

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 224

**Senator Cirino
Cosponsors: Senators Lang, Schaffer**

A BILL

To amend sections 2108.75, 2108.82, 3705.20, 1
4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 2
4717.10, 4717.13, 4717.14, 4717.24, 4717.28, 3
4717.30, 4717.31, 4717.35, and 4717.36 of the 4
Revised Code to make changes to the laws that 5
impact funeral homes, funeral professionals, 6
funeral hearses, funeral escort vehicles, and 7
preneed funeral contracts. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2108.75, 2108.82, 3705.20, 9
4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 4717.10, 4717.13, 10
4717.14, 4717.24, 4717.28, 4717.30, 4717.31, 4717.35, and 11
4717.36 of the Revised Code be amended to read as follows: 12

Sec. 2108.75. (A) A person shall be disqualified from 13
serving as a representative or successor representative, or from 14
having the right of disposition for a deceased adult pursuant to 15
section 2108.81 of the Revised Code, if any of the following 16
occurs: 17

(1) The person dies. 18

(2) A probate court declares or determines that the person is incompetent. 19
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(3) The person resigns or declines to exercise the right as described in section 2108.88 of the Revised Code. 21
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(4) The person ~~refuses~~ fails to exercise the right within ~~two days~~ forty-eight hours after notification of the declarant's or deceased adult's death or, if there is no notification, within seventy-two hours of the declarant's or deceased adult's death. 23
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(5) The person cannot be located with reasonable effort. 28

(6) The person meets the criteria described in section 2108.76 or 2108.77 of the Revised Code. 29
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(7) The person refuses to assume the liability for the costs of disposition. 31
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(B) No owner, employee, or agent of a funeral home, cemetery, or crematory providing funeral, burial, or cremation services for a declarant shall serve as a representative or successor representative for the declarant unless the owner, employee, or agent is related to the declarant by blood, marriage, or adoption. 33
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(C) Subject to divisions (C) (2) and ~~(D) (2)~~ (D) of section 2108.70 of the Revised Code, if a person is disqualified from serving as the declarant's representative or successor representative, or from having the right of disposition for a deceased adult pursuant to section 2108.81 of the Revised Code, as described in division (A) of this section, the right is automatically reassigned to, and vests in, the next person who has the right pursuant to the declarant's written declaration or pursuant to the order of priority in section 2108.81 of the 39
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Revised Code. 48

If a right of disposition for a deceased adult is assigned 49
to a funeral director under division (B)(9) of section 2108.81 50
of the Revised Code, the funeral director is not liable for the 51
cost of disposition. 52

Sec. 2108.82. (A) Notwithstanding section 2108.81 of the 53
Revised Code and in accordance with division (B) of this 54
section, the probate court for the county in which the declarant 55
or deceased person resided at the time of death may, on its own 56
motion or the motion of another person, assign to any person the 57
right of disposition for a declarant or deceased person. 58

(B) In making a determination for purposes of division (A) 59
of this section and division (C) of section 2108.79 of the 60
Revised Code, the court shall consider the following: 61

(1) Whether evidence presented to, or in the possession of 62
the court, demonstrates that the person who is the subject of 63
the motion and the declarant or deceased person had a close 64
personal relationship; 65

(2) The reasonableness and practicality of any plans that 66
the person who is the subject of the motion may have for the 67
declarant's or deceased person's funeral, burial, cremation, or 68
final disposition, including the degree to which such plans 69
allow maximum participation by all persons who wish to pay their 70
final respects to the deceased person; 71

~~(3) The willingness of the person who is the subject of~~ 72
~~the motion to assume the responsibility to pay for the~~ 73
~~declarant's or deceased person's funeral, burial, cremation, or~~ 74
~~final disposition and the desires of that person;~~ 75

~~(4) The convenience and needs of other families and~~ 76

friends wishing to pay their final respects to the declarant or
deceased person; 77 78

~~(5)~~ (4) The express written desires of the declarant or
deceased person. 79 80

~~(C) Except to the extent considered under division (B) (3)~~
~~of this section, the following persons do~~ The personal
representative of either the declarant or the deceased person
does not have a greater claim to the right of disposition than
such persons otherwise have pursuant to law. 81 82 83 84 85

~~(1) A person who is willing to assume the responsibility~~
~~to pay for the declarant's or deceased person's funeral, burial,~~
~~cremation, or final disposition;~~ 86 87 88

~~(2) The personal representative of the declarant or~~
~~deceased person.~~ 89 90

Sec. 3705.20. (A) The fetal death of the product of human
conception of at least twenty weeks of gestation shall be
registered on a fetal death certificate. 91 92 93

On application of the funeral director or either parent,
the fetal death of the product of human conception prior to
twenty weeks of gestation shall be registered on a fetal death
certificate, except that the fetal death certificate shall not
list the cause of death. 94 95 96 97 98

The funeral director or the parent shall include with the
application a copy of the statement required by division (B) (1)
of section 3727.16 or division (B) (1) of section 4731.82 of the
Revised Code. If the father submits the application, he shall
also include with it a signed and notarized document from the
mother attesting that she voluntarily provided the father with a
copy of the statement. 99 100 101 102 103 104 105

A fetal death certificate for the product of human 106
conception prior to twenty weeks gestation is not proof of a 107
live birth for purposes of federal, state, and local taxes. 108

(B) The product of human conception of at least twenty 109
weeks of gestation that suffers a fetal death occurring in Ohio 110
shall not be interred, deposited in a vault or tomb, cremated, 111
or otherwise disposed of by a funeral director or other person 112
until a fetal death certificate or provisional death certificate 113
has been filed with and a burial permit is issued by the local 114
registrar of vital statistics of the registration district in 115
which the fetal death occurs, or the body is found. 116

A burial permit for the product of human conception that 117
suffers a fetal death prior to twenty weeks of gestation shall 118
be issued by the local registrar of vital statistics of the 119
registration district in which the fetal death occurs if the 120
funeral director or either parent files a fetal death 121
certificate with that registrar. 122

(C) (1) The department of health and the local registrar 123
shall keep a separate record and index record of fetal death 124
certificates. 125

(2) The personal or statistical information on the fetal 126
death certificate shall be obtained by the funeral director or 127
other person in charge of interment or cremation from the best 128
qualified persons or sources available. 129

(D) When a burial permit is issued under division (B) of 130
this section for the product of human conception of at least 131
twenty weeks of gestation that suffers a fetal death, the local 132
registrar shall inform the parent or parents listed on the fetal 133
death certificate or provisional death certificate of the option 134

of applying for a certificate that is issued under division (B) 135
(3) of section 3705.23 of the Revised Code. 136

Sec. 4513.17. (A) Whenever a motor vehicle equipped with 137
headlights also is equipped with any auxiliary lights or 138
spotlight or any other light on the front thereof projecting a 139
beam of an intensity greater than three hundred candle power, 140
not more than a total of five of any such lights on the front of 141
a vehicle shall be lighted at any one time when the vehicle is 142
upon a highway. 143

