

# Chapter 158

## (House Bill 70)

AN ACT concerning

### State Board of Morticians and Funeral Directors – Examinations of Applicants and Licensees

FOR the purpose of ~~requiring~~ authorizing the State Board of Morticians and Funeral Directors to require certain applicants or licensees to submit to a mental or physical examination under certain circumstances; ~~providing that certain applicants or licensees are deemed to have consented to submit to a certain examination and to have waived a certain claim of privilege under certain circumstances;~~ providing that a certain report ~~or testimony~~ of a certain health care practitioner is confidential, except under certain circumstances; ~~providing that the failure or refusal of a certain applicant or licensee to submit to a certain examination is prima facie evidence of the inability to practice mortuary science or funeral direction competently, unless the Board makes a certain finding;~~ requiring certain applicants or ~~licensees~~ the Board to pay the reasonable cost of certain examinations; and generally relating to the authority of the State Board of Morticians and Funeral Directors to require examinations.

BY adding to

Article – Health Occupations  
Section 7-208 and 7-319(h)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2011 Supplement)

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

### Article – Health Occupations

7-208.

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

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

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

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

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

(1) WHEN INVESTIGATING AN ALLEGATION BROUGHT AGAINST AN APPLICANT OR LICENSEE UNDER THIS TITLE, THE BOARD FINDS REASONABLE EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY;

(2) THE BOARD:

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

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

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

(3) THE APPLICANT OR LICENSEE:

(I) CONSENTS TO SUBMIT TO THE EXAMINATION; AND

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

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

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

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

(II) IF THE APPLICANT IS DEEMED COMPETENT TO PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION AS A RESULT OF THE EVALUATION, THE BOARD SHALL REIMBURSE THE APPLICANT FOR THE REASONABLE COST OF THE EVALUATION THAT WAS PERFORMED.

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

7-319.

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

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

Approved by the Governor, May 2, 2012.