

HOUSE BILL 13

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HB 326/02 - ECM

2003 Regular Session
3lr0468

(PRE-FILED)

By: **Delegate Cadden**

Requested: November 19, 2002

Introduced and read first time: January 8, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring crematories that are operated as part of a cemetery or
4 independent of a cemetery, except those crematories that are owned and
5 operated by 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
26 human remains; providing that a crematory operator is not liable for refusing to
27 accept human remains or perform a cremation under certain circumstances;
28 prohibiting the cremation of human remains with a potentially hazardous
29 pacemaker or other potentially hazardous implant in place; prohibiting the
30 simultaneous cremation of the human remains of more than one person without
31 certain authorization; providing for the handling of cremated remains; providing
32 for the disposal of cremated remains which remain in the possession of a
33 crematory for a certain period of time without instruction for their disposal by
34 an authorizing agent; providing for the inspection of crematories; providing that

1 an inspection fee may be assessed on a crematory authority; requiring the Office
2 and the Board to cooperate with other governmental agencies to ensure the
3 regulation of crematories; providing for the enforcement of this Act; establishing
4 certain penalties for the violation of this Act; requiring the Office and the Board
5 to concur in the proposal and adoption of each agency's regulations governing
6 crematories; defining certain terms; altering certain definitions; making
7 stylistic changes; and generally relating to the regulation of crematories by the
8 Office of Cemetery Oversight and the State Board of Morticians.

9 BY repealing and reenacting, with amendments,
10 Article - Business Regulation
11 Section 5-101, 5-102, 5-204, 5-205, 5-301 through 5-303, 5-306, 5-308, 5-310,
12 5-311, 5-401 through 5-403, 5-701, and 5-901 through 5-903
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2002 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Business Regulation
17 Section 5-304
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2002 Supplement)

20 BY adding to
21 Article - Business Regulation
22 Section 5-7A-01 through 5-7A-15, inclusive, to be under the new subtitle
23 "Subtitle 7A. Crematories"
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2002 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Health Occupations
28 Section 7-101, 7-102, 7-205, 7-301, 7-315, 7-316, 7-316.1, 7-317, 7-321,
29 7-411, 7-501, 7-502, and 7-508
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2002 Supplement)

32 BY adding to
33 Article - Health Occupations
34 Section 7-310.1 through 7-310.4, 7-315.1; and 7-3A-01 through 7-3A-14,
35 inclusive, to be under the new subtitle "Subtitle 3A. Crematories"
36 Annotated Code of Maryland
37 (2000 Replacement Volume and 2002 Supplement)

38 BY repealing and reenacting, without amendments,
39 Article - Health Occupations

1 Section 7-406
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2002 Supplement)

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

6 **Article - Business Regulation**

7 5-101.

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

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

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

14 (2) "Burial goods" includes:

15 (i) a casket;

16 (ii) a grave liner;

17 (iii) a memorial;

18 (iv) a monument;

19 (v) a scroll;

20 (vi) an urn;

21 (vii) a vase; and

22 (viii) a vault.

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

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

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

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

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

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

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

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

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

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

13 (1) the establishment, improvement, care, preservation, or
14 embellishment of a cemetery;

15 (2) interment; and

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

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

19 (N) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
20 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING INTERMENT AND
21 SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE AUTHORIZING AGENT
22 DESIRES THE HUMAN REMAINS RETURNED FROM THE MEDICAL INSTITUTION, THE
23 DELIVERY OF HUMAN REMAINS TO A MEDICAL INSTITUTION.

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

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

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

29 (1) earth burial;

30 (2) mausoleum entombment; and

31 (3) niche or columbarium interment.

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

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

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

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

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

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

9 (2) to sell burial goods.

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

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

15 (W) "REGISTERED CREMATORY OPERATOR" MEANS A PERSON REGISTERED TO
16 OPERATE A CREMATORY AS A SOLE PROPRIETOR OR ON BEHALF OF A SOLE
17 PROPRIETOR OR OF A PERMIT HOLDER.

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

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

23 5-102.

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

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

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

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

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

32 (b) This title does not apply to:

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

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

8 [(2)] (3) a licensed funeral director acting within the scope of the funeral
9 director's license; or

10 [(3)] (4) a mortician acting within the scope of the mortician's license.

