

HOUSE BILL 326

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HB 906/01 - ECM

2002 Regular Session
2lr0682
CF 2lr1338

By: **Delegates Cadden, Clagett, Kirk, Leopold, Love, Rosso, Sophocleus, Vallario, ~~and Weir Weir, Barve, Donoghue, Eckardt, Fulton, Gordon, Harrison, Hill, Kach, Krysiak, McHale, Minnick, Moe, Pendergrass, and Walkup~~**

Introduced and read first time: January 24, 2002
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 12, 2002

CHAPTER _____

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 certain licensees or a business entity majority owned by certain
6 licensees, to obtain a permit from the Office of Cemetery Oversight before the
7 crematories may be used for the cremation of human remains; requiring the
8 registration of certain individuals prior to engaging in the operation of a
9 crematory; requiring certain crematories to obtain a permit prior to engaging in
10 the operation of a crematory; prohibiting the Director of the Office of Cemetery
11 Oversight from assessing a crematory a per occurrence application fee;
12 requiring certain crematories to comply with certain requirements regarding
13 preneed burial contracts; requiring crematories which are owned and operated
14 by certain licensees or a business entity majority owned by certain licensees to
15 obtain a license from the State Board of Morticians before the crematories may
16 be used for the cremation of human remains; authorizing the operation of
17 crematory establishments; expanding the powers and duties of the Board;
18 establishing certain investigatory procedures for the Board; requiring a
19 crematory licensee to notify the Board when certain circumstances change;
20 requiring certain authorization be provided to the crematory prior to cremation;
21 providing that a crematory authority that cremates or disposes of human
22 remains pursuant to a signed cremation authorization form is immune to any
23 liability arising from the crematory authority's reliance on the authorization
24 form; requiring a crematory to provide certain receipts and maintain certain
25 records; providing that certain procedures be followed regarding identification of

1 human remains; providing that a crematory operator is not liable for refusing to
2 accept human remains or perform a cremation under certain circumstances;
3 prohibiting the cremation of human remains with a potentially hazardous
4 pacemaker or other potentially hazardous implant in place; prohibiting the
5 simultaneous cremation of the human remains of more than one person without
6 certain authorization; providing for the handling of cremated remains; providing
7 for the disposal of cremated remains which remain in the possession of a
8 crematory for a certain period of time without instruction for their disposal by
9 an authorizing agent; providing for the inspection of crematories; providing that
10 an inspection fee may be assessed on a crematory authority; requiring the Office
11 and the Board to cooperate with other governmental agencies to ensure the
12 regulation of crematories; providing for the enforcement of this Act; establishing
13 certain penalties for the violation of this Act; requiring the Office and the Board
14 to concur in the proposal and adoption of each agency's regulations governing
15 crematories; defining certain terms; altering certain definitions; making
16 stylistic changes; and generally relating to the regulation of crematories by the
17 Office of Cemetery Oversight and the State Board of Morticians.

18 BY repealing and reenacting, with amendments,
19 Article - Business Regulation
20 Section 5-101, 5-102, 5-204, 5-205, 5-301 through 5-303, 5-306, 5-308, 5-310,
21 5-311, 5-401 through 5-403, 5-701, and 5-901 through 5-903
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2001 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article - Business Regulation
26 Section 5-304
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2001 Supplement)

29 BY adding to
30 Article - Business Regulation
31 Section 5-7A-01 through 5-7A-15, inclusive, to be under the new subtitle
32 "Subtitle 7A. Crematories"
33 Annotated Code of Maryland
34 (1998 Replacement Volume and 2001 Supplement)

35 BY repealing and reenacting, with amendments,
36 Article - Health Occupations
37 Section 7-101, 7-102, 7-205, 7-301, 7-315, 7-316, 7-316.1, 7-317, 7-321,
38 7-411, 7-501, 7-502, and 7-508
39 Annotated Code of Maryland
40 (2000 Replacement Volume and 2001 Supplement)

41 BY adding to

1 Article - Health Occupations
 2 Section 7-310.1 through 7-310.4, 7-315.1; and 7-3A-01 through 7-3A-14,
 3 inclusive, to be under the new subtitle "Subtitle 3A. Crematories"
 4 Annotated Code of Maryland
 5 (2000 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article - Health Occupations
 8 Section 7-406
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2001 Supplement)

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

13 **Article - Business Regulation**

14 5-101.

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

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

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

21 (2) "Burial goods" includes:

22 (i) a casket;

23 (ii) a grave liner;

24 (iii) a memorial;

25 (iv) a monument;

26 (v) a scroll;

27 (vi) an urn;

28 (vii) a vase; and

29 (viii) a vault.

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

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

1 (2) "Cemetery" includes a structure used or to be used for interment.

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

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

7 (H) "CREMATORY" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP,
8 PARTNERSHIP, PROFESSIONAL ASSOCIATION, OR CORPORATION THAT CHARGES A
9 FEE FOR THE CREMATION OF HUMAN REMAINS.

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

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

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

19 (1) the establishment, improvement, care, preservation, or
20 embellishment of a cemetery;

21 (2) interment; and

22 (3) the providing of burial space or burial goods.

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

25 (N) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
26 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING INTERMENT AND
27 SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE AUTHORIZING AGENT
28 DESIRES THE HUMAN REMAINS RETURNED FROM THE MEDICAL INSTITUTION, THE
29 DELIVERY OF HUMAN REMAINS TO A MEDICAL INSTITUTION.

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

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

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

35 (1) earth burial;

1 (2) mausoleum entombment; and

2 (3) niche or columbarium interment.