(B) Any lighted light or illuminating device upon a motor 144
vehicle, other than headlights, spotlights, signal lights, or 145
auxiliary driving lights, that projects a beam of light of an 146
intensity greater than three hundred candle power, shall be so 147
directed that no part of the beam will strike the level of the 148
roadway on which the vehicle stands at a distance of more than 149
seventy-five feet from the vehicle. 150

(C) (1) Flashing lights are prohibited on motor vehicles, 151
except as a means for indicating a right or a left turn, or in 152
the presence of a vehicular traffic hazard requiring unusual 153
care in approaching, or overtaking or passing. ~~This~~ 154

(2) The prohibition in division (C) (1) of this section 155
does not apply to ~~emergency~~ any of the following: 156

(a) Emergency vehicles, road service vehicles servicing or 157
towing a disabled vehicle, stationary waste collection vehicles 158
actively collecting garbage, refuse, trash, or recyclable 159
materials on the roadside, rural mail delivery vehicles, 160
vehicles as provided in section 4513.182 of the Revised Code, 161
highway maintenance vehicles, ~~funeral hearses, funeral escort~~ 162
~~vehicles,~~ and similar equipment operated by the department or 163

local authorities, ~~which shall be provided such vehicles are~~ 164
equipped with and display, when used on a street or highway for 165
the special purpose necessitating such lights, a flashing, 166
oscillating, or rotating amber light, ~~but shall not display a~~ 167
~~flashing, oscillating, or rotating light of any other color, nor~~ 168
~~to vehicles;~~ 169

(b) Vehicles or machinery permitted by section 4513.11 of 170
the Revised Code to have a flashing red light. 171

~~(2) When used on a street or highway, farm;~~ 172

(c) Farm machinery and vehicles escorting farm machinery 173
~~may be, provided such machinery and vehicles are~~ equipped with 174
and display, when used on a street or highway, a flashing, 175
oscillating, or rotating amber light, ~~and the prohibition~~ 176
~~contained in division (C) (1) of this section does not apply to~~ 177
~~such machinery or vehicles.~~ Farm machinery also may display the 178
lights described in section 4513.11 of the Revised Code. 179

(d) A funeral hearse or funeral escort vehicle, provided 180
that the funeral hearse or funeral escort vehicle is equipped 181
with and displays, when used on a street or highway for the 182
special purpose necessitating such lights, a flashing, 183
oscillating, or rotating purple or amber light. 184

(D) (1) Except a person operating a public safety vehicle, 185
as defined in division (E) of section 4511.01 of the Revised 186
Code, or a school bus, no person shall operate, move, or park 187
upon, or permit to stand within the right-of-way of any public 188
street or highway any vehicle or equipment that is equipped with 189
and displaying a flashing red or a flashing combination red and 190
white light, or an oscillating or rotating red light, or a 191
combination red and white oscillating or rotating light, ~~and~~ 192

except.	193
<u>(2) Except</u> a public law enforcement officer, or other	194
person sworn to enforce the criminal and traffic laws of the	195
state, operating a public safety vehicle when on duty, no person	196
shall operate, move, or park upon, or permit to stand within the	197
right-of-way of any street or highway any vehicle or equipment	198
that is equipped with, or upon which is mounted, and displaying	199
a flashing blue or a flashing combination blue and white light,	200
or an oscillating or rotating blue light, or a combination blue	201
and white oscillating or rotating light.	202
(E) This section does not prohibit the use of warning	203
lights required by law or the simultaneous flashing of turn	204
signals on disabled vehicles or on vehicles being operated in	205
unfavorable atmospheric conditions in order to enhance their	206
visibility. This section also does not prohibit the simultaneous	207
flashing of turn signals or warning lights either on farm	208
machinery or vehicles escorting farm machinery, when used on a	209
street or highway.	210
(F) Whoever violates this section is guilty of a minor	211
misdemeanor.	212
Sec. 4717.04. (A) The board of embalmers and funeral	213
directors shall adopt rules in accordance with Chapter 119. of	214
the Revised Code for the government, transaction of the	215
business, and the management of the affairs of the board of	216
embalmers and funeral directors and the crematory review board,	217
and for the administration and enforcement of this chapter.	218
These rules shall include all of the following:	219
(1) The nature, scope, content, and form of the	220
application that must be completed and license examination that	221

must be passed in order to receive an embalmer's license or a 222
funeral director's license under section 4717.05 of the Revised 223
Code. The rules shall ensure both of the following: 224

(a) That the embalmer's license examination tests the 225
applicant's knowledge through at least a comprehensive section 226
and an Ohio laws section; 227

(b) That the funeral director's license examination tests 228
the applicant's knowledge through at least a comprehensive 229
section, an Ohio laws section, and a sanitation section. 230

(2) The minimum license examination score necessary to be 231
licensed under section 4717.05 of the Revised Code as an 232
embalmer or as a funeral director; 233

(3) Procedures for determining the dates of the embalmer's 234
and funeral director's license examinations, which shall be 235
administered at least once each year, the time and place of each 236
examination, and the supervision required for each examination; 237

(4) Procedures for determining whether the board shall 238
accept an applicant's compliance with the licensure, 239
registration, or certification requirements of another state as 240
grounds for granting the applicant a license under this chapter; 241

(5) A determination of whether completion of a nationally 242
recognized embalmer's or funeral director's examination 243
sufficiently meets the license requirements for the 244
comprehensive section of either the embalmer's or the funeral 245
director's license examination administered under this chapter; 246

(6) Continuing education requirements for licensed 247
embalmers and funeral directors; 248

(7) Requirements for the licensing and operation of 249

funeral homes;	250
(8) Requirements for the licensing and operation of	251
embalming facilities;	252
(9) A schedule that lists, and specifies a forfeiture	253
commensurate with, each of the following types of conduct which,	254
for the purposes of division (A) (9) of this section and section	255
4717.15 of the Revised Code, are violations of this chapter:	256
(a) Obtaining a license under this chapter by fraud or	257
misrepresentation either in the application or in passing the	258
required examination for the license;	259
(b) Purposely violating any provision of sections 4717.01	260
to 4717.15 of the Revised Code or a rule adopted under any of	261
those sections; division (A) or (B) of section 4717.23; division	262
(B) (1) or (2), (C) (1) or (2), (D), (E), or (F) (1) or (2), or	263
divisions (H) to (K) of section 4717.26; division (D) (1) of	264
section 4717.27; or divisions (A) to (C) of section 4717.28 of	265
the Revised Code;	266
(c) Committing unprofessional conduct;	267
(d) Knowingly permitting an unlicensed person, other than	268
a person serving an apprenticeship, to engage in the profession	269
or business of embalming or funeral directing under the	270
licensee's supervision;	271
(e) Refusing to promptly submit the custody of a dead	272
human body or cremated remains upon the express order of the	273
person legally entitled to the body;	274
(f) Transferring a license to operate a funeral home,	275
embalming facility, or crematory facility from one owner or	276
operator to another, or from one location to another, without	277

