

HOUSE BILL 314

J2

3lr1283
CF 3lr1502

By: **Delegates Pena–Melnyk, V. Turner, Costa, Frank, Hubbard, A. Kelly, Murphy, Oaks, and Tarrant**

Introduced and read first time: January 24, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of expanding the authority of the State Board of Morticians and
5 Funeral Directors to discipline the holders of funeral establishment licenses
6 under certain circumstances; and generally relating to the disciplinary
7 authority of the State Board of Morticians and Funeral Directors and funeral
8 establishment licenses.

9 BY repealing and reenacting, with amendments,
10 Article – Health Occupations
11 Section 7–316
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2012 Supplement)

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

16 **Article – Health Occupations**

17 7–316.

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

22 (1) Fraudulently or deceptively obtains or attempts to obtain a license
23 for the applicant or licensee or for another;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2) Fraudulently or deceptively uses a license;
- 2 (3) Commits fraud or misrepresentation in the practice of mortuary
3 science;
- 4 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
5 crime involving moral turpitude, whether or not any appeal or other proceeding is
6 pending to have the conviction or plea set aside;
- 7 (5) Aids or abets an unauthorized person in the practice of mortuary
8 science;
- 9 (6) Advertises falsely or in a misleading manner;
- 10 (7) Solicits mortuary science business, either personally or by an
11 agent, from a dying individual or the relatives of a dead or dying individual, other
12 than through general advertising;
- 13 (8) Employs, pays, or offers to pay a “capper”, “steerer”, “solicitor”, or
14 any other person to obtain business, either in general or for a licensee or funeral
15 establishment;
- 16 (9) Directly or indirectly pays or offers to pay to obtain mortuary
17 science business;
- 18 (10) Solicits or accepts any payment or rebate for recommending any
19 crematory, mausoleum, or cemetery or causing a dead human body to be disposed of
20 there;
- 21 (11) Refuses to surrender custody of a dead human body on the demand
22 of a person who is entitled to its custody;
- 23 (12) Sells or offers to sell any share, certificate, or interest in a
24 mortuary science business with a promise or offer to perform services to the buyer at a
25 cost less than that offered to the general public;
- 26 (13) Fails, after proper demand, to refund promptly any payments
27 received under a pre-need contract with interest;
- 28 (14) At the time funeral arrangements are made, fails to give the
29 contract required by § 7-404 of this title;
- 30 (15) Violates any State, municipal, or county law, rule, or regulation on
31 the handling, custody, care, or transportation of dead human bodies or the disposal of
32 instruments, materials, and wastes relevant to preparation of a dead human body for
33 final disposition;

- 1 (16) Practices mortuary science under a name other than:
- 2 (i) The name that appears on the license of that person; or
- 3 (ii) The name of a partnership in accordance with § 7–401 of
4 this title;
- 5 (17) Signs an application for a funeral establishment license if the
6 signer knew or should have known that grounds existed for which the funeral
7 establishment license later was denied, suspended, or revoked;
- 8 (18) Violates any provision of this title or of the laws relating to
9 cremation;
- 10 (19) Is disciplined by a licensing or disciplinary authority of any other
11 state or country or convicted or disciplined by a court of any state or country for an act
12 that would be grounds for disciplinary action under the Board’s disciplinary statutes;
- 13 (20) Willfully makes or files a false report or record in the practice of
14 mortuary science;
- 15 (21) Willfully fails to file or record any report as required under law,
16 willfully impedes or obstructs the filing or recording of the report, or induces another
17 to fail to file or record the report;
- 18 (22) Submits a false statement to collect a fee;
- 19 (23) Provides professional services while:
- 20 (i) Under the influence of alcohol; or
- 21 (ii) Using any narcotic or controlled dangerous substance, as
22 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
23 therapeutic amounts or without valid medical indication;
- 24 (24) Violates any rule or regulation adopted by the Board;
- 25 (25) Is professionally, physically, or mentally incompetent;
- 26 (26) Commits an act of unprofessional conduct in the practice of
27 mortuary science;
- 28 (27) Refuses, withholds from, denies, or discriminates against an
29 individual with regard to the provision of professional services for which the licensee is
30 licensed and qualified to render because the individual is HIV positive;

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

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

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

7 (31) Fails to provide the Board the certification required under §
8 7-405(i) of this title; or

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

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

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

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

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

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