

## Chapter 450

(House Bill 995)

AN ACT concerning

### Regulation of Crematories

FOR the purpose of requiring the Office of Cemetery Oversight and the State Board of Morticians and Funeral Directors to establish a certain process and adopt certain regulations for regulating crematories; requiring that a certain process for regulating crematories provide for certain registration, issuance of permits, or licensure and renewal, certain applications, certain fees, certain inspections and oversight, certain grounds for discipline and penalties, and certain complaints and hearings; providing that certain registration, permitting, and licensure requirements do not apply to crematories with certain ownership and crematories or incinerators located at certain medical facilities or educational institutions; prohibiting the Director of Cemetery Oversight from assessing a certain occurrence cremation fee; providing certain registration, complaint, disciplinary, and hearing provisions for crematories regulated by the Office; requiring the Office and Board to determine whether to adopt certain financial stability requirements; defining certain terms; and generally relating to the regulation of crematories.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 5–101, 5–102, 5–204(a), (b), and (k), 5–205(b)(1), 5–301, 5–302, 5–303, 5–306, 5–308, 5–310(a) and (b), 5–311(c), 5–401, 5–402, 5–403, 5–701, 5–901, 5–902, and 5–903

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 7–101 and 7–102

Annotated Code of Maryland

(2009 Replacement Volume)

BY adding to

Article – Health Occupations

Section 7–205(c)

Annotated Code of Maryland

(2009 Replacement Volume)

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

**Article – Business Regulation**

5–101.

- (a) In this title the following words have the meanings indicated.
- (b) (1) “Burial goods” means goods that are used in connection with burial.
- (2) “Burial goods” includes:
  - (i) a casket;
  - (ii) a grave liner;
  - (iii) a memorial;
  - (iv) a monument;
  - (v) a scroll;
  - (vi) an urn;
  - (vii) a vase; and
  - (viii) a vault.
- (c) “Burial goods business” means a business that provides burial goods.
- (d) (1) “Cemetery” means land used or to be used for interment.
- (2) “Cemetery” includes a structure used or to be used for interment.
- (E) “CREMATION” MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, INCLUDING ANY MECHANICAL OR THERMAL PROCESS.**
- (F) “CREMATORY” MEANS A BUILDING, PORTION OF A BUILDING, OR STRUCTURE THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR CREMATION.**
- [(e)] (G) “Director” means the Director of the Office of Cemetery Oversight.**

**[(f) (H)** “Engage in the operation of a cemetery” means owning, controlling, or managing a cemetery, including performing activities necessary for:

- (1) the establishment, improvement, care, preservation, or embellishment of a cemetery;
- (2) interment; and
- (3) the providing of burial space or burial goods.

**(I) (1) “ENGAGE IN THE OPERATION OF A CREMATORY” MEANS CONTROLLING OR MANAGING A CREMATORY.**

**(2) “ENGAGE IN THE OPERATION OF A CREMATORY” DOES NOT INCLUDE:**

**(I) THE PRACTICE OF FUNERAL DIRECTION OR THE PRACTICE OF MORTUARY SCIENCE; OR**

**(II) 1. ASSISTANCE IN MAKING DECISIONS AND FILLING OUT FORMS THAT ARE NOT DIRECTLY RELATED TO CREMATION;**

**2. OBTAINING VITAL STATISTICS, SIGNATURES, AND OTHER INFORMATION NECESSARY TO COMPLETE A DEATH CERTIFICATE;**

**3. TRANSPORTATION OF A BODY TO THE PLACE OF DISPOSITION; OR**

**4. ANY OTHER SERVICES REGARDING THE DISPOSITION OF A BODY THAT ARE NOT DIRECTLY RELATED TO CREMATION.**

**(J) “FUNERAL ESTABLISHMENT” MEANS A BUILDING, STRUCTURE, OR PREMISES FROM WHICH THE BUSINESS OF FUNERAL DIRECTING OR EMBALMING IS CONDUCTED.**

**(K) (1) “HUMAN REMAINS” MEANS:**

**(I) THE BODY OF A DECEASED PERSON; OR**

**(II) A PART OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON.**

**(2) “HUMAN REMAINS” INCLUDES THE BODY OR PART OF A BODY OR LIMB IN ANY STATE OF DECOMPOSITION.**

**[(g)] (L)** “Interment” means all final disposition of human remains, including:

- (1) earth burial;
- (2) mausoleum entombment; and
- (3) niche or columbarium interment.

