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Title 7
Morticians and Funeral Directors

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Health Occupations Article
Title 7
Morticians and Funeral Directors

Subtitle 1. Definitions; General Provisions.

§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 an individual who:

(1) Is a licensed mortician or funeral director whose license is in good standing with the Board;

(2) Has practiced 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

(3) 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.

(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.).

(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.

(j) "Funeral director" means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.

(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.

(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.

(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.

(o) "Licensed funeral director" means, unless the context requires otherwise, a funeral director who is licensed by the Board to practice funeral direction.

(p) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

(q) "Licensed mortician" means, unless the context requires otherwise, a mortician who is licensed by the Board under this title to practice mortuary science.

(r) "Licensee" means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(s) "Mortician" means an individual who practices mortuary science.

(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 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.

(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:

(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.

(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.

(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:

(i) The business of operating a cemetery, 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.

§7–103.

The purpose of this title is to protect the health and welfare of the public.

Subtitle 2. State Board of Morticians and Funeral Directors.

§7–201.

There is a State Board of Morticians and Funeral Directors in the Department.

§7–202.

(a) (1) The Board consists of 11 members.

(2) Of the 11 Board members:

(i) 6 shall be licensed morticians or licensed funeral directors; and

(ii) 5 shall be consumer members.

(3) All Board members shall be residents of the State.

(4) The Governor shall appoint each member with the advice of the Secretary, and with the advice and consent of the Senate.

(5) The Board may not have more than one member who is employed by or affiliated with, directly or indirectly, the same corporation, professional association, or other entity, that owns, directly or through a subsidiary corporation, professional association, or other entity, one or more funeral homes.

(b) (1) Each mortician member shall:

(i) Be a licensed mortician whose license is in good standing with the Board; and

(ii) Have practiced mortuary science actively for at least 5 years immediately before appointment.

(2) In this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended, or revoked the mortician's license or placed the licensee on probation within 5 years' time prior to or after confirmation to the Board.

(3) To qualify for appointment to the Board, the licensee must meet all other qualifications required for renewal of a mortician license under this title.

(c) (1) Each funeral director member shall:

(i) Be a licensed funeral director whose license is in good standing with the Board; and

(ii) Have practiced funeral direction actively for at least 5 years immediately before appointment.

(2) In this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended, or revoked the funeral director's license or placed the licensee on probation within 5 years' time prior to or after confirmation to the Board.

(3) To qualify for appointment to the Board, the licensee must meet all other qualifications required for renewal of a funeral director license under this title.

(d) (1) For each licensed mortician or licensed funeral director vacancy, the Board shall send by electronic mail or regular mail a notice of the vacancy to:

(i) Each mortician and funeral director licensed by the Board; and

(ii) Each professional association that represents morticians and funeral directors in the State and requests that the Board send it solicitations for nominations to fill vacancies.

(2) A notice sent under paragraph (1) of this subsection shall include:

(i) The type of member vacancy;

(ii) The qualifications for the member vacancy; and

(iii) A detailed explanation of the process for applying for the member vacancy.

(e) Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been a mortician, funeral director, or apprentice;

(3) May not have a household member who is a mortician, funeral director, or apprentice;

(4) May not participate or ever have participated in a commercial or professional field related to the practice of mortuary science;

(5) May not have a household member who participates in a commercial or professional field related to the practice of mortuary science; and

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(f) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(g) Before taking office, each member of the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(h) (1) The term of an appointed member is 4 years, except that the initial term of 1 of the consumer members is 3 years.

(2) The terms of appointed members are staggered as required by the terms provided for members of the Board on July 1, 1981.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) To the extent practicable, the Governor shall fill any vacancy on the Board occurring during the term of an appointed member within 60 days of the date of the vacancy.

(6) A member may not serve more than 2 consecutive full terms.

(i) (1) The Governor may remove an appointed member:

(i) For incompetence or misconduct; or

(ii) Who, because of events that occur after the member's appointment or reappointment to the Board, causes the Board to be in violation of the prohibition set forth in subsection (a)(5) of this section.

(2) Upon the recommendation of the Secretary, the Governor may remove an appointed member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

§7–203.

(a) From among its members, the Board shall elect a president, a first vice president, and a second vice president.

(b) The Board shall determine:

(1) The manner of election of officers;

(2) The term of office of each officer; and

(3) The duties of each officer.

§7–204.

(a) A majority of the full authorized membership of the Board is a quorum to do business.

(b) (1) The Board shall meet at least once a year, at the times and places that it sets in its bylaws and rules and regulations.

(2) The Board shall hold special meetings that:

(i) It considers necessary; or

(ii) The Secretary directs.

(c) Each appointed member of the Board is entitled to:

(1) Compensation in accordance with the budget of the Board for each meeting that the member attends; and

(2) Reimbursement for expenses at a rate determined by the Board.

(d) (1) The Board may appoint a Board secretary, who may be a member of the Board.

(2) The Board may employ inspectors and other staff in accordance with the budget of the Board.

§7–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt bylaws, rules, and regulations to carry out the provisions of this title;

(2) To adopt a seal;

(3) To establish procedures for licensing apprentices;

(4) To keep a list of all individuals currently licensed by the Board;

(5) To investigate any alleged violation of this title;

(6) To enforce this title;

(7) To adopt rules and regulations regarding false and misleading advertising and misrepresentation;

(8) To inspect licensed funeral establishments;

(9) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, to conduct an unannounced inspection of the funeral establishment to determine compliance at that funeral establishment with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(10) To establish standards for the practice of mortuary science; and

(11) To establish standards for sanitation and waste disposal in connection with the practice of mortuary science.

(b) The Board may conduct an audit of a licensee that:

(1) Receives pre-need funds;

(2) Places pre-need funds in a trust; or

(3) Enters into a pre-need contract.

(c) In conjunction with the Office of Cemetery Oversight, the Board shall:

(1) Establish a process for regulating crematories that provides for:

(i) Registration of crematory operators or issuance of permits for operating crematories, and renewal;

(ii) Applications, including certification of ownership and identification of individuals who will perform cremation;

(iii) Registration or permit 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.

§7–206.

(a) There is a State Board of Morticians and Funeral Directors Fund.

(b) (1) The Board may set reasonable fees for its services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Morticians and Funeral Directors Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) No other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§7–207.

A person shall have the immunity from liability described under § 5-707 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§7–208.

(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.

(b) 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.

(c) (1) (i) Subject to subparagraph (ii) of this paragraph, an applicant 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.

Subtitle 3. Licensing.

(a) Except as provided in subsection (b) of this section, an individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(b) This section does not:

(1) Limit the right of a school of medicine or dentistry to use and dispose of a dead human body or its parts;

(2) Limit the right of any person who is authorized by law to handle or dispose of a dead human body or its parts, if the person acts within the scope of that authorization;

(3) Affect the right of an authorized officer or employee of the United States or the District of Columbia to practice mortuary science in the course of that individual's duties;

(4) Apply to an individual who makes funeral arrangements in the course of the duties of that individual as an attorney; or

(5) (i) Limit the right of the Board to issue temporary permits to out–of–state licensed morticians or funeral directors for teaching purposes involving an approved continuing education program or disaster situations as deemed necessary by the Board.

(ii) A mortician or funeral director who is issued a temporary permit shall be subject to any conditions and limitations that the Board may specify in the permit and the provisions of this title.

§7–301.1.

(a) This section does not apply to the registration of crematory operators or issuance of permits for operating crematories under regulations adopted under § 7–205(c) of this subtitle.

(b) In addition to any other requirement for a license, permit, or registration issued under this title, an applicant for a license, permit, or registration shall:

(1) Submit to a criminal history records check in accordance with subsection (c) of this section; or

(2) Submit to the Board a criminal history records check conducted by an accredited agency approved by the Board.