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

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

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

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

10 [(k)] (T) "Provide burial goods" means a retail transaction:

11 (1) to erect, service, or inscribe burial memorials; [or] AND

12 (2) to sell burial goods.

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

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

18 (W) "REGISTERED CREMATORY OPERATOR" MEANS A PERSON REGISTERED TO
19 OPERATE A CREMATORY AS A SOLE PROPRIETOR OR ON BEHALF OF A SOLE
20 PROPRIETOR OR OF A PERMIT HOLDER.

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

23 [(o)] (Y) "Responsible party" means a sole proprietor or the individual
24 designated by a partnership, limited liability company, or corporation to be
25 responsible for the operations of a cemetery, CREMATORY, or burial goods business.

26 5-102.

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

28 (1) a person that owns and operates a bona fide religious, nonprofit
29 cemetery in this State;

30 (2) a not for profit organization created before 1900 by an act of the
31 General Assembly;

32 (3) a county, city, or municipal corporation that owns and operates a
33 cemetery in the State; or

1 (4) a veterans' cemetery operated by the State.

2 (b) This title does not apply to:

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

5 (2) THE OPERATION OF A CREMATORY WHICH IS OWNED AND
6 OPERATED BY A LICENSEE OR BUSINESS ENTITY MAJORITY OWNED BY A LICENSEE
7 UNDER TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE OR A CREMATORY THAT IS
8 SUBJECT TO THE LICENSING PROVISIONS OF TITLE 7 OF THE HEALTH OCCUPATIONS
9 ARTICLE;

10 [(2)] (3) a licensed funeral director acting within the scope of the funeral
11 director's license; or

12 [(3)] (4) a mortician acting within the scope of the mortician's license.

13 5-204.

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

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

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

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

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

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

25 (1) administer oaths;

26 (2) examine witnesses; and

27 (3) receive evidence.

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

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

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

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

5 (i) post bond; or

6 (ii) allege or prove either that:

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

8 2. substantial or irreparable damage would result from the
9 continued violation of the provision.

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

12 (g) The Director may issue a cease and desist order[,] if the Director finds a
13 violation of this title.

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

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

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

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

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

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

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

26 (1) a consumer information pamphlet that describes:

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

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

31 (2) A CONSUMER INFORMATION PAMPHLET THAT DESCRIBES:

1 (I) THE RIGHTS OF CONSUMERS IN THE PURCHASE OF
2 CREMATORY SERVICES; AND

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

5 5-205.

6 (a) There is a Cemetery Oversight Fund.

7 (b) (1) (I) By regulation, the Director shall establish reasonable fees and a
8 fee schedule for the issuance and renewal of registrations and permits.

9 (II) THE DIRECTOR MAY NOT ASSESS A CREMATORY A PER
10 OCCURRENCE APPLICATION FEE.

11 (2) In establishing the fees, the Director shall consider the size of the
12 business, whether the business is for-profit or designated as tax exempt under §
13 501(c) of the Internal Revenue Code, the volume of business conducted, and the type
14 of services provided, including the percentage of preneed contracts written.

15 (c) The fees charged shall be set so as to approximate the direct and indirect
16 cost of maintaining the Office.

17 (d) The Director shall pay all funds collected under this title to the
18 Comptroller who shall distribute the fees to the Cemetery Oversight Fund.

19 (e) (1) The Fund shall be used to cover the actual documented direct and
20 indirect costs of fulfilling the statutory and regulatory duties of the Office.

21 (2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of
22 the State Finance and Procurement Article.

23 (3) Any unspent portions of the Fund may not revert or be transferred to
24 the General Fund of the State, but shall remain in the Fund to be used for the
25 purposes specified in this title.

26 (4) No other State money may be used to support the Fund.

27 (f) (1) The Director shall administer the Fund.

28 (2) Moneys in the Fund may be expended for any lawful purpose
29 authorized under the provisions of this title.

30 (g) The Legislative Auditor shall audit the accounts and transactions of the
31 Fund as provided in § 2-1220 of the State Government Article.

1 5-301.

2 An individual shall register with the Office before:

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

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

5 (3) ENGAGING IN THE OPERATION OF A CREMATORY IN THIS STATE,
6 EXCEPT FOR CREMATORIES THAT ARE LICENSED UNDER OR SUBJECT TO THE
7 LICENSING PROVISIONS OF TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE.

8 5-302.

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

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

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

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

16 5-303.

17 (a) An applicant shall register by:

18 (1) submitting to the Director an application on the form that the
19 Director provides; and

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

21 (b) The application shall state:

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

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

25 (3) whether the cemetery, CREMATORY, or burial goods business with
26 which the applicant is affiliated is owned or controlled by a sole proprietor,
27 partnership, limited liability company, or corporation;

28 (4) if the applicant is designated as the responsible party, the name and
29 residential address of each employee who sells burial space, goods, or services to the
30 public for the business while engaging in the operation of a cemetery, CREMATORY, or
31 burial goods business; and

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

3 5-304.

4 (a) Each applicant designated as the responsible party shall demonstrate the
5 financial stability of the business with which the applicant is affiliated by providing
6 the Director with a financial statement or other reports required under subsection (e)
7 of this section with the application for registration.

8 (b) If the business is a cemetery that sells burial goods and is an existing
9 business, the financial statement shall:

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

11 (2) contain a statement by a certified public accountant retained by the
12 business, detailing the assets and liabilities of the cemetery for the last fiscal year;
13 and

14 (3) contain a review by the certified public accountant as to the financial
15 stability of the cemetery.