11 5-204.

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

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

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

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

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

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

23 (1) administer oaths;

24 (2) examine witnesses; and

25 (3) receive evidence.

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

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

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

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

3 (i) post bond; or

4 (ii) allege or prove either that:

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

6 2. substantial or irreparable damage would result from the
7 continued violation of the provision.

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

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

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

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

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

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

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

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

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

24 (1) a consumer information pamphlet that describes:

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

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

29 (2) A CONSUMER INFORMATION PAMPHLET THAT DESCRIBES:

30 (I) THE RIGHTS OF CONSUMERS IN THE PURCHASE OF
31 CREMATORY SERVICES; AND

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

3 5-205.

4 (a) There is a Cemetery Oversight Fund.

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

7 (II) THE DIRECTOR MAY NOT ASSESS A CREMATORY A PER
8 OCCURRENCE APPLICATION FEE.

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

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

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

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

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

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

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

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

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

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

30 5-301.

31 An individual shall register with the Office before:

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

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

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

4 5-302.

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

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

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

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

12 5-303.

13 (a) An applicant shall register by:

14 (1) submitting to the Director an application on the form that the
15 Director provides; and

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

17 (b) The application shall state:

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

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

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

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

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

30 5-304.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 5-306.

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

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

31 5-308.

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

- 1 (1) cemetery, CREMATORY, or burial goods business with which a
2 registrant is affiliated;
- 3 (2) individual designated as the responsible party;
- 4 (3) employees of the business who engage in the sale of burial space,
5 goods, or services to the public;
- 6 (4) officers, directors, members, or agents of the permit holder; or
- 7 (5) name or address of the registrant or permit holder.

8 5-310.

9 (a) Subject to the hearing provisions of § 5-312 of this subtitle, the Director
10 may deny a registration or permit to an applicant, reprimand a registrant or permit
11 holder, or suspend or revoke a registration or permit, if an applicant, registrant, or
12 permit holder, or an agent, employee, officer, director, or partner of the applicant,
13 registrant, or permit holder:

- 14 (1) fraudulently or deceptively obtains or attempts to obtain a
15 registration or permit;
- 16 (2) fraudulently or deceptively uses a registration or permit;
- 17 (3) under the laws of the United States or of any state, is convicted of a:
 - 18 (i) felony; or
 - 19 (ii) misdemeanor that is directly related to the fitness and
20 qualification of the applicant, registrant, or permit holder to own or operate a
21 cemetery OR CREMATORY or provide burial goods;
- 22 (4) fails to provide or misrepresents any information required to be
23 provided under this title;
- 24 (5) violates this title;
- 25 (6) violates the code of ethics adopted by the Director;
- 26 (7) violates a regulation adopted under this title;
- 27 (8) fails to provide reasonable and adequate supervision of the operation
28 of the cemetery OR CREMATORY or the provision of burial goods by agents, employees,
29 officers, directors, or partners affiliated with a cemetery, CREMATORY, or burial goods
30 business;
- 31 (9) refuses to allow an inspection required by this title;
- 32 (10) fails to comply with an order of the Director;

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

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

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

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

11 (i) the court lifts the order; or

12 (ii) the charges are adjudicated or dismissed.

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

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

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

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

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

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

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

29 (1) the seriousness of the violation;

30 (2) the harm caused by the violation;

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

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

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

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

7 (1) the nature of the crime;

8 (2) the relationship of the crime to the activities authorized by the
9 registration or permit;

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

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

15 (5) the behavior and activities of the applicant, registrant, or permit
16 holder, or agent, employee, officer, director, or partner before and after the conviction.
17 5-311.

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

20 (b) A complaint shall:

21 (1) be in writing;

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

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

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

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

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

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

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

4 (2) initiate an investigation; or

5 (3) dismiss the complaint.

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

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

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

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

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

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

24 5-401.

25 (a) Subject to the provisions of this section, a registered cemeterian,
26 REGISTERED CREMATORY OPERATOR, or registered seller may engage in the
27 operation of a cemetery, CREMATORY, or burial goods business as a sole proprietor or
28 through:

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

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

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

34 (b) Subject to the provisions of this title, a corporation, limited liability
35 company, or partnership may engage in the operation of a cemetery, CREMATORY, or

1 burial goods business through a registered cemeterian, REGISTERED CREMATORY
2 OPERATOR, or registered seller.