(c) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(i) A complete set of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(iii) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(3) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and the applicant the criminal history record information of the applicant.

(4) If an applicant has made three or more unsuccessful attempts at securing legible fingerprints, the Board may accept an alternate method of a criminal history records check as allowed by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.

(5) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(d) Information obtained under this section:

(1) Shall be confidential;

(2) May not be redisseminated; and

(3) Shall be used only for the licensing, permitting, or registering purposes authorized by this title.

(e) (1) On receipt of the criminal history record information of an applicant required under this section, in determining whether to grant a license, permit, or registration under this title, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a license, permit, or registration under this title if the criminal history record information required under this section has not been received.

§7–302.

(a) (1) An individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(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 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 an individual who:

(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) For an individual applying for a license to practice as a mortician, passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) For an individual applying for a license to practice as a funeral director, passed the arts and sciences State board examinations, administered by the Conference of Funeral Service Examining Boards of the United States;

(6) 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 the preparation of dead human bodies for final disposition and sanitary science; and

(7) 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)(6) of this section may not include demonstrating competency in embalming.

(d) The Board shall advise each applicant that a license issued under subsection (b) of this section does not guarantee that the applicant will be allowed to practice in any other state.

§7–304.

(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) 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 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.

§7–306.

(a) An individual shall obtain an apprentice license from the Board before beginning an apprenticeship in this State.

(b) (1) A mortician apprentice shall have an apprentice sponsor who:

(i) Is a licensed mortician whose license is in good standing with the Board; and

(ii) Is employed by the same funeral establishment that employs the apprentice.

(2) A funeral director apprentice shall have an apprentice sponsor who:

(i) Is a licensed mortician or funeral director whose license is in good standing with the Board; and

(ii) Is employed by the same funeral establishment that employs the apprentice.

(3) An apprentice may have more than one apprentice sponsor.

(c) An applicant for an apprentice license shall pay to the Board a fee set by the Board.

(d) (1) Prior to an individual appearing before the Board for approval of an apprentice license, the individual must complete two–thirds of the academic credits for a mortuary science program at a school accredited by the American Board of Funeral Service or approved by the Board, with a 2.0 grade point average or higher that is verified with a certified copy of the college transcript.

(2) The applicant and a licensed mortician or licensed funeral director shall appear before the Board to seek the Board's approval for an apprentice license for the applicant.

(3) On termination of the sponsor–apprentice relationship, both the sponsor and the apprentice shall independently notify the Board in writing of:

(i) The date of termination;

(ii) The name, date of death, date of service, and evidence of the service for each decedent for whom a funeral service was conducted under subsection (e)(1)(i) of this section in which the apprentice participated; and

(iii) The name, date of death, date of the preparation for disposition, and a copy of the decedent's filed death certificate for each decedent for whom the apprentice assisted in accordance with subsection (e)(1)(ii) of this section.

(4) Prior approval must be granted by the Board before a change of sponsorship occurs.

(e) (1) The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) Except as provided in paragraph (2) of this subsection, assistance in the preparation and embalming of at least 20 dead human bodies for final disposition; and

(iii) Completion of 1,000 working hours in a licensed funeral establishment under the direct supervision of the apprentice sponsor.

(2) For an apprentice funeral director, the practical experience under paragraph (1)(ii) of this subsection may not include embalming.

(3) For purposes of paragraph (1)(iii) of this subsection, direct supervision may include instruction by a licensed mortician or funeral director employed or supervised by the apprentice sponsor that is observed in person by the apprentice sponsor.

(f) While the license is effective, an apprentice license authorizes the licensee to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction only as part of a training program to become a licensed mortician or funeral director.

§7–307. [Repealed]

§7–308.

(a) Subject to the provisions of this section, the Board shall issue a surviving spouse license to an applicant if the applicant:

(1) Is the surviving spouse of a licensed mortician or licensed funeral director whose license was in good standing at the time of death and who at the time of death was operating and wholly or partly owned a mortuary science business;

(2) Is not a licensed mortician or licensed funeral director;

(3) 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 and the application required by the Board; and

(4) Pays a fee set by the Board.

(b) (1) Within 6 months of the issuance of the surviving spouse license, the applicant must take the written Maryland State law examination administered by the Board under § 7-304(b), (c), (d)(1), (e), and (f) of this subtitle.

(2) The license becomes null and void if the surviving spouse fails the Maryland State law examination twice.

(3) An applicant may retake the law examination as often as necessary to fulfill the requirement of this subsection.

(c) Nothing in this section shall prevent a surviving spouse 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 a surviving spouse license is effective, it authorizes the licensee to:

(1) Continue the operation of the mortuary science business that had been operated and wholly or partly owned by the spouse of the licensee; 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 is done by a licensed mortician.

§7–308.1.

(a) A personal representative of a deceased mortician's, funeral director's, or surviving spouse'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, funeral director's, or surviving spouse'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, funeral director, or surviving spouse:

(i) Written verification of the death of the licensee;

(ii) Written verification of appointment as a personal representative; and

(iii) The application required by the Board;

(3) Within 14 days after the death of the licensed mortician, funeral director, or surviving spouse, submits to the Board the name of a licensed funeral director or mortician who has agreed to apply for a pre–need trustee license issued under § 7–308.2 of this subtitle; and

(4) Pays a fee set by the Board.

(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) (1) (i) Notwithstanding the provisions of § 7–314 of this subtitle, the Board shall provide for the term of an executor license.

(ii) The term of an executor license may not be more than 12 months.

(2) An executor license may be renewed for one additional 3–month period if:

(i) A buyer of the funeral establishment has been identified and has entered into a sales contract, but the sale of the funeral establishment has not been completed;

(ii) A pre–need account audit has not been completed and evidence is presented to the Board that failure to complete the audit is due to circumstances beyond the control of the funeral establishment; or

(iii) The Board determines that a renewal is needed due to unforeseen circumstances.

(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.

§7–308.2.

(a) Subject to the provisions of this section, the Board shall issue a pre–need trustee license to an applicant if the applicant:

(1) Applies to the Board on an application provided by the Board;

(2) Has been actively licensed in good standing by the Board for a minimum of 5 years while working in a facility that has accepted pre–need contracts and who can provide proof to the Board that these services have been provided by the applicant;

(3) Has been appointed as a pre–need trustee by the holder of an executor license issued under § 7–308.1 of this subtitle;

(4) Is of good moral character; and

(5) Pays the required fee.

(b) (1) While a pre–need trustee license is effective, the license authorizes the license holder to manage pre–need accounts held by a funeral establishment until the closing or sale of the funeral establishment.

(2) Notwithstanding the provisions of § 7–314 of this subtitle, a pre–need trustee license is valid from the date of issuance until the date of expiration of the license of the executor who appointed the license holder as a pre–need trustee under subsection (a)(3) of this section.

(c) The holder of a pre–need trustee license issued under this section may be the supervising mortician in a funeral establishment.

§7–308.3.

(a) This section applies to a funeral establishment owned by a funeral director, mortician, or surviving spouse who was the single owner and sole licensee of a funeral establishment.

(b) Within 7 days after the death of the single owner and sole licensee of a funeral establishment, the supervising mortician shall:

(1) Place an obituary for the deceased single owner and sole licensee in the death notices section of a newspaper with general circulation in the area of the funeral establishment; and

(2) Place a notice to the public of the death of the single owner and sole licensee on any Web site maintained by the funeral establishment.

(c) (1) Within 90 days after the death of a single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send a letter to all pre–need contract holders who have funds in trust with or an insurance product assigned to the funeral establishment stating the options available under § 7–405 of this title.

(2) The letter required by paragraph (1) of this subsection shall be returned within 5 days after receipt and shall include the full signature of the pre–need contract holder next to the option chosen from those available under § 7–405 of this title.