16 (c) If the business is an existing cemetery that does not sell burial goods or an
17 existing burial goods business not affiliated with a cemetery, the applicant shall:

18 (1) complete a form that the Director requires; and

19 (2) satisfy criteria that the Director adopts under subsection (e) of this
20 section.

21 (d) If the business is a new business, the applicant shall:

22 (1) complete a form that the Director requires; and

23 (2) satisfy criteria that the Director adopts under subsection (e) of this
24 section.

25 (e) (1) The Director shall make a determination of the financial stability of
26 each applicant based on criteria that the Director adopts for each class of business.

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

29 (3) The Director shall require that all financial statements of a new
30 cemetery submitted under subsection (d) of this section be prepared by a certified
31 public accountant retained by the business.

32 5-306.

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

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

4 5-308.

5 Within 1 week after the effective date of the change, the applicant designated as
6 the responsible party or the registered responsible party shall submit to the Director
7 an application form that shows a change in the:

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

10 (2) individual designated as the responsible party;

11 (3) employees of the business who engage in the sale of burial space,
12 goods, or services to the public;

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

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

15 5-310.

16 (a) Subject to the hearing provisions of § 5-312 of this subtitle, the Director
17 may deny a registration or permit to an applicant, reprimand a registrant or permit
18 holder, or suspend or revoke a registration or permit, if an applicant, registrant, or
19 permit holder, or an agent, employee, officer, director, or partner of the applicant,
20 registrant, or permit holder:

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

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

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

25 (i) felony; or

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

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

31 (5) violates this title;

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

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

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

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

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

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

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

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

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

17 (i) the court lifts the order; or

18 (ii) the charges are adjudicated or dismissed.

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

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

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

26 (d) Instead of or in addition to reprimanding a registrant or permit holder, or
27 suspending or revoking a registration or permit, the Director may impose a civil
28 penalty:

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

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

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

35 (1) the seriousness of the violation;

- 1 (2) the harm caused by the violation;
- 2 (3) the good faith efforts of the registrant or permit holder; and
- 3 (4) any history of previous violations by the registrant or permit holder.

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

6 (g) The Director shall consider the following facts in the granting, denial,
7 renewal, suspension, or revocation of a registration or permit or the reprimand of a
8 registrant or permit holder when an applicant, registrant, or permit holder, or an
9 agent, employee, officer, director, or partner of an applicant, registrant, or permit
10 holder, is convicted of a felony or misdemeanor described in subsection (a)(3) of this
11 section:

- 12 (1) the nature of the crime;
- 13 (2) the relationship of the crime to the activities authorized by the
14 registration or permit;
- 15 (3) with respect to a felony, the relevance of the conviction to the fitness
16 and qualification of the applicant, registrant, or permit holder or agent, employee,
17 officer, director, or partner to operate a cemetery OR CREMATORY or provide burial
18 goods;
- 19 (4) the length of time since the conviction; and
- 20 (5) the behavior and activities of the applicant, registrant, or permit
21 holder, or agent, employee, officer, director, or partner before and after the conviction.
22 5-311.

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

25 (b) A complaint shall:

- 26 (1) be in writing;
- 27 (2) state specifically the facts on which the complaint is based; and
- 28 (3) be made under oath by the person who submits the complaint.

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

32 (2) Notwithstanding § 5-102 of this title, the Director may receive and
33 attempt to negotiate a settlement to resolve complaints concerning persons required

1 to file statements under § 5-405 of this title and in connection with the operation of a
2 cemetery OR CREMATORY or the sale of preneed goods.

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

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

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

11 (2) initiate an investigation; or

12 (3) dismiss the complaint.

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

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

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

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

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

26 (2) Beginning December 31, 1998, and on or before December 31 of each
27 year thereafter, the Director shall report, subject to § 2-1246 of the State Government
28 Article, to the General Assembly on the number of complaints resolved within the
29 schedule adopted under paragraph (1) of this subsection and the number of
30 complaints received under subsection (c)(2) of this section.

31 5-401.

32 (a) Subject to the provisions of this section, a registered cemeterian,
33 REGISTERED CREMATORY OPERATOR, or registered seller may engage in the
34 operation of a cemetery, CREMATORY, or burial goods business as a sole proprietor or
35 through:

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

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

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

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

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

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

18 (3) A REGISTERED CREMATORY OPERATOR WHO ENGAGES IN THE
19 OPERATION OF A CREMATORY THROUGH A CORPORATION, LIMITED LIABILITY
20 COMPANY, OR PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE
21 PROVISIONS OF THIS TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A
22 CREMATORY.

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

28 (2) An individual who engages in the operation of a cemetery,
29 CREMATORY, or burial goods business through a corporation, limited liability
30 company, or partnership is not, by reason of the individual's employment or other
31 relationship with the corporation, limited liability company, or partnership, relieved
32 of any individual responsibility that the individual may have regarding that practice.
33 5-402.

34 A corporation, limited liability company, or partnership shall obtain a permit
35 issued by the Director, before the corporation, limited liability company, or
36 partnership may engage in the operation of a cemetery, CREMATORY, or burial goods
37 business in the State.

1 5-403.

2 To qualify for a permit, a corporation, limited liability company, or partnership
3 shall:

4 (1) designate a separate registered cemeterian, REGISTERED
5 CREMATORY OPERATOR, or registered seller as the responsible party for the
6 operations of each affiliated cemetery, CREMATORY, or burial goods business;

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

9 (3) provide a list of the officers, directors, members, partners, agents,
10 and employees of the entity applying for the permit; and

11 (4) comply with § 5-303(b)(4) and § 5-304 of this title.

