connection with any investigation or
12 hearing conducted in accordance with this section.

13 (2) If a person fails to comply with a subpoena issued under this
14 subsection, on petition of the Director, a circuit court may compel compliance with the
15 subpoena.

16 (f) (1) The Director may sue in the name of the State to enforce any
17 provision of this title by injunction.

18 (2) In seeking an injunction under this subsection, the Director is not
19 required to:

20 (i) post bond; or

21 (ii) allege or prove either that:

22 1. an adequate remedy at law does not exist; or

23 2. substantial or irreparable damage would result from the
24 continued violation of the provision.

25 (3) The Director or staff may not be held personally liable for any action
26 taken under this title in good faith and with reasonable grounds.

27 (g) The Director may issue a cease and desist order, if the Director finds a
28 violation of this title.

29 (h) The Director may refer to the Office of the Attorney General:

30 (1) a violation of this title for enforcement; and

31 (2) an alleged unfair or deceptive trade practice under Title 13 of the
32 Commercial Law Article.

1 (i) The Director shall maintain a list of all registrants and permit holders.

2 (j) (1) The Director shall distribute a copy of the Maryland Cemetery Act,
3 code of ethics, and applicable regulations to each applicant for registration or permit.

4 (2) Upon renewal of a registration or permit, the Director shall
5 distribute any amendments to the Maryland Cemetery Act, code of ethics, or
6 applicable rules and regulations that have occurred since the last application.

7 (k) In conjunction with the State Board of Morticians and the Division of
8 Consumer Protection of the Office of the Attorney General, the Director shall publish:

9 (1) a consumer information pamphlet that describes:

10 [(1)] (I) the rights of consumers in the purchase of funeral and cemetery
11 goods and services; and

12 [(2)] (II) any other information that the Director considers reasonably
13 necessary to aid consumers; AND

14 (2) A CONSUMER INFORMATION PAMPHLET THAT DESCRIBES:

15 (I) THE RIGHTS OF CONSUMERS IN THE PURCHASE OF
16 CREMATORY SERVICES; AND

17 (II) ANY OTHER INFORMATION THAT THE DIRECTOR CONSIDERS
18 REASONABLY NECESSARY TO AID CONSUMERS.

19 5-301.

20 An individual shall register with the Office before:

21 (1) engaging in the operation of a cemetery in this State; [or]

22 (2) providing burial goods in this State; OR

23 (3) ENGAGING IN THE OPERATION OF A CREMATORY, EXCEPT FOR
24 CREMATORIES THAT ARE LICENSED UNDER TITLE 7 OF THE HEALTH OCCUPATIONS
25 ARTICLE.

26 5-302.

27 (a) In order to register, an applicant shall meet the requirements of this
28 section.

29 (b) The applicant must be at least 18 years old.

30 (c) The applicant must be of good character and reputation.

1 (d) The cemetery, CREMATORY, or burial goods business with which the
2 applicant is affiliated must be financially stable in accordance with § 5-304 of this
3 subtitle.

4 5-303.

5 (a) An applicant shall register by:

6 (1) submitting to the Director an application on the form that the
7 Director provides; and

8 (2) paying a nonrefundable application fee set by the Director.

9 (b) The application shall state:

10 (1) the name, date of birth, and residential address of the applicant;

11 (2) the name and fixed address of the affiliated cemetery, CREMATORY,
12 or burial goods business;

13 (3) whether the cemetery, CREMATORY, or burial goods business with
14 which the applicant is affiliated is owned or controlled by a partnership, limited
15 liability company, or corporation;

16 (4) the name and residential address of each employee who sells
17 cemetery goods or services to the public for the applicant while engaging in the
18 operation of a cemetery, CREMATORY, or burial goods business; and

19 (5) any other reasonable information that the Director determines is
20 necessary to carry out this title.

21 5-304.

22 (a) Each applicant shall demonstrate the financial stability of the cemetery,
23 CREMATORY, or burial goods business with which the applicant is affiliated by
24 providing the Director with a financial statement with the application for
25 registration.

26 (b) If the applicant is an existing business, the financial statement shall:

27 (1) be on the form that the Director requires;

28 (2) contain a statement by a certified public accountant employed by the
29 applicant, detailing the assets and liabilities of the cemetery, CREMATORY, or burial
30 goods business for the last fiscal year; and

31 (3) contain an opinion by the certified public accountant as to the
32 financial stability of the cemetery, CREMATORY, or burial goods business.

33 (c) If the applicant is a new business, the financial statement shall:

- 1 (1) be on a form that the Director requires; and
- 2 (2) satisfy criteria that the Director adopts under subsection (d) of this
3 section.

4 (d) (1) The Director shall make a determination of the financial stability of
5 each applicant based on criteria that the Director adopts.

6 (2) The Director shall adopt separate criteria to determine the financial
7 stability of applicants that are new businesses or existing businesses.

8 5-306.

9 (a) While a registration is in effect, it authorizes the registrant to engage in
10 the operation of a cemetery, CREMATORY, or burial goods business.

11 (b) This title does not limit the right of a person to practice funeral direction or
12 mortuary science OR OPERATE A CREMATORY, if the person is licensed or otherwise
13 authorized under Title 7 of the Health Occupations Article.

14 5-308.

15 Within 1 week after the effective date of the change, a registrant or permit
16 holder shall submit to the Director an application form that shows a change in the:

17 (1) cemetery, CREMATORY, or burial goods business with which a
18 registrant is affiliated;

19 (2) registered cemeterian, REGISTERED CREMATORY OPERATOR, or
20 registered seller designated as responsible for the cemetery operations, CREMATORY
21 OPERATIONS, or for providing burial goods for the permit holder;

22 (3) employees of the permit holder who engage in the sale of goods or
23 services to the public;

24 (4) officers, directors, members, or agents of the permit holder; or

25 (5) name or address of the registrant or permit holder.

26 5-310.

27 (a) Subject to the hearing provisions of § 5-312 of this subtitle, the Director
28 may deny a registration or permit to an applicant, reprimand a registrant or permit
29 holder, or suspend or revoke a registration or permit, if an applicant, registrant, or
30 permit holder, or an agent, employee, officer, director, or partner of the applicant,
31 registrant, or permit holder:

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

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

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

2 (i) felony; or

3 (ii) misdemeanor that is directly related to the fitness and
4 qualification of the applicant, registrant, or permit holder to own or operate a
5 cemetery OR CREMATORY or provide burial goods;

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

8 (5) violates this title;

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

10 (7) violates a regulation adopted under this title;

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

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

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

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

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

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

26 (2) The restraining order is in effect until:

27 (i) the court lifts the order; or

28 (ii) the charges are adjudicated or dismissed.

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

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

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

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

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

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

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

10 (1) the seriousness of the violation;

11 (2) the harm caused by the violation;

12 (3) the good faith efforts of the registrant or permit holder; and

13 (4) any history of previous violations by the registrant or permit holder.

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

16 (g) The Director shall consider the following facts in the granting, denial,
17 renewal, suspension, or revocation of a registration or permit or the reprimand of a
18 registrant or permit holder when an applicant, registrant, or permit holder, or an
19 agent, employee, officer, director, or partner of an applicant, registrant, or permit
20 holder, is convicted of a felony or misdemeanor described in subsection (a)(3) of this
21 section:

22 (1) the nature of the crime;

23 (2) the relationship of the crime to the activities authorized by the
24 registration or permit;

25 (3) with respect to a felony, the relevance of the conviction to the fitness
26 and qualification of the applicant, registrant or permit holder or agent, employee,
27 officer, director, or partner to operate a cemetery OR CREMATORY or provide burial
28 goods;

29 (4) the length of time since the conviction; and

30 (5) the behavior and activities of the applicant, registrant, or permit
31 holder, or agent, employee, officer, director, or partner before and after the conviction.
32 5-311.

33 (a) Subject to the provisions of this section, the Director shall commence
34 proceedings on a complaint made by any person to the Director.

1 (b) A complaint shall:

2 (1) be in writing;

3 (2) state specifically the facts on which the complaint is based; and

4 (3) be made under oath by the person who submits the complaint.

5 (c) (1) The Director shall review each complaint and shall attempt to
6 negotiate a settlement of the complaint between the complainant and the registrant
7 or permit holder.

8 (2) Notwithstanding § 5-102 of this title, the Director may receive and
9 attempt to negotiate a settlement to resolve complaints concerning persons required
10 to file statements under § 5-405 of this title and in connection with the operation of a
11 cemetery OR CREMATORY or the sale of preneed goods.

12 (3) The Director may not take any actions described in subsection (d)(1)
13 and (2) of this section for complaints involving persons exempt under § 5-102.

14 (d) If the Director is unable to negotiate a settlement of the complaint, the
15 Director may:

16 (1) at the request of either party, refer the complaint to the Office of the
17 Attorney General or the Office of Administrative Hearings for binding arbitration, if
18 both parties agree to binding arbitration;

19 (2) initiate an investigation; or

20 (3) dismiss the complaint.

21 (e) If, after investigation, the Director determines that there is a reasonable
22 basis to believe that there are grounds for disciplinary action under § 5-310 of this
23 title, the Director shall provide the person against whom the action is contemplated
24 notice and an opportunity for a hearing under § 5-312 of this subtitle.

25 (f) (1) If, after investigation, the Director determines that there is not a
26 reasonable basis to believe that there are grounds for disciplinary action, the Director
27 shall dismiss the complaint.

28 (2) Any party aggrieved by the dismissal may take a judicial appeal in
29 accordance with the provisions of Title 10 of the State Government Article.

30 (g) Once a complaint has been referred for binding arbitration, the registrant
31 or permit holder shall comply with the terms of the settlement.

32 (h) (1) The Director shall adopt guidelines that establish a schedule for the
33 prompt and timely processing and resolution of each complaint made to the Director.