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

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

11 (3) A REGISTERED CREMATORY OPERATOR WHO ENGAGES IN THE
12 OPERATION OF A CREMATORY THROUGH A CORPORATION, LIMITED LIABILITY
13 COMPANY, OR PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE
14 PROVISIONS OF THIS TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A
15 CREMATORY.

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

21 (2) An individual who engages in the operation of a cemetery,
22 CREMATORY, or burial goods business through a corporation, limited liability
23 company, or partnership is not, by reason of the individual's employment or other
24 relationship with the corporation, limited liability company, or partnership, relieved
25 of any individual responsibility that the individual may have regarding that practice.
26 5-402.

27 A corporation, limited liability company, or partnership shall obtain a permit
28 issued by the Director, before the corporation, limited liability company, or
29 partnership may engage in the operation of a cemetery, CREMATORY, or burial goods
30 business in the State.

31 5-403.

32 To qualify for a permit, a corporation, limited liability company, or partnership
33 shall:

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

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

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

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

4 5-701.

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

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

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

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

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

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

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

14 (ii) in connection with burial OR CREMATION.

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

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

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

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

22 SUBTITLE 7A. CREMATORIES.

23 5-7A-01.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

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

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

1 (D) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
2 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
3 PRESERVATION.

4 (E) "FACSIMILE DEVICE" MEANS A MACHINE THAT TRANSMITS, RECEIVES,
5 AND COPIES REPRODUCTIONS OR FACSIMILES OF DOCUMENTS OR PHOTOGRAPHS
6 THAT HAVE BEEN TRANSMITTED ELECTRONICALLY OR TELEPHONICALLY OVER
7 TELECOMMUNICATIONS LINES.

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

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

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

17 5-7A-02.

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

21 5-7A-03.

22 (A) A CREMATION CONTAINER SHALL:

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

25 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
26 REMAINS;

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

28 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
29 ESTABLISHMENT PERSONNEL.

30 (B) A HOLDING FACILITY SHALL:

31 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

32 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

33 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
34 ESTABLISHMENT PERSONNEL; AND

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

2 5-7A-04.

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

5 (1) THE CREMATORY HAS RECEIVED:

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

8 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
9 FACSIMILE; AND

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

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

15 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
16 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
17 FOLLOWING INFORMATION:

18 (1) THE IDENTITY OF THE HUMAN REMAINS;

19 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
20 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

21 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
22 THE HUMAN REMAINS;

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

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

28 (C) (1) IF AN AUTHORIZING AGENT IS NOT AVAILABLE TO EXECUTE THE
29 CREMATION AUTHORIZATION FORM, THE AUTHORIZING AGENT MAY DELEGATE
30 THAT AUTHORITY TO ANOTHER INDIVIDUAL IN WRITING, OR IF LOCATED OUTSIDE
31 THE AREA, BY SENDING THE CREMATORY AUTHORITY A SIGNED STATEMENT BY
32 FACSIMILE DEVICE THAT CONTAINS THE NAME, ADDRESS, AND RELATIONSHIP OF
33 THE SENDER TO THE DECEASED AND THE NAME AND ADDRESS OF THE INDIVIDUAL
34 TO WHOM AUTHORITY IS DELEGATED.

35 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
36 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY

1 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
2 AGENT.

3 (D) (1) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
4 DEEMED TO WARRANT THE TRUTHFULNESS OF ANY FACTS SET FORTH IN THE
5 CREMATION AUTHORIZATION FORM, INCLUDING THE IDENTITY OF THE DECEASED
6 WHOSE REMAINS ARE SOUGHT TO BE CREMATED AND THE AUTHORITY OF THAT
7 PERSON TO ORDER SUCH A CREMATION.

8 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
9 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
10 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
11 CREMATION AUTHORIZATION FORM.

12 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
13 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
14 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
15 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
16 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

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

19 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
20 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
21 PERMANENT RECORDS.

22 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
23 OFFICE.

24 5-7A-05.