notifying the board <u>and following the requirements of section</u>	278
<u>4717.11 of the Revised Code;</u>	279
(g) Misleading the public using false or deceptive	280
advertising;	281
(h) Failing to forward to the board on or before its due	282
date the annual report of preneed funeral sales required by	283
division (J) of section 4717.31 of the Revised Code. If the	284
annual report is sent to the board by United States mail, it	285
shall be postmarked on or before the due date for the submission	286
of the annual report in order to be timely filed with the board.	287
Mail that is not postmarked shall be considered filed on the	288
date it is received by the board.	289
Each instance of the commission of any of the types of	290
conduct described in division (A) (9) of this section is a	291
separate violation. The rules adopted under division (A) (9) of	292
this section shall establish the amount of the forfeiture for a	293
violation of each of those divisions. The forfeiture for a first	294
violation shall not exceed five thousand dollars, and the	295
forfeiture for a second or subsequent violation shall not exceed	296
ten thousand dollars. The amount of the forfeiture may differ	297
among the types of violations according to what the board	298
considers the seriousness of each violation.	299
(10) Requirements for the licensing and operation of	300
crematory facilities;	301
(11) Procedures for the board to take possession of and to	302
arrange the lawful disposition of unclaimed cremated remains	303
that were held or stored at a funeral home or crematory that has	304
been closed;	305
(12) Procedures for the issuance of duplicate licenses;	306

(13) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;	307 308
(14) The amount and content of corrective action courses required by the board under section 4717.14 of the Revised Code;	309 310
<u>(15) Requirements for the sale of preneed funeral services and preneed funeral goods, the content and funding of preneed funeral contracts, and the payment and administration of preneed funeral funds.</u>	311 312 313 314
(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director, or obtaining a permit to be a crematory operator, and the standards of service and practice to be followed in embalming, funeral directing, and cremation, and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.	315 316 317 318 319 320
(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate funeral homes, embalming facilities, and crematory facilities located at cemeteries in accordance with this chapter.	321 322 323 324 325
Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:	326 327 328 329 330 331 332
(1) The applicant is at least eighteen years of age.	333
(2) The applicant holds at least a bachelor's degree from a college or university authorized to confer degrees by the	334 335

department of higher education or the comparable legal agency of 336
another state in which the college or university is located and 337
submits an official transcript from that college or university 338
with the application. 339

(3) The applicant has satisfactorily completed at least 340
twelve months of instruction in a prescribed course in mortuary 341
science as approved by the board and has presented to the board 342
a certificate showing successful completion of the course. The 343
course of mortuary science college training may be completed 344
either before or after the completion of the educational 345
standard set forth in division (A) (2) of this section. 346

(4) The applicant has been certified by the board prior to 347
beginning an embalmer apprenticeship. 348

(5) The applicant has satisfactorily completed at least 349
one year of apprenticeship under an embalmer licensed in this 350
state and has participated in embalming at least twenty-five 351
dead human bodies. 352

(6) The applicant, upon meeting the educational standards 353
provided for in divisions (A) (2) and (3) of this section and 354
completing the apprenticeship required in division (A) (5) of 355
this section, has completed the examination for an embalmer's 356
license required by the board. 357

(B) Upon receiving satisfactory evidence verified by oath 358
that the applicant meets all the requirements of division (A) of 359
this section, the board shall issue the applicant an embalmer's 360
license. 361

(C) Any person who desires to be licensed as a funeral 362
director shall apply to the board on a form prescribed by the 363
board. The application shall include an initial license fee as 364

set forth in section 4717.07 of the Revised Code and evidence, 365
verified by oath and satisfactory to the board, that the 366
applicant meets all of the following requirements: 367

(1) Except as otherwise provided in division (D) of this 368
section, the applicant has satisfactorily met all the 369
requirements for an embalmer's license as described in divisions 370
(A) (1) to (3) of this section. 371

(2) The applicant has been certified by the board prior to 372
beginning a funeral director apprenticeship. 373

(3) The applicant, following mortuary science college 374
training described in division (A) (3) of this section, has 375
satisfactorily completed a one-year apprenticeship under a 376
licensed funeral director in this state and has participated in 377
directing at least twenty-five funerals. 378

(4) The applicant has satisfactorily completed the 379
examination for a funeral director's license as required by the 380
board. 381

(D) In lieu of mortuary science college training required 382
for a funeral director's license under division (C) (1) of this 383
section, the applicant may substitute a satisfactorily completed 384
two-year apprenticeship under a licensed funeral director in 385
this state assisting that person in directing at least fifty 386
funerals. 387

(E) Upon receiving satisfactory evidence that the 388
applicant meets all the requirements of division (C) of this 389
section, the board shall issue to the applicant a funeral 390
director's license. 391

(F) A funeral director or embalmer may request the funeral 392
director's or embalmer's license be placed on inactive status by 393

submitting to the board a form prescribed by the board and such 394
other information as the board may request. A funeral director 395
or embalmer may not place the funeral director's or embalmer's 396
license on inactive status unless the funeral director or 397
embalmer is in good standing with the board and is in compliance 398
with applicable continuing education requirements. A funeral 399
director or embalmer who is granted inactive status is 400
prohibited from participating in any activity for which a 401
funeral director's or embalmer's license is required in this 402
state. A funeral director or embalmer who has been granted 403
inactive status is exempt from the continuing education 404
requirements under section 4717.09 of the Revised Code during 405
the period of the inactive status. 406

(G) A funeral director or embalmer who has been granted 407
inactive status may not return to active status for at least two 408
years following the date that the inactive status was granted. 409
Following a period of at least two years of inactive status, the 410
funeral director or embalmer may apply to return to active 411
status upon completion of all of the following conditions: 412

(1) The funeral director or embalmer files with the board 413
a form prescribed by the board seeking active status and 414
provides any other information as the board may request; 415

(2) The funeral director or embalmer takes and passes the 416
Ohio laws examination for each license being activated; 417

(3) The funeral director or embalmer pays ~~a reactivation~~ 418
~~fee to the board in the amount of one hundred forty dollars for~~ 419
~~each license being reactivated~~the reactivation fee described in 420
division (A) (1) of section 4717.07 of the Revised Code. 421

Sec. 4717.06. (A) (1) A licensed funeral director who 422

desires to obtain a license to operate a funeral home, a 423
licensed embalmer who desires to obtain a license to operate an 424
embalming facility, or a holder of a crematory operator permit 425
who desires to obtain a license to operate a crematory facility 426
shall apply to the board of embalmers and funeral directors on a 427
form prescribed by the board. The application shall include the 428
initial license application fee set forth in section 4717.07 of 429
the Revised Code and proof satisfactory to the board that the 430
funeral home, embalming facility, or crematory facility is in 431
compliance with rules adopted by the board under section 4717.04 432
of the Revised Code, rules adopted by the board of building 433
standards under Chapter 3781. of the Revised Code, and all other 434
federal, state, and local requirements relating to the safety of 435
the premises. 436