12 5-701.

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

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

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

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

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

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

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

22 (ii) in connection with burial OR CREMATION.

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

24 (f) "Seller" means a registered cemeterian, REGISTERED CREMATORY
25 OPERATOR, registered seller, or any other person who sells preneed goods or preneed
26 services.

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

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

SUBTITLE 7A. CREMATORIES.

2 5-7A-01.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

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

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

9 (D) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
10 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
11 PRESERVATION.

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

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

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

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

25 5-7A-02.

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

29 5-7A-03.

30 (A) A CREMATION CONTAINER SHALL:

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

33 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
34 REMAINS;

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

1 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
2 ESTABLISHMENT PERSONNEL.

3 (B) A HOLDING FACILITY SHALL:

4 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

5 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

6 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
7 ESTABLISHMENT PERSONNEL; AND

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

9 5-7A-04.

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

12 (1) THE CREMATORY HAS RECEIVED:

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

15 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
16 FACSIMILE; AND

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

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

22 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
23 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
24 FOLLOWING INFORMATION:

25 (1) THE IDENTITY OF THE HUMAN REMAINS;

26 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
27 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

28 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
29 THE HUMAN REMAINS;

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

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

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

10 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
11 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
12 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
13 AGENT.

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

19 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
20 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
21 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
22 CREMATION AUTHORIZATION FORM.

23 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
24 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
25 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
26 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
27 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

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

30 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
31 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
32 PERMANENT RECORDS.

33 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
34 OFFICE.

35 5-7A-05.

36 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
37 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
38 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
39 THAT INCLUDES:

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

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

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

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

7 (1) THE NAME OF THE DECEASED;

8 (2) THE DATE AND PLACE OF DEATH;

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

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

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

12 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
13 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
14 CONTAINS:

15 (1) THE NAME OF THE DECEASED;

16 (2) THE NAME OF THE AUTHORIZING AGENT;

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

19 (4) IF ASCERTAINABLE, THE LOCATION, INCLUDING THE NAME OF THE
20 CEMETERY AND PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND
21 DATE OF THE DISPOSITION OF THE CREMATED REMAINS.

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

24 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
25 OFFICE.

26 5-7A-06.

27 (A) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO ACCEPT A
28 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY AUTHORITY RECEIVES
29 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
30 SETTLED IF:

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

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

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

4 (B) (1) IF A CREMATORY AUTHORITY IS AWARE OF A DISPUTE CONCERNING
5 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
6 AUTHORITY MAY REFUSE TO RELEASE THE CREMATED REMAINS UNTIL THE
7 DISPUTE HAS BEEN RESOLVED OR THE CREMATORY AUTHORITY HAS BEEN
8 PROVIDED WITH A COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF
9 THE CREMATED REMAINS.

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

13 5-7A-07.

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

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

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

20 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
21 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
22 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS UNLESS THE
23 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
24 THE CONTRARY BY THE AUTHORIZING AGENT.

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

27 5-7A-08.

28 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
29 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS
30 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
31 REMAINS.

32 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
33 REMAINS.

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

1 5-7A-09.

2 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
3 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
4 RECEIPT.

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

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

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

14 (E) HUMAN REMAINS THAT ARE NOT EMBALMED AND THAT ARE NOT
15 CREMATED WITHIN A REASONABLE TIME SHALL BE HELD WITHIN A REFRIGERATED
16 HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC HEALTH
17 REGULATIONS.

18 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
19 UNAUTHORIZED PERSONS.

20 5-7A-10.

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

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

26 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
27 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
28 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
29 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
30 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

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

36 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
37 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
38 CREMATION PROCESS.

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

3 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
4 BY THE OFFICE.

5 5-7A-11.

6 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
7 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
8 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER.

9 (2) THE IDENTIFICATION DESCRIBED UNDER § 5-7A-10(B) OF THIS
10 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
11 THE CONTAINER.

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

17 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
18 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
19 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR
20 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
21 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

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

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

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

32 5-7A-12.

33 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
34 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
35 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
36 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
37 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
38 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND

1 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
2 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

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

7 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
8 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
9 UNDER THIS SECTION.

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

13 5-7A-13.

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

16 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
17 AUTHORITY.

18 (B) THE OFFICE SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
19 THAT AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY AUTHORITY
20 CONDUCTED BY THE OFFICE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
21 OFFICE.

22 5-7A-14.

23 (A) IF THE DIRECTOR FINDS THAT A CREMATORY AUTHORITY OR A
24 CREMATORY SUBJECT TO THE PROVISIONS OF THIS TITLE HAS VIOLATED THIS
25 SUBTITLE OR A REGULATION ADOPTED WITH RESPECT TO THIS SUBTITLE, THE
26 DIRECTOR MAY REFER THE MATTER TO:

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

28 (2) THE APPROPRIATE STATE'S ATTORNEY FOR CRIMINAL
29 PROSECUTION.

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

31 (1) INJUNCTIVE OR OTHER EQUITABLE RELIEF;

32 (2) IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING \$5,000; OR

33 (3) BOTH.

34 (C) (1) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
35 AUTHORITIES OR CREMATORIES SUBJECT TO THE PROVISIONS OF THIS SUBTITLE,

1 THE DIRECTOR MAY COOPERATE WITH ANY GOVERNMENTAL LAW ENFORCEMENT
2 OR REGULATORY AGENCY.

3 (2) THIS COOPERATION MAY INCLUDE:

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

5 (II) SHARING AND EXCHANGING RELEVANT INFORMATION AND
6 DOCUMENTS; AND

7 (III) ISSUING STATEMENTS OF POLICY, NOTICES, AND
8 INTERPRETATIVE OPINIONS.