(d) (1) Within 90 days after the death of a single owner and sole licensee of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall identify to the Board and the executor licensed under § 7–308.1 of this subtitle all pre–need bank trust money that has been deposited under the federal identification number of the funeral establishment or the Social Security number of the deceased single owner and sole licensee, instead of the Social Security number of the beneficiary or buyer of the pre–need contract.

(2) The pre–need trustee licensed under § 7–308.2 of this subtitle shall make a claim against the estate of the deceased single owner and sole licensee of the establishment which the licensee previously owned for the money identified under paragraph (1) of this subsection.

(3) The executor licensed under § 7–308.1 of this subtitle shall transfer all money identified in paragraph (1) of this subsection to the abandoned property office in the Office of the Comptroller in the proper name of the beneficiary or buyer of the pre–need contract.

(e) Within 90 days after the death of the single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send to the Board a list that includes:

(1) The names of all funded pre–need contract holders;

(2) The amount of the funds entrusted to the funeral establishment through a bank account or insurance product; and

(3) The location where the funds currently are maintained.

(f) (1) Within 90 days after the death of the single owner of a funeral establishment, the pre–need trustee licensed under § 7–308.2 of this subtitle shall send to the Board a list of all unclaimed cremains, including:

(i) A copy of the filed death certificate for each cremated decedent; and

(ii) The crematory certificate for each cremains.

(2) The Board shall work collaboratively with the State Anatomy Board to ensure proper disposition of the cremains.

(g) The pre–need trustee licensed under § 7–308.2 of this subtitle shall submit to the Board a digital image on removable media or on cloud–based storage that includes:

(1) All signed pre–need contracts; and

(2) Any associated paperwork dating from the signing of the pre–need contract.

§7–309.

(a) Except as otherwise provided by law, a corporation may not operate a mortuary science business and the Board may not issue a license to or list any corporation as licensed to operate a mortuary science business.

(b) The Board may renew only the license of a corporation that:

(1) On June 1, 1945, held a license issued by this State;

(2) Has been renewed continuously since that date;

(3) Submits an application on a form required by the Board; and

(4) Pays a fee set by the Board.

(c) Each application for renewal made by a corporation shall state the name and address of each officer and director of the corporation.

(d) While a corporation license is effective, it authorizes a corporation to operate a mortuary science business only if any practice of mortuary science that is conducted for the corporation is practiced by a licensed individual.

(e) A corporation may not operate a branch funeral establishment unless the branch funeral establishment was in operation on or before October 1, 1964.

(f) If a corporation is sold, declares bankruptcy, or ceases to operate, written notice must be submitted to:

(1) The Board, within 2 weeks of the occurrence, detailing the changes and the arrangements for carrying out the pre-need contracts and disbursement of the money held in escrow; and

(2) The holders of pre-need contracts advising them of their options under Maryland law.

§7–310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, or conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7–4A–05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co–owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with all applicable State and local laws; and

(2) Will be:

(i) Owned and operated in accordance with this title by an individual who is or a group of individuals in which each individual is:

1. A licensed mortician;

2. A licensed funeral director; or

3. A holder of a surviving spouse license;

(ii) Owned and operated in accordance with this title by a holder of a corporation license; or

(iii) Operated in accordance with this title by a holder of an executor license.

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

(e) (1) Each licensed funeral establishment shall have a supervising mortician.

(2) A licensed funeral establishment shall designate a licensed mortician whose license is in good standing with the Board to be the supervising mortician for the funeral establishment.

(3) A licensed mortician designated to be the supervising mortician for a funeral establishment shall complete the registration required by the Board.

(4) A mortician whose license is not in good standing in the State or any other jurisdiction may not be a supervising mortician.

(5) The supervising mortician for a funeral establishment shall be:

(i) Held responsible for all activities performed on behalf of the funeral establishment with the knowledge or at the direction of the supervising mortician; and

(ii) Except as provided in paragraph (6) of this subsection, limited to supervising:

1. One funeral establishment with an embalming facility; and

2. No more than three funeral establishments total that are within close enough proximity to each other to allow for oversight of each funeral establishment.

(6) The limits on the number of funeral establishments a supervising mortician may supervise as provided for in paragraph (5)(ii) of this subsection do not apply if a funeral establishment prepares for the disposition of less than 75 bodies in a calendar year.

(7) If a supervising mortician for a funeral establishment relinquishes the supervising mortician's responsibility under paragraph (5)(i) of this subsection for any reason, the funeral establishment shall name an interim supervising mortician who shall be held responsible for all activities performed on behalf of the funeral establishment, with the knowledge or at the direction of the interim supervising mortician, until a new supervising mortician for the funeral establishment registers with the Board.

(f) A funeral establishment that uses a central preparation room at another funeral establishment is not required to have its own preparation room or holding room.

§7–311.

(a) The Board may issue a courtesy card to a practitioner of mortuary science who:

(1) Is licensed to practice mortuary science in another state;

(2) Maintains a license in good standing with that state;

(3) Files an application with the Board; and

(4) Pays to the Board a license fee set by the Board.

(b) The courtesy card:

(1) Allows the holder of the courtesy card to make a removal of a dead human body in this State and to return the body to another state or country, to return a dead human body from another state or country to this State for final disposition, 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; but

(2) Does not allow the holder of the courtesy card to operate a funeral establishment, make funeral arrangements, or conduct funerals in this State.

(c) A card issued by the Board under this title is not transferable.

§7–312.

Any person who obtains a burial-transit permit under § 4-215 of the Health - General Article is exempt from any requirement of this title to be under the direction of a licensed mortician or licensed funeral director.

§7–313.

(a) The Board shall issue the appropriate license to an applicant who meets the requirements of this title.

(b) The Board shall include on each license and renewal certificate that the Board issues:

(1) The signature of the secretary of the Board;

(2) The seal of the Board;

(3) A designation of the kind of license; and

(4) If it is a corporation license, the name and address of each director and each officer.

(c) A license issued by the Board under this title is not transferable.

§7–314.

(a) A license issued under this title expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by electronic means or first–class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Except as otherwise provided in this section, before a license expires, the licensee periodically may renew it for additional terms, if the licensee:

(1) Has met the qualifications for licensure and is not under a suspension or revocation order of the Board;

(2) Except as otherwise provided under this title, pays to the Board a renewal fee set by the Board;

(3) Submits to the Board a renewal application on the form that it requires;

(4) Submits to the Board satisfactory evidence of compliance with any continuing education requirements the Board may adopt by regulation; and

(5) For a funeral establishment license, provides proof of any payment to the Board required in accordance with § 7–4A–05(b) of this title.

(d) (1) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(2) The secretary of the Board may issue a renewal certificate during the interim between meetings of the Board.

(e) (1) Before an apprentice license expires, the licensee may renew it for an additional 1–year term only if the licensee:

(i) Submits to the Board a renewal application on the form that the Board requires;

(ii) Continues to participate in a training program; and

(iii) Pays to the Board a renewal fee set by the Board.

(2) An apprentice license may be renewed only two times.

(f) Before a courtesy card expires, the licensee may renew it for additional terms if the licensee:

(1) Submits to the Board a renewal application on the form that the Board requires;

(2) Submits documentation to the Board that the out–of–state license is in good standing; and

(3) Pays to the Board a renewal fee set by the Board.

(g) If, when the license of an individual otherwise would expire, the licensee is on active duty as a member of the armed forces but not on a career basis, the license is renewed automatically for a 1–year term without application or payment of a fee.

§7–315.

(a) The Board shall reinstate the license of an individual who has failed to renew a mortician license or funeral director license for any reason if the individual:

(1) Requests that the Board reinstate the license;

(2) Meets the appropriate renewal requirements of this subtitle;

(3) Pays to the Board a reinstatement fee set by the Board;

(4) Submits to the Board an affidavit stating that the individual did not practice mortuary science in this State while the license was expired; and

(5) Applies to the Board for reinstatement of the license within 5 years after the license expires.