**[(h)] (M)** “Office” means the Office of Cemetery Oversight.

**[(i)] (N)** “Permit” means a permit issued by the Director to allow a partnership, limited liability company, or corporation to operate a business through which a registrant may:

- (1)** engage in the operation of a cemetery **OR CREMATORY**; or
- (2)** provide burial goods.

**[(j)] (O)** (1) “Preneed goods” means burial goods that are sold before the buyer’s death.

- (2) “Preneed goods” does not include burial space.

**[(k)] (P)** “Provide burial goods” means a retail transaction:

- (1) to erect, service, or inscribe burial memorials; or
- (2) to sell burial goods.

**[(l)] (Q)** “Registered cemeterian” means an individual registered to operate a cemetery as a sole proprietor or on behalf of a sole proprietor or of a permit holder.

**(R) “REGISTERED CREMATORY OPERATOR” MEANS AN INDIVIDUAL REGISTERED TO OPERATE A CREMATORY AS A SOLE PROPRIETOR OR ON BEHALF OF A SOLE PROPRIETOR OR PERMIT HOLDER.**

**[(m)] (S)** “Registered seller” means an individual registered to provide burial goods as a sole proprietor or on behalf of a sole proprietor or of a permit holder.

**[(n)] (T)** “Registration” means a registration issued by the Director authorizing an individual to operate a cemetery, **TO OPERATE A CREMATORY**, or to provide burial goods.

**[(o)] (U)** “Responsible party” means a sole proprietor or the individual designated by a partnership, limited liability company, or corporation to be responsible for the operations of a cemetery, **CREMATORY**, or burial goods business.

5–102.

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

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

(2) **A CEMETERY OWNED BY** a not for profit organization created before 1900 by an act of the General Assembly;

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

(4) a veterans’ cemetery operated by the State.

(b) This title does not apply to:

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

**(2) THE OPERATION OR OWNERSHIP OF A CREMATORY IN WHICH A PERSON WHO IS LICENSED AND REGULATED UNDER TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE OWNS A GREATER PERCENTAGE OF THE CREMATORY THAN A REGISTERED CEMETERIAN, REGISTERED SELLER, OR HOLDER OF A PERMIT FOR THE OPERATION OF A CEMETERY OR BURIAL GOODS BUSINESS;**

**(3) THE OPERATION OR OWNERSHIP OF A CREMATORY OR INCINERATOR AT A LICENSED MEDICAL FACILITY OR EDUCATIONAL INSTITUTION;**

**[(2)] (4)** a licensed funeral director acting within the scope of the funeral director’s license; or

**[(3)] (5)** a mortician acting within the scope of the mortician’s license.

5–204.

(a) **(1)** With the advice of the Advisory Council and after consultation with representatives of the cemetery industry, the Director shall adopt:

**[(1)] (I)** rules and regulations to carry out this title; and

**[(2)] (II)** a code of ethics for engaging in the operation of a cemetery **OR CREMATORY** or providing burial goods.

**(2) IN CONJUNCTION WITH THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS, THE DIRECTOR SHALL:**

**(I) ESTABLISH A PROCESS FOR REGULATING CREMATORIES THAT PROVIDES FOR:**

**1. REGISTRATION OF CREMATORY OPERATORS OR ISSUANCE OF PERMITS FOR OPERATING CREMATORIES, AND RENEWAL;**

**2. APPLICATIONS, INCLUDING CERTIFICATION OF OWNERSHIP AND IDENTIFICATION OF INDIVIDUALS WHO WILL PERFORM CREMATION;**

**3. REGISTRATION AND PERMIT FEES;**

**4. INSPECTIONS AND OVERSIGHT;**

**5. GROUNDS FOR DISCIPLINE AND PENALTIES; AND**

**6. COMPLAINTS AND HEARINGS; AND**

**(II) ADOPT REGULATIONS THAT ARE IDENTICAL TO REGULATIONS ADOPTED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS TO:**

**1. IMPLEMENT ITEM (I) OF THIS PARAGRAPH; AND**

**2. ENSURE PUBLIC HEALTH AND SAFETY.**

(b) Upon receipt of a written complaint, or at the discretion of the Director, the Director or the Director's designee may conduct an investigation and an inspection of the records and site of a registered cemeterian, **REGISTERED CREMATORY OPERATOR**, registered seller, permit holder, or any other person subject to the registration or permit provisions of this title.

(k) In conjunction with the State Board of Morticians and the Division of Consumer Protection of the Office of the Attorney General, the Director shall publish a consumer information pamphlet that describes:

- (1) the rights of consumers in the purchase of funeral, [and] cemetery, **AND CREMATORY** goods and services; and
- (2) any other information that the Director considers reasonably necessary to aid consumers.

5-205.