9 5-7A-15.

10 (A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
11 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
12 \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

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

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

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

21 (I) THE SERIOUSNESS OF THE VIOLATION;

22 (II) THE HARM CAUSED BY THE VIOLATION;

23 (III) THE GOOD FAITH OF THE VIOLATOR;

24 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;
25 AND

26 (V) ANY OTHER RELEVANT FACTORS.

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

29 5-901.

30 (a) Except as otherwise provided in this title, an individual may not engage in
31 cemetery operations, attempt to engage in cemetery operations, or provide or offer to
32 provide burial space, goods, and services unless the individual is authorized as a
33 registrant.

1 (b) Except as otherwise provided in this title, an individual may not engage in
2 a burial goods business or attempt to provide burial goods unless the individual is
3 authorized as a registrant.

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

8 5-902.

9 Except for a registered cemeterian, REGISTERED CREMATORY OPERATOR, or
10 registered seller who operates a business as a sole proprietor or a registrant employed
11 by a sole proprietor, a person may not engage in the operation of a cemetery,
12 CREMATORY, or burial goods business unless:

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

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

17 5-903.

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

24 **Article - Health Occupations**

25 7-101.

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

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

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

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

34 (2) Provides direct supervision to an apprentice.

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

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

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

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

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

17 (H) "CREMATORY" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP,
18 PARTNERSHIP, PROFESSIONAL ASSOCIATION, OR CORPORATION THAT CHARGES A
19 FEE FOR THE CREMATION OF HUMAN REMAINS.

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

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

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

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

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

31 (i) A mortician license;

32 (ii) An apprentice license;

33 (iii) A funeral director license;

34 (iv) A surviving spouse license;

35 (v) A corporation license;

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

1 (vii) A courtesy card; AND

2 (VIII) A CREMATORY LICENSE.

3 [(j)] (M) "Licensed apprentice" means, unless the context requires otherwise,
4 an apprentice who is licensed by the Board to assist a licensed mortician in the
5 practice of mortuary science.

6 (N) "LICENSED CREMATORY OPERATOR" MEANS AN INDIVIDUAL WHO IS
7 LICENSED BY THE BOARD TO OPERATE A CREMATORY.

8 [(k)] (O) "Licensed funeral director" means, unless the context requires
9 otherwise, a funeral director who is licensed by the Board to practice funeral
10 direction.

11 [(l)] (P) "Licensed funeral establishment" means, unless the context requires
12 otherwise, a funeral establishment that is licensed by the Board.

13 [(m)] (Q) "Licensed mortician" means, unless the context requires otherwise,
14 a mortician who is licensed by the Board under this title to practice mortuary science.

15 [(n)] (R) "Licensee" means an individual or entity licensed by the Board to
16 practice mortuary science OR OPERATE A CREMATORY, to the extent determined by
17 the Board.

18 [(o)] (S) "Mortician" means an individual who practices mortuary science.

19 [(p)] (T) (1) "Practice funeral direction" means:

20 (i) To operate a funeral establishment; or

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

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

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

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

27 [(q)] (U) (1) "Practice mortuary science" means:

28 (i) To operate a funeral establishment;

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

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

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

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

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

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

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

15 7-102.

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

18 (b) This title does not apply to:

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

22 (2) THE OPERATION OF A CREMATORY THAT IS LOCATED ON CEMETERY
23 PROPERTY OR OF A CREMATORY LOCATED ON ALL OTHER PROPERTY EXCEPT THOSE
24 CREMATORIES OWNED AND OPERATED BY A LICENSEE OR BUSINESS ENTITY
25 MAJORITY OWNED BY A LICENSEE UNDER THIS TITLE OR WHICH IS SUBJECT TO THE
26 LICENSING PROVISIONS OF THIS TITLE.

27 7-205.

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

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

32 (2) To adopt a seal;

33 (3) To establish procedures for licensing apprentices;

34 (4) To keep a list of all individuals currently licensed by the Board;

35 (5) To investigate any alleged violation of this title;

- 1 (6) To enforce this title;
- 2 (7) To adopt rules and regulations regarding false and misleading
3 advertising and misrepresentation;
- 4 (8) To inspect THE RECORDS AND PREMISES OF licensed funeral
5 establishments AND CREMATORIES;
- 6 (9) On receipt of a written and signed complaint, including a referral
7 from the Commissioner of Labor and Industry, conduct an unannounced inspection of
8 the funeral establishment to determine compliance at that funeral establishment
9 with the Centers for Disease Control's guidelines on universal precautions;
- 10 (10) To establish standards for the practice of mortuary science; [and]
- 11 (11) To establish standards for sanitation and waste disposal in
12 connection with the practice of mortuary science; AND
- 13 (12) TO DISTRIBUTE A COPY OF THIS TITLE AND ANY APPLICABLE
14 REGULATIONS TO EACH LICENSEE.
- 15 7-301.
- 16 (a) Except as provided in subsection (b) of this section, an individual shall be
17 licensed by the Board before the individual may practice mortuary science OR
18 OPERATE A CREMATORY in this State.
- 19 (b) (1) This section does not:
- 20 [(1)] (I) Limit the right of a school of medicine or dentistry to use and
21 dispose of a dead human body or its parts;
- 22 [(2)] (II) Limit the right of any person who is authorized by law to handle
23 or dispose of a dead human body or its parts, if the person acts within the scope of
24 that authorization;
- 25 [(3)] (III) Affect the right of an authorized officer or employee of the
26 United States or the District of Columbia to practice mortuary science in the course of
27 that individual's duties;
- 28 [(4)] (IV) Apply to an individual who makes funeral arrangements in the
29 course of the duties of that individual as an attorney or a personal representative;
30 [or]
- 31 [(5)] (V) [(i)] Limit the right of the Board to issue temporary permits to
32 out-of-state licensed morticians for teaching purposes involving an approved
33 continuing education program or disaster situations as deemed necessary by the
34 Board; OR
- 35 (VI) AFFECT THE RIGHT OF AN INDIVIDUAL WHO IS NOT A
36 LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR SURVIVING SPOUSE