34 (2) Beginning December 31, 1998, and on or before December 31 of each
35 year thereafter, the Director shall report, subject to § 2-1246 of the State Government

1 Article, to the General Assembly on the number of complaints resolved within the
2 schedule adopted under paragraph (1) of this subsection and the number of
3 complaints received under subsection (c)(2) of this section.

4 5-401.

5 (a) Subject to the provisions of this section, a registered cemeterian,
6 REGISTERED CREMATORY OPERATOR, or registered seller may engage in the
7 operation of a cemetery, CREMATORY, or burial goods business as a sole proprietor or
8 through:

9 (1) a corporation as an officer, director, employee, or agent of the
10 corporation;

11 (2) a limited liability company as a member, employee, or agent of the
12 limited liability company; or

13 (3) a partnership as a partner, employee, or agent of the partnership.

14 (b) Subject to the provisions of this title, a corporation, limited liability
15 company, or partnership may engage in the operation of a cemetery, CREMATORY, or
16 burial goods business through a registered cemeterian, REGISTERED CREMATORY
17 OPERATOR, or registered seller.

18 (c) (1) A registered cemeterian who engages in the operation of a cemetery
19 through a corporation, limited liability company, or partnership under this title is
20 subject to all of the provisions of this title that relate to engaging in the operation of
21 a cemetery.

22 (2) A registered seller who engages in the operation of a burial goods
23 business through a corporation, limited liability company, or partnership under this
24 title is subject to all of the provisions of this title that relate to providing burial goods
25 services.

26 (3) A REGISTERED CREMATORY OPERATOR WHO ENGAGES IN THE
27 OPERATION OF A CREMATORY THROUGH A CORPORATION, LIMITED LIABILITY
28 COMPANY, OR PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE
29 PROVISIONS OF THIS TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A
30 CREMATORY.

31 (d) (1) A corporation, limited liability company, or partnership that engages
32 in the operation of a cemetery, CREMATORY, or burial goods business under this title
33 is not, by its compliance with this title, relieved of any responsibility that the
34 corporation, limited liability company, or partnership may have for an act or an
35 omission by its officer, director, member, partner, employee, or agent.

36 (2) An individual who engages in the operation of a cemetery,
37 CREMATORY, or burial goods business through a corporation, limited liability
38 company, or partnership is not, by reason of the individual's employment or other

1 relationship with the corporation, limited liability company, or partnership, relieved
2 of any individual responsibility that the individual may have regarding that practice.
3 5-402.

4 A corporation, limited liability company, or partnership shall obtain a permit
5 issued by the Director, before the corporation, limited liability company, or
6 partnership may engage in the operation of a cemetery, CREMATORY, or burial goods
7 business in the State.

8 5-403.

9 To qualify for a permit, a corporation, limited liability company, or partnership
10 shall:

11 (1) designate a separate registered cemeterian, REGISTERED
12 CREMATORY, or registered seller as the individual responsible for the operations of
13 each affiliated cemetery, CREMATORY, or burial goods business;

14 (2) provide the name and business address of each affiliated cemetery,
15 CREMATORY, or burial goods business; and

16 (3) provide a list of the officers, directors, members, partners, agents,
17 and employees of the entity applying for the permit.

18 5-701.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) (1) "Burial space" means land or space in a structure used or to be used
21 for burial.

22 (2) "Burial space" includes a burial right in the land or space.

23 (c) "Buyer" means a person who buys preneed goods or preneed services.

24 (d) "Preneed burial contract" means a written instrument under which
25 preneed goods or preneed services are to be sold and delivered or performed.

26 (e) (1) "Preneed services" means services that are sold:

27 (i) before the buyer's death; and

28 (ii) in connection with burial OR CREMATION.

29 (2) "Preneed services" includes opening and closing a grave.

30 (f) "Seller" means a registered cemeterian, [a] REGISTERED CREMATORY
31 OPERATOR, registered seller, or any other person who sells preneed goods or preneed
32 services.

1 (g) "Specific funds" means money that is identified to a specific preneed burial
2 contract.

3 (h) "Trust account" means a preneed trust account.

4 SUBTITLE 7A. CREMATORIES.

5 5-7A-01.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) "CREMATION CHAMBER" MEANS THE ENCLOSED SPACE WITHIN WHICH
9 THE PROCESS OF CREMATION OF HUMAN REMAINS TAKES PLACE.

10 (C) "CREMATION CONTAINER" MEANS A CONTAINER IN WHICH HUMAN
11 REMAINS ARE PLACED IN THE CREMATION CHAMBER FOR CREMATION.

12 (D) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
13 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
14 PRESERVATION.

15 (E) "FACSIMILE DEVICE" MEANS A MACHINE THAT TRANSMITS, RECEIVES,
16 AND COPIES REPRODUCTIONS OR FACSIMILES OF DOCUMENTS OR PHOTOGRAPHS
17 THAT HAVE BEEN TRANSMITTED ELECTRONICALLY OR TELEPHONICALLY OVER
18 TELECOMMUNICATIONS LINES.

19 (F) "HOLDING FACILITY" MEANS AN AREA WITHIN OR ADJACENT TO THE
20 CREMATORY ESTABLISHMENT DESIGNED FOR THE RETENTION OF HUMAN REMAINS
21 PRIOR TO CREMATION.

22 (G) "PROCESSED REMAINS" MEANS THE END RESULT OF PULVERIZATION,
23 WHERE THE RESIDUE FROM THE CREMATION PROCESS IS CLEANED LEAVING ONLY
24 BONE FRAGMENTS REDUCED TO 5 MILLIMETERS OR LESS.

25 (H) "SEALABLE CONTAINER" MEANS ANY CONTAINER IN WHICH PROCESSED
26 REMAINS CAN BE PLACED AND SEALED SO AS TO PREVENT LEAKAGE OR THE
27 ENTRANCE OF FOREIGN MATERIALS.

28 5-7A-02.

29 A PERSON MAY ONLY OPERATE A CREMATORY ESTABLISHMENT AND PROVIDE
30 THE NECESSARY APPLIANCES AND FACILITIES FOR THE CREMATION OF HUMAN
31 REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

32 5-7A-03.

33 (A) A CREMATION CONTAINER SHALL:

1 (1) BE COMPOSED OF READILY COMBUSTIBLE MATERIALS
2 SUITABLE FOR CREMATION;

3 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE
4 HUMAN REMAINS;

5 (3) BE RESISTANT TO LEAKAGE OR SPILLAGE; AND

6 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF
7 CREMATORY ESTABLISHMENT PERSONNEL.

8 (B) A HOLDING FACILITY SHALL:

9 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

10 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

11 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
12 ESTABLISHMENT PERSONNEL; AND

13 (4) BE SECURE FROM ACCESS BY UNAUTHORIZED PERSONS.

14 5-7A-04.

15 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CREMATORY
16 AUTHORITY MAY NOT CREMATE HUMAN REMAINS UNTIL:

17 (1) THE CREMATORY HAS RECEIVED:

18 (I) A CREMATION AUTHORIZATION ON A FORM APPROVED BY THE
19 OFFICE AND SIGNED BY AN AUTHORIZING AGENT;

20 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
21 FACSIMILE; AND

22 (III) ANY OTHER DOCUMENTATION REQUIRED BY FEDERAL, STATE,
23 OR LOCAL LAW; AND

24 (2) THE CREMATORY AUTHORITY HAS WAITED AT LEAST 12 HOURS
25 FROM THE TIME OF DEATH OF THE INDIVIDUAL WHOSE REMAINS ARE TO BE
26 CREMATED.

27 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
28 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
29 FOLLOWING INFORMATION:

30 (1) THE IDENTITY OF THE HUMAN REMAINS;

31 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
32 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

1 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
2 THE HUMAN REMAINS;

3 (4) A REPRESENTATION THAT THE AUTHORIZING AGENT IS AWARE OF
4 NO OBJECTION TO THE HUMAN REMAINS BEING CREMATED BY ANY PERSON WHO
5 HAS A RIGHT TO CONTROL THE DISPOSITION OF THE HUMAN REMAINS; AND

6 (5) THE NAME AND ADDRESS OF THE PERSON AUTHORIZED TO CLAIM
7 THE CREMATED REMAINS FROM THE CREMATORY AUTHORITY.

8 (C) (1) IF AN AUTHORIZING AGENT IS NOT AVAILABLE TO EXECUTE THE
9 CREMATION AUTHORIZATION FORM, THE AUTHORIZING AGENT MAY DELEGATE
10 THAT AUTHORITY TO ANOTHER INDIVIDUAL IN WRITING, OR IF LOCATED OUTSIDE
11 THE AREA, BY SENDING THE CREMATORY AUTHORITY A SIGNED STATEMENT BY
12 FACSIMILE DEVICE THAT CONTAINS THE NAME, ADDRESS, AND RELATIONSHIP OF
13 THE SENDER TO THE DECEASED AND THE NAME AND ADDRESS OF THE INDIVIDUAL
14 TO WHOM AUTHORITY IS DELEGATED.

15 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
16 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
17 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
18 AGENT.

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

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

28 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
29 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
30 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
31 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
32 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

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

35 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
36 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
37 PERMANENT RECORDS.

38 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
39 OFFICE.

1 5-7A-05.

2 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
3 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
4 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
5 THAT INCLUDES:

6 (1) THE NAME OF THE INDIVIDUAL FROM WHOM THE HUMAN REMAINS
7 WERE RECEIVED AND THE NAME OF THE INDIVIDUAL'S EMPLOYER, IF ANY;

8 (2) THE NAME AND ADDRESS OF THE CREMATORY AUTHORITY; AND

9 (3) THE NAME AND ADDRESS OF THE DECEASED.