(b) The Board may not reinstate the license of a mortician or funeral director who fails to apply for reinstatement of the license within 5 years after the license expires unless the mortician or funeral director meets the terms and conditions established by the Board.

§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/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) Subject to the hearing provisions of § 7–319 of this subtitle, 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, or suspend or revoke a funeral establishment license if, with the knowledge or at the direction 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.

§7–316.1.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of mortuary science; or

(2) Conduct that constitutes a ground for disciplinary action under § 7-315 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board;

(2) The Attorney General; or

(3) A State's Attorney.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the practice of mortuary science.

(d) Proof of actual damage or proof that a person will sustain damage if an injunction is not granted is not required for an action under this section.

(e) Criminal prosecution for the unauthorized practice of mortuary science under § 7-501 of this title or disciplinary action under § 7-316 of this subtitle does not prohibit an action to enjoin under this section.

§7–317.

(a) If, after the Board brings an action under § 7-316 of this subtitle, the Board finds that there are grounds to place a licensee on probation or suspend or revoke a license, the Board may impose a penalty not exceeding $5,000:

(1) Instead of suspending or revoking the license; or

(2) In addition to placing the licensee on probation or suspending or revoking the license.

(b) The Board shall pay any penalty collected under this section into the General Fund of the State.

§7–318.

(a) Unless the Board agrees to accept the surrender of a license while the licensee is under investigation or while charges are pending against the licensee, a licensee may not:

(1) Surrender the license; or

(2) Allow the license to lapse by operation of the law.

(b) The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§7–319.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 7-316 of this subtitle, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) The person may be represented at the hearing by counsel.

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any audit or investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction shall compel compliance with the subpoena and may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If after a hearing an individual is found in violation of § 7-316 of this subtitle, the individual shall pay the hearing costs.

(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.

§7–320.

(a) Except as provided in this section for an action against any health care professional under § 7–316 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Any health care professional aggrieved by a final decision of the Board under § 7–316 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

(c) If a person notes an appeal from an order of suspension or revocation by the Board, the order is stayed.

§7–321.

(a) The Board shall place a licensee on inactive status if the licensee submits to the Board:

(1) An application for inactive status on the form required by the Board; and

(2) Pays the inactive status fee set by the Board.

(b) A licensee on inactive status may reactivate the license at any time if the licensee:

(1) Complies with the continuing education requirements in effect for the year in which the licensee seeks to reactivate the license;

(2) Has not practiced mortuary science in the State while on an inactive status; and

(3) Pays the reactivation fee set by the Board.

(c) If a license is inactive for more than 5 years, the licensee shall take and pass the Maryland Morticians Law Examination administered by the Board.

Subtitle 4. Miscellaneous.

§7–401.

(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.

§7–403.

(a) The Board may establish a school to:

(1) Teach mortuary science; and

(2) Gather and give out information on:

(i) Sanitation;

(ii) Preservation of dead human bodies; and

(iii) Disinfection of dead human bodies, living areas, clothing, and bedding when death results from infectious disease.

(b) The Board may adopt rules and regulations for:

(1) The conduct of the school;

(2) Payment of tuition fees;

(3) Admission of students; and

(4) Issuance of diplomas.

(c) The cost of operating the school shall be derived from:

(1) Tuition fees;

(2) License examination fees;

(3) License fees; and

(4) Renewal fees.

§7–404.

(a) (1) At the time a licensee makes funeral arrangements, the licensee shall give to the individual who requested the funeral arrangements a contract that includes:

(i) An itemized list of all services and merchandise that will be provided and the total price;

(ii) To the extent possible, a specification of any item for which the licensee will advance money to accommodate the buyer; and

(iii) The terms and method of payment.

(2) The contract shall be in duplicate and contain the signatures of the licensee, other than an apprentice, and the payor of the requested service.

(3) A copy of the signed contract shall be given to the payor at the time the arrangements are finalized.

(b) In addition to the contract required under subsection (a) of this section, the licensee shall give to the individual who requested a funeral a similar written statement that reflects any change in the arrangements agreed to between the parties.

§7–405.

(a) (1) In this section the following words have the meanings indicated.

(2) "Beneficiary" means a person for whose benefit a pre–need contract is purchased and who will receive the merchandise or services offered under the contract.

(3) "Buyer" means a person that purchases a pre–need contract.

(4) "Guaranteed contract" means a written pre–need contract that:

(i) Is signed by the consumer and a licensee of a licensed funeral establishment; and

(ii) Guarantees in whole the price of goods and services and cash advance items specified in the contract.

(5) "Guaranteed in part contract" means a written pre–need contract that:

(i) Is signed by the consumer and a licensee of a licensed funeral establishment; and

(ii) Guarantees in part the price of goods and services and cash advance items specified in the contract.

(6) "Nonguaranteed contract" means a written pre–need contract:

(i) That is signed by the consumer and a licensee of a licensed funeral establishment;

(ii) That does not guarantee the price of any specific goods and services or cash advance items; and

(iii) For which any funds or benefits paid under the contract are only a deposit or partial payment to be applied toward the final cost, determined at the time of death, of the goods, services, or cash advance items.

(7) "Seller" means a person who agrees to provide services or merchandise, directly or indirectly, under a pre–need contract.

(8) "Trustee" means a person that has responsibility for making pre–need arrangements in a manner that entitles the beneficiary to be eligible for benefits that restrict assets.

(b) (1) Only a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license may offer or agree, directly or indirectly, to provide services or merchandise under a pre–need contract.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a licensed mortician or a licensed funeral director who is employed by a funeral establishment may execute pre–need contracts on behalf of the funeral establishment with which the mortician or funeral director is employed.

(3) Any funeral establishment on whose behalf pre–need contracts are executed under this subsection must comply with the requirements of this section.

(c) (1) A pre–need contract shall contain:

(i) The name of each party to the contract and, if the beneficiary is an individual other than the buyer, the name of the beneficiary of the contract;

(ii) A description of any service or merchandise to be provided under the pre–need contract;

(iii) A disclosure statement that clearly:

1. States that all funeral costs may not be covered under the pre–need contract;

2. States that "not all charges that may be required to be paid at the time of need are listed in this contract";

3. Informs a buyer of whether the contract is a guaranteed contract, a guaranteed in part contract, or a nonguaranteed contract; and

4. If the contract is a guaranteed in part contract:

A. Lists the funeral goods and services or cash advance items included in the guarantee; and

B. Identifies in at least 14 point bold face type above each section of the contract whether the section is fully guaranteed or not guaranteed;

(iv) A line totaling:

1. The guaranteed amount paid; and

2. The amount for nonguaranteed items that are considered to be only a down payment toward future total cost; and

(v) The method of payment.

(2) If disclosure is made in accordance with paragraph (1)(iii)3 and 4 of this subsection, a pre–need contract may:

(i) Be a guaranteed contract, a guaranteed in part contract, or a nonguaranteed contract; and

(ii) Include cash advance items or goods and services that are not guaranteed.

(3) A pre–need contract shall be executed in duplicate and be signed by each party.

(4) The seller shall give one of the duplicate originals of the pre–need contract to the buyer.

(d) (1) Within 10 days after receiving a payment under a pre–need contract, the seller shall deposit into an interest bearing, escrow or trust account:

(i) For services, 100% of the payment under the pre–need contract; and

(ii) For goods:

1. An amount from the payment that is equal to 80% of the selling price of a casket or casket vault under the pre–need contract; and

2. 100% of the payment that is for all other goods under the pre–need contract.