1 FROM OPERATING A CREMATORY IN ACCORDANCE WITH TITLE 5 OF THE BUSINESS
2 REGULATION ARTICLE.

3 [(ii)] (2) A mortician who is issued a temporary permit [shall be]
4 IS subject to:

5 (I) [any] ANY conditions and limitations that the Board may
6 specify in the permit; and

7 (II) [the] THE provisions of this title.

8 7-310.1.

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

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

12 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
13 BY THE BOARD; AND

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

15 (C) THE APPLICATION SHALL STATE:

16 (1) THE NAME, DATE OF BIRTH, AND RESIDENTIAL ADDRESS OF THE
17 APPLICANT;

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

19 (3) WHETHER THE CREMATORY WITH WHICH THE APPLICANT IS
20 AFFILIATED IS OWNED OR CONTROLLED BY A SOLE PROPRIETOR, PROFESSIONAL
21 ASSOCIATION, PARTNERSHIP, OR CORPORATION;

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

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

26 (D) AN APPLICANT SHALL DEMONSTRATE THE FINANCIAL STABILITY OF THE
27 CREMATORY WITH WHICH THE APPLICANT IS AFFILIATED BY:

28 (1) PROVIDING THE BOARD WITH A CERTIFICATE OF GOOD STANDING
29 FROM THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION WITH THE
30 APPLICATION FOR REGISTRATION; AND

31 (2) SATISFYING CRITERIA THAT THE BOARD ADOPTS UNDER
32 PARAGRAPH (4) OF THIS SUBSECTION.

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

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

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

6 (4) (I) THE BOARD SHALL MAKE A DETERMINATION OF THE
7 FINANCIAL STABILITY OF EACH APPLICANT BASED ON CRITERIA THAT THE BOARD
8 ADOPTS.

9 (II) THE BOARD SHALL ADOPT SEPARATE CRITERIA TO DETERMINE
10 THE FINANCIAL STABILITY OF APPLICANTS THAT ARE NEW BUSINESSES OR
11 EXISTING BUSINESSES.

12 (E) A CREMATORY LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE
13 LICENSEE TO ENGAGE IN THE OPERATION OF A CREMATORY WHILE THE LICENSE IS
14 EFFECTIVE.

15 7-310.2.

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

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

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

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

26 (C) (1) A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP
27 THAT ENGAGES IN THE OPERATION OF A CREMATORY UNDER THIS TITLE IS NOT, BY
28 ITS COMPLIANCE WITH THIS TITLE, RELIEVED OF ANY RESPONSIBILITY THAT THE
29 CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY HAVE FOR AN
30 ACT OR OMISSION BY ITS OFFICER, DIRECTOR, MEMBER, PARTNER, EMPLOYEE, OR
31 AGENT.

32 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A
33 CREMATORY THROUGH A CORPORATION, PROFESSIONAL ASSOCIATION, OR
34 PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S EMPLOYMENT OR OTHER
35 RELATIONSHIP WITH THE CORPORATION, PROFESSIONAL ASSOCIATION, OR
36 PARTNERSHIP, RELIEVED OF ANY RESPONSIBILITY THAT THE INDIVIDUAL MAY
37 HAVE REGARDING THE OPERATION OF THE CREMATORY.

1 7-310.3.

2 A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP SHALL
3 OBTAIN A CREMATORY LICENSE ISSUED BY THE BOARD, BEFORE THE CORPORATION,
4 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
5 OF A CREMATORY IN THE STATE.

6 7-310.4.

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

- 10 (1) CREMATORY WITH WHICH THE LICENSEE IS AFFILIATED;
- 11 (2) LICENSED CREMATORY OPERATOR DESIGNATED AS RESPONSIBLE
12 FOR THE OPERATION OF THE CREMATORY;
- 13 (3) EMPLOYEES OF THE LICENSEE;
- 14 (4) OFFICERS, DIRECTORS, MEMBERS, OR AGENTS OF THE LICENSEE; OR
- 15 (5) NAME OR ADDRESS OF THE LICENSEE.

16 7-315.

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

- 20 (1) Requests that the Board reinstate the license;
- 21 (2) Meets the appropriate renewal requirements of this subtitle;
- 22 (3) Pays to the Board a reinstatement fee set by the Board;
- 23 (4) Submits to the Board an affidavit stating that the individual did not
24 practice mortuary science OR OPERATE A CREMATORY in this State while the license
25 was expired; and
- 26 (5) Applies to the Board for reinstatement of the license within 5 years
27 after the license expires.

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

1 7-315.1.

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

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

10 (C) (1) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD
11 DETERMINES THAT THERE IS NOT A REASONABLE BASIS TO BELIEVE THAT THERE
12 ARE GROUNDS FOR DISCIPLINARY ACTION, THE BOARD SHALL DISMISS THE
13 COMPLAINT.

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

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

20 7-316.