10 (B) THE CREMATORY AUTHORITY SHALL MAINTAIN A RECORD OF EACH
11 CREMATION WHICH SHALL INCLUDE:

12 (1) THE NAME OF THE DECEASED;

13 (2) THE DATE AND PLACE OF DEATH;

14 (3) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT;

15 (4) THE DATE AND LOCATION OF CREMATION; AND

16 (5) THE NAME OF THE INDIVIDUAL WHO PERFORMED THE CREMATION.

17 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
18 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
19 CONTAINS:

20 (1) THE NAME OF THE DECEASED;

21 (2) THE NAME OF THE AUTHORIZING AGENT;

22 (3) THE NAME AND ADDRESS OF THE PERSON WHO RECEIVED THE
23 CREMATED REMAINS FROM THE CREMATORY AUTHORITY; AND

24 (4) THE LOCATION, INCLUDING THE NAME OF THE CEMETERY AND
25 PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND DATE OF THE
26 DISPOSITION OF THE CREMATED REMAINS.

27 (D) (1) THE CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
28 RECORD AND RECEIPT REQUIRED BY THIS SECTION AS PERMANENT RECORDS.

29 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
30 OFFICE.

1 5-7A-06.

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

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

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

10 (3) THE CREMATORY AUTHORITY HAS ANY OTHER LAWFUL REASON.

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

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

20 5-7A-07.

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
22 CREMATORY AUTHORITY MAY NOT:

23 (1) REQUIRE THAT HUMAN REMAINS BE PLACED IN A CASKET BEFORE
24 CREMATION OR THAT HUMAN REMAINS BE CREMATED IN A CASKET; OR

25 (2) REFUSE TO ACCEPT HUMAN REMAINS FOR CREMATION BECAUSE
26 THE REMAINS ARE NOT IN A CASKET.

27 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
28 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
29 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS, UNLESS THE
30 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
31 THE CONTRARY BY THE AUTHORIZING AGENT.

32 (C) A CREMATORY AUTHORITY MAY NOT REQUIRE THAT HUMAN REMAINS BE
33 SUBJECTED TO EMBALMING BEFORE CREMATION.

34 5-7A-08.

35 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
36 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS

1 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
2 REMAINS.

3 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
4 REMAINS.

5 (C) A CREMATORY AUTHORITY SHALL IDENTIFY THE REMAINS OF THE
6 DECEASED AS REQUIRED BY § 5-502 OF THE HEALTH - GENERAL ARTICLE AND § 7-406
7 OF THE HEALTH OCCUPATIONS ARTICLE.

8 5-7A-09.

9 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
10 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
11 RECEIPT.

12 (B) IF A CREMATORY AUTHORITY IS UNABLE TO CREMATE HUMAN REMAINS
13 WITHIN A REASONABLE TIME AFTER RECEIPT, THE CREMATORY AUTHORITY SHALL
14 PROVIDE A HOLDING FACILITY FOR THE RETENTION OF THE HUMAN REMAINS.

15 (C) A CREMATORY AUTHORITY MAY NOT HOLD HUMAN REMAINS FOR
16 CREMATION UNLESS THE HUMAN REMAINS ARE CONTAINED WITHIN AN
17 INDIVIDUAL, RIGID, CLOSED CREMATION CONTAINER.

18 (D) A CREMATORY AUTHORITY MAY NOT ACCEPT A CREMATION CONTAINER
19 FROM WHICH THERE IS ANY EVIDENCE OF LEAKAGE OF THE BODY FLUIDS FROM
20 THE HUMAN REMAINS THEREIN.

21 (E) HUMAN REMAINS THAT ARE NOT EMBALMED SHALL BE HELD WITHIN A
22 REFRIGERATED HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC
23 HEALTH REGULATIONS.

24 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
25 UNAUTHORIZED PERSONS.

26 5-7A-10.

27 (A) (1) HUMAN REMAINS MAY NOT BE CREMATED WITH A PACEMAKER OR
28 OTHER POTENTIALLY HAZARDOUS IMPLANT IN PLACE.

29 (2) AN AUTHORIZING AGENT SHALL TAKE ALL NECESSARY STEPS TO
30 ENSURE THAT ANY PACEMAKER OR HAZARDOUS IMPLANT IS REMOVED PRIOR TO
31 CREMATION.

32 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
33 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
34 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
35 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
36 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

1 (C) (1) A CREMATORY AUTHORITY MAY NOT ENGAGE IN THE
2 SIMULTANEOUS CREMATION OF THE HUMAN REMAINS OF MORE THAN ONE PERSON
3 WITHIN THE SAME CREMATION CHAMBER UNLESS THE CREMATORY AUTHORITY
4 HAS RECEIVED SPECIFIC WRITTEN AUTHORIZATION TO DO SO FROM ALL
5 AUTHORIZING AGENTS FOR THE HUMAN REMAINS TO BE SO CREMATED.

6 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
7 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
8 CREMATION PROCESS.

9 (3) (I) THE CREMATORY AUTHORITY SHALL MAINTAIN THE WRITTEN
10 AUTHORIZATIONS REQUIRED UNDER THIS SUBSECTION AS PERMANENT RECORDS.

11 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
12 BY THE OFFICE.

13 5-7A-11.

14 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
15 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
16 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER TO
17 AWAIT FINAL PROCESSING.

18 (2) THE IDENTIFICATION DESCRIBED UNDER § 5-7A-10(B) OF THIS
19 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
20 THE CONTAINER TO AWAIT FINAL PROCESSING.

21 (B) THE ENTIRE CREMATED OR PROCESSED REMAINS SHALL BE PLACED IN A
22 SEALABLE CONTAINER OR IN SUCH CONTAINER AS MAY HAVE BEEN ORDERED BY
23 THE AUTHORIZING AGENT, TOGETHER WITH AN IDENTIFICATION TAG WHICH
24 COMPLIES WITH THE REQUIREMENTS OF § 7-411 OF THE HEALTH OCCUPATIONS
25 ARTICLE.

26 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
27 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
28 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR
29 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
30 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

31 (D) IF THE CREMATED OR PROCESSED REMAINS DO NOT ADEQUATELY FILL
32 THE CONTAINER'S INTERIOR DIMENSIONS, THE EXTRA SPACE MAY BE FILLED WITH
33 PACKING MATERIAL THAT WILL NOT BECOME INTERMINGLED WITH THE CREMATED
34 REMAINS OR PROCESSED REMAINS AND THEN SECURELY CLOSED.

35 (E) (1) IF A SEALABLE CONTAINER IS USED TO RETURN CREMATED OR
36 PROCESSED REMAINS, THE CONTAINER SHALL BE PLACED WITHIN A SEPARATE,
37 STURDY BOX AND ALL BOX SEAMS TAPED CLOSED.

1 (2) THE OUTSIDE OF THE CONTAINER SHALL BE CLEARLY IDENTIFIED
2 WITH THE NAME OF THE DECEASED PERSON WHOSE CREMATED OR PROCESSED
3 REMAINS ARE CONTAINED THEREIN.

4 5-7A-12.

5 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
6 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
7 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
8 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
9 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
10 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND
11 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
12 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

13 (2) IF CONTACT CANNOT BE MADE OR DISPOSITION INSTRUCTIONS ARE
14 NOT GIVEN WITHIN 60 DAYS OF THE DATE ON WHICH THE CERTIFIED MAILING IS
15 MADE, THE CREMATORY AUTHORITY MAY ARRANGE FOR PERMANENT DISPOSITION
16 OF THE REMAINS IN ANY MANNER PERMITTED BY LAW.

17 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
18 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
19 UNDER THIS SECTION.

20 (B) THE AUTHORIZING AGENT SHALL BE LIABLE FOR REIMBURSING THE
21 CREMATORY AUTHORITY FOR ALL REASONABLE EXPENSES INCURRED IN DISPOSING
22 OF THE CREMATED REMAINS OR PROCESSED REMAINS UNDER THIS SECTION.

23 5-7A-13.

24 (1) A CREMATORY AUTHORITY IS SUBJECT TO INSPECTIONS IN ACCORDANCE
25 WITH REGULATIONS ADOPTED BY THE OFFICE.

26 (2) THE OFFICE SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
27 THAT AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY AUTHORITY
28 CONDUCTED BY THE OFFICE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
29 OFFICE.

30 5-7A-14.

31 (A) IF THE DIRECTOR FINDS THAT A CREMATORY AUTHORITY HAS VIOLATED
32 THIS TITLE OR A REGULATION ADOPTED WITH RESPECT TO THIS TITLE, THE
33 DIRECTOR MAY REFER THE MATTER TO:

34 (1) THE ATTORNEY GENERAL FOR CIVIL ENFORCEMENT; OR

35 (2) THE APPROPRIATE STATE'S ATTORNEY FOR CRIMINAL
36 PROSECUTION.

37 (B) THE ATTORNEY GENERAL MAY SUE FOR AND A COURT MAY GRANT:

- 1 (1) INJUNCTIVE OR OTHER EQUITABLE RELIEF;
- 2 (2) IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING \$5,000; OR
- 3 (3) BOTH.

4 (C) (1) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
5 AUTHORITIES, THE DIRECTOR MAY COOPERATE WITH ANY GOVERNMENTAL LAW
6 ENFORCEMENT OR REGULATORY AGENCY.

7 (2) THIS COOPERATION MAY INCLUDE:

8 (I) PARTICIPATING IN A JOINT EXAMINATION OR INVESTIGATION;

9 (II) SHARING AND EXCHANGING RELEVANT INFORMATION AND
10 DOCUMENTS; AND

11 (III) ISSUING STATEMENTS OF POLICY, NOTICES, AND
12 INTERPRETATIVE OPINIONS.

13 5-7A-15.

14 (A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
15 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
16 \$5,000 OR IMPRISONMENT NOT EXCEEDING ONE YEAR OR BOTH.

