

CHAPTER 186

(House Bill 457)

AN ACT concerning

Health Occupations - Morticians - Exemption and Permit Funeral Director Licenses

FOR the purpose of ~~providing that certain licensing requirements for practicing mortuary science do not limit the Maryland State Board of Morticians from issuing a permit to certain designees to handle, transport, and work with a dead human body in performing certain religious services without a mortician's license; subjecting certain designees to conditions and limitations the Board may specify; requiring the Board to adopt certain regulations; requiring the Board to submit a certain report on or before a certain date; exempting certain apprentices from assisting with embalming if a certain affidavit is submitted to the Board; providing for the termination of certain provisions of this Act; and generally relating to exceptions to the Maryland Morticians Act renaming the State Board of Morticians to be the State Board of Morticians and Funeral Directors; requiring that an individual be licensed by the Board before the individual may practice funeral direction in this State; requiring the Board to establish certain qualifications, examinations, and experience requirements for licensing funeral directors; requiring that certain practical examinations, competency demonstrations, and practical experience do not include embalming; requiring that applicants for certain apprentice licenses have certain sponsors; repealing certain renewal provisions for funeral directors licensed before a certain date; altering certain definitions; establishing certain legislative intent; and generally relating to funeral directors.~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~7-301 and 7-306~~ 7-101, 7-201, 7-206(a) and (c)(2), 7-301 through 7-306, 7-308(e), 7-308.1, 7-401, 7-402, 7-408, and 7-409

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing

Article – Health Occupations

Section 7-307

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

7-101.

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

(b) “Apprentice” means an individual licensed by the Board who assists a licensed mortician **OR FUNERAL DIRECTOR** in the practice of mortuary science **OR FUNERAL DIRECTION**, under direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**.

(c) “Apprentice sponsor” means a person who:

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

(2) Provides direct supervision to an apprentice.

(d) “Board” means the Maryland State Board of Morticians **AND FUNERAL DIRECTORS**.

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

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

(f) “Courtesy card” means a license issued by the Board to licensed practitioners of mortuary science in other states, to make a removal of a dead human body in this State and to return the body to another state or country, to return dead bodies from another state or country to this State, to fill out the family history portion

of the death certificate, and to sign the death certificate in the holder's capacity as a licensed practitioner of mortuary science.

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

(h) "Funeral establishment" means any building, structure, or premises from which the business of [funeral directing or embalming] **PRACTICING MORTUARY SCIENCE** is conducted.

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

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

- (i) A mortician license;
- (ii) An apprentice license;
- (iii) A funeral director license;
- (iv) A surviving spouse license;
- (v) A corporation license;
- (vi) A funeral establishment license; and
- (vii) A courtesy card.

(j) "Licensed apprentice" means, unless the context requires otherwise, an apprentice who is licensed by the Board to assist a licensed mortician **OR FUNERAL DIRECTOR** in the practice of mortuary science **OR FUNERAL DIRECTION**.

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

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

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

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

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

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

(i) To operate a funeral establishment; [or]

(II) FOR COMPENSATION, TO PREPARE A DEAD HUMAN BODY FOR DISPOSITION; OR

[(ii)] (III) For compensation, to arrange for or make final disposition of a dead human body.

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

(i) Disinfecting] COMPENSATION, DISINFECTION or preserving a dead human body or any of its parts by arterial or cavity injection or any other type of preservation[; or

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

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

(i) To operate a funeral establishment;

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

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

(2) "PRACTICE MORTUARY SCIENCE" INCLUDES:

(I) THE PRACTICE OF FUNERAL DIRECTION; AND

(II) DISINFECTION OR PRESERVING A DEAD HUMAN BODY OR ANY OF ITS PARTS BY ARTERIAL OR CAVITY INJECTION.

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

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

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

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

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

7-201.

There is a State Board of Morticians **AND FUNERAL DIRECTORS** in the Department.

7-206.

(a) There is a State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

(c) (2) The Comptroller shall distribute the fees to the State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

7-301.