(2) If the funeral home, embalming facility, or crematory 437
facility to which the license application pertains is owned by a 438
corporation or limited liability company, the application shall 439
include the name and address of the corporation's or limited 440
liability company's statutory agent appointed under section 441
1701.07, 1705.06, or 1706.09 of the Revised Code or, in the case 442
of a foreign corporation, the corporation's designated agent 443
appointed under section 1703.041 of the Revised Code. If the 444
funeral home, embalming facility, or crematory facility to which 445
the application pertains is owned by a partnership, the 446
application shall include the name and address of each of the 447
partners. If, at any time after the submission of a license 448
application or issuance of a license, the statutory or 449
designated agent of a corporation or limited liability company 450
owning a funeral home, embalming facility, or crematory facility 451
or the address of the statutory or designated agent changes or, 452
in the case of a partnership, any of the partners of the funeral 453

home, embalming facility, or crematory facility or the address 454
of any of the partners changes, the applicant for or holder of 455
the license to operate the funeral home, embalming facility, or 456
crematory facility shall submit written notice to the board, 457
within thirty days after the change, informing the board of the 458
change and of any name or address of a statutory or designated 459
agent or partner that has changed from that contained in the 460
application for the license or the most recent notice submitted 461
under division (A) (2) of this section. 462

(B) (1) The board of embalmers and funeral directors shall 463
issue a license to operate a funeral home only to a licensed 464
funeral director who is named in the application as the funeral 465
director actually in charge and ultimately responsible for the 466
funeral home. The board shall issue the license only for the 467
address at which the funeral home is physically located and 468
operated. The funeral home license and licenses of the embalmers 469
and funeral directors employed by the funeral home shall be 470
displayed in a conspicuous place within the funeral home. ~~The~~ 471
~~name of the funeral director to whom the funeral home license~~ 472
~~has been issued shall be conspicuously displayed immediately on~~ 473
~~the outside or the inside of the primary entrance to the funeral~~ 474
~~home that is used by the public.~~ 475

(2) The funeral home shall have on the premises one of the 476
following: 477

(a) If embalming will take place at the funeral home, an 478
embalming room that is adequately equipped and maintained. The 479
embalming room shall be kept in a clean and sanitary manner and 480
used only for the embalming, preparation, or holding of dead 481
human bodies. The embalming room shall contain only the 482
articles, facilities, and instruments necessary for those 483

purposes. 484

(b) If embalming will not take place at the funeral home, 485
a holding room that is adequately equipped and maintained. The 486
holding room shall be kept in a clean and sanitary manner and 487
used only for the preparation, other than embalming, and holding 488
of dead human bodies. The holding room shall contain only the 489
articles and facilities necessary for those purposes. 490

(3) Each funeral home shall be directly supervised by a 491
funeral director licensed under this chapter, who may supervise 492
more than one funeral home. 493

(C) (1) The board shall issue a license to operate an 494
embalming facility only to a licensed embalmer who is actually 495
in charge of and ultimately responsible for the embalming 496
facility. The board shall issue the license only for the address 497
at which the embalming facility is physically located and 498
operated. The license shall be displayed in a conspicuous place 499
within the facility. ~~The name of the embalmer to whom the~~ 500
~~embalming facility license has been issued shall be~~ 501
~~conspicuously displayed on the outside or inside of the primary~~ 502
~~entrance to the embalming facility.~~ 503

(2) The embalming facility shall be adequately equipped 504
and maintained in a sanitary manner. The embalming room at such 505
a facility shall contain only the articles, facilities, and 506
instruments necessary for its stated purpose. The embalming room 507
shall be kept in a clean and sanitary condition and used only 508
for the care and preparation of dead human bodies. 509

(D) (1) The board shall issue a license to operate a 510
crematory facility only to a crematory operator who is actually 511
in charge and ultimately responsible for the crematory facility. 512

The board shall issue the license only for the address at which 513
the crematory facility is physically located and operated. The 514
license shall be displayed in a conspicuous place within the 515
crematory facility. ~~The name of the crematory operator to whom~~ 516
~~the crematory facility license has been issued shall be~~ 517
~~conspicuously displayed on the outside or inside of the primary~~ 518
~~entrance to the crematory facility.~~ 519

(2) The crematory facility shall be adequately equipped 520
and maintained in a clean and sanitary manner. The crematory 521
facility may be located in a funeral home, embalming facility, 522
cemetery building, or other building in which the crematory 523
facility may lawfully operate. If a crematory facility engages 524
in the cremation of animals, the crematory facility shall 525
cremate animals in a cremation chamber that also is not used to 526
cremate dead human bodies or human body parts and shall not 527
cremate animals in a cremation chamber used for the cremation of 528
dead human bodies and human body parts. Cremation chambers that 529
are used for the cremation of dead human bodies or human body 530
parts and cremation chambers used for the cremation of animals 531
may be located in the same area. Cremation chambers used for the 532
cremation of animals shall have conspicuously displayed on the 533
unit a notice that the unit is to be used for animals only. 534

(3) A license to operate a crematory facility shall be 535
issued to the person actually in charge of the crematory 536
facility. This section does not require the individual who is 537
actually in charge of the crematory facility to be an embalmer 538
or funeral director licensed under this chapter. 539

(4) Nothing in this section or rules adopted under section 540
4717.04 of the Revised Code precludes the establishment and 541
operation of a crematory facility on or adjacent to the property 542

on which a cemetery, funeral home, or embalming facility is located.	543 544
Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:	545 546
(1) For applying for an initial or biennial renewal of an embalmer's or funeral director's license, <u>or a reactivation of a license as described in division (G) of section 4717.05 of the Revised Code,</u> two hundred dollars;	547 548 549 550
(2) For applying for an embalmer or funeral director certificate of apprenticeship, thirty-five dollars;	551 552
(3) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;	553 554 555
(4) For applying for an initial license to operate a funeral home, four hundred dollars and biennial renewal of a license to operate a funeral home, four hundred dollars;	556 557 558
(5) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(1) of this section plus fifty dollars for each month or portion of a month the license is lapsed, but not more than one thousand dollars;	559 560 561 562 563
(6) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(4) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than one thousand dollars;	564 565 566 567 568
(7) For applying for a license to operate an embalming facility, four hundred dollars and biennial renewal of a license	569 570

to operate an embalming facility, four hundred dollars;	571
(8) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A) (7) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than one thousand dollars;	572 573 574 575 576
(9) For applying for a license to operate a crematory facility, four hundred dollars and biennial renewal of a license to operate a crematory facility, four hundred dollars;	577 578 579
(10) For the reinstatement of a lapsed license to operate a crematory facility, the renewal fee prescribed in division (A) (9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement, but not more than five hundred dollars;	580 581 582 583 584
(11) For applying for the initial or biennial renewal of a crematory operator permit, one hundred fifty dollars;	585 586
(12) For the reinstatement of a lapsed crematory operator permit, the renewal fee prescribed in division (A) (11) of this section plus fifty dollars for each month or portion of a month the permit is lapsed, but not more than five hundred dollars;	587 588 589 590
(13) For the issuance of a duplicate of a license issued under this chapter, ten dollars;	591 592
(14) For each preneed funeral contract sold in the state other than those funded by the assignment of an existing insurance policy, ten dollars.	593 594 595
(B) In addition to the fees set forth in division (A) of this section, an applicant shall pay the examination fee assessed by any examining agency the board uses for any section	596 597 598

of an examination required under this chapter. 599

(C) Subject to the approval of the controlling board, the 600
board of embalmers and funeral directors may establish fees in 601
excess of the amounts set forth in this section, provided that 602
these fees do not exceed the amounts set forth in this section 603
by more than fifty per cent. 604

