

HOUSE BILL 70

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2lr0577
CF SB 14

By: **Delegate Kach**

Introduced and read first time: January 16, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

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

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

17 BY adding to
18 Article – Health Occupations
19 Section 7–208
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2011 Supplement)

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

24 **Article – Health Occupations**

25 **7–208.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

26 **(E) AN APPLICANT OR A LICENSEE SHALL PAY THE REASONABLE COST**
27 **OF ANY EXAMINATION MADE UNDER THIS SECTION.**

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