25 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
26 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
27 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
28 THAT INCLUDES:

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

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

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

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

35 (1) THE NAME OF THE DECEASED;

36 (2) THE DATE AND PLACE OF DEATH;

- 1 (3) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT;
2 (4) THE DATE AND LOCATION OF CREMATION; AND
3 (5) THE NAME OF THE INDIVIDUAL WHO PERFORMED THE CREMATION.

4 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
5 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
6 CONTAINS:

- 7 (1) THE NAME OF THE DECEASED;
8 (2) THE NAME OF THE AUTHORIZING AGENT;
9 (3) THE NAME AND ADDRESS OF THE PERSON WHO RECEIVED THE
10 CREMATED REMAINS FROM THE CREMATORY AUTHORITY; AND
11 (4) IF ASCERTAINABLE, THE LOCATION, INCLUDING THE NAME OF THE
12 CEMETERY AND PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND
13 DATE OF THE DISPOSITION OF THE CREMATED REMAINS.

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

16 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
17 OFFICE.

18 5-7A-06.

19 (A) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO ACCEPT A
20 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY AUTHORITY RECEIVES
21 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
22 SETTLED IF:

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

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

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

28 (B) (1) IF A CREMATORY AUTHORITY IS AWARE OF A DISPUTE CONCERNING
29 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
30 AUTHORITY MAY REFUSE TO RELEASE THE CREMATED REMAINS UNTIL THE
31 DISPUTE HAS BEEN RESOLVED OR THE CREMATORY AUTHORITY HAS BEEN
32 PROVIDED WITH A COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF
33 THE CREMATED REMAINS.

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

4 5-7A-07.

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

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

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

11 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
12 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
13 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS UNLESS THE
14 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
15 THE CONTRARY BY THE AUTHORIZING AGENT.

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

18 5-7A-08.

19 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
20 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS
21 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
22 REMAINS.

23 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
24 REMAINS.

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

28 5-7A-09.

29 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
30 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
31 RECEIPT.

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

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

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

7 (E) HUMAN REMAINS THAT ARE NOT EMBALMED AND THAT ARE NOT
8 CREMATED WITHIN A REASONABLE TIME SHALL BE HELD WITHIN A REFRIGERATED
9 HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC HEALTH
10 REGULATIONS.

11 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
12 UNAUTHORIZED PERSONS.

13 5-7A-10.

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

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

19 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
20 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
21 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
22 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
23 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

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

29 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
30 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
31 CREMATION PROCESS.

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

34 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
35 BY THE OFFICE.

1 5-7A-11.

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

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

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

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

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

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

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

28 5-7A-12.

29 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
30 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
31 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
32 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
33 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
34 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND
35 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
36 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

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

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

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

7 5-7A-13.

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

10 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
11 AUTHORITY.

12 (B) THE OFFICE SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
13 THAT AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY AUTHORITY
14 CONDUCTED BY THE OFFICE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
15 OFFICE.

16 5-7A-14.

17 (A) IF THE DIRECTOR FINDS THAT A CREMATORY AUTHORITY OR A
18 CREMATORY SUBJECT TO THE PROVISIONS OF THIS TITLE HAS VIOLATED THIS
19 SUBTITLE OR A REGULATION ADOPTED WITH RESPECT TO THIS SUBTITLE, THE
20 DIRECTOR MAY REFER THE MATTER TO:

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

22 (2) THE APPROPRIATE STATE'S ATTORNEY FOR CRIMINAL
23 PROSECUTION.

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

25 (1) INJUNCTIVE OR OTHER EQUITABLE RELIEF;

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

27 (3) BOTH.

28 (C) (1) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
29 AUTHORITIES OR CREMATORIES SUBJECT TO THE PROVISIONS OF THIS SUBTITLE,
30 THE DIRECTOR MAY COOPERATE WITH ANY GOVERNMENTAL LAW ENFORCEMENT
31 OR REGULATORY AGENCY.

32 (2) THIS COOPERATION MAY INCLUDE:

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

1 (II) SHARING AND EXCHANGING RELEVANT INFORMATION AND
2 DOCUMENTS; AND

3 (III) ISSUING STATEMENTS OF POLICY, NOTICES, AND
4 INTERPRETATIVE OPINIONS.