Sec. 4717.10. (A) The board of embalmers and funeral 605
directors may recognize ~~licenses~~ a license issued to ~~embalmers~~ 606
~~and an embalmer or a funeral directors director by other states,~~ 607
~~and upon another state.~~ Upon presentation of such 608
~~licenses~~ license and evidence satisfactory to the board showing 609
such embalmer or funeral director meets all requirements of this 610
division and is in good standing in that other state, ~~may the~~ 611
board shall issue to the holder an embalmer's or funeral 612
director's license under this chapter. The board shall charge 613
the same fee as prescribed in section 4717.07 of the Revised 614
Code to issue or renew such an embalmer's or funeral director's 615
license. Such licenses shall be renewed biennially as provided 616
in section 4717.08 of the Revised Code. The board shall not 617
issue a license to any person under this division ~~(A) of this~~ 618
~~section~~ unless the applicant proves that the applicant, in the 619
state in which the applicant is licensed, has complied with 620
requirements substantially equal to those established in section 621
4717.05 of the Revised Code. 622

(B) The board of embalmers and funeral directors may issue 623
courtesy card permits. A courtesy card permit holder shall be 624
authorized to undertake both the following acts in this state: 625

(1) Prepare and complete those sections of a death 626
certificate and other permits needed for disposition of deceased 627
human remains in this state and sign and file such death 628

certificates and permits; 629

(2) Supervise and conduct funeral ceremonies, interments, 630
and entombments in this state. 631

(C) The board of embalmers and funeral directors ~~may~~shall 632
determine under what conditions a courtesy card permit ~~may~~shall 633
be issued to funeral directors in bordering states after taking 634
into account whether and under what conditions and fees such 635
border states issue similar courtesy card permits to funeral 636
directors licensed in this state. A courtesy card permit holder 637
shall comply with all applicable laws and rules of this state 638
while engaged in any acts of funeral directing in this state. 639
The board may revoke or suspend a courtesy card permit or 640
subject a courtesy card permit holder to discipline in 641
accordance with the laws, rules, and procedures applicable to 642
funeral directors under this chapter. Applicants for courtesy 643
card permits shall apply on forms prescribed by the board, pay a 644
biennial fee set by the board for initial applications and 645
renewals, and adhere to such other requirements imposed by the 646
board on courtesy card permit holders. 647

(D) No courtesy card permit holder shall be authorized to 648
undertake any of the following activities in this state: 649

(1) Arranging funerals or disposition services with 650
members of the public in this state; 651

(2) Be employed by or under contract to a funeral home 652
licensed in this state to perform funeral services in this 653
state; 654

(3) Advertise funeral or disposition services in this 655
state; 656

(4) Enter into or execute funeral or disposition contracts 657

in this state; 658

(5) Prepare or embalm deceased human remains in this 659
state; 660

(6) Arrange for or carry out the disinterment of human 661
remains in this state. 662

(E) As used in this section, "courtesy card permit" means 663
a special permit that may be issued to a funeral director 664
licensed in a state that borders this state and who does not 665
hold a funeral director's license under this chapter. 666

Sec. 4717.13. (A) No person shall do any of the following: 667

(1) Engage in the business or profession of funeral 668
directing unless the person is licensed as a funeral director 669
under this chapter, is certified as an apprentice funeral 670
director in accordance with rules adopted under section 4717.04 671
of the Revised Code and under the supervision of a funeral 672
director licensed under this chapter, or is a student in a 673
college of mortuary sciences approved by the board of embalmers 674
and funeral directors and is under the direct supervision of a 675
funeral director licensed by the board; 676

(2) Engage in embalming unless the person is licensed as 677
an embalmer under this chapter, is certified as an apprentice 678
embalmer in accordance with rules adopted under section 4717.04 679
of the Revised Code and is under the supervision of an embalmer 680
licensed under this chapter, or is a student in a college of 681
mortuary science approved by the board and is under the direct 682
supervision of an embalmer licensed by the board; 683

(3) Advertise or otherwise offer to provide or convey the 684
impression that the person provides funeral directing services 685
unless the person is licensed as a funeral director under this 686

chapter and is employed by or under contract to a licensed 687
funeral home and performs funeral directing services for that 688
funeral home in a manner consistent with the advertisement, 689
offering, or conveyance; 690

(4) Advertise or otherwise offer to provide or convey the 691
impression that the person provides embalming services unless 692
the person is licensed as an embalmer under this chapter and is 693
employed by or under contract to a licensed funeral home or a 694
licensed embalming facility and performs embalming services for 695
the funeral home or embalming facility in a manner consistent 696
with the advertisement, offering, or conveyance; 697

(5) Operate a funeral home without a license to operate 698
the funeral home issued by the board under this chapter; 699

(6) Practice the business or profession of funeral 700
directing from any place except from a funeral home that a 701
person is licensed to operate under this chapter; 702

(7) Practice embalming from any place except from a 703
funeral home or embalming facility that a person is licensed to 704
operate under this chapter; 705

(8) Operate a crematory or perform cremation without a 706
license to operate the crematory issued under this chapter; 707

(9) Cremate animals in a cremation chamber in which dead 708
human bodies or body parts are cremated or cremate dead human 709
bodies or human body parts in a cremation chamber in which 710
animals are cremated; 711

(10) Hold a dead human body, before final disposition, for 712
more than forty-eight hours after the time of death unless the 713
dead human body is embalmed or placed into refrigeration and 714
maintained at a constant temperature of less than forty degrees; 715

(11) Knowingly refuse to promptly submit the custody of a	716
dead human body or cremated remains upon the oral or written	717
order of the person legally entitled to the body or cremated	718
remains;	719
(12) Except as ordered by the coroner or the person	720
holding the right of disposition under section 2108.70 or	721
2108.81 of the Revised Code, knowingly fail to carry out the	722
final disposition of a dead human body within thirty days after	723
taking custody of the body;	724
(13) Engage in cremation as defined in section 4717.01 of	725
the Revised Code unless the person holds a crematory operator	726
permit under this chapter;	727
(14) Engage in the business or profession of funeral	728
directing, engage in embalming, or operate a crematory or	729
perform cremation with a lapsed license as defined under section	730
4717.01 of the Revised Code.	731
(B) No funeral director or other person in charge of the	732
final disposition of a dead human body shall fail to do one of	733
the following prior to the interment of the body:	734
(1) Affix to the ankle or wrist of the deceased a tag	735
encased in a durable and long-lasting material that contains the	736
name, date of birth, date of death, and social security number	737
of the deceased;	738
(2) Place in the casket a capsule containing a tag bearing	739
the information described in division (B)(1) of this section;	740
(3) If the body was cremated, place in the vessel	741
containing the cremated remains a tag bearing the information	742
described in division (B)(1) of this section <u>in any vessel</u>	743
<u>containing either of the following:</u>	744