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

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

27 (2) Fraudulently or deceptively uses a license;

28 (3) Commits fraud or misrepresentation in the practice of mortuary
29 science;

30 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
31 crime involving moral turpitude, whether or not any appeal or other proceeding is
32 pending to have the conviction or plea set aside;

33 (5) Aids or abets an unauthorized person in the practice of mortuary
34 science;

35 (6) Advertises falsely or in a misleading manner;

- 1 (7) Solicits mortuary science business, either personally or by an agent,
2 from a dying individual or the relatives of a dead or dying individual, other than
3 through general advertising;
- 4 (8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any
5 other person to obtain business, either in general or for a licensee or funeral
6 establishment;
- 7 (9) Directly or indirectly pays or offers to pay to obtain mortuary science
8 business;
- 9 (10) Solicits or accepts any payment or rebate for recommending any
10 crematory, mausoleum, or cemetery or causing a dead human body to be disposed of
11 there;
- 12 (11) Refuses to surrender custody of a dead human body on the demand of
13 a person who is entitled to its custody;
- 14 (12) Sells or offers to sell any share, certificate, or interest in a mortuary
15 science business with a promise or offer to perform services to the buyer at a cost less
16 than that offered to the general public;
- 17 (13) Fails, after proper demand, to refund promptly any payments
18 received under a pre-need contract with interest;
- 19 (14) At the time funeral arrangements are made, fails to give the contract
20 required by § 7-404 of this title;
- 21 (15) Violates any State, municipal, or county law, rule, or regulation on
22 the handling, custody, care, or transportation of dead human bodies or the disposal of
23 instruments, materials, and wastes relevant to preparation of a dead human body for
24 final disposition;
- 25 (16) Practices mortuary science under a name other than:
- 26 (i) The name that appears on the license of that person; or
- 27 (ii) The name of a partnership in accordance with § 7-401 of this
28 title;
- 29 (17) Signs an application for a funeral establishment license if the signer
30 knew or should have known that grounds existed for which the funeral establishment
31 license later was denied, suspended, or revoked;
- 32 (18) Violates any provision of this title or of the laws relating to
33 cremation;
- 34 (19) Is disciplined by a licensing or disciplinary authority of any other
35 state or country or convicted or disciplined by a court of any state or country for an act
36 that would be grounds for disciplinary action under the Board's disciplinary statutes;

- 1 (20) Willfully makes or files a false report or record in the practice of
2 mortuary science;
- 3 (21) Willfully fails to file or record any report as required under law,
4 willfully impedes or obstructs the filing or recording of the report, or induces another
5 to fail to file or record the report;
- 6 (22) Submits a false statement to collect a fee;
- 7 (23) Provides professional services while:
- 8 (i) Under the influence of alcohol; or
- 9 (ii) Using any narcotic or controlled dangerous substance, as
10 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
11 amounts or without valid medical indication;
- 12 (24) Violates any rule or regulation adopted by the Board;
- 13 (25) Is professionally, physically, or mentally incompetent;
- 14 (26) Commits an act of unprofessional conduct in the practice of mortuary
15 science;
- 16 (27) Refuses, withholds from, denies, or discriminates against an
17 individual with regard to the provision of professional services for which the licensee
18 is licensed and qualified to render because the individual is HIV positive;
- 19 (28) Except in an emergency life-threatening situation where it is not
20 feasible or practicable, fails to comply with the Centers for Disease Control's
21 guidelines on universal precautions;
- 22 (29) Fails to allow an inspection under § 7-205(8) of this title;
- 23 (30) Fails to comply with inspection requirements in the time specified by
24 the Board; or
- 25 (31) Fails to provide the Board the certification required under § 7-405(i)
26 of this title.
- 27 (b) (1) Subject to the hearing provisions of § 7-319 of this subtitle and
28 paragraph (2) of this subsection, the Board may reprimand, place on probation, deny,
29 suspend, or revoke a funeral establishment license for any of the grounds listed in
30 subsection (a) of this section.
- 31 (2) The Board may not reprimand, place on probation, deny, suspend, or
32 revoke a funeral establishment license because of a violation of a provision of this title
33 by an employee of the establishment, unless the employee has a proprietary interest
34 in the business that is conducted from the establishment.

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

6 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
7 OBTAIN A LICENSE;

8 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

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

11 1. FELONY; OR

12 2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
13 FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO OWN OR
14 OPERATE A CREMATORY;

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

17 (V) VIOLATES THIS TITLE;

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

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

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

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

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

26 (2) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE
27 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE
28 PROBATION OR REPRIMAND OF A LICENSEE WHEN AN APPLICANT, LICENSEE, OR AN
29 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF A LICENSEE IS CONVICTED
30 OF A FELONY OR MISDEMEANOR DESCRIBED IN PARAGRAPH (1) OF THIS
31 SUBSECTION:

32 (I) THE NATURE OF THE CRIME;

33 (II) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES
34 AUTHORIZED BY THE LICENSE;

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

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

5 (V) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT, LICENSEE,
 6 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER BEFORE AND AFTER THE
 7 CONVICTION.

8 7-316.1.

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

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

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

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

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

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

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

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

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

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

22 (B) (1) IF A LICENSEE OR A CREMATORY SUBJECT TO THE PROVISIONS OF
 23 THIS TITLE IS CHARGED WITH A VIOLATION OF THIS TITLE THAT COULD RESULT IN
 24 SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY SEEK AN
 25 IMMEDIATE RESTRAINING ORDER IN A CIRCUIT COURT IN THIS STATE TO PROHIBIT
 26 THE LICENSEE FROM ENGAGING IN THE OPERATION OF A CREMATORY.