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

**(II) THE DIRECTOR MAY NOT ASSESS A CREMATORY A PER-OCCURRENCE CREMATION FEE.**

5-301.

An individual shall register with the Office before:

- (1) engaging in the operation of a cemetery **OR CREMATORY** in this State; or
- (2) providing burial goods in this State.

5-302.

- (a) In order to register, an applicant shall meet the requirements of this section.
- (b) The applicant must be at least 18 years old.
- (c) The applicant must be of good character and reputation.
- (d) The applicant must be affiliated with a cemetery, **CREMATORY**, or burial goods business operated by a registrant or permit holder.
- (e) The cemetery, **CREMATORY**, or burial goods business with which the applicant is affiliated must be financially stable in accordance with § 5-304 of this subtitle.

5-303.

- (a) An applicant shall register by:

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

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

(b) The application shall state:

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

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

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

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

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

5-306.

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

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

5-308.

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

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

(2) individual designated as the responsible party;

- (3) employees of the business who engage in the sale of burial space, goods, or services **OR CREMATION** to the public;
- (4) officers, directors, members, or agents of the permit holder; or
- (5) name or address of the registrant or permit holder.

5-310.

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

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

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

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

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

(2) The restraining order is in effect until:

(i) the court lifts the order; or

(ii) the charges are adjudicated or dismissed.

5-311.

(c) (1) The Director or the Director's designee shall review each complaint and shall attempt to negotiate a settlement of the complaint between the complainant and the registrant, permit holder, or any other person subject to the registration or permit provisions of this title.

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

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

5-401.

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

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

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

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

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

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

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

~~[(2)]~~ **(3)** A registered seller who engages in the operation of a burial goods business through a corporation, limited liability company, or partnership under this title is subject to all of the provisions of this title that relate to providing burial goods services.

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

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

5-402.

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

5-403.

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

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

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

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

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

5-701.

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

(b) (1) “Burial space” means land or space in a structure used or to be used for burial.

(2) “Burial space” includes a burial right in the land or space.

(c) “Buyer” means a person who buys preneed goods or preneed services.

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

(e) (1) “Preneed services” means services that are sold:

(i) before the buyer’s death; and

(ii) in connection with burial **OR CREMATION**.

(2) “Preneed services” includes opening and closing a grave.

(f) “Seller” means a registered cemeterian, **REGISTERED CREMATORY OPERATOR**, registered seller, or any other person who sells preneed goods or preneed services.

(g) “Specific funds” means money that is identified to a specific preneed burial contract.

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

5-901.

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

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

**(C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT ENGAGE IN THE OPERATION OF A CREMATORY, ATTEMPT TO ENGAGE IN THE OPERATION OF A CREMATORY, OR PROVIDE OR OFFER TO PROVIDE CREMATION SERVICES UNLESS THE INDIVIDUAL IS AUTHORIZED AS A REGISTRANT.**

5-902.

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

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

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

5-903.

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

#### **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) “BUSINESS OF OPERATING A CREMATORY” MEANS CONTROLLING OR MANAGING A CREMATORY.**

**(2) “BUSINESS OF OPERATING A CREMATORY” DOES NOT INCLUDE:**

**(I) THE PRACTICE OF FUNERAL DIRECTION OR THE PRACTICE OF MORTUARY SCIENCE; OR**

**(II) 1. ASSISTANCE IN MAKING DECISIONS AND FILLING OUT FORMS THAT ARE NOT DIRECTLY RELATED TO CREMATION;**

**2. OBTAINING VITAL STATISTICS, SIGNATURES, AND OTHER INFORMATION NECESSARY TO COMPLETE A DEATH CERTIFICATE;**

**3. TRANSPORTATION OF A BODY TO THE PLACE OF DISPOSITION; OR**

**4. ANY OTHER SERVICES REGARDING THE DISPOSITION OF A BODY THAT ARE NOT DIRECTLY RELATED TO CREMATION.**

**[(e)] (F) (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)] (G)** “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.

**(H) “CREMATION” MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, INCLUDING ANY MECHANICAL OR THERMAL PROCESS.**

**(I) “CREMATORY” MEANS A BUILDING, PORTION OF A BUILDING, OR STRUCTURE THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR CREMATION.**

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

**[(h)] (K)** “Funeral establishment” means any building, structure, or premises from which the business of practicing mortuary science is conducted.

**(L) (1) “HUMAN REMAINS” MEANS:**

**(I) THE BODY OF A DECEASED PERSON; OR**

**(II) A PART OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON.**

**(2) “HUMAN REMAINS” INCLUDES THE BODY OR PART OF A BODY OR LIMB IN ANY STATE OF DECOMPOSITION.**

**[(i)] (M)** (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)] (N)** “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)] (O)** “Licensed funeral director” means, unless the context requires otherwise, a funeral director who is licensed by the Board to practice funeral direction.