<u>(a) All the cremated remains;</u>	745
<u>(b) More than ten cubic inches of the cremated remains.</u>	746
(C) No person who holds a funeral home license for a funeral home that is closed, or that is owned by a funeral business in which changes in the ownership of the funeral business result in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership, shall fail to submit to the board within thirty days after the closing or such change of ownership of the funeral business owning the funeral home, a clearly enumerated account of all of the following from which the licensee, at the time of the closing or change of ownership of the funeral business and in connection with the funeral home, was to receive payment for providing the funeral services, funeral goods, or any combination of those in connection with the funeral or final disposition of a dead human body:	747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762
(1) Preneed funeral contracts governed by sections 4717.31 to 4717.38 of the Revised Code;	763 764
(2) Life insurance policies or annuities the benefits of which are payable to the provider of funeral or burial goods or services;	765 766 767
(3) Accounts at banks or savings banks insured by the federal deposit insurance corporation, savings and loan associations insured by the federal savings and loan insurance corporation or the Ohio deposit guarantee fund, or credit unions insured by the national credit union administration or a credit union share guaranty corporation organized under Chapter 1761.	768 769 770 771 772 773

of the Revised Code that are payable upon the death of the 774
person for whose benefit deposits into the accounts were made. 775

(D) (1) No person who holds a funeral home license for a 776
funeral home that is closed shall negligently fail to send 777
written notice to the purchaser of every preneed funeral 778
contract to which the funeral business is a party via first 779
class United States mail. Such notice shall be addressed to the 780
purchaser's last known address and shall explain that the 781
funeral business is being closed and the name of any funeral 782
business that has been designated to assume the obligations of 783
the preneed contract. 784

(2) Within thirty days of the closing of a funeral home, 785
no person who held the funeral home license for the closed 786
funeral home shall negligently fail to transfer all preneed 787
contracts to the funeral home or funeral homes that have been 788
designated to assume the obligation of the preneed contracts. If 789
the person who holds a funeral home license for a funeral home 790
that is closed fails to designate a successor funeral home or 791
funeral homes to assume the obligations of the preneed funeral 792
contracts, the board shall make such designations and order the 793
transfer of the preneed funeral contracts to the designated 794
funeral home or funeral homes. 795

(E) No person who holds a license under this chapter for a 796
facility that is going out of business and that is in possession 797
of unclaimed cremated remains shall fail to submit to the board, 798
within thirty days prior to the closing, a copy of the written 799
notice required in division (F) of this section and a clearly 800
enumerated account of all unclaimed cremated remains in 801
possession of the facility. 802

(F) Within thirty days prior to the closing of a facility 803

that is going out of business and that is in possession of 804
unclaimed cremated remains, the person who is actually in charge 805
of and ultimately responsible for the facility shall send 806
written notice via first-class mail to the last known address of 807
the authorizing agent who executed the cremation authorization 808
form or the person designated on the cremation authorization 809
form to receive the cremated remains. Such notice shall include 810
the following: 811

(1) A statement that the funeral business is going out of 812
business and will close; 813

(2) The expected date of closure; 814

(3) The manner in which the unclaimed cremated remains 815
will be disposed and, if applicable, the location from which the 816
cremated remains can be retrieved. 817

(G) If the person who is actually in charge of and 818
ultimately responsible for the facility is unable to comply with 819
divisions (F) (1) to (3) of this section and cannot locate the 820
last known address of the authorizing agent who executed the 821
cremation authorization form or the person designated on the 822
cremation authorization form to receive the cremated remains, 823
the person who is actually in charge of and ultimately 824
responsible for the facility may seek a declaratory judgment to 825
dispose of the unclaimed cremated remains from the probate court 826
in the county in which the facility is located. 827

(H) Within thirty days prior to the closing of a facility 828
that is going out of business, no person who held the license 829
for the facility shall negligently fail to dispose of all 830
unclaimed cremated remains as designated in the written notice 831
or, if unclaimed in excess of sixty days, in a manner consistent 832

with section 4717.27 of the Revised Code. 833

Sec. 4717.14. (A) The board of embalmers and funeral 834
directors may, except as provided in division (G) of this 835
section, refuse to grant or renew, or may suspend or revoke, any 836
license or permit issued under this chapter or may require the 837
holder of a license or permit to take corrective action courses 838
for any of the following reasons: 839

(1) The holder of a license or permit obtained the license 840
or permit by fraud or misrepresentation either in the 841
application or in passing the examination. 842

(2) The licensee or permit holder has been convicted of or 843
has pleaded guilty to a felony or of any crime involving moral 844
turpitude. 845

(3) The applicant, licensee, or permit holder has 846
recklessly violated any provision of sections 4717.01 to 4717.15 847
or a rule adopted under any of those sections; division (A) or 848
(B) of section 4717.23; division (B) (1) or (2), (C) (1) or (2), 849
(D), (E), or (F) (1) or (2), or divisions (H) to (K) of section 850
4717.26; division (D) (1) of section 4717.27; or divisions (A) to 851
(C) of section 4717.28 of the Revised Code; or any provisions of 852
sections 4717.31 to 4717.38 of the Revised Code; any rule or 853
order of the department of health or a board of health of a 854
health district governing the disposition of dead human bodies; 855
or any other rule or order applicable to the applicant or 856
licensee. 857

(4) The licensee or permit holder has committed immoral or 858
unprofessional conduct. 859

(5) The applicant or licensee knowingly permitted an 860
unlicensed person, other than a person serving an 861

apprenticeship, to engage in the profession or business of 862
embalming or funeral directing under the applicant's or 863
licensee's supervision. 864

(6) The applicant, licensee, or permit holder has been 865
habitually intoxicated, or is addicted to the use of morphine, 866
cocaine, or other habit-forming or illegal drugs. 867

(7) The applicant, licensee, or permit holder has refused 868
to promptly submit the custody of a dead human body or cremated 869
remains upon the express order of the person legally entitled to 870
the body or cremated remains. 871

(8) The licensee or permit holder loaned the licensee's 872
own license or the permit holder's own permit, or the applicant, 873
licensee, or permit holder borrowed or used the license or 874
permit of another person, or knowingly aided or abetted the 875
granting of an improper license or permit. 876

(9) The applicant, licensee, or permit holder misled the 877
public by using false or deceptive advertising. As used in this 878
division, "false and deceptive advertising" includes, but is not 879
limited to, any of the following: 880

(a) Using the names of persons who are not licensed to 881
practice funeral directing in a way that leads the public to 882
believe that such persons are engaging in funeral directing; 883

(b) Using any name for the funeral home other than the 884
name under which the funeral home is licensed; 885

(c) Using in the funeral home's name the surname of an 886
individual who is not directly, actively, or presently 887
associated with the funeral home, unless such surname has been 888
previously and continuously used by the funeral home. 889

(10) The licensee or permit holder provided services to a 890
person knowing that those services were sold to that person by 891
another person who lacked a license or permit under this chapter 892
to perform the services. 893

(B) (1) The board of embalmers and funeral directors shall 894
refuse to grant or renew, or shall suspend or revoke a license 895
or permit only in accordance with Chapter 119. of the Revised 896
Code. 897