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

(b) This section does not:

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

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

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

(4) Apply to an individual who makes funeral arrangements in the course of the duties of that individual as an attorney; ~~for~~

~~(5) LIMIT THE RIGHT OF THE BOARD TO ISSUE A PERMIT TO AN AUTHORIZED DESIGNEE FROM A RELIGIOUS INSTITUTION TO HANDLE, TRANSPORT, AND WORK WITH A DEAD HUMAN BODY IN PERFORMING A RELIGIOUS FUNERAL SERVICE; OR~~

~~(5) (6) (i)~~ Limit the right of the Board to issue temporary permits to out-of-state licensed morticians OR FUNERAL DIRECTORS for teaching purposes involving an approved continuing education program or disaster situations as deemed necessary by the Board.

~~(ii) (c) (1)~~ A mortician OR FUNERAL DIRECTOR who is issued a temporary permit shall be subject to any conditions and limitations that the Board may specify in the permit and the provisions of this title.

~~(2) A DESIGNEE WHO IS ISSUED A PERMIT SHALL BE SUBJECT TO ANY CONDITIONS AND LIMITATIONS THAT THE BOARD MAY SPECIFY IN THE PERMIT.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article - Health Occupations~~

7-302.

(a) (1) [A mortician] AN INDIVIDUAL shall be licensed by the Board before [practicing] THE INDIVIDUAL MAY PRACTICE mortuary science in this State.

(b) (2) A mortician license issued under this title authorizes the licensee to practice mortuary science while the license is effective.

(B) (1) AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE FUNERAL DIRECTION IN THIS STATE.

(2) A FUNERAL DIRECTOR LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE FUNERAL DIRECTION WHILE THE LICENSE IS EFFECTIVE.

7-303.

(a) (1) The Board shall determine the qualifications necessary for [a person] AN INDIVIDUAL to lawfully engage in the practice of mortuary science OR FUNERAL DIRECTION and to operate a funeral establishment within this State.

(2) Except as otherwise provided in this subtitle, to qualify for a mortician OR FUNERAL DIRECTOR license, an applicant shall be an individual who meets the requirements of this section.

(b) The Board shall examine all applications for licensure for the practice of mortuary science OR FUNERAL DIRECTION and shall issue the mortician OR FUNERAL DIRECTOR license to [any person] AN INDIVIDUAL who:

(1) Is judged to be of good moral character;

(2) Has completed not less than 1 year and not more than 2 years of licensed apprenticeship, unless the Board allowed extensions for additional 1-year terms;

(3) Except as otherwise provided in this section, has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;

(4) Has passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) [Has] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, HAS passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating

competency in [embalming] THE PREPARATION OF DEAD HUMAN BODIES FOR FINAL DISPOSITION and sanitary science; and

(6) Has submitted an application to the Board on the required form and has paid a fee set by the Board.

(C) FOR AN INDIVIDUAL APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, THE PRACTICAL EXAMINATION QUALIFICATION UNDER SUBSECTION (B)(5) OF THIS SECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

7-304.

(a) An applicant who otherwise qualifies for a mortician OR FUNERAL DIRECTOR license is entitled to be examined as provided in this section if the applicant:

(1) Holds an apprentice license; or

(2) Has completed the apprenticeship requirements of this title.

(b) The Board shall give examinations to applicants twice each year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The written part of the examination shall include:

(i) The general and local laws of this State on the practice of mortuary science; and

(ii) The laws and regulations on infectious diseases.

(2) In the practical part of the examination:

(i) The Board shall provide a dead human body; and

(ii) [In] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN the presence of at least one third of the licensed members of the Board, each applicant shall demonstrate the applicant's knowledge and skill in

[embalming] THE PREPARATION OF DEAD HUMAN REMAINS FOR FINAL DISPOSITION.

(3) FOR INDIVIDUALS APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, A PRACTICAL EXAMINATION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

(e) (1) An applicant shall pay to the Board an examination fee set by the Board.

(2) The payment of one examination fee entitles an applicant to take the examination twice.

(f) If an applicant fails the examination twice, the applicant may retake the examination if the applicant pays the appropriate fee.

(g) In addition to the written and practical examinations administered by the Board, an applicant must take and pass the national examination administered by the Conference of Funeral Service Examining Boards of the United States.

7-305.

