

Chapter 243

(House Bill 314)

AN ACT concerning

State Board of Morticians and Funeral Directors – Authority to Discipline – Funeral Establishment Licenses

FOR the purpose of ~~expanding~~ altering the authority of the State Board of Morticians and Funeral Directors to discipline the holders of funeral establishment licenses ~~under certain circumstances~~; making a technical correction; and generally relating to the disciplinary authority of the State Board of Morticians and Funeral Directors and funeral establishment licenses.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 7–316
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

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

Article – Health Occupations

7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle ~~and except as to a funeral establishment license~~, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Commits fraud or misrepresentation in the practice of mortuary science;
- (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

- (5) Aids or abets an unauthorized person in the practice of mortuary science;
- (6) Advertises falsely or in a misleading manner;
- (7) Solicits mortuary science business, either personally or by an agent, from a dying individual or the relatives of a dead or dying individual, other than through general advertising;
- (8) Employs, pays, or offers to pay a “capper”, “steerer”, “solicitor”, or any other person to obtain business, either in general or for a licensee or funeral establishment;
- (9) Directly or indirectly pays or offers to pay to obtain mortuary science business;
- (10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there;
- (11) Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody;
- (12) Sells or offers to sell any share, certificate, or interest in a mortuary science business with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;
- (13) Fails, after proper demand, to refund promptly any payments received under a pre-need contract with interest;
- (14) At the time funeral arrangements are made, fails to give the contract required by § 7-404 of this title;
- (15) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;
- (16) Practices mortuary science under a name other than:
 - (i) The name that appears on the license of that person; or
 - (ii) The name of a partnership in accordance with § 7-401 of this title;

(17) Signs an application for a funeral establishment license if the signer knew or should have known that grounds existed for which the funeral establishment license later was denied, suspended, or revoked;

(18) Violates any provision of this title or of the laws relating to cremation;

(19) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(20) Willfully makes or files a false report or record in the practice of mortuary science;

(21) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(22) Submits a false statement to collect a fee;

(23) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(24) Violates any rule or regulation adopted by the Board;

(25) Is professionally, physically, or mentally incompetent;

(26) Commits an act of unprofessional conduct in the practice of mortuary science;

(27) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is ~~HIV~~ **HIV/AIDS** positive;

(28) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(29) Fails to allow an inspection under § 7-205(a)(8) of this title;

(30) Fails to comply with inspection requirements in the time specified by the Board;

(31) Fails to provide the Board the certification required under § 7-405(i) of this title; or

(32) Fails to comply with § 5-513 of the Health – General Article.

(b) [(1)] Subject to the hearing provisions of § 7-319 of this subtitle [and paragraph (2) of this subsection], the Board may **DENY A LICENSE TO AN APPLICANT FOR A FUNERAL ESTABLISHMENT LICENSE**, reprimand[,] **THE HOLDER OF A FUNERAL ESTABLISHMENT LICENSE**, place **THE HOLDER OF A FUNERAL ESTABLISHMENT LICENSE** on probation, [deny,] **OR** suspend[,] or revoke a funeral establishment license [for] **IF, WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE FUNERAL ESTABLISHMENT:**

~~(1) **FOR any of the grounds listed in subsection (a) of this section; OR**~~

~~[(2) **The Board may not reprimand, place on probation, deny, suspend, or revoke a funeral establishment license because of a violation of a provision of this title by an employee of the establishment, unless the employee has a proprietary interest in the business that is conducted from the establishment.**]~~

~~(2) **BECAUSE OF A VIOLATION OF A PROVISION OF THIS TITLE BY AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT.**~~

(1) AN UNLICENSED INDIVIDUAL PRACTICES MORTUARY SCIENCE OR FUNERAL DIRECTION FOR OR WITHIN THE FUNERAL ESTABLISHMENT;

(2) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 5-513(B) AND (D) OF THE HEALTH – GENERAL ARTICLE; OR

(3) AN EMPLOYEE OF THE FUNERAL ESTABLISHMENT FAILS TO COMPLY WITH § 7-405 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.