

# SENATE BILL 14

J2

(2lr0683)

## ENROLLED BILL

— *Education, Health, and Environmental Affairs/Health and Government Operations* —

Introduced by **Senator Conway**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Examinations of**  
3 **Applicants and Licensees**

4 FOR the purpose of ~~requiring~~ authorizing the State Board of Morticians and Funeral  
5 Directors to require certain applicants or licensees to submit to a mental or  
6 physical examination under certain circumstances; ~~providing that certain~~  
7 ~~applicants or licensees are deemed to have consented to submit to a certain~~  
8 ~~examination and to have waived a certain claim of privilege under certain~~  
9 ~~circumstances;~~ providing that a certain report ~~or testimony~~ of a certain health  
10 care practitioner is confidential, except under certain circumstances; ~~providing~~  
11 ~~that the failure or refusal of a certain applicant or licensee to submit to a~~  
12 ~~certain examination is prima facie evidence of the inability to practice mortuary~~  
13 ~~science or funeral direction competently, unless the Board makes a certain~~  
14 ~~finding;~~ requiring certain applicants or ~~licensees~~ the Board to pay the

---

**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 reasonable cost of certain examinations ~~under certain circumstances; requiring~~  
 2 ~~the Board to pay the reasonable cost of certain examinations for certain~~  
 3 ~~licensees~~; and generally relating to the authority of the State Board of  
 4 Morticians and Funeral Directors to require examinations.

5 BY adding to

6 Article – Health Occupations

7 Section 7–208 *and* 7–319(h)

8 Annotated Code of Maryland

9 (2009 Replacement Volume and 2011 Supplement)

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

12 **Article – Health Occupations**

13 **7–208.**

14 ~~(A) IF, WHILE REVIEWING AN APPLICATION FOR LICENSURE,~~  
 15 ~~INVESTIGATING AN ALLEGATION WHEN INVESTIGATING AN ALLEGATION~~  
 16 ~~BROUGHT AGAINST AN APPLICANT OR A LICENSEE UNDER THIS TITLE, OR~~  
 17 ~~INSPECTING A FACILITY OF A LICENSEE, THE BOARD FINDS REASONABLE~~  
 18 ~~EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE~~  
 19 ~~MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY, THE BOARD~~  
 20 ~~SHALL REQUIRE THE APPLICANT OR LICENSEE TO SUBMIT TO A MENTAL OR~~  
 21 ~~PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER DESIGNATED BY~~  
 22 ~~THE BOARD.~~

23 ~~(B) IN RETURN FOR THE PRIVILEGE TO PRACTICE MORTUARY SCIENCE~~  
 24 ~~OR FUNERAL DIRECTION IN THE STATE, AN APPLICANT OR A LICENSEE IS~~  
 25 ~~DEEMED TO HAVE:~~

26 ~~(1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS~~  
 27 ~~SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND~~

28 ~~(2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE EXAMINATION~~  
 29 ~~REPORT OR TESTIMONY REGARDING THE REPORT.~~

30 (A) THE BOARD MAY REQUIRE AN APPLICANT OR LICENSEE TO SUBMIT  
 31 TO A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER  
 32 DESIGNATED BY THE BOARD, IF:

33 (1) WHEN INVESTIGATING AN ALLEGATION BROUGHT AGAINST AN  
 34 APPLICANT OR LICENSEE UNDER THIS TITLE, THE BOARD FINDS REASONABLE

1 EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE  
 2 MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY;

3 (2) THE BOARD:

4 (I) MAKES A WRITTEN REQUEST FOR THE APPLICANT OR  
 5 LICENSEE TO SUBMIT TO THE EXAMINATION;

6 (II) PROVIDES THE APPLICANT OR LICENSEE WITH A LIST OF  
 7 THREE HEALTH CARE PRACTITIONERS FROM WHICH THE APPLICANT MAY  
 8 CHOOSE A HEALTH CARE PRACTITIONER TO CONDUCT THE EXAMINATION; AND

9 (III) PAYS THE COST OF THE EXAMINATION IN ACCORDANCE  
 10 WITH SUBSECTION (C) OF THIS SECTION; AND

11 (3) THE APPLICANT OR LICENSEE:

12 (I) CONSENTS TO SUBMIT TO THE EXAMINATION; AND

13 (II) WAIVES ANY CLAIM OR PRIVILEGE AS TO THE  
 14 EXAMINATION REPORT.

15 ~~(C) (B)~~ ~~A REPORT OR TESTIMONY REGARDING A REPORT AN~~  
 16 ~~EXAMINATION EVALUATION REPORT OF A HEALTH CARE PRACTITIONER~~  
 17 ~~DESIGNATED BY THE BOARD IS CONFIDENTIAL EXCEPT AS TO CONTESTED CASE~~  
 18 ~~PROCEEDINGS AS DEFINED BY THE ADMINISTRATIVE PROCEDURE ACT.~~

19 ~~(D) THE UNREASONABLE FAILURE OR REFUSAL OF AN APPLICANT OR A~~  
 20 ~~LICENSEE TO SUBMIT TO AN EXAMINATION REQUIRED UNDER THIS SECTION IS~~  
 21 ~~PRIMA FACIE EVIDENCE OF THE APPLICANT'S OR LICENSEE'S INABILITY TO~~  
 22 ~~PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY,~~  
 23 ~~UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE~~  
 24 ~~CONTROL OF THE APPLICANT OR LICENSEE.~~

25 ~~(E) (C)~~ (1) (I) AN SUBJECT TO PARAGRAPH (2) OF THIS  
 26 SUBSECTION SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN APPLICANT OR A  
 27 LICENSEE WHO DOES NOT HOLD A VALID LICENSE WITH THE BOARD SHALL PAY  
 28 THE REASONABLE COST OF ANY EXAMINATION MADE UNDER THIS SECTION.

29 ~~(2)~~ (II) IF AN APPLICANT IS DEEMED COMPETENT TO PRACTICE  
 30 MORTUARY SCIENCE OR FUNERAL DIRECTION AS A RESULT OF THE  
 31 EXAMINATION EVALUATION REPORT, THE BOARD SHALL REIMBURSE THE  
 32 APPLICANT FOR THE REASONABLE COST OF THE EXAMINATION EVALUATION  
 33 THAT WAS PERFORMED.

1 ~~(F)~~ (2) THE BOARD SHALL PAY THE REASONABLE COST OF AN  
2 EXAMINATION MADE UNDER THIS SECTION FOR A LICENSEE OF THE BOARD.

3 7-319.

4 (H) IF THE BOARD ORDERS THE SUSPENSION OF A LICENSE IN  
5 ACCORDANCE WITH § 10-226(C)(2) OF THE STATE GOVERNMENT ARTICLE, THE  
6 BOARD SHALL NOTIFY THE LICENSEE OF THE SUSPENSION WITHIN 48 HOURS  
7 AFTER THE BOARD MAKES THE DETERMINATION TO ORDER THE SUSPENSION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2012.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.