(a) Subject to the provisions of this subsection, the Board may waive the examination and apprenticeship requirements of § 7-303 of this subtitle and issue a mortician **OR FUNERAL DIRECTOR** license to an applicant who is licensed to practice mortuary science **OR FUNERAL DIRECTION** in any other state.

(b) The Board may grant a waiver under this subsection only if the applicant:

(1) Pays the license fee required by the Board under § 7-303 of this subtitle;

(2) Was a licensed mortician **OR FUNERAL DIRECTOR** in good standing in the other state;

(3) Serves an apprenticeship consisting of 1,000 hours; and

(4) Passes the Maryland State written examination administered by the Board.

(c) The Board may grant a waiver only if the state in which the applicant is licensed:

(1) Grants a similar waiver to licensees of this State; and

(2) Has standards for a mortician **OR** FUNERAL DIRECTOR license that are not lower than those of this State.

7-306.

(a) An individual shall obtain an apprentice license from the Board before beginning an apprenticeship in this State.

(B) (1) AN APPLICANT FOR A MORTICIAN APPRENTICE LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN LICENSE.

(2) AN APPLICANT FOR A FUNERAL DIRECTOR LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN OR FUNERAL DIRECTOR LICENSE.

~~(b)~~ **(C)** An applicant for an apprentice license shall pay to the Board a fee set by the Board.

~~(c)~~ **(D)** (1) Prior to an individual appearing before the Board for approval of an apprentice license, the individual must complete two-thirds of the academic credits for a mortuary science program at a school accredited by the American Board of Funeral Service or approved by the Board, with a 2.0 grade point average or higher that is verified with a certified copy of the college transcript.

(2) The applicant shall appear before the Board with the applicant's sponsor. The sponsor shall hold a current valid mortician license in Maryland and shall be employed by the same funeral home that employs the apprentice.

(3) The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) [Assistance] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, ASSISTANCE** in the ~~embalming~~ **PREPARATION** of at least 20 dead human bodies **FOR FINAL DISPOSITION**; and

(iii) Completion of 1,000 working hours in a licensed funeral establishment under the direct supervision of a licensed mortician OR FUNERAL DIRECTOR. Supervision may include instruction by other licensed morticians OR FUNERAL DIRECTORS employed or supervised by the sponsor.

~~(4) THE REQUIREMENT IN PARAGRAPH (3)(II) OF THIS SUBSECTION DOES NOT APPLY TO AN APPRENTICE WHO SUBMITS TO THE BOARD AN AFFIDAVIT STATING THAT:~~

~~(I) PARTICIPATION IN EMBALMING WOULD CONFLICT WITH THE RELIGIOUS BELIEFS OF THE APPRENTICE; AND~~

~~(II) THE APPRENTICE DOES NOT INTEND TO, WHEN HOLDING A LICENSE AS A MORTICIAN, PARTICIPATE IN EMBALMING FOR AN APPRENTICE FUNERAL DIRECTOR, THE PRACTICAL EXPERIENCE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION MAY NOT INCLUDE EMBALMING.~~

[(4)] (5) On termination of the sponsor-apprentice relationship, both the sponsor and the apprentice shall independently notify the Board in writing of:

(i) The date of termination;

(ii) The name, date of death, and date of service for each decedent for whom a funeral service was conducted under paragraph (3)(i) of this subsection in which the apprentice participated; and

(iii) The name, date of death, and date of ~~embalming~~ THE PREPARATION FOR DISPOSITION of each decedent for whom the apprentice assisted in accordance with paragraph (3)(ii) of this subsection.

[(5)] (6) Prior approval must be granted by the Board before a change of sponsorship occurs.

~~(d) (E)~~ While the license is effective, an apprentice license authorizes the licensee to assist a licensed mortician OR FUNERAL DIRECTOR in the practice of mortuary science OR FUNERAL DIRECTION only as part of a training program to become a licensed mortician OR FUNERAL DIRECTOR.

[7-307.]

(a) The Board shall renew a funeral director license biannually only to an applicant:

- (1) Whose license was issued before May 2, 1973;
- (2) Who met the Board qualifications for a funeral director license;
- (3) Who was issued a funeral director license by the Board;
- (4) Who has renewed the funeral director license annually since May 2, 1973;
- (5) Who applies for a funeral director license before May 1, 1980 on the form that the Board requires; and
- (6) Who pays to the Board a license fee set by the Board.