5 5-7A-15.

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

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

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

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

17 (I) THE SERIOUSNESS OF THE VIOLATION;

18 (II) THE HARM CAUSED BY THE VIOLATION;

19 (III) THE GOOD FAITH OF THE VIOLATOR;

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

21 AND

22 (V) ANY OTHER RELEVANT FACTORS.

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

25 5-901.

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

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

33 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY
34 NOT ENGAGE IN THE OPERATION OF A CREMATORY OR OFFER TO PROVIDE

1 CREMATION SERVICES UNLESS THE INDIVIDUAL IS A REGISTERED CREMATORY
2 OPERATOR.

3 5-902.

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

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

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

12 5-903.

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

19

Article - Health Occupations

20 7-101.

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

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

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

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

29 (2) Provides direct supervision to an apprentice.

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

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

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

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

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

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

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

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

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

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

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

26 (i) A mortician license;

27 (ii) An apprentice license;

28 (iii) A funeral director license;

29 (iv) A surviving spouse license;

30 (v) A corporation license;

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

32 (vii) A courtesy card; AND

33 (VIII) A CREMATORY LICENSE.

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

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

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

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

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

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

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

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

18 (i) To operate a funeral establishment; or

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

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

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

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

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

26 (i) To operate a funeral establishment;

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

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

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

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

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

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

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

12 7-102.

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

15 (b) This title does not apply to:

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

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

24 7-205.

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

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

29 (2) To adopt a seal;

30 (3) To establish procedures for licensing apprentices;

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

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

33 (6) To enforce this title;

1 (7) To adopt rules and regulations regarding false and misleading
2 advertising and misrepresentation;

3 (8) To inspect THE RECORDS AND PREMISES OF licensed funeral
4 establishments AND CREMATORIES;

5 (9) On receipt of a written and signed complaint, including a referral
6 from the Commissioner of Labor and Industry, conduct an unannounced inspection of
7 the funeral establishment to determine compliance at that funeral establishment
8 with the Centers for Disease Control's guidelines on universal precautions;

9 (10) To establish standards for the practice of mortuary science; [and]

10 (11) To establish standards for sanitation and waste disposal in
11 connection with the practice of mortuary science; AND

12 (12) TO DISTRIBUTE A COPY OF THIS TITLE AND ANY APPLICABLE
13 REGULATIONS TO EACH LICENSEE.

14 7-301.

15 (a) Except as provided in subsection (b) of this section, an individual shall be
16 licensed by the Board before the individual may practice mortuary science OR
17 OPERATE A CREMATORY in this State.

18 (b) (1) This section does not:

19 [(1)] (I) Limit the right of a school of medicine or dentistry to use and
20 dispose of a dead human body or its parts;

21 [(2)] (II) Limit the right of any person who is authorized by law to handle
22 or dispose of a dead human body or its parts, if the person acts within the scope of
23 that authorization;

24 [(3)] (III) Affect the right of an authorized officer or employee of the
25 United States or the District of Columbia to practice mortuary science in the course of
26 that individual's duties;

27 [(4)] (IV) Apply to an individual who makes funeral arrangements in the
28 course of the duties of that individual as an attorney; [or]

29 [(5)] (V) [(i)] Limit the right of the Board to issue temporary permits to
30 out-of-state licensed morticians for teaching purposes involving an approved
31 continuing education program or disaster situations as deemed necessary by the
32 Board; OR

33 (VI) AFFECT THE RIGHT OF AN INDIVIDUAL WHO IS NOT A
34 LICENSED MORTICIAN, LICENSED FUNERAL DIRECTOR, OR SURVIVING SPOUSE
35 FROM OPERATING A CREMATORY IN ACCORDANCE WITH TITLE 5 OF THE BUSINESS
36 REGULATION ARTICLE.

1 [(ii)] (2) A mortician who is issued a temporary permit [shall be]

2 IS subject to:

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

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

6 7-310.1.