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

28 (I) THE COURT LIFTS THE ORDER; OR

29 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

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

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

5 (E) IF A CREMATORY LICENSEE OR A CREMATORY SUBJECT TO THE
6 PROVISIONS OF THIS TITLE IS CHARGED WITH A VIOLATION OF THIS TITLE THAT
7 COULD RESULT IN SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY
8 PETITION A COURT TO:

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

12 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
13 PUBLIC INTEREST.

14 7-317.

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

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

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

22 (B) (1) IF, AFTER THE BOARD BRINGS AN ACTION UNDER § 7-316 OF THIS
23 SUBTITLE, THE BOARD FINDS THERE ARE GROUNDS TO PLACE A CREMATORY
24 LICENSEE ON PROBATION OR SUSPEND OR REVOKE THE CREMATORY LICENSE, THE
25 BOARD MAY IMPOSE A CIVIL PENALTY:

26 (I) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING
27 THE LICENSE; OR

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

29 (2) THE CIVIL PENALTY IMPOSED BY THE BOARD UNDER THIS
30 SUBSECTION MAY NOT:

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

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

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

- 1 (I) THE SERIOUSNESS OF THE VIOLATION;
2 (II) THE HARM CAUSED BY THE VIOLATION;
3 (III) THE GOOD FAITH EFFORTS OF THE LICENSEE TO CORRECT OR
4 PREVENT THE VIOLATION;
5 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE;
6 AND
7 (V) ANY OTHER RELEVANT FACTORS.

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

10 7-321.

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

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

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

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

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

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

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

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

25 SUBTITLE 3A. CREMATORIES.

26 7-3A-01.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

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

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

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

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

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

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

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

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

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

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

28 ~~(=)~~ ~~"FINAL DISPOSITION" DOES NOT INCLUDE THE ACT OF CREMATION.~~

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

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

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

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

4 7-3A-02.

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

8 7-3A-03.

9 (A) A CREMATION CONTAINER SHALL:

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

12 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
13 REMAINS;

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

15 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
16 ESTABLISHMENT PERSONNEL.

17 (B) A HOLDING FACILITY SHALL:

18 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

19 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

20 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
21 ESTABLISHMENT PERSONNEL; AND

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

23 7-3A-04.

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

26 (1) THE CREMATORY HAS RECEIVED:

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

29 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
30 FACSIMILE; AND

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

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

4 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
5 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
6 FOLLOWING INFORMATION:

7 (1) THE IDENTITY OF THE HUMAN REMAINS;

8 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
9 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

10 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
11 THE HUMAN REMAINS;

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

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

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

24 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
25 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
26 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
27 AGENT.

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

33 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
34 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
35 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
36 CREMATION AUTHORIZATION FORM.

37 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
38 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
39 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION

1 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
2 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

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

5 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
6 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
7 PERMANENT RECORDS.

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

10 7-3A-05.

11 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
12 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
13 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
14 THAT INCLUDES:

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

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

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

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

21 (1) THE NAME OF THE DECEASED;

22 (2) THE DATE AND PLACE OF DEATH;

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

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

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

26 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
27 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
28 CONTAINS:

29 (1) THE NAME OF THE DECEASED;

30 (2) THE NAME OF THE AUTHORIZING AGENT;

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

1 (4) IF ASCERTAINABLE, THE LOCATION, INCLUDING THE NAME OF THE
2 CEMETERY AND PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND
3 DATE OF THE DISPOSITION OF THE CREMATED REMAINS.

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

6 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
7 BOARD.

8 7-3A-06.

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

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

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

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

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

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

27 7-3A-07.

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

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

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

34 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
35 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
36 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS UNLESS THE

1 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
2 THE CONTRARY BY THE AUTHORIZING AGENT.

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

5 7-3A-08.

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

10 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
11 REMAINS.

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

15 7-3A-09.

16 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
17 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
18 RECEIPT.

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

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

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

28 (E) HUMAN REMAINS THAT ARE NOT EMBALMED AND THAT ARE NOT
29 CREMATED WITHIN A REASONABLE TIME SHALL BE HELD WITHIN A REFRIGERATED
30 HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC HEALTH
31 REGULATIONS.

32 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
33 UNAUTHORIZED PERSONS.

34 7-3A-10.

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

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

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

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

14 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
15 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
16 CREMATION PROCESS.

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

19 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
20 BY THE BOARD.

21 7-3A-11.

22 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
23 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
24 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER.

25 (2) THE IDENTIFICATION DESCRIBED UNDER § 7-3A-10(B) OF THIS
26 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
27 THE CONTAINER.

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

32 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
33 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
34 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR
35 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
36 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

37 (D) IF THE CREMATED OR PROCESSED REMAINS DO NOT ADEQUATELY FILL
38 THE CONTAINER'S INTERIOR DIMENSIONS, THE EXTRA SPACE MAY BE FILLED WITH

1 PACKING MATERIAL THAT WILL NOT BECOME INTERMINGLED WITH THE CREMATED
2 REMAINS OR PROCESSED REMAINS AND THEN SECURELY CLOSED.

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

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

9 7-3A-12.

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

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

22 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
23 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
24 UNDER THIS SECTION.

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

28 7-3A-13.

29 (A) (1) A CREMATORY AUTHORITY IS SUBJECT TO INSPECTIONS IN
30 ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

31 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
32 AUTHORITY.

33 (B) THE BOARD SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
34 THAT THE AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY
35 AUTHORITY CONDUCTED BY THE BOARD IN ACCORDANCE WITH REGULATIONS
36 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, 2002.