(2) The board shall send to the crematory review board 898
written notice that it proposes to refuse to issue or renew, or 899
proposes to suspend or revoke, a license to operate a crematory 900
facility. If, after the conclusion of the adjudicatory hearing 901
on the matter conducted under division (F) of section 4717.03 of 902
the Revised Code, the board of embalmers and funeral directors 903
finds that any of the circumstances described in divisions (A) 904
(1) to (9) of this section apply to the person named in its 905
proposed action, the board may issue a final order under 906
division (F) of section 4717.03 of the Revised Code refusing to 907
issue or renew, or suspending or revoking, the person's license 908
to operate a crematory facility. 909

(C) If the board of embalmers and funeral directors 910
determines that there is clear and convincing evidence that any 911
of the circumstances described in divisions (A) (1) to (9) of 912
this section apply to the holder of a license or permit issued 913
under this chapter and that the licensee's or permit holder's 914
continued practice presents a danger of immediate and serious 915
harm to the public, the board may suspend the licensee's license 916
or permit holder's permit without a prior adjudicatory hearing. 917
The executive director of the board shall prepare written 918
allegations for consideration by the board. 919

The board, after reviewing the written allegations, may 920
suspend a license or permit without a prior hearing. 921

Notwithstanding section 121.22 of the Revised Code, the 922
board may suspend a license or permit under this division by 923
utilizing a telephone conference call to review the allegations 924
and to take a vote. 925

The board shall issue a written order of suspension by a 926
delivery system or in person in accordance with section 119.07 927
of the Revised Code. Such an order is not subject to suspension 928
by the court during the pendency of any appeal filed under 929
section 119.12 of the Revised Code. If the licensee or permit 930
holder requests an adjudicatory hearing by the board, the date 931
set for the hearing shall be within fifteen days, but not 932
earlier than seven days, after the licensee or permit holder has 933
requested a hearing, unless the board and the licensee or permit 934
holder agree to a different time for holding the hearing. 935

Upon issuing a written order of suspension to the holder 936
of a license to operate a crematory facility, the board of 937
embalmers and funeral directors shall send written notice of the 938
issuance of the order to the crematory review board. The 939
crematory review board shall hold an adjudicatory hearing on the 940
order under division (F) of section 4717.03 of the Revised Code 941
within fifteen days, but not earlier than seven days, after the 942
issuance of the order, unless the crematory review board and the 943
licensee agree to a different time for holding the adjudicatory 944
hearing. 945

Any summary suspension imposed under this division shall 946
remain in effect, unless reversed on appeal, until a final 947
adjudicatory order issued by the board of embalmers and funeral 948
directors pursuant to this division and Chapter 119. of the 949

Revised Code, or division (F) of section 4717.03 of the Revised 950
Code, as applicable, becomes effective. The board of embalmers 951
and funeral directors shall issue its final adjudicatory order 952
within sixty days after the completion of its hearing or, in the 953
case of the summary suspension of a license to operate a 954
crematory facility, within sixty days after completion of the 955
adjudicatory hearing by the crematory review board. A failure to 956
issue the order within that time results in the dissolution of 957
the summary suspension order, but does not invalidate any 958
subsequent final adjudicatory order. 959

(D) If the board of embalmers and funeral directors 960
suspends or revokes a funeral director's license or a license to 961
operate a funeral home for any reason identified in division (A) 962
of this section, the board may file a complaint with the court 963
of common pleas in the county where the violation occurred 964
requesting appointment of a receiver and the sequestration of 965
the assets of the funeral home that held the suspended or 966
revoked license or the licensed funeral home that employs the 967
funeral director that held the suspended or revoked license. If 968
the court of common pleas is satisfied with the application for 969
a receivership, the court may appoint a receiver. 970

The board or a receiver may employ and procure whatever 971
assistance or advice is necessary in the receivership or 972
liquidation and distribution of the assets of the funeral home, 973
and, for that purpose, may retain officers or employees of the 974
funeral home as needed. All expenses of the receivership or 975
liquidation shall be paid from the assets of the funeral home 976
and shall be a lien on those assets, and that lien shall be a 977
priority to any other lien. 978

(E) Any holder of a license or permit issued under this 979

chapter who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been found by a judge or jury to be guilty of, or has had a judicial finding of eligibility for treatment in lieu of conviction entered against the individual in another jurisdiction for any substantially equivalent criminal offense, is hereby suspended from practice under this chapter by operation of law, and any license or permit issued to the individual under this chapter is hereby suspended by operation of law as of the date of the guilty plea, verdict or finding of guilt, or judicial finding of eligibility for treatment in lieu of conviction, regardless of whether the proceedings are brought in this state or another jurisdiction. The board shall notify the suspended individual of the suspension of the individual's license or permit by the operation of this division by a delivery system or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the license.

(F) No person whose license or permit has been suspended or revoked under or by the operation of this section shall knowingly practice embalming, funeral directing, or cremation, or operate a funeral home, embalming facility, or crematory facility until the board has reinstated the person's license or permit.

(G) The board shall not refuse to issue a license or 1011
permit to an applicant because of a conviction of or plea of 1012
guilty to a criminal offense unless the refusal is in accordance 1013
with section 9.79 of the Revised Code. 1014

Sec. 4717.24. (A) A cremation authorization form 1015
authorizing the cremation of a dead human body, other than one 1016
that was donated to science for purposes of medical education or 1017
research, shall include at least all of the following 1018
information and statements: 1019

(1) A statement that the decedent has been identified in 1020
accordance with division (B) of this section; 1021

(2) The name of the funeral director or other individual 1022
who obtained the burial or burial-transit permit authorizing the 1023
cremation of the decedent; 1024

(3) The name of the authorizing agent and the relationship 1025
of the authorizing agent to the decedent; 1026

(4) A statement that the authorizing agent in fact has the 1027
right to authorize cremation of the decedent and that the 1028
authorizing agent does not have actual knowledge of the 1029
existence of any living person who has a superior priority right 1030
to act as the authorizing agent under section 4717.22 of the 1031
Revised Code. If the person executing the cremation 1032
authorization form knows of another living person who has such a 1033
superior priority right, the authorization form shall include a 1034
statement indicating that the person executing the authorization 1035
form has made reasonable efforts to contact the person having 1036
the superior priority right and has been unable to do so and 1037
that the person executing the authorization form has no reason 1038
to believe that the person having the superior priority right 1039

would object to the cremation of the decedent. 1040

(5) A statement of whether the authorizing agent has 1041
actual knowledge of the presence in the decedent of a pacemaker, 1042
defibrillator, or any other mechanical or radioactive device or 1043
implant that poses a hazard to the health or safety of personnel 1044
performing the cremation; 1045

(6) A statement indicating the crematory facility is to 1046
cremate the casket or alternative container in which the 1047
decedent was delivered to or accepted by the crematory facility; 1048

(7) A statement of whether the crematory facility is 1049
authorized to simultaneously cremate the decedent in the same 1050
cremation chamber with one or more other decedents who were 1051
related to the decedent named in the cremation authorization 1052
form by consanguinity or affinity or who, at any time during the 1053
one-year period preceding the decedent's death, lived with the 1054
decedent in a common law marital relationship or otherwise 1055
cohabited with the decedent. A cremation authorization form 1056
executed under this section shall not authorize the simultaneous 1057
cremation of a decedent in the same cremation chamber with one 1058
or more other decedents except under the circumstances described 1059
in the immediately preceding sentence. 1060