(2) The interest bearing, escrow or trust account shall be with:

(i) A banking institution that is insured by an agency of the federal government; or

(ii) A savings and loan association that is insured by an agency of the federal government.

(3) (i) A pre–need escrow or trust account may not be deemed an asset of:

1. The individual licensee; or

2. The licensed funeral establishment.

(ii) A pre–need escrow or trust account with a banking institution or savings and loan association described in paragraph (2) of this subsection shall be:

1. Established using the name, address, and Social Security number of the buyer; and

2. Held in trust for the licensed funeral establishment.

(iii) 1. A buyer for whom a monetary pre–need escrow or trust account is established under subparagraph (ii) of this paragraph shall receive a statement regarding the escrow or trust account at least annually.

2. The requirement under subsubparagraph 1 of this subparagraph may be satisfied by a statement that is:

A. Issued by the banking institution or savings and loan association at which the escrow or trust account is established; and

B. Sent to the buyer.

(4) (i) Any interest or dividends earned by the escrow or trust account prior to service being rendered belong to the buyers of the pre–need contracts.

(ii) Upon performance of the contract, any interest or dividends earned by the escrow or trust account belong to the seller.

(e) (1) (i) Except as may be provided in an irrevocable trust established under paragraph (4) of this subsection and in subparagraph (ii) of this paragraph, the banking institution or savings and loan association with which funds are deposited under this section is not responsible for the application of pre–need contract escrow or trust funds.

(ii) Except as otherwise provided in this section, the banking institution or savings and loan association with which funds are deposited under this section may not release the funds to the seller unless the seller provides to the banking institution or savings and loan association:

1. A copy of the death certificate of the beneficiary; or

2. A notarized statement and withdrawal request from the buyer or the buyer's legal representative.

(2) (i) Except as otherwise provided in this subsection, a seller may not withdraw from the account any money received from a buyer unless the services and merchandise have been provided as agreed in the contract.

(ii) 1. Except as otherwise provided in this subsection, a seller may not withdraw from the account any money received from a buyer unless the seller provides to the banking institution or savings and loan association with which funds are deposited a copy of the beneficiary's death certificate.

2. A violation of subsubparagraph 1 of this subparagraph is an unfair or deceptive trade practice under Title 13 of the Commercial Law Article.

(3) A pre–need contract is ended and a seller shall refund to a buyer all payments and interest held for the buyer if:

(i) The buyer or the legal representative of the buyer demands in writing a refund of all payments made;

(ii) The business of the seller is discontinued or sold;

(iii) The seller is unable to perform under the terms and conditions of the pre–need contract; or

(iv) The buyer fails to pay the entire contract price before the death of the beneficiary, and the seller considers the pre–need contract void.

(4) (i) Notwithstanding the provisions of paragraph (3) of this subsection, the buyer of a pre–need contract has the option, at any time, to establish, under paragraph (5) of this subsection, an irrevocable trust with respect to all or any portion of the payment made under the contract in the escrow or trust account held by the seller, but only for the purpose of entitling the buyer to be eligible for any current Social Security benefits or for any benefits under any other plan that restricts eligibility to those with limited assets.

(ii) The trust document establishing a trust under this paragraph shall contain the following notice, conspicuously displayed in 10–point boldface type:
"This document creates an irrevocable trust. Under the terms of this document, a buyer may not receive a refund of any payments made for the pre–need burial contract".

(5) The trust document establishing a trust under paragraph (4) of this subsection shall provide for:

(i) The disposition of the income earned by the trust which shall inure to the benefit of the buyer;

(ii) The transfer of the trust funds if required by a trustee substituted under paragraph (6) of this subsection; and

(iii) The disposition of the trust funds if:

1. The business of the seller is discontinued or sold;

2. The seller is unable to perform under the terms and conditions of the pre–need contract; and

3. The buyer fails to pay the entire contract price before the death of the beneficiary and the seller considers the pre–need contract void.

(6) If the buyer exercises the option described in paragraph (4) of this subsection, the buyer, a relative of the buyer, or legal representative of the buyer shall retain the right to appoint, as trustee of the irrevocable trust, a trustee other than the one originally designated in the contract.

(7) If a contract is voided under paragraph (3) of this subsection and the option to establish an irrevocable trust has been exercised under paragraph (4) of this subsection, the buyer, a relative of the buyer, or a legal representative of the buyer shall retain the right to appoint, as trustee of the irrevocable trust, a trustee other than the one originally designated in the contract.

(f) (1) A pre–need contract is not subject to the Retail Installment Sales Act.

(2) The making of a pre–need contract by a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license is not the practice of insurance business.

(3) (i) A pre–need contract that is a guaranteed contract, a guaranteed in part contract, or a nonguaranteed contract may be funded by a life insurance policy or an annuity contract if:

1. The mortician, funeral director, licensed funeral establishment, or surviving spouse is not the owner of or beneficiary under the life insurance policy or annuity contract;

2. An irrevocable assignment of benefits to the licensed funeral establishment:

A. May be transferred at any time by the owner of the life insurance policy or annuity contract to any other licensed funeral establishment; and

B. May not be transferred to the consumer; and

3. Any benefits payable under the life insurance policy or annuity contract in excess of the amount necessary to pay the total price, as determined at the time of death of the insured, of the services and merchandise agreed on in the pre–need contract are paid to the beneficiary under the life insurance policy or annuity contract.

(ii) A pre–need contract that is funded by a life insurance policy or an annuity contract shall terminate if the assignment of benefits to the mortician, funeral director, or surviving spouse is revoked by the owner of the life insurance policy or annuity contract.

(iii) 1. The offer, sale, or assignment of a life insurance policy or annuity contract to fund a pre–need contract is not subject to this section.

2. A pre–need contract funded by a life insurance policy or an annuity contract is not subject to subsection (d) or (e) of this section.

(g) A seller of a pre–need contract shall provide the buyer with a general price list for the buyer to keep of the goods and services offered by the seller.

(h) A seller of a pre–need contract shall disclose to the consumer the buyer's cancellation and refund rights under subsection (d) of this section.

§7–406.

(a) A licensee shall maintain a complete file of a cremation that includes the signature of the next of kin, person identifying the body, or person responsible for disposition, time of death, and the date and time of cremation.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible dependent" means a veteran's spouse, a veteran's unmarried child under the age of 21 years, or a veteran's unmarried adult child who before the age of 21 became permanently incapable of self–support because of physical or mental disability.

(iii) 1. "Identifying information" means data required by a veterans service organization to verify the eligibility of a veteran or an eligible dependent for burial in a national or state veterans cemetery.

2. "Identifying information" includes name, service number, Social Security number, date of birth, date of death, place of birth, and copy of the death certificate.

(iv) "Veteran" has the meaning stated in § 9–901 of the State Government Article.

(v) "Veterans service organization" means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress and any employee or representative of the association or entity.

(2) If a licensed funeral establishment or a crematory is in possession of cremated human remains that have been unclaimed for 90 days or more, the licensed funeral establishment or holder of the permit for the business of operating a crematory shall provide identifying information of the unclaimed cremains to a veterans service organization in order for the veterans service organization to determine if the unclaimed cremains are those of a veteran or an eligible dependent.

(3) Within 45 days after receipt of the information required under paragraph (2) of this subsection, the veterans service organization shall notify the licensed funeral establishment or permit holder:

(i) Whether the cremains are those of a veteran or an eligible dependent; and

(ii) If so, whether the veteran or eligible dependent is eligible for burial in a veterans cemetery.

(4) If the unclaimed cremains are those of a veteran or an eligible dependent, the licensed funeral establishment or permit holder may transfer the cremains to a veterans service organization for the purpose of disposition of the cremains.

§7–407.

(a) A licensed funeral director shall provide to the surviving spouse or immediate family members of the deceased or authorized representative a notice which advises that certain individuals may be entitled to continuation of group health insurance benefits under § 15-407 of the Insurance Article.