17 (B) IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER
18 RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON
19 CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
20 EXCEEDING ONE YEAR OR BOTH.

21 (C) (1) IF A PERSON VIOLATES ANY PROVISION OF THIS SUBTITLE, THE
22 DIRECTOR MAY IMPOSE A CIVIL FINE NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

23 (2) IN SETTING THE AMOUNT OF A CIVIL PENALTY, THE DIRECTOR
24 SHALL CONSIDER:

25 (I) THE SERIOUSNESS OF THE VIOLATION;

26 (II) THE HARM CAUSED BY THE VIOLATION;

27 (III) THE GOOD FAITH OF THE VIOLATOR;

28 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

29 AND

30 (V) ANY OTHER RELEVANT FACTORS.

31 (3) ANY CIVIL PENALTIES COLLECTED UNDER THIS SUBTITLE SHALL BE
32 PAID INTO THE GENERAL FUND OF THE STATE.

1 5-901.

2 (a) Except as otherwise provided in this title, an individual may not engage in
3 cemetery operations, attempt to engage in cemetery operations, or offer to provide
4 cemetery goods and services unless the individual is a registered cemeterian.

5 (b) Except as otherwise provided in this title, an individual may not engage in
6 a burial goods business or attempt to provide burial goods unless the individual is a
7 registered seller.

8 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY
9 NOT ENGAGE IN THE OPERATION OF A CREMATORY OR OFFER TO PROVIDE
10 CREMATION SERVICES UNLESS THE INDIVIDUAL IS A REGISTERED CREMATORY
11 OPERATOR.

12 5-902.

13 Except for a registered cemeterian, REGISTERED CREMATORY OPERATOR, or
14 registered seller who operates a business as a sole practitioner, a person may not
15 engage in the operation of a cemetery, CREMATORY, or burial goods business unless:

16 (1) the business is a corporation, limited liability company, or
17 partnership; and

18 (2) the corporation, limited liability company, or partnership holds a
19 permit issued under this title.

20 5-903.

21 Unless a person is a registered cemeterian, REGISTERED CREMATORY
22 OPERATOR, or registered seller, a person may not represent to the public, by use of a
23 title, including cemeterian, registered cemeterian, CREMATORY OPERATOR,
24 REGISTERED CREMATORY OPERATOR, burial goods seller, or registered seller, by
25 description of services, methods, or procedures, or otherwise, that the person is
26 authorized to engage in the operation of a cemetery OR CREMATORY or provide burial
27 goods.

28 **Article - Health Occupations**

29 7-101.

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

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

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

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

4 (2) Provides direct supervision to an apprentice.

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

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

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

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

19 (G) "CREMATION" MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO
20 BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, WHICH MAY
21 INCLUDE ANY MECHANICAL OR THERMAL PROCESS.

22 (H) "CREMATORY" MEANS A PERSON THAT CHARGES A FEE FOR THE
23 CREMATION OF HUMAN REMAINS.

24 (I) "CREMATORY LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO
25 ALLOW A SOLE PROPRIETORSHIP, PROFESSIONAL ASSOCIATION, PARTNERSHIP, OR
26 CORPORATION TO OPERATE A BUSINESS THROUGH WHICH A LICENSEE MAY ENGAGE
27 IN THE OPERATION OF A CREMATORY.

28 [(g)] (J) "Funeral director" means an individual who is licensed by the Board
29 to practice all aspects of mortuary science except for embalming.

30 [(h)] (K) "Funeral establishment" means any building, structure, or premises
31 from which the business of funeral directing or embalming is conducted.

32 [(i)] (L)(1) "License" means, unless the context requires otherwise, a license
33 issued by the Board.

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

35 (i) A mortician license;

36 (ii) An apprentice license;

- 1 (iii) A funeral director license;
- 2 (iv) A surviving spouse license;
- 3 (v) A corporation license;
- 4 (vi) A funeral establishment license; [and]
- 5 (vii) A courtesy card; AND
- 6 (VIII) A CREMATORY LICENSE.
- 7 [(j)] (M) "Licensed apprentice" means, unless the context requires otherwise,
8 an apprentice who is licensed by the Board to assist a licensed mortician in the
9 practice of mortuary science.
- 10 [(N)] (N) "LICENSED CREMATORY OPERATOR" MEANS AN INDIVIDUAL WHO IS
11 LICENSED BY THE BOARD TO OPERATE A CREMATORY.
- 12 [(k)] (O) "Licensed funeral director" means, unless the context requires
13 otherwise, a funeral director who is licensed by the Board to practice funeral
14 direction.
- 15 [(l)] (P) "Licensed funeral establishment" means, unless the context requires
16 otherwise, a funeral establishment that is licensed by the Board.
- 17 [(m)] (Q) "Licensed mortician" means, unless the context requires otherwise, a
18 mortician who is licensed by the Board under this title to practice mortuary science.
- 19 [(n)] (R) "Licensee" means an individual or entity licensed by the Board to
20 practice mortuary science OR OPERATE A CREMATORY, to the extent determined by
21 the Board.
- 22 [(o)] (S) "Mortician" means an individual who practices mortuary science.
- 23 [(p)] (T) (1) "Practice funeral direction" means:
- 24 (i) To operate a funeral establishment; or
- 25 (ii) For compensation, to arrange for or make final disposition of a
26 dead human body.
- 27 (2) "Practice funeral direction" does not include, for compensation:
- 28 (i) Disinfecting or preserving a dead human body or any of its parts
29 by arterial or cavity injection or any other type of preservation; or
- 30 (ii) Otherwise preparing a dead human body for disposition.
- 31 [(q)] (U) (1) "Practice mortuary science" means:

- 1 (i) To operate a funeral establishment;
- 2 (ii) For compensation, to prepare a dead human body for
3 disposition, including disinfecting or preserving a dead human body or any of its parts
4 by arterial or cavity injection; or
- 5 (iii) For compensation, to arrange for or make final disposition of a
6 dead human body.

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

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

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

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

17 [(s)] (W) "Surviving spouse" means the legal widow or widower of a licensed
18 funeral director or licensed mortician, whose license was in good standing at the time
19 of death, and who at the time of death, wholly or partly owned and operated a
20 mortuary science business.

21 7-102.

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

24 (b) This title does not apply to:

25 (1) [the] THE business of operating a cemetery [or crematory],
26 including the sale of cemetery lots, grave sites, mausoleums, monuments, lawn
27 crypts, or vaults; AND

28 (2) THE OPERATION OF A CREMATORY THAT IS NOT OWNED AND
29 OPERATED BY A LICENSED FUNERAL DIRECTOR, LICENSED MORTICIAN, OR
30 SURVIVING SPOUSE.

31 7-205.

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

34 (1) To adopt bylaws, rules, and regulations to carry out the provisions of
35 this title;

- 1 (2) To adopt a seal;
- 2 (3) To establish procedures for licensing apprentices;
- 3 (4) To keep a list of all individuals currently licensed by the Board;
- 4 (5) To investigate any alleged violation of this title;
- 5 (6) To enforce this title;
- 6 (7) To adopt rules and regulations regarding false and misleading
7 advertising and misrepresentation;
- 8 (8) To inspect THE RECORDS AND PREMISES OF licensed funeral
9 establishments AND CREMATORIES;
- 10 (9) On receipt of a written and signed complaint, including a referral
11 from the Commissioner of Labor and Industry, conduct an unannounced inspection of
12 the funeral establishment to determine compliance at that funeral establishment
13 with the Centers for Disease Control's guidelines on universal precautions;
- 14 (10) To establish standards for the practice of mortuary science; [and]
- 15 (11) To establish standards for sanitation and waste disposal in
16 connection with the practice of mortuary science; AND
- 17 (12) DISTRIBUTE A COPY OF THIS TITLE AND ANY APPLICABLE
18 REGULATIONS TO EACH LICENSEE.
- 19 7-301.
- 20 (a) Except as provided in subsection (b) of this section, an individual shall be
21 licensed by the Board before the individual may practice mortuary science OR
22 OPERATE A CREMATORY in this State.
- 23 (b) This section does not:
- 24 (1) Limit the right of a school of medicine or dentistry to use and dispose
25 of a dead human body or its parts;
- 26 (2) Limit the right of any person who is authorized by law to handle or
27 dispose of a dead human body or its parts, if the person acts within the scope of that
28 authorization;
- 29 (3) Affect the right of an authorized officer or employee of the United
30 States or the District of Columbia to practice mortuary science in the course of that
31 individual's duties;
- 32 (4) Apply to an individual who makes funeral arrangements in the
33 course of the duties of that individual as an attorney or a personal representative;
34 [or]

1 (5) (i) Limit the right of the Board to issue temporary permits to
2 out-of-state licensed morticians for teaching purposes involving an approved
3 continuing education program or disaster situations as deemed necessary by the
4 Board[.];

5 (ii) A mortician who is issued a temporary permit shall be subject to
6 any conditions and limitations that the Board may specify in the permit and the
7 provisions of this title; OR

8 (6) AFFECT THE RIGHT OF AN INDIVIDUAL WHO IS NOT A LICENSED
9 MORTICIAN, LICENSED FUNERAL DIRECTOR, OR SURVIVING SPOUSE FROM
10 OPERATING A CREMATORY IN ACCORDANCE WITH TITLE 5 OF THE BUSINESS
11 REGULATION ARTICLE.

12 7-310.1

13 (A) A CREMATORY OPERATOR SHALL BE LICENSED BY THE BOARD BEFORE
14 OPERATING A CREMATORY IN THE STATE.

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

16 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
17 BY THE BOARD; AND

18 (2) PAY A NONREFUNDABLE FEE SET BY THE BOARD.