(8) The names of any persons designated by the authorizing 1061
agent to be present in the holding facility or cremation room 1062
prior to or during the cremation of the decedent or during the 1063
removal of the cremated remains from the cremation chamber; 1064

(9) The authorization for the crematory facility to 1065
cremate the decedent and to process or pulverize the cremated 1066
remains as is the practice at the particular crematory facility; 1067

(10) A statement of whether it is the crematory facility's 1068

practice to return all of the residue removed from the cremation 1069
chamber following the cremation or to separate and remove 1070
foreign matter from the residue before returning the cremated 1071
remains to the authorizing agent or the person designated on the 1072
authorization form to receive the cremated remains pursuant to 1073
division (A)(11) of this section; 1074

(11) The name of the person who is to receive the cremated 1075
remains of the decedent from the crematory facility; 1076

(12) The manner in which the final disposition of the 1077
cremated remains of the decedent is to occur, if known. If the 1078
cremation authorization form does not specify the manner of the 1079
final disposition of the cremated remains, it shall indicate 1080
that the cremated remains will be held by the crematory facility 1081
for thirty days after the cremation, unless, prior to the end of 1082
that period, they are picked up from the crematory facility by 1083
the person designated on the cremation authorization form to 1084
receive them, the authorizing agent, or, if applicable, the 1085
funeral director who obtained the burial or burial-transit 1086
permit for the decedent, or are delivered or shipped by the 1087
crematory facility to one of those persons. The authorization 1088
form shall indicate that if no instructions for the final 1089
disposition are provided on the authorization form and that if 1090
no arrangements for final disposition have been made within the 1091
thirty-day period, the crematory facility may return the 1092
cremated remains to the authorizing agent. The authorization 1093
form shall further indicate that if no arrangements for the 1094
final disposition of the cremated remains have been made within 1095
sixty days after the completion of the cremation and if the 1096
authorizing agent has not picked them up or caused them to be 1097
picked up within that period, the crematory operator or 1098
crematory facility may dispose of them in accordance with 1099

division (C) of section 4717.27 of the Revised Code. 1100

(13) A listing of the items of value to be delivered to 1101
the crematory facility along with the dead human body, if any, 1102
and instructions regarding how those items are to be handled; 1103

(14) A statement of whether the authorizing agent has made 1104
arrangements for any type of viewing of the decedent or for a 1105
service with the decedent present prior to the cremation and, if 1106
so, the date, time, and place of the service; 1107

(15) A statement of whether the crematory facility may 1108
proceed with the cremation at any time after the conditions set 1109
forth in division (A) of section 4717.23 of the Revised Code 1110
have been met and the decedent has been received at the 1111
facility; 1112

(16) The certification of the authorizing agent to the 1113
effect that all of the information and statements contained in 1114
the authorization form are accurate; 1115

(17) The signature of the authorizing agent and the 1116
signature of at least one witness who observed the authorizing 1117
agent execute the cremation authorization form. 1118

(B) In making the identification of the decedent required 1119
by division (A) (1) of this section, the funeral home arranging 1120
the cremation shall require the authorizing agent or the agent's 1121
appointed representative to visually identify the decedent's 1122
remains or a photograph or other visual image of the remains. If 1123
identification is by photograph or other visual image, the 1124
authorizing agent or representative shall sign the photograph or 1125
other visual image. If visual identification is not feasible, 1126
other positive identification of the decedent may be used 1127
including, but not limited to, reliance upon an identification 1128

made through the coroner's office or identification of 1129
photographs or other visual images of scars, tattoos, or 1130
physical deformities taken from the decedent's remains. 1131

(C) An authorizing agent who is not available to execute a 1132
cremation authorization form in person may designate another 1133
individual to serve as the authorizing agent by providing to the 1134
crematory facility where the cremation is to occur a written 1135
designation, ~~acknowledged before a notary public or other person~~ 1136
~~authorized to administer oaths, signed by the authorizing agent~~ 1137
and by a witness who observed the authorizing agent execute the 1138
designation, authorizing that other individual to serve as the 1139
authorizing agent. Any such written designation shall contain 1140
the name of the decedent, the name and address of the 1141
authorizing agent, the relationship of the authorizing agent to 1142
the decedent, and the name and address of the individual who is 1143
being designated to serve as the authorizing agent. Upon 1144
receiving such a written designation, the operator shall permit 1145
the individual named in the written designation to serve as the 1146
authorizing agent and to execute the cremation authorization 1147
form authorizing the cremation of the decedent named in the 1148
written designation. 1149

(D) An authorizing agent who signs a cremation 1150
authorization form under this section is hereby deemed to 1151
warrant the accuracy of the information and statements contained 1152
in such authorization form, including the identification of the 1153
decedent and the agent's authority to authorize the cremation. A 1154
funeral home and its employees are not responsible for verifying 1155
the accuracy of any information or statements the authorizing 1156
agent made on the authorization form, unless the funeral home or 1157
its employees have actual knowledge to the contrary regarding 1158
any such information or statement. When delivering the 1159

decedent's remains to a crematory facility or in carrying out 1160
the disposition in its own facility, the funeral home is 1161
responsible for having the decedent identified pursuant to 1162
division (B) of this section and carrying out the obligations 1163
imposed on the funeral home by division (B) of section 4717.29 1164
of the Revised Code. 1165

(E) At any time after executing a cremation authorization 1166
form and prior to the beginning of the cremation process, the 1167
authorizing agent who executed the cremation authorization form 1168
under division (A) or (C) of this section may, in writing, 1169
modify the arrangements for the final disposition of the 1170
cremated remains of the decedent set forth in the authorization 1171
form or may, in writing, revoke the authorization, cancel the 1172
cremation, and claim the decedent's body for purposes of making 1173
alternative arrangements for the final disposition of the 1174
decedent's body. The crematory facility shall cancel the 1175
cremation if the crematory facility receives such a revocation 1176
before beginning the cremation. 1177

(F) A cremation authorization form executed under this 1178
section does not constitute a contract for conducting the 1179
cremation of the decedent named in the authorization form or for 1180
the final disposition of the cremated remains of the decedent. 1181
The revocation of a cremation authorization form or modification 1182
of the arrangements for the final disposition of the cremated 1183
remains of the decedent pursuant to division (E) of this section 1184
does not affect the validity or enforceability of any contract 1185
for the cremation of the decedent named in the authorization 1186
form or for the final disposition of the cremated remains of the 1187
decedent. 1188

Sec. 4717.28. (A) No crematory facility shall fail to 1189

ensure that a written receipt is provided to the person who 1190
delivers a dead human body or body parts to the facility for 1191
cremation. If the dead human body is other than one that was 1192
donated to science for purposes of medical education or 1193
research, the receipt shall be signed by both a representative 1194
of the crematory facility and the person who delivered the 1195
decedent to the crematory facility and shall indicate the name 1196
of the decedent; the date and time of delivery; the type of 1197
casket