(b) The notices required to be provided in subsection (a) of this section shall be supplied to the licensed funeral director by the Insurance Commissioner.

(c) A licensed funeral director who fails to provide notice under subsection (a) of this section shall not be liable to any person for benefits which would have otherwise been payable under § 15-407 of the Insurance Article or other damages resulting from the failure to provide notice.

§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

(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) Except as provided in subsection (b) of this section, 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 inspector may be in the region of the funeral establishment for the purpose of conducting an inspection 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.

(c) (1) This subsection applies to inspections conducted:

(i) In response to valid information provided to the Board resulting in a complaint being opened by the Board concerning the preparation or body storage areas of a licensed funeral establishment only if the Board has provided a copy of the complaint to the licensed funeral establishment; or

(ii) Of a funeral establishment that the Board has placed on probationary status in accordance with § 7–316(b) of this title.

(2) A trained staff member of the Board who is qualified to do inspections may call the supervising mortician of a licensed funeral establishment, as designated under § 7–310(e) of this title, and request immediate access to the preparation and body storage areas of the funeral establishment.

(3) If a request is made under paragraph (2) of this subsection, the supervising mortician immediately shall provide the staff member of the Board with the location of the key or access code to the preparation or body storage areas of the funeral establishment.

(4) An employee of a licensed funeral establishment is not required to accompany a staff member of the Board while the staff member conducts an inspection of a preparation or body storage area in accordance with this subsection.

(d) An unannounced inspection of a licensed funeral establishment shall be conducted during the hours that the business of mortuary science is being conducted at the licensed funeral establishment.

(e) Within 24 hours after the completion of an unannounced inspection of a licensed funeral establishment, the Board shall provide the results of the inspection to:

(1) The holder of the funeral establishment license; or

(2) The supervising mortician for the licensed funeral establishment, as designated under § 7–310(e) of this title.

§7–410.

(a) Any individual who is 18 years of age or older may decide the disposition of the individual's own body after the individual's death without the pre-death or post-death consent of another person by executing a document that expresses the individual's wishes or by entering into a pre-need contract.

(b) In order to be valid, any document executed under subsection (a) of this section must be written and signed by the individual in the presence of a witness, who, in turn, shall sign the document in the presence of the individual.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

(1) The surviving spouse or domestic partner, as defined in § 1–101 of the Health – General Article, of the decedent;

(2) An adult child of the decedent;

(3) A parent of the decedent;

(4) An adult brother or sister of the decedent;

(5) A person acting as a representative of the decedent under a signed authorization of the decedent;

(6) The guardian of the person of the decedent at the time of the decedent's death, if a guardian has been appointed; or

(7) In the absence of any person under items (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described in items (1) through (6) of this subsection.

(d) (1) Subject to paragraph (2) of this subsection, if a decedent has more than one survivor under subsection (c)(1) through (4) of this section, any adult child, parent, or adult brother or sister of the decedent who confirms in writing to a licensee that all of the other members of the same class have been notified may serve as the authorizing agent unless the licensee receives a written objection from another member of that class.

(2) If a decedent has more than one survivor under subsection (c)(1) through (4) of this section, the majority of a class may serve as the authorizing agent.

(e) For an individual whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the body of the individual may serve as the authorizing agent for purposes of this section.

(f) For an individual who has donated the individual's body to medical science or whose death occurred in a nursing home or other private institution, a representative of the institution to which the body was donated or in which the decedent died may serve as the authorizing agent of the decedent and the institution is charged with making arrangements for the final disposition of the body.

§7–411.

(a) Before burial or interment, a mortician shall affix to the long bones of the deceased human body a plastic or metal identification tag.

(b) After cremation, a licensee shall ensure that a metal or plastic identification tag is placed in the cremains container.

(c) The identification tag shall contain:

(1) The name of the decedent;

(2) The Social Security number of the decedent;

(3) The decedent's date of birth; and

(4) The decedent's date of death.

Subtitle 4A. Family Security Trust Fund.

§7–4A–01.

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

(b) "Advisory Committee" means the Family Security Trust Fund Advisory Committee.

(c) "Fund" means the Family Security Trust Fund.

§7–4A–02.

This subtitle does not limit the authority of the Board to:

(1) Take any action against a licensee under the disciplinary provisions of §§ 7–316 through 7–320 of this title; or

(2) Take any other disciplinary or other action authorized under this title.

§7–4A–03.

(a) There is a Family Security Trust Fund.

(b) The Board shall:

(1) Administer the Fund; and

(2) Over a reasonable period of time, build the Fund to a level of $1,000,000 and thereafter maintain the Fund at that level.

(c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(d) (1) The Board shall deposit all money collected to the credit of the Fund with the State Treasurer for placement into a special account.

(2) (i) The State Treasurer may invest or reinvest money in the Fund in the same manner as money in the State Retirement and Pension System.

(ii) The investment earnings shall be:

1. Except as provided in paragraph (3) of this subsection, credited to the Fund; and

2. Available for the same purposes as the money deposited into the Fund.

(3) If the level of the Fund exceeds $1,000,000, the State Treasurer shall pay the investment earnings of the Fund into the General Fund of the State.

(e) The Fund is not liable for any other expenses or obligations of the Board.

(f) (1) Accounting and financial reports related to the Fund shall be publicly available in a timely manner.

(2) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

(g) (1) The Board may retain the services of appropriate experts or service providers to advise about, or administer, the Fund.

(2) The costs of the services described in paragraph (1) of this subsection shall be paid out of the Fund.

(h) The Board shall adopt regulations for the administration and claims procedures of the Fund.

§7–4A–04.

(a) There is a Family Security Trust Fund Advisory Committee.

(b) The Advisory Committee consists of the following five members:

(1) Three members of the Board, including one consumer member, appointed by the Board;

(2) One member designated by the Maryland State Funeral Directors Association; and

(3) One member designated by the Funeral Directors and Morticians Association of Maryland, Inc.

(c) The Advisory Committee members may be, but are not required to be, licensees of the Board.

(d) (1) Except for the initial terms of the Advisory Committee, the term of a member is 4 years.

(2) A member continues to serve until a successor is appointed and qualifies.

(3) The terms of the initial members shall be staggered evenly between 3 years and 4 years as the Advisory Committee shall determine at the Advisory Committee's first meeting.

(4) A member may not serve for more than two 4–year terms.

(e) The Advisory Committee shall elect annually a chair, vice chair, and secretary from among its members.

(f) (1) The Advisory Committee shall meet at the call of the chair or the vice chair.

(2) The Advisory Committee shall meet at least twice each year at the times and places that it determines.

(g) The purpose of the Advisory Committee is to provide nonbinding counsel and advice to the Board on any Fund matters other than pending individual claim matters.

(h) The Board shall:

(1) Work with the Advisory Committee in a cooperative manner; and

(2) Provide to the Advisory Committee, in a timely manner:

(i) All appropriate Fund information, other than information involving pending claim matters; and

(ii) Summary information about the outcome of all closed claims, including actual amounts of individual and total claim payments.

(i) A member of the Advisory Committee:

(1) May not receive compensation as a member of the Advisory Committee; but

(2) May receive reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§7–4A–05.

(a) Before the Board issues an initial funeral establishment license, the funeral establishment shall pay, in addition to all other applicable fees, a fee of $375 to be credited to the Fund.

(b) (1) Each funeral establishment shall pay $375 per year into the Fund, until the Fund has accumulated a balance of $1,000,000.

(2) If, after the Fund has accumulated a balance of $1,000,000, the amount in the Fund falls below $1,000,000, the Board shall assess each funeral establishment an additional fee in an amount that will, over a reasonable period, return the Fund to a level of at least $1,000,000.