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

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

10 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
11 BY THE BOARD; AND

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

13 (C) THE APPLICATION SHALL STATE:

14 (1) THE NAME, DATE OF BIRTH, AND RESIDENTIAL ADDRESS OF THE
15 APPLICANT;

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

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

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

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

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

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

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

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

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

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

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

6 (II) THE BOARD SHALL ADOPT SEPARATE CRITERIA TO DETERMINE
7 THE FINANCIAL STABILITY OF APPLICANTS THAT ARE NEW BUSINESSES OR
8 EXISTING BUSINESSES.

9 (E) A CREMATORY LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE
10 LICENSEE TO ENGAGE IN THE OPERATION OF A CREMATORY WHILE THE LICENSE IS
11 EFFECTIVE.

12 7-310.2.

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

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

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

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

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

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

35 7-310.3.

36 A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP SHALL
37 OBTAIN A CREMATORY LICENSE ISSUED BY THE BOARD, BEFORE THE CORPORATION,

1 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
2 OF A CREMATORY IN THE STATE.

3 7-310.4.

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

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

13 7-315.

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

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

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

29 7-315.1.

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

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

6 (C) (1) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD
7 DETERMINES THAT THERE IS NOT A REASONABLE BASIS TO BELIEVE THAT THERE
8 ARE GROUNDS FOR DISCIPLINARY ACTION, THE BOARD SHALL DISMISS THE
9 COMPLAINT.

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

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

16 7-316.

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

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

23 (2) Fraudulently or deceptively uses a license;

24 (3) Commits fraud or misrepresentation in the practice of mortuary
25 science;

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

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

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

32 (7) Solicits mortuary science business, either personally or by an agent,
33 from a dying individual or the relatives of a dead or dying individual, other than
34 through general advertising;

35 (8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any
36 other person to obtain business, either in general or for a licensee or funeral
37 establishment;

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

- 1 (23) Provides professional services while:
- 2 (i) Under the influence of alcohol; or
- 3 (ii) Using any narcotic or controlled dangerous substance, as
4 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
5 therapeutic amounts or without valid medical indication;
- 6 (24) Violates any rule or regulation adopted by the Board;
- 7 (25) Is professionally, physically, or mentally incompetent;
- 8 (26) Commits an act of unprofessional conduct in the practice of mortuary
9 science;
- 10 (27) Refuses, withholds from, denies, or discriminates against an
11 individual with regard to the provision of professional services for which the licensee
12 is licensed and qualified to render because the individual is HIV positive;
- 13 (28) Except in an emergency life-threatening situation where it is not
14 feasible or practicable, fails to comply with the Centers for Disease Control's
15 guidelines on universal precautions;
- 16 (29) Fails to allow an inspection under § 7-205(8) of this title;
- 17 (30) Fails to comply with inspection requirements in the time specified by
18 the Board; or
- 19 (31) Fails to provide the Board the certification required under § 7-405(i)
20 of this title.
- 21 (b) (1) Subject to the hearing provisions of § 7-319 of this subtitle and
22 paragraph (2) of this subsection, the Board may reprimand, place on probation, deny,
23 suspend, or revoke a funeral establishment license for any of the grounds listed in
24 subsection (a) of this section.
- 25 (2) The Board may not reprimand, place on probation, deny, suspend, or
26 revoke a funeral establishment license because of a violation of a provision of this title
27 by an employee of the establishment, unless the employee has a proprietary interest
28 in the business that is conducted from the establishment.
- 29 (C) (1) SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS SUBTITLE
30 AND PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY REPRIMAND, PLACE ON
31 PROBATION, DENY, SUSPEND, OR REVOKE A CREMATORY LICENSE IF AN APPLICANT,
32 LICENSEE, OR AN AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF THE
33 APPLICANT OR LICENSEE:
- 34 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
35 OBTAIN A LICENSE;
- 36 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

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

3 1. FELONY; OR

4 2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
5 FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO OWN OR
6 OPERATE A CREMATORY;

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

9 (V) VIOLATES THIS TITLE;

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

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

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

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

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

18 (2) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE
19 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE
20 PROBATION OR REPRIMAND OF A LICENSEE WHEN AN APPLICANT, LICENSEE, OR AN
21 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF A LICENSEE IS CONVICTED
22 OF A FELONY OR MISDEMEANOR DESCRIBED IN PARAGRAPH (1) OF THIS
23 SUBSECTION:

24 (I) THE NATURE OF THE CRIME;

25 (II) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES
26 AUTHORIZED BY THE LICENSE;

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

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

31 (V) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT, LICENSEE,
32 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER BEFORE AND AFTER THE
33 CONVICTION.