19 (C) THE APPLICATION SHALL STATE:

20 (1) THE NAME, DATE OF BIRTH, AND RESIDENTIAL ADDRESS OF THE
21 APPLICANT;

22 (2) THE NAME AND FIXED ADDRESS OF THE CREMATORY;

23 (3) WHETHER THE CREMATORY WITH WHICH THE APPLICANT IS
24 AFFILIATED IS OWNED OR CONTROLLED AS A SOLE PROPRIETORSHIP,
25 PROFESSIONAL ASSOCIATION, PARTNERSHIP, OR CORPORATION;

26 (4) THE NAME AND RESIDENTIAL ADDRESS OF EACH EMPLOYEE WHO
27 ENGAGES IN THE OPERATION OF THE CREMATORY; AND

28 (5) ANY OTHER REASONABLE INFORMATION THAT THE BOARD
29 DETERMINES IS NECESSARY TO CARRY OUT THIS TITLE.

30 (D) (1) AN APPLICANT SHALL DEMONSTRATE THE FINANCIAL STABILITY OF
31 THE CREMATORY WITH WHICH THE APPLICANT IS AFFILIATED BY PROVIDING THE
32 BOARD WITH A FINANCIAL STATEMENT WITH THE APPLICATION FOR REGISTRATION.

33 (2) IF THE APPLICANT IS AN EXISTING CREMATORY BUSINESS, THE
34 FINANCIAL STATEMENT SHALL:

35 (I) BE ON THE FORM THAT THE BOARD REQUIRES;

1 (II) CONTAIN A STATEMENT BY A CERTIFIED PUBLIC ACCOUNTANT
2 EMPLOYED BY THE APPLICANT, DETAILING THE ASSETS AND LIABILITIES OF THE
3 CREMATORY FOR THE LAST FISCAL YEAR;

4 (III) CONTAIN AN OPINION BY THE CERTIFIED PUBLIC
5 ACCOUNTANT AS TO THE FINANCIAL STABILITY OF THE CREMATORY; AND

6 (IV) SATISFY CRITERIA THAT THE BOARD ADOPTS UNDER
7 PARAGRAPH (4) OF THIS SUBSECTION.

8 (3) IF THE APPLICANT IS A NEW CREMATORY BUSINESS, THE FINANCIAL
9 STATEMENT SHALL:

10 (I) BE ON A FORM THAT THE BOARD REQUIRES; AND

11 (II) SATISFY CRITERIA THAT THE BOARD ADOPTS UNDER
12 PARAGRAPH (4) OF THIS SUBSECTION.

13 (4) (I) THE BOARD SHALL MAKE A DETERMINATION OF THE
14 FINANCIAL STABILITY OF EACH APPLICANT BASED ON CRITERIA THAT THE BOARD
15 ADOPTS.

16 (II) THE BOARD SHALL ADOPT SEPARATE CRITERIA TO DETERMINE
17 THE FINANCIAL STABILITY OF APPLICANTS THAT ARE NEW BUSINESSES OR
18 EXISTING BUSINESSES.

19 (E) A CREMATORY LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE
20 LICENSEE TO ENGAGE IN THE OPERATION OF A CREMATORY WHILE THE LICENSE IS
21 EFFECTIVE.

22 7-310.2.

23 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, A LICENSED CREMATORY
24 OPERATOR MAY ENGAGE IN THE OPERATION OF A CREMATORY AS A SOLE
25 PROPRIETOR OR THROUGH:

26 (1) A CORPORATION AS AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT
27 OF THE CORPORATION; OR

28 (2) A PROFESSIONAL ASSOCIATION OR PARTNERSHIP AS A PARTNER,
29 EMPLOYEE, OR AGENT OF THE PROFESSIONAL ASSOCIATION OR PARTNERSHIP.

30 (B) SUBJECT TO THE PROVISIONS OF THIS TITLE, A CORPORATION,
31 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
32 OF A CREMATORY THROUGH A LICENSED CREMATORY OPERATOR.

33 (C) (1) A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP
34 THAT ENGAGES IN THE OPERATION OF A CREMATORY UNDER THIS TITLE IS NOT, BY
35 ITS COMPLIANCE WITH THIS TITLE, RELIEVED OF ANY RESPONSIBILITY THAT THE
36 CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY HAVE FOR AN

1 ACT OR OMISSION BY ITS OFFICER, DIRECTOR, MEMBER, PARTNER, EMPLOYEE, OR
2 AGENT.

3 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A
4 CREMATORY THROUGH A CORPORATION, PROFESSIONAL ASSOCIATION, OR
5 PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S EMPLOYMENT OR OTHER
6 RELATIONSHIP WITH THE CORPORATION, PROFESSIONAL ASSOCIATION, OR
7 PARTNERSHIP, RELIEVED OF ANY RESPONSIBILITY THAT THE INDIVIDUAL MAY
8 HAVE REGARDING THE OPERATION OF THE CREMATORY.

9 7-310.3.

10 A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP SHALL
11 OBTAIN A CREMATORY LICENSE ISSUED BY THE BOARD, BEFORE THE CORPORATION,
12 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
13 OF A CREMATORY IN THE STATE.

14 7-310.4.

15 AT LEAST 1 WEEK BEFORE THE EFFECTIVE DATE OF THE CHANGE, A
16 CREMATORY LICENSEE SHALL SUBMIT TO THE BOARD AN APPLICATION FORM THAT
17 SHOWS A CHANGE IN THE:

18 (1) CREMATORY WITH WHICH THE LICENSEE IS AFFILIATED;

19 (2) LICENSED CREMATORY OPERATOR DESIGNATED AS RESPONSIBLE
20 FOR THE OPERATION OF THE CREMATORY;

21 (3) EMPLOYEES OF THE LICENSEE;

22 (4) OFFICERS, DIRECTORS, MEMBERS, OR AGENTS OF THE LICENSEE; OR

23 (5) NAME OR ADDRESS OF THE LICENSEE.

24 7-315.

25 (a) The Board shall reinstate the license of an individual who has failed to
26 renew a mortician license, CREMATORY LICENSE, or funeral director license for any
27 reason if the individual:

28 (1) Requests that the Board reinstate the license;

29 (2) Meets the appropriate renewal requirements of this subtitle;

30 (3) Pays to the Board a reinstatement fee set by the Board;

31 (4) Submits to the Board an affidavit stating that the individual did not
32 practice mortuary science OR OPERATE A CREMATORY in this State while the license
33 was expired; and

1 (5) Applies to the Board for reinstatement of the license within 5 years
2 after the license expires.

3 (b) The Board may not reinstate the license of a mortician, CREMATORY
4 OPERATOR, or funeral director who fails to apply for reinstatement of the license
5 within 5 years after the license expires unless the mortician, CREMATORY OPERATOR,
6 or funeral director meets the terms and conditions established by the Board.

7 7-315.1.

8 (A) UPON RECEIPT OF A WRITTEN COMPLAINT MADE BY ANY PERSON TO THE
9 BOARD THAT SPECIFICALLY STATES THE FACTS ON WHICH THE COMPLAINT IS
10 BASED, THE BOARD SHALL INITIATE AN INVESTIGATION.

11 (B) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD DETERMINES
12 THAT THERE IS A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR
13 DISCIPLINARY ACTION UNDER § 7-316 OF THIS SUBTITLE, THE BOARD SHALL
14 PROVIDE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AND AN
15 OPPORTUNITY FOR A HEARING UNDER § 7-319 OF THIS SUBTITLE.

16 (C) (1) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD
17 DETERMINES THAT THERE IS NOT A REASONABLE BASIS TO BELIEVE THAT THERE
18 ARE GROUNDS FOR DISCIPLINARY ACTION, THE BOARD SHALL DISMISS THE
19 COMPLAINT.

20 (2) ANY PARTY AGGRIEVED BY THE DISMISSAL MAY TAKE A JUDICIAL
21 APPEAL IN ACCORDANCE WITH THE PROVISIONS OF TITLE 10 OF THE STATE
22 GOVERNMENT ARTICLE.

23 (D) THE BOARD SHALL ADOPT GUIDELINES THAT ESTABLISH A SCHEDULE
24 FOR THE PROMPT AND TIMELY PROCESSING AND RESOLUTION OF EACH COMPLAINT
25 MADE TO THE BOARD.

26 7-316.

27 (a) Subject to the hearing provisions of § 7-319 of this subtitle and except as to
28 a funeral establishment license OR A CREMATORY LICENSE, the Board may deny a
29 license to any applicant, reprimand any licensee, place any licensee on probation, or
30 suspend or revoke any license if the applicant or licensee:

31 (1) Fraudulently or deceptively obtains or attempts to obtain a license
32 for the applicant or licensee or for another;

33 (2) Fraudulently or deceptively uses a license;

34 (3) Commits fraud or misrepresentation in the practice of mortuary
35 science;

- 1 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude, whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;
- 4 (5) Aids or abets an unauthorized person in the practice of mortuary
5 science;
- 6 (6) Advertises falsely or in a misleading manner;
- 7 (7) Solicits mortuary science business, either personally or by an agent,
8 from a dying individual or the relatives of a dead or dying individual, other than
9 through general advertising;
- 10 (8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any
11 other person to obtain business, either in general or for a licensee or funeral
12 establishment;
- 13 (9) Directly or indirectly pays or offers to pay to obtain mortuary science
14 business;
- 15 (10) Solicits or accepts any payment or rebate for recommending any
16 crematory, mausoleum, or cemetery or causing a dead human body to be disposed of
17 there;
- 18 (11) Refuses to surrender custody of a dead human body on the demand of
19 a person who is entitled to its custody;
- 20 (12) Sells or offers to sell any share, certificate, or interest in a mortuary
21 science business with a promise or offer to perform services to the buyer at a cost less
22 than that offered to the general public;
- 23 (13) Fails, after proper demand, to refund promptly any payments
24 received under a pre-need contract with interest;
- 25 (14) At the time funeral arrangements are made, fails to give the contract
26 required by § 7-404 of this title;
- 27 (15) Violates any State, municipal, or county law, rule, or regulation on
28 the handling, custody, care, or transportation of dead human bodies or the disposal of
29 instruments, materials, and wastes relevant to preparation of a dead human body for
30 final disposition;
- 31 (16) Practices mortuary science under a name other than:
- 32 (i) The name that appears on the license of that person; or
- 33 (ii) The name of a partnership in accordance with § 7-401 of this
34 title;

