

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 457

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Ali” and substitute “, Ali, Hammen, Benson, Bromwell, Costa, Donoghue, Elliott, Hubbard, Kach, Kipke, Kullen, McDonough, Mizeur, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Pendergrass, Riley, Tarrant, and Weldon”; in line 2, strike “Morticians – Exemption and Permit” and substitute “Funeral Director Licenses”; strike beginning with “providing” in line 3 down through “Act” in line 12 and substitute “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”; in line 15, strike “7-301 and 7-306” and substitute “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”; and after line 17, insert:

“BY repealing

Article – Health Occupations

Section 7-307

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)”.

AMENDMENT NO. 2

(Over)

On page 1, after line 20, insert:

“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, DISINFECTING 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) DISINFECTING 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:

(Over)

(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.”.

AMENDMENT NO. 3

On page 2, in lines 14, 19, and 23, in each instance, strike the brackets; strike in their entirety lines 15 through 18, inclusive; in line 19, strike “(6)”; in line 20, after “morticians” insert “**OR FUNERAL DIRECTORS**”; in line 23, strike “(C)”; in the same line, strike “(1)”; in the same line, after “mortician” insert “**OR FUNERAL DIRECTOR**”; and strike in their entirety lines 26 through 31, inclusive.

AMENDMENT NO. 4

On page 2, after line 31, insert:

“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:

(Over)

- (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.

(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.”.

AMENDMENT NO. 5

On page 3, after line 3, insert:

**“(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.”;**

in lines 4 and 6, strike “(b)” and “(c)”, respectively, and substitute “**(C)**” and “**(D)**”, respectively; in line 17, strike “embalming” and substitute “**PREPARATION**”; in line 18, after “bodies” insert “**FOR FINAL DISPOSITION**”; in line 20, after “mortician” insert “**OR FUNERAL DIRECTOR**”; in line 21, after “morticians” insert “**OR FUNERAL DIRECTORS**”; and strike beginning with “**THE**” in line 23 down through

(Over)

“EMBALMING” in line 29 and substitute “FOR AN APPRENTICE FUNERAL DIRECTOR, THE PRACTICAL EXPERIENCE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION MAY NOT INCLUDE EMBALMING”.

On page 4, in line 7, strike “embalming” and substitute “THE PREPARATION FOR DISPOSITION”; in line 12, strike “(d)” and substitute “(E)”; in line 13, after “mortician” insert “OR FUNERAL DIRECTOR”; in the same line, after “science” insert “OR FUNERAL DIRECTION”; and in line 14, after “mortician” insert “OR FUNERAL DIRECTOR”.

AMENDMENT NO. 6

On page 4, after line 14, insert:

“[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.

(Over)

(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.

(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

(Over)

(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.”.

(Over)

AMENDMENT NO. 7

On page 4, in line 15, strike “3.” and substitute “2.”; in line 16, after “Morticians” insert “and Funeral Directors”; after line 21, insert:

“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.”;

and strike beginning with “Section” in line 23 down through “effect” in line 25.