**[(l)] (P)** “Licensed funeral establishment” means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

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

**[(n)] (R)** “Licensee” means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

**[(o)] (S)** “Mortician” means an individual who practices mortuary science.

**[(p)] (T)** (1) “Practice funeral direction” means:

- (i) To operate a funeral establishment;
- (ii) For compensation, to prepare a dead human body for disposition; or
- (iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) “Practice funeral direction” does not include[,]:

**(I)** [for] **FOR** 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) THE BUSINESS OF OPERATING A CREMATORY.**

- [(q)] (U)** (1) “Practice mortuary science” means:
- (i) To operate a funeral establishment;
  - (ii) For compensation, to prepare a dead human body for disposition; 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.
- (3) “Practice mortuary science” does not include **[the]**:
- (I) 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; OR**
  - (II) THE BUSINESS OF OPERATING A CREMATORY.**

**[(r)] (V)** “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 **OR CREMATION**, 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)] (W)** “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.

7-102.

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

(b) (1) IN THIS SUBSECTION, “REGISTRANT OR PERMIT HOLDER” MEANS A PERSON REGULATED UNDER TITLE 5 OF THE BUSINESS REGULATION ARTICLE AS A REGISTERED CEMETERIAN, REGISTERED SELLER, OR HOLDER OF A PERMIT TO OPERATE A CEMETERY OR BURIAL GOODS BUSINESS.

(2) This title does not apply to [the]:

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

(II) THE OWNERSHIP OF A CREMATORY OR THE BUSINESS OF OPERATING A CREMATORY IN WHICH:

1. A REGISTRANT OR PERMIT HOLDER OWNS A GREATER PERCENTAGE OF THE CREMATORY THAN A PERSON LICENSED UNDER THIS TITLE;

2. OWNERSHIP IS EQUAL BETWEEN A REGISTRANT OR PERMIT HOLDER AND A PERSON LICENSED UNDER THIS TITLE; OR

3. NEITHER A REGISTRANT, PERMIT HOLDER, OR PERSON LICENSED UNDER THIS TITLE HAS AN OWNERSHIP INTEREST IN THE CREMATORY; OR

(III) THE OWNERSHIP OF A CREMATORY OR THE BUSINESS OF OPERATING A CREMATORY OR INCINERATOR AT A LICENSED MEDICAL FACILITY OR EDUCATIONAL INSTITUTION.

7-205.

(c) IN CONJUNCTION WITH THE OFFICE OF CEMETERY OVERSIGHT, THE BOARD SHALL:

(1) ESTABLISH A PROCESS FOR REGULATING CREMATORIES THAT PROVIDES FOR:

(I) REGISTRATION OR LICENSURE AND RENEWAL;

(II) APPLICATIONS, INCLUDING CERTIFICATION OF OWNERSHIP AND IDENTIFICATION OF INDIVIDUALS WHO WILL PERFORM CREMATION;

(III) REGISTRATION OR LICENSURE FEES;

**(IV) INSPECTIONS AND OVERSIGHT;**

**(V) GROUNDS FOR DISCIPLINE AND PENALTIES; AND**

**(VI) COMPLAINTS AND HEARINGS; AND**

**(2) ADOPT REGULATIONS THAT ARE IDENTICAL TO REGULATIONS ADOPTED BY THE DIRECTOR OF THE OFFICE OF CEMETERY OVERSIGHT TO:**

**(I) IMPLEMENT ITEM (1) OF THIS SUBSECTION; AND**

**(II) ENSURE PUBLIC HEALTH AND SAFETY.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the Office of Cemetery Oversight and the State Board of Morticians and Funeral Directors shall:

(1) adopt identical regulations governing cremation containers; holding facilities; authorization forms; waiting period before cremation; delegation of authority to cremate; liability of authorizing agent and crematory; receipts and records of cremation; resolution of disputes regarding cremation; prohibition against requiring caskets and embalming; identification of human remains before and after cremation; storage of human remains before cremation; hazardous implants; prohibition against simultaneous cremation of more than one person without authorization; inspection and copying of records by regulating authority; approved containers for cremains; disposition of unclaimed cremains; inspections; registration or licensure fees; providing identification of and updates on individuals performing cremation to the regulating authority; and any other issue determined to be necessary to carry out this Act; and

(2) determine whether to adopt financial stability requirements for crematories.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

**Approved by the Governor, May 4, 2010.**