- 1 (17) Signs an application for a funeral establishment license if the signer
2 knew or should have known that grounds existed for which the funeral establishment
3 license later was denied, suspended, or revoked;
- 4 (18) Violates any provision of this title or of the laws relating to
5 cremation;
- 6 (19) Is disciplined by a licensing or disciplinary authority of any other
7 state or country or convicted or disciplined by a court of any state or country for an act
8 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 9 (20) Willfully makes or files a false report or record in the practice of
10 mortuary science;
- 11 (21) Willfully fails to file or record any report as required under law,
12 willfully impedes or obstructs the filing or recording of the report, or induces another
13 to fail to file or record the report;
- 14 (22) Submits a false statement to collect a fee;
- 15 (23) Provides professional services while:
- 16 (i) Under the influence of alcohol; or
- 17 (ii) Using any narcotic or controlled dangerous substance, as
18 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
19 amounts or without valid medical indication;
- 20 (24) Violates any rule or regulation adopted by the Board;
- 21 (25) Is professionally, physically, or mentally incompetent;
- 22 (26) Commits an act of unprofessional conduct in the practice of mortuary
23 science;
- 24 (27) Refuses, withholds from, denies, or discriminates against an
25 individual with regard to the provision of professional services for which the licensee
26 is licensed and qualified to render because the individual is HIV positive;
- 27 (28) Except in an emergency life-threatening situation where it is not
28 feasible or practicable, fails to comply with the Centers for Disease Control's
29 guidelines on universal precautions;
- 30 (29) Fails to allow an inspection under § 7-205(8) of this title;
- 31 (30) Fails to comply with inspection requirements in the time specified by
32 the Board; or
- 33 (31) Fails to provide the Board the certification required under § 7-405(i)
34 of this title.

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

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

9 (C) (1) SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS SUBTITLE
10 AND PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY REPRIMAND, PLACE ON
11 PROBATION, DENY, SUSPEND, OR REVOKE A CREMATORY LICENSE IF AN APPLICANT,
12 LICENSEE, OR AN AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF THE
13 APPLICANT OR LICENSEE:

14 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
15 OBTAIN A LICENSE;

16 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

17 (III) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS
18 CONVICTED OF A:

19 1. FELONY; OR

20 2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
21 FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO OWN OR
22 OPERATE A CREMATORY;

23 (IV) FAILS TO PROVIDE OR MISREPRESENTS ANY INFORMATION
24 REQUIRED TO BE PROVIDED UNDER THIS TITLE;

25 (V) VIOLATES THIS TITLE;

26 (VI) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE;

27 (VII) FAILS TO PROVIDE REASONABLE AND ADEQUATE SUPERVISION
28 OF THE OPERATION OF THE CREMATORY BY AGENTS, EMPLOYEES, OFFICERS,
29 DIRECTORS, OR PARTNERS AFFILIATED WITH THE CREMATORY;

30 (VIII) REFUSES TO ALLOW AN INSPECTION REQUIRED BY THIS TITLE;

31 (IX) FAILS TO COMPLY WITH AN ORDER OF THE BOARD; OR

32 (X) IS FOUND GUILTY BY A COURT IN THIS STATE OF COMMITTING
33 AN UNFAIR AND DECEPTIVE TRADE PRACTICE.

34 (2) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE
35 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE
36 PROBATION OR REPRIMAND OF A LICENSEE WHEN AN APPLICANT, LICENSEE, OR AN

1 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF A LICENSEE IS CONVICTED
2 OF A FELONY OR MISDEMEANOR DESCRIBED IN PARAGRAPH (1) OF THIS
3 SUBSECTION:

4 (I) THE NATURE OF THE CRIME;

5 (II) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES
6 AUTHORIZED BY THE LICENSE;

7 (III) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE
8 CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT, LICENSEE,
9 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER TO OPERATE A CREMATORY;

10 (IV) THE LENGTH OF TIME SINCE THE CONVICTION; AND

11 (V) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT, LICENSEE,
12 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER BEFORE AND AFTER THE
13 CONVICTION.

14 7-316.1.

15 (a) (1) An action may be maintained in the name of the State or the Board to
16 enjoin:

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

18 [(2)] (II) Conduct that constitutes a ground for disciplinary action under
19 § 7-315 of this subtitle.

20 [(b)] (2) An action under this [section] SUBSECTION may be brought by:

21 [(1)] (I) The Board;

22 [(2)] (II) The Attorney General; or

23 [(3)] (III) A State's Attorney.

24 [(c)] (3) An action under this [section] SUBSECTION shall be brought in the
25 county where the defendant:

26 [(1)] (I) Resides; or

27 [(2)] (II) Engages in the practice of mortuary science.

28 (B) (1) IF A LICENSEE IS CHARGED WITH A VIOLATION OF THIS TITLE THAT
29 COULD RESULT IN SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY
30 SEEK AN IMMEDIATE RESTRAINING ORDER IN A CIRCUIT COURT IN THIS STATE TO
31 PROHIBIT THE LICENSEE FROM ENGAGING IN THE OPERATION OF A CREMATORY.

32 (2) THE RESTRAINING ORDER IS IN EFFECT UNTIL:

1 (I) THE COURT LIFTS THE ORDER; OR

2 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

3 [(d)] (C) Proof of actual damage or proof that a person will sustain damage if
4 an injunction OR RESTRAINING ORDER is not granted is not required for an action
5 under this section.

6 [(e)] (D) Criminal prosecution for the unauthorized practice of mortuary
7 science OR THE UNAUTHORIZED OPERATION OF A CREMATORY under § 7-501 of this
8 title or disciplinary action under § 7-316 of this subtitle does not prohibit an action to
9 enjoin under this section.

10 (E) IF A CREMATORY LICENSEE IS CHARGED WITH A VIOLATION OF THIS
11 TITLE THAT COULD RESULT IN SUSPENSION OR REVOCATION OF THE LICENSE, THE
12 BOARD MAY PETITION A COURT TO:

13 (1) APPOINT A RECEIVER OR TRUSTEE TO TAKE CHARGE OF THE ASSETS
14 AND OPERATE THE BUSINESS OF THE PERSON IN THE EVENT THAT THE LICENSE IS
15 SUSPENDED OR REVOKED; AND

16 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
17 PUBLIC INTEREST.

18 7-317.

19 (a) [If] EXCEPT FOR A CREMATORY LICENSE, IF, after the Board brings an
20 action under § 7-316 of this title, the Board finds that there are grounds to place a
21 licensee on probation or suspend or revoke a license, the Board may impose a penalty
22 not exceeding \$5,000:

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

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

26 (B) (1) IF, AFTER THE BOARD BRINGS AN ACTION UNDER § 7-316 OF THIS
27 TITLE, THE BOARD FINDS THERE ARE GROUNDS TO PLACE A CREMATORY LICENSEE
28 ON PROBATION OR SUSPEND OR REVOKE THE CREMATORY LICENSE, THE BOARD
29 MAY IMPOSE A CIVIL PENALTY:

30 (I) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING
31 THE LICENSE; OR

32 (II) IN ADDITION TO PLACING THE LICENSEE ON PROBATION.

33 (2) THE CIVIL PENALTY IMPOSED BY THE BOARD UNDER THIS
34 SUBSECTION MAY NOT:

35 (I) EXCEED \$5,000 FOR EACH VIOLATION OF THIS TITLE, A
36 REGULATION ENACTED UNDER THIS TITLE, OR AN ORDER OF THE BOARD; OR

1 (II) EXCEED \$500 FOR EACH DAY A VIOLATION CONTINUES PAST
2 THE TIME SET BY THE BOARD FOR ITS CORRECTION.

3 (3) WHEN DETERMINING THE AMOUNT OF THE CIVIL PENALTY IMPOSED
4 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

5 (I) THE SERIOUSNESS OF THE VIOLATION;

6 (II) THE HARM CAUSED BY THE VIOLATION;

7 (III) THE GOOD FAITH EFFORTS OF THE LICENSEE TO CORRECT OR
8 PREVENT THE VIOLATION;

9 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE;
10 AND

11 (V) ANY OTHER RELEVANT FACTORS.

12 [(b)] (C) The Board shall pay any penalty collected under this section into the
13 General Fund of the State.

14 7-321.

15 (a) The Board shall place a licensee on inactive status if the licensee submits
16 to the Board:

17 (1) An application for inactive status on the form required by the Board;
18 and

19 (2) Pays the inactive status fee set by the Board.

20 (b) A licensee on inactive status may reactivate the license at any time if the
21 licensee:

22 (1) Complies with the continuing education requirements in effect for the
23 year in which the licensee seeks to reactivate the license;

24 (2) Has not practiced mortuary science OR OPERATED A CREMATORY in
25 the State while on an inactive status; and

26 (3) Pays the reactivation fee set by the Board.

27 (c) If a license is inactive for more than 5 years, the licensee shall take and
28 pass the Maryland Morticians Law Examination administered by the Board.

29 SUBTITLE 3A. CREMATORIES.

30 7-3A-01.

31 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

1 (B) "AUTHORIZING AGENT" MEANS A PERSON LEGALLY ENTITLED TO ORDER
2 THE CREMATION OF HUMAN REMAINS OR LEGALLY AUTHORIZED TO CONTROL THE
3 FINAL DISPOSITION OF HUMAN REMAINS.