1 7-316.1.

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

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

5 [(2)] (II) Conduct that constitutes a ground for disciplinary action under
6 § 7-315 of this subtitle.

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

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

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

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

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

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

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

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

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

21 (I) THE COURT LIFTS THE ORDER; OR

22 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

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

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

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

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

4 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
5 PUBLIC INTEREST.

6 7-317.

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

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

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

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

18 (I) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING
19 THE LICENSE; OR

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

21 (2) THE CIVIL PENALTY IMPOSED BY THE BOARD UNDER THIS
22 SUBSECTION MAY NOT:

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

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

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

29 (I) THE SERIOUSNESS OF THE VIOLATION;

30 (II) THE HARM CAUSED BY THE VIOLATION;

31 (III) THE GOOD FAITH EFFORTS OF THE LICENSEE TO CORRECT OR
32 PREVENT THE VIOLATION;

33 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE;
34 AND

1 (V) ANY OTHER RELEVANT FACTORS.

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

4 7-321.

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

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

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

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

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

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

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

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

19 SUBTITLE 3A. CREMATORIES.

20 7-3A-01.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

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

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

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

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

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

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

7 (H) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
8 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
9 PRESERVATION.

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

12 (J) "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 (K) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
17 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING BUT NOT LIMITED TO
18 INTERMENT AND SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE
19 AUTHORIZING AGENT DESIRES THE HUMAN REMAINS RETURNED FROM THE
20 MEDICAL INSTITUTION, THE DELIVERY OF HUMAN REMAINS TO A MEDICAL
21 INSTITUTION.

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

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

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

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

34 7-3A-02.

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

1 7-3A-03.

2 (A) A CREMATION CONTAINER SHALL:

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

5 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
6 REMAINS;

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

8 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
9 ESTABLISHMENT PERSONNEL.

10 (B) A HOLDING FACILITY SHALL:

11 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

12 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

13 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
14 ESTABLISHMENT PERSONNEL; AND

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

16 7-3A-04.

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

19 (1) THE CREMATORY HAS RECEIVED:

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

22 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
23 FACSIMILE; AND

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

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

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

32 (1) THE IDENTITY OF THE HUMAN REMAINS;

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

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

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

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

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

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

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

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

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

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

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

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

3 7-3A-05.

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

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

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

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

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

14 (1) THE NAME OF THE DECEASED;

15 (2) THE DATE AND PLACE OF DEATH;

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

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

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

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

22 (1) THE NAME OF THE DECEASED;

23 (2) THE NAME OF THE AUTHORIZING AGENT;

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

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

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

31 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
32 BOARD.

1 7-3A-06.

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

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

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

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

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

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

20 7-3A-07.

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

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

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

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

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

34 7-3A-08.

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

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

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

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

8 7-3A-09.

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

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

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

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

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

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

27 7-3A-10.

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

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

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

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

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

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

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

13 7-3A-11.

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

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

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

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

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

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

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

1 7-3A-12.

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

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

14 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
15 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
16 UNDER THIS SECTION.

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

20 7-3A-13.

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

23 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
24 AUTHORITY.

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

29 7-3A-14.

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

33 (B) THIS COOPERATION MAY INCLUDE:

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

35 (2) SHARING AND EXCHANGING RELEVANT INFORMATION AND
36 DOCUMENTS; AND

1 (3) ISSUING STATEMENTS OF POLICY, NOTICES, AND INTERPRETATIVE
2 OPINIONS.

3 7-406.

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

7 7-411.

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

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

12 (c) The identification tag shall contain:

13 (1) The name of the decedent;

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

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

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

17 7-501.

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

21 7-502.

22 [Unless] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS authorized
23 to practice mortuary science OR OPERATE A CREMATORY under this title, a person
24 may not represent to the public by title, by description of services, methods, or
25 procedures, or otherwise, that the person is authorized to practice mortuary science
26 OR OPERATE A CREMATORY in this State.

27 7-508.

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

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

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

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

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2003.