(b) A funeral director license authorizes the licensee to practice funeral direction while the license is effective.]

7-308.

(e) The Board may issue a license under this section only if:

- (1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and
- (2) The embalming is done by a licensed mortician.

7-308.1.

(a) A personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate shall be licensed by the Board before continuing operation of the mortuary science business.

(b) The Board shall issue an executor license to an applicant if the applicant:

- (1) Is the appointed personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate in accordance with the requirements established in Title 5 of the Estates and Trusts Article;

(2) Submits to the Board, within 30 days of the death of the licensed mortician or funeral director, written verification of the death of the licensee, written verification of appointment as a personal representative, and the application required by the Board; and

(3) Pays a fee set by the Board.

(c) Nothing in this section shall prevent a personal representative from selling the mortuary science business that was operated and wholly or partly owned by the licensed funeral director or licensed mortician.

(d) Except as provided in subsection (c) of this section, while an executor license is effective, it authorizes the licensee to:

(1) Continue operation of the mortuary science business that had been operated and wholly or partly owned by the deceased mortician or funeral director; and

(2) Assist with the planning and conducting of funeral services for that mortuary science business.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and

(2) The embalming services are provided by a licensed mortician.

(f) Notwithstanding the provisions of § 7-314 of this subtitle, an executor license is valid for six months from the date of issuance and may not be renewed or reinstated after expiration.

(g) A personal representative who wishes to continue operation of a mortuary science business upon expiration of the executor license must qualify and be licensed as a mortician or a funeral director, or be the holder of a surviving spouse or corporation license.

7-401.

(a) Two or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a partnership.

- (b) A partnership shall be conducted under the names of all the partners.
- (c) Before practicing as a partnership, the licensees shall:
 - (1) Notify the Board that they will be practicing as a partnership; and
 - (2) Submit to the Board the name and address of each partner.

7-402.

- (a) One or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a professional association.
- (b) A professional association shall be conducted under the name authorized by the Department of Assessments and Taxation.
- (c) Before practicing as a professional association, the licensee shall:
 - (1) Notify the Board; and
 - (2) Submit to the Board the name and address of each member of the professional association.

7-408.

- (a) In this section, “mortician **AND FUNERAL DIRECTOR** rehabilitation committee” means a committee that:
 - (1) Is defined in subsection (b) of this section; and
 - (2) Performs any of the functions listed in subsection (d) of this section.
- (b) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is a committee of the Board or a committee of any association representing morticians **AND FUNERAL DIRECTORS** that:
 - (1) Is recognized by the Board; and
 - (2) Includes but is not limited to morticians **AND FUNERAL DIRECTORS.**

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee evaluates and provides assistance to any mortician **OR FUNERAL DIRECTOR**, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is not civilly liable for any action as a member of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee or for giving information to, participating in, or contributing to the function of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

7-409.

(a) All inspections of funeral establishments shall be unannounced and may take place at any time without notice from the Board.

(b) An unannounced inspection may include advance notice that an investigator may be in the region of the funeral establishment, if:

- (1) The advance notice is no more than 14 days prior to the inspection;
- (2) No specific date or time is provided for the inspection; and
- (3) The advance notice is provided solely to ensure that a licensed mortician **OR FUNERAL DIRECTOR** will be on-site for the inspection.

SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That the State Board of Morticians and Funeral Directors, in consultation with interested parties and stakeholders, shall adopt regulations to implement this Act. On or before January 1, 2008, the Board shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on the implementation of the regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the State Board of Morticians and Funeral Directors shall renew funeral director licenses issued before September 30, 2007 under § 7-314 of the Health Occupations Article and regulate the funeral directors licensed before September 30, 2007 in the same manner as funeral directors licensed under this Act; and

(2) except for the practical experience of embalming, to become licensed as a funeral director under this Act, an individual shall complete all of the education, examination, and experience requirements required to become licensed as a mortician.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. ~~Section 1 of this Act shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 24, 2007.