4 (C) "CREMATED REMAINS" MEANS ALL HUMAN REMAINS RECOVERED AFTER
5 COMPLETION OF CREMATION AND, IF DONE, PULVERIZATION.

6 (D) "CREMATION CHAMBER" MEANS THE ENCLOSED SPACE WITHIN WHICH
7 THE PROCESS OF CREMATION OF HUMAN REMAINS TAKES PLACE.

8 (E) "CREMATION CONTAINER" MEANS A CONTAINER IN WHICH HUMAN
9 REMAINS ARE PLACED IN THE CREMATION CHAMBER FOR CREMATION.

10 (F) "CREMATORY AUTHORITY" MEANS A LEGAL ENTITY THAT HAS BEEN
11 APPROVED BY THE BOARD TO OPERATE AS A CREMATORY AND PERFORM
12 CREMATIONS.

13 (G) "CREMATORY ESTABLISHMENT" MEANS THE BUILDING OR PORTION OF A
14 BUILDING THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR THE
15 CREMATION OF HUMAN REMAINS.

16 (H) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
17 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
18 PRESERVATION.

19 (I) "ENGAGE IN THE OPERATION OF A CREMATORY" MEANS OWNING,
20 CONTROLLING, OPERATING, OR MANAGING A CREMATORY.

21 (J) "FACSIMILE DEVICE" MEANS A MACHINE THAT TRANSMITS, RECEIVES,
22 AND COPIES REPRODUCTIONS OR FACSIMILES OF DOCUMENTS OR PHOTOGRAPHS
23 THAT HAVE BEEN TRANSMITTED ELECTRONICALLY OR TELEPHONICALLY OVER
24 TELECOMMUNICATIONS LINES.

25 (K) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
26 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING BUT NOT LIMITED TO
27 INTERMENT AND SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE
28 AUTHORIZING AGENT DESIRES THE HUMAN REMAINS RETURNED FROM THE
29 MEDICAL INSTITUTION, THE DELIVERY OF HUMAN REMAINS TO A MEDICAL
30 INSTITUTION.

31 (2) "FINAL DISPOSITION" DOES NOT INCLUDE THE ACT OF CREMATION.

32 (L) "HOLDING FACILITY" MEANS AN AREA WITHIN OR ADJACENT TO THE
33 CREMATORY ESTABLISHMENT DESIGNED FOR THE RETENTION OF HUMAN REMAINS
34 PRIOR TO CREMATION.

35 (M) "HUMAN REMAINS" MEANS THE BODY OF A DECEASED PERSON, OR PART
36 OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON, INCLUDING
37 THE BODY, PART OF A BODY, OR LIMB IN ANY STATE OF DECOMPOSITION.

1 (N) "PROCESSED REMAINS" MEANS THE END RESULT OF PULVERIZATION,
2 WHERE THE RESIDUE FROM THE CREMATION PROCESS IS CLEANED LEAVING ONLY
3 BONE FRAGMENTS REDUCED TO 5 MILLIMETERS OR LESS.

4 (O) "SEALABLE CONTAINER" MEANS ANY CONTAINER IN WHICH PROCESSED
5 REMAINS CAN BE PLACED AND SEALED SO AS TO PREVENT LEAKAGE OR THE
6 ENTRANCE OF FOREIGN MATERIALS.

7 7-3A-02.

8 A PERSON MAY ONLY OPERATE A CREMATORY ESTABLISHMENT AND PROVIDE
9 THE NECESSARY APPLIANCES AND FACILITIES FOR THE CREMATION OF HUMAN
10 REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

11 7-3A-03.

12 (A) A CREMATION CONTAINER SHALL:

13 (1) BE COMPOSED OF READILY COMBUSTIBLE MATERIALS SUITABLE
14 FOR CREMATION;

15 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
16 REMAINS;

17 (3) BE RESISTANT TO LEAKAGE OR SPILLAGE; AND

18 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
19 ESTABLISHMENT PERSONNEL.

20 (B) A HOLDING FACILITY SHALL:

21 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

22 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

23 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
24 ESTABLISHMENT PERSONNEL; AND

25 (4) BE SECURE FROM ACCESS BY UNAUTHORIZED PERSONS.

26 7-3A-04.

27 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CREMATORY
28 AUTHORITY MAY NOT CREMATE HUMAN REMAINS UNTIL:

29 (1) THE CREMATORY HAS RECEIVED:

30 (I) A CREMATION AUTHORIZATION ON A FORM APPROVED BY THE
31 BOARD AND SIGNED BY AN AUTHORIZING AGENT;

1 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
2 FACSIMILE; AND

3 (III) ANY OTHER DOCUMENTATION REQUIRED BY FEDERAL, STATE,
4 OR LOCAL LAW; AND

5 (2) THE CREMATORY AUTHORITY HAS WAITED AT LEAST 12 HOURS
6 FROM THE TIME OF DEATH OF THE INDIVIDUAL WHOSE REMAINS ARE TO BE
7 CREMATED.

8 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
9 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
10 FOLLOWING INFORMATION:

11 (1) THE IDENTITY OF THE HUMAN REMAINS;

12 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
13 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

14 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
15 THE HUMAN REMAINS;

16 (4) A REPRESENTATION THAT THE AUTHORIZING AGENT IS AWARE OF
17 NO OBJECTION TO THE HUMAN REMAINS BEING CREMATED BY ANY PERSON WHO
18 HAS A RIGHT TO CONTROL THE DISPOSITION OF THE HUMAN REMAINS; AND

19 (5) THE NAME AND ADDRESS OF THE PERSON AUTHORIZED TO CLAIM
20 THE CREMATED REMAINS FROM THE CREMATORY AUTHORITY.

21 (C) (1) IF AN AUTHORIZING AGENT IS NOT AVAILABLE TO EXECUTE THE
22 CREMATION AUTHORIZATION FORM, THE AUTHORIZING AGENT MAY DELEGATE
23 THAT AUTHORITY TO ANOTHER INDIVIDUAL IN WRITING, OR IF LOCATED OUTSIDE
24 THE AREA, BY SENDING THE CREMATORY AUTHORITY A SIGNED STATEMENT BY
25 FACSIMILE DEVICE THAT CONTAINS THE NAME, ADDRESS, AND RELATIONSHIP OF
26 THE SENDER TO THE DECEASED AND THE NAME AND ADDRESS OF THE INDIVIDUAL
27 TO WHOM AUTHORITY IS DELEGATED.

28 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
29 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
30 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
31 AGENT.

32 (D) (1) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
33 DEEMED TO WARRANT THE TRUTHFULNESS OF ANY FACTS SET FORTH IN THE
34 CREMATION AUTHORIZATION FORM, INCLUDING THE IDENTITY OF THE DECEASED
35 WHOSE REMAINS ARE SOUGHT TO BE CREMATED AND THE AUTHORITY OF THAT
36 PERSON TO ORDER SUCH A CREMATION.

37 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
38 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A

1 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
2 CREMATION AUTHORIZATION FORM.

3 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
4 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
5 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
6 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
7 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

8 (2) A CREMATORY AUTHORITY IS NOT RESPONSIBLE OR LIABLE FOR ANY
9 VALUABLES DELIVERED TO THE CREMATORY OPERATOR WITH HUMAN REMAINS.

10 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
11 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
12 PERMANENT RECORDS.

13 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
14 BOARD.

15 7-3A-05.

16 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
17 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
18 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
19 THAT INCLUDES:

20 (1) THE NAME OF THE INDIVIDUAL FROM WHOM THE HUMAN REMAINS
21 WERE RECEIVED AND THE NAME OF THE INDIVIDUAL'S EMPLOYER, IF ANY;

22 (2) THE NAME AND ADDRESS OF THE CREMATORY AUTHORITY; AND

23 (3) THE NAME AND ADDRESS OF THE DECEASED.

24 (B) THE CREMATORY AUTHORITY SHALL MAINTAIN A RECORD OF EACH
25 CREMATION WHICH SHALL INCLUDE:

26 (1) THE NAME OF THE DECEASED;

27 (2) THE DATE AND PLACE OF DEATH;

28 (3) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT;

29 (4) THE DATE AND LOCATION OF CREMATION; AND

30 (5) THE NAME OF THE INDIVIDUAL WHO PERFORMED THE CREMATION.

31 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
32 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
33 CONTAINS:

34 (1) THE NAME OF THE DECEASED;

1 (2) THE NAME OF THE AUTHORIZING AGENT;

2 (3) THE NAME AND ADDRESS OF THE PERSON WHO RECEIVED THE
3 CREMATED REMAINS FROM THE CREMATORY AUTHORITY; AND

4 (4) THE LOCATION, INCLUDING THE NAME OF THE CEMETERY AND
5 PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND DATE OF THE
6 DISPOSITION OF THE CREMATED REMAINS.

7 (D) (1) THE CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
8 RECORD AND RECEIPT REQUIRED BY THIS SECTION AS PERMANENT RECORDS.

9 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
10 BOARD.

11 7-3A-06.

12 (A) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO ACCEPT A
13 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY AUTHORITY RECEIVES
14 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
15 SETTLED IF:

16 (1) THE CREMATORY AUTHORITY IS AWARE OF ANY DISPUTE
17 CONCERNING THE CREMATION OF HUMAN REMAINS;

18 (2) THE CREMATORY AUTHORITY HAS A REASONABLE BASIS FOR
19 QUESTIONING THE REPRESENTATIONS MADE BY THE AUTHORIZING AGENT; OR

20 (3) THE CREMATORY AUTHORITY HAS ANY OTHER LAWFUL REASON.