(3) The Board may not issue a renewal funeral establishment license if the funeral establishment has not paid the fee required under this subsection.

§7–4A–06.

(a) Subject to the provisions of this subtitle, a person may recover compensation from the Fund for an actual pre–need trust fund loss that occurred on or after January 1, 2010, and is based on an act or omission as described in subsection (b) of this section.

(b) A claim for the loss shall:

(1) Be based on an act or omission that occurs in the provision of funeral pre–need services by:

(i) A licensed mortician;

(ii) A licensed funeral director;

(iii) A licensed apprentice mortician;

(iv) A licensed apprentice funeral director; or

(v) An unlicensed employee of a licensed funeral establishment;

(2) Involve a transaction that relates to pre–need funeral planning that occurred in the State; and

(3) Be based on an act or omission:

(i) In which pre–need money is obtained from a person by theft, embezzlement, false pretenses, or forgery; or

(ii) That constitutes fraud or misrepresentation.

(c) The amount recovered for any claim against the Fund:

(1) May not exceed the actual monetary loss suffered; and

(2) May not include noneconomic, consequential, or punitive damages.

(d) A funeral establishment shall include in each sales contract that is provided by the funeral establishment a written notice to the buyer that the buyer may file a claim with the Fund.

§7–4A–07.

(a) Each claim against the Fund shall be made in accordance with this section.

(b) Each claim shall:

(1) Be in writing;

(2) Be made under oath;

(3) State the amount of loss claimed;

(4) State the facts on which the claim is based; and

(5) Be accompanied by any documentation or other evidence that supports the claim.

§7–4A–08.

(a) The Board shall act promptly on a claim made under this subtitle.

(b) On receipt of a claim, the Board shall:

(1) Forward a copy of the claim:

(i) To each licensee alleged to be responsible for the act or omission giving rise to the claim;

(ii) To each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(iii) To each funeral establishment that employs a licensee or unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(2) Request from each of the persons listed in item (1) of this subsection a written response within 10 days to the allegations set forth in the claim.

(c) (1) The Board:

(i) Shall review the claim and any response to the claim; and

(ii) May conduct an investigation of the claim.

(2) On the basis of its review and any investigation that the Board conducts, the Board shall:

(i) Set the matter for a hearing; or

(ii) If the claim is frivolous, made in bad faith, or legally insufficient, dismiss the claim.

(d) At any claim hearing, the burden of proof shall be on the claimant to establish the validity of the claim.

§7–4A–09.

(a) The Board shall give the following persons notice of the hearing and an opportunity to participate in the hearing:

(1) The claimant;

(2) Each licensee alleged to be responsible for the act or omission giving rise to the claim;

(3) Each unlicensed employee alleged to be responsible for the act or omission giving rise to the claim; and

(4) Each funeral establishment that employs a licensee or unlicensed employee alleged to be responsible for the act or omission giving rise to the claim.

(b) The Board may not proceed with the hearing unless the records of the Board show that the Board provided each notice required under the provisions of this section and § 7–4A–08 of this subtitle.

§7–4A–10.

(a) If a claim against the Fund alleges that the act or omission giving rise to the claim was performed by a licensee, the Board may join the proceeding on the claim with any disciplinary proceeding against the licensee under this title arising from the same facts alleged in the claim.

(b) (1) For that part of a hearing on consolidated proceedings that relates to disciplinary action but does not relate to the Fund claim against a licensee, the claimant:

(i) May not be a party; and

(ii) May participate only as a witness.

(2) For that part of a hearing on consolidated proceedings that relates to the claim against the Fund, the claimant is a party.

§7–4A–11.

(a) The Board shall order full or partial payment of a claim by the Fund if, on the hearing, the claimant proves that the claimant has a valid claim under this subtitle.

(b) The Board may order full or partial payment by the Fund only for the actual monetary loss suffered by the claimant as a result of the claim proven by the claimant.

(c) A payment may not be made by the Fund under an order of the Board until:

(1) The expiration of the time provided under Title 10, Subtitle 2 of the State Government Article for seeking judicial review of the Board's order; or

(2) The expiration of any judicial stay of the order of the Board.

(d) The Board shall order payment of each claim due in the order in which the claim was awarded.

(e) If, at the time a payment is due, the money in the Fund is insufficient to satisfy fully the order for payment, the Board:

(1) Immediately shall pay to the claimant the amount that is available in the Fund; and

(2) When sufficient funds are available in the Fund, shall pay the claimant the balance due on the order.

§7–4A–12.

(a) After payment of a claim by the Fund, a licensee who the Board finds responsible for the act or omission that gave rise to the claim shall reimburse the Fund in full for:

(1) The amount paid by the Fund; and

(2) Interest on the amount paid by the Fund at an annual rate of 6%.

(b) Each licensee who the Board finds responsible for the act or omission that gave rise to a claim is jointly and severally liable for the claim.

(c) If a licensee does not reimburse the Fund as provided in subsection (a) of this section, the Board or the State Central Collection Unit, as assignee of the Board, may bring an action against the licensee for the amount that has not been reimbursed.

(d) The Board or the State Central Collection Unit, as assignee of the Board, shall be entitled to a judgment for the amount that the licensee has not reimbursed the Fund if the Board proves that:

(1) Payment was made by the Fund based on an act or omission for which the Board found the licensee was responsible;

(2) A period of at least 30 days has passed since payment was made by the Fund; and

(3) The licensee has not reimbursed the Fund for the amount for which the judgment is sought.

(e) (1) If a person liable for reimbursing the Fund under this section receives a demand for reimbursement and fails to reimburse the Fund, the reimbursement amount and any accrued interest or cost are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(2) (i) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(ii) The notice required under subparagraph (i) of this paragraph shall contain the name and address of the person against whose property the lien exists, the amount of the lien, a description of or reference to the property subject to the lien, and the date the Fund paid the claim giving rise to the lien.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) On presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(5) The notice required under paragraph (2) of this subsection and any release filed under paragraph (4) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(6) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

(f) For the purpose of excepting to a discharge of a licensee under 11 U.S.C. § 523, the Board or the State Central Collection Unit, as assignee of the Board, is a creditor of the licensee for the amount that was paid by the Fund but that has not been reimbursed by the licensee.

§7–4A–13.

(a) If the Board orders payment by the Fund of a claim based on an act or omission for which a licensee is responsible, the Board immediately and without further proceedings shall suspend the license of the licensee.

(b) The Board may not reinstate a license that is suspended under this section until the person whose license was suspended:

(1) Repays in full:

(i) The amount paid by the Fund; and

(ii) The interest due under § 7–4A–12(a)(2) of this subtitle; and

(2) Applies to the Board for reinstatement of the license.

(c) Regardless of whether the disciplinary sanction was imposed for the same act or omission that gave rise to the claim against the Fund, the reimbursement of the Fund by a licensee does not affect any sanction imposed by the Board against a person under the disciplinary provisions of §§ 7–316 through 7–320 of this title.

Subtitle 5. Prohibited Acts; Penalties.

§7–501.
Except as otherwise provided in this title, a person may not practice, attempt to practice, offer to practice, or assist in the practice of mortuary science in this State unless licensed by the Board.

§7–502.
Unless authorized to practice mortuary science under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice mortuary science in this State.

§7–503.

(a) Except as provided in subsection (b) of this section, a licensee may not practice mortuary science under any name other than the name that appears on that person's license.

(b) (1) The name appearing on the license may be a trade or copyrighted name which may be sold to another licensee as part of the goodwill of the funeral establishment.

(2) If the sale of the trade name or copyrighted name is made part of a sale of a funeral establishment:

(i) The buyer must:

1. Notify the Board of the sale of the trade or copyrighted name; and

2. Apply for a funeral license in the name of the new owner; and

(ii) The funeral establishment license must indicate that the trade or copyrighted name will continue to be used by the new owner.