21 (B) (1) IF A CREMATORY AUTHORITY IS AWARE OF A DISPUTE CONCERNING
22 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
23 AUTHORITY MAY REFUSE TO RELEASE THE CREMATED REMAINS UNTIL THE
24 DISPUTE HAS BEEN RESOLVED OR THE CREMATORY AUTHORITY HAS BEEN
25 PROVIDED WITH A COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF
26 THE CREMATED REMAINS.

27 (2) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO
28 RELEASE OR DISPOSE OF CREMATED REMAINS IN ACCORDANCE WITH THIS
29 SUBSECTION.

30 7-3A-07.

31 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
32 CREMATORY AUTHORITY MAY NOT:

33 (1) REQUIRE THAT HUMAN REMAINS BE PLACED IN A CASKET BEFORE
34 CREMATION OR THAT HUMAN REMAINS BE CREMATED IN A CASKET; OR

35 (2) REFUSE TO ACCEPT HUMAN REMAINS FOR CREMATION BECAUSE
36 THE REMAINS ARE NOT IN A CASKET.

1 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
2 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
3 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS, UNLESS THE
4 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
5 THE CONTRARY BY THE AUTHORIZING AGENT.

6 (C) A CREMATORY AUTHORITY MAY NOT REQUIRE THAT HUMAN REMAINS BE
7 SUBJECTED TO EMBALMING BEFORE CREMATION.

8 7-3A-08.

9 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
10 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS
11 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
12 REMAINS.

13 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
14 REMAINS.

15 (C) A CREMATORY AUTHORITY SHALL IDENTIFY THE REMAINS OF THE
16 DECEASED AS REQUIRED BY § 5-502 OF THE HEALTH - GENERAL ARTICLE AND § 7-406
17 OF THIS TITLE.

18 7-3A-09.

19 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
20 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
21 RECEIPT.

22 (B) IF A CREMATORY AUTHORITY IS UNABLE TO CREMATE HUMAN REMAINS
23 WITHIN A REASONABLE TIME AFTER RECEIPT, THE CREMATORY AUTHORITY SHALL
24 PROVIDE A HOLDING FACILITY FOR THE RETENTION OF THE HUMAN REMAINS.

25 (C) A CREMATORY AUTHORITY MAY NOT HOLD HUMAN REMAINS FOR
26 CREMATION UNLESS THE HUMAN REMAINS ARE CONTAINED WITHIN AN
27 INDIVIDUAL, RIGID, CLOSED CREMATION CONTAINER.

28 (D) A CREMATORY AUTHORITY MAY NOT ACCEPT A CREMATION CONTAINER
29 FROM WHICH THERE IS ANY EVIDENCE OF LEAKAGE OF THE BODY FLUIDS FROM
30 THE HUMAN REMAINS THEREIN.

31 (E) HUMAN REMAINS THAT ARE NOT EMBALMED SHALL BE HELD WITHIN A
32 REFRIGERATED HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC
33 HEALTH REGULATIONS.

34 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
35 UNAUTHORIZED PERSONS.

1 7-3A-10.

2 (A) (1) HUMAN REMAINS MAY NOT BE CREMATED WITH A PACEMAKER OR
3 OTHER POTENTIALLY HAZARDOUS IMPLANT IN PLACE.

4 (2) AN AUTHORIZING AGENT SHALL TAKE ALL NECESSARY STEPS TO
5 ENSURE THAT ANY PACEMAKER OR HAZARDOUS IMPLANT IS REMOVED PRIOR TO
6 CREMATION.

7 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
8 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
9 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
10 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
11 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

12 (C) (1) A CREMATORY AUTHORITY MAY NOT ENGAGE IN THE
13 SIMULTANEOUS CREMATION OF THE HUMAN REMAINS OF MORE THAN ONE PERSON
14 WITHIN THE SAME CREMATION CHAMBER UNLESS THE CREMATORY AUTHORITY
15 HAS RECEIVED SPECIFIC WRITTEN AUTHORIZATION TO DO SO FROM ALL
16 AUTHORIZING AGENTS FOR THE HUMAN REMAINS TO BE SO CREMATED.

17 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
18 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
19 CREMATION PROCESS.

20 (3) (I) THE CREMATORY AUTHORITY SHALL MAINTAIN THE WRITTEN
21 AUTHORIZATIONS REQUIRED UNDER THIS SUBSECTION AS PERMANENT RECORDS.

22 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
23 BY THE BOARD.

24 7-3A-11.

25 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
26 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
27 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER TO
28 AWAIT FINAL PROCESSING.

29 (2) THE IDENTIFICATION DESCRIBED UNDER § 7-3A-10(B) OF THIS
30 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
31 THE CONTAINER TO AWAIT FINAL PROCESSING.

32 (B) THE ENTIRE CREMATED OR PROCESSED REMAINS SHALL BE PLACED IN A
33 SEALABLE CONTAINER OR IN SUCH CONTAINER AS MAY HAVE BEEN ORDERED BY
34 THE AUTHORIZING AGENT, TOGETHER WITH AN IDENTIFICATION TAG WHICH
35 COMPLIES WITH THE REQUIREMENTS OF § 7-411 OF THIS TITLE.

36 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
37 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
38 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR

1 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
2 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

3 (D) IF THE CREMATED OR PROCESSED REMAINS DO NOT ADEQUATELY FILL
4 THE CONTAINER'S INTERIOR DIMENSIONS, THE EXTRA SPACE MAY BE FILLED WITH
5 PACKING MATERIAL THAT WILL NOT BECOME INTERMINGLED WITH THE CREMATED
6 REMAINS OR PROCESSED REMAINS AND THEN SECURELY CLOSED.

7 (E) (1) IF A SEALABLE CONTAINER IS USED TO RETURN CREMATED OR
8 PROCESSED REMAINS, THE CONTAINER SHALL BE PLACED WITHIN A SEPARATE,
9 STURDY BOX AND ALL BOX SEAMS TAPED CLOSED.

10 (2) THE OUTSIDE OF THE CONTAINER SHALL BE CLEARLY IDENTIFIED
11 WITH THE NAME OF THE DECEASED PERSON WHOSE CREMATED OR PROCESSED
12 REMAINS ARE CONTAINED THEREIN.

13 7-3A-12.

14 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
15 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
16 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
17 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
18 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
19 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND
20 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
21 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

22 (2) IF CONTACT CANNOT BE MADE OR DISPOSITION INSTRUCTIONS ARE
23 NOT GIVEN WITHIN 60 DAYS OF THE DATE ON WHICH THE CERTIFIED MAILING IS
24 MADE, THE CREMATORY AUTHORITY MAY ARRANGE FOR PERMANENT DISPOSITION
25 OF THE REMAINS IN ANY MANNER PERMITTED BY LAW.

26 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
27 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
28 UNDER THIS SECTION.

29 (B) THE AUTHORIZING AGENT SHALL BE LIABLE FOR REIMBURSING THE
30 CREMATORY AUTHORITY FOR ALL REASONABLE EXPENSES INCURRED IN DISPOSING
31 OF THE CREMATED REMAINS OR PROCESSED REMAINS UNDER THIS SECTION.

32 7-3A-13.

33 (A) A CREMATORY AUTHORITY IS SUBJECT TO INSPECTIONS IN ACCORDANCE
34 WITH REGULATIONS ADOPTED BY THE BOARD.

35 (B) THE BOARD SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
36 THAT THE AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY
37 AUTHORITY CONDUCTED BY THE BOARD IN ACCORDANCE WITH REGULATIONS
38 ADOPTED BY THE BOARD.

1 7-3A-14.

2 (A) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
3 AUTHORITIES, THE BOARD MAY COOPERATE WITH ANY GOVERNMENTAL LAW
4 ENFORCEMENT OR REGULATORY AGENCY.

5 (B) THIS COOPERATION MAY INCLUDE:

6 (1) PARTICIPATING IN A JOINT EXAMINATION OR INVESTIGATION;

7 (2) SHARING AND EXCHANGING RELEVANT INFORMATION AND
8 DOCUMENTS; AND

9 (3) ISSUING STATEMENTS OF POLICY, NOTICES, AND INTERPRETATIVE
10 OPINIONS.

11 [7-406.

12 A licensee shall maintain a complete file of a cremation that includes the
13 signature of the next of kin, person identifying the body, or person responsible for
14 disposition, time of death, and the date and time of cremation.]

15 7-411.

16 (a) Before burial or interment, a mortician shall affix to the long bones of the
17 deceased human body a plastic or metal identification tag.

18 (b) After cremation, a licensee shall ensure that a metal or plastic
19 identification tag is placed in the [cremains] CREMATION container.

20 (c) The identification tag shall contain:

21 (1) The name of the decedent;

22 (2) The Social Security number of the decedent;

23 (3) The decedent's date of birth; and

24 (4) The decedent's date of death.

25 7-501.

26 Except as otherwise provided in this title, a person may not practice, attempt to
27 practice, offer to practice, or assist in the practice of mortuary science OR THE
28 OPERATION OF A CREMATORY in this State unless licensed by the Board.

29 7-502.

30 [Unless] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS authorized
31 to practice mortuary science OR OPERATE A CREMATORY under this title, a person
32 may not represent to the public by title, by description of services, methods, or

1 procedures, or otherwise, that the person is authorized to practice mortuary science
2 OR OPERATE A CREMATORY in this State.

3 7-508.

4 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A person
5 who violates any provision of this title is guilty of a misdemeanor and on conviction is
6 subject to a fine not exceeding \$500 or imprisonment not exceeding 1 year or both.

7 (B) (1) A PERSON WHO VIOLATES ANY PROVISION OF SUBTITLE 3A OF THIS
8 TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
9 NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

10 (2) IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER
11 RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON
12 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
13 EXCEEDING 1 YEAR OR BOTH.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Cemetery
15 Oversight and the State Board of Morticians shall concur in the proposal and
16 adoption of each agency's regulations governing crematories in the State of Maryland.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2001.