(3) The sale of a funeral establishment does not preclude the buyer from advertising the funeral establishment as the successor to the funeral establishment acquired.

§7–504.
Unless a person is a licensed mortician, a licensed funeral director, or a holder of a surviving spouse license, the person may not offer or agree, directly or indirectly, to provide services or merchandise under a pre-need contract.

§7–505.
A licensee or the agent of a licensee may not represent that a burial or funeral casket is required for cremation.

§§7–506, 7–507 [Reserved]

§7–508.
A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1 year or both.

§7–509.

(a) Subject to subsection (c) of this section and the hearing provisions of § 7–319 of this title, and in addition to any other sanction authorized for a violation of § 7–501 or § 7–502 of this subtitle, the Board may issue a public cease and desist order, impose a civil fine of not more than $5,000 per offense, or both.

(b) For the purposes of this section, each violation is a separate offense if the violation occurs:

(1) At a different time, date, or location; or

(2) On the same date and location at a different time.

(c) The Board may not issue a public cease and desist order to a funeral establishment that was previously licensed by the Board.

Subtitle 6. Mortuary Transport Services.

§7–601.

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

(b) (1) "Mortuary transport service" means an individual or a business entity that, for compensation, removes and transports human remains or employs a transporter to remove or transport human remains.

(2) "Mortuary transport service" does not include:

(i) A licensed funeral establishment or an employee of a licensed funeral establishment that removes and transports human remains; or

(ii) A cemetery or employee of a cemetery that removes or transports human remains within the boundaries of the cemetery.

(c) "Permit" means a permit issued by the Board to the owner of a mortuary transport service to operate in the State.

(d) "Permit holder" means a mortuary transport service that holds a permit issued by the Board.

(e) "Registered transporter" means an individual employee of a mortuary transport service who has registered with the Board to remove and transport human remains.

(f) "Remove and transport human remains" means to remove human remains from one location and transport the human remains to another location.

(g) "Transporter" means an individual who removes and transports human remains.

§7–602.

(a) A mortuary transport service shall be issued a permit by the Board before the mortuary transport service may remove and transport human remains in this State.

(b) (1) To apply for a permit, a mortuary transport service shall submit to the Board:

(i) An application on the form that the Board requires;

(ii) An application fee set by the Board; and

(iii) Evidence that the mortuary transport service is bonded and carries liability insurance that covers each registered transporter employed by the mortuary transport service.

(2) An application for a permit shall be signed by an individual who is the owner or a co–owner of the mortuary transport service to be issued a permit.

(c) To qualify for a permit, a mortuary transport service shall satisfy the Board that the mortuary transport service:

(1) Has complied with all applicable State and local laws;

(2) Will be owned and operated in accordance with this subtitle; and

(3) While the mortuary transport service removes and transports human remains, will be held responsible for the treatment of the human remains.

(d) (1) A permit holder shall use vehicles that have passed an inspection by an inspector designated by the Board while the permit holder removes and transports human remains.

(2) A permit holder shall employ only registered transporters to remove and transport human remains.

(e) (1) (i) A permit issued under this subtitle shall expire on the date set by the Board.

(ii) A permit may not be renewed for a term longer than 2 years.

(2) A permit holder may renew a permit for additional terms, if the permit holder:

(i) Submits to the Board:

1. An application on the form that the Board requires; and

2. An application fee set by the Board; and

(ii) Complies with any other renewal requirements established by the Board.

(f) Signs and advertisements for a mortuary transport service shall display the name of the mortuary transport service as it appears on the permit.

§7–603.

(a) An individual employed by a permit holder shall be registered with the Board as a transporter before the individual may remove and transport human remains.

(b) To register as a transporter, an individual shall submit to the Board:

(1) A signed application on the form that the Board requires;

(2) A criminal history records check; and

(3) Evidence of the completion of coursework recommended by the Board.

(c) The Board shall register an individual who:

(1) Holds a valid driver's license; and

(2) Has complied with all applicable State and local laws.

(d) While a registered transporter removes and transports human remains or otherwise acts in the capacity of a registered transporter, the registered transporter shall:

(1) Treat every decedent with the utmost dignity; and

(2) Prominently display on their person the permit for the mortuary transport service for which the transporter is employed.

§7–604.

Subject to the hearing provisions of § 7–319 of this title, the Board may deny a permit or registration to any applicant, reprimand any permit holder or registered transporter, place any permit holder or registered transporter on probation, or suspend or revoke any permit or registration if the applicant, permit holder, or registered transporter:

(1) Fraudulently or deceptively obtains or attempts to obtain a permit or registration for the applicant, permit holder, registered transporter, or another;

(2) Fraudulently or deceptively uses a permit or registration;

(3) Commits fraud or misrepresentation while the applicant, permit holder, or registered transporter removes and transports human remains;

(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 to remove and transport human remains;

(6) Advertises falsely or in a misleading manner;

(7) Solicits to remove and transport human remains, 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 permit holder or registered transporter;

(9) Directly or indirectly pays or offers to pay to obtain business to remove and transport human remains;

(10) Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing human remains to be disposed of there;

(11) Refuses to surrender custody of human remains on the demand of a person who is entitled to their custody;

(12) Sells or offers to sell any share, certificate, or interest in a mortuary transport service with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;

(13) Violates any State, municipal, or county law, rule, or regulation on the handling, custody, care, or transportation of human remains or the disposal of instruments, materials, and wastes relevant to preparation of human remains for final disposition;

(14) Removes and transports human remains under a name other than the name that appears on the permit or registration of the permit holder or registered transporter;

(15) Signs an application for a permit or registration if the signer knew or should have known that grounds existed for which the permit or registration later was denied, suspended, or revoked;

(16) Violates any provision of this subtitle or of any other law relating to removing and transporting human remains;

(17) 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;

(18) Willfully makes or files a false report or record for a mortuary transport service;

(19) 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;

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

(21) 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;

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

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

(24) Commits an act of unprofessional conduct while removing and transporting human remains;

(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the permit holder or registered transporter is qualified to render because the individual is HIV positive;

(26) 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;

(27) Removes human remains from a death scene, mortuary, funeral establishment, or crematory without authorization of the individual or entity in custody of the human remains;

(28) Removes and transports human remains, either free of charge or for compensation, to an entity where the human remains are not authorized to be held; or

(29) Removes and transports human remains without respect for the decedent or the health and safety of the public.

§7–605.

(a) (1) Unless an individual or entity holds a current permit issued by the Board under this subtitle, the individual or entity may not represent to the public by name, description of services, methods, or procedures, or otherwise, that the individual or entity is a permit holder.

(2) Unless an individual or entity holds a current permit issued by the Board under this subtitle, an individual or entity may not use the words "permitted mortuary transport service" or "mortuary transport service" with the intent to represent that the individual or entity is authorized to operate as a permit holder.

(b) (1) Unless an individual is registered by the Board under this subtitle, the individual may not represent to the public by name, description of services, methods, or procedures, or otherwise, that the individual is a registered transporter.

(2) Unless an individual is registered by the Board under this subtitle, the individual may not use the terms "registered transporter" or "transporter" with the intent to represent that the individual is authorized to operate as a registered transporter.

(c) (1) A mortuary transport service or transporter may not obtain a permit or registration by making a false statement.

(2) On conviction of an individual for making a false representation to the Board in order to obtain a permit or registration, the permit or registration is void.

§7–606.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 1 year or both.

§7–607.

The Board shall adopt regulations to:

(1) Implement this subtitle; and

(2) Establish requirements for removing and transporting human remains.

Subtitle 7. Short title; Termination of Title.

§7–701.

This title may be cited as the "Maryland Morticians and Funeral Directors Act".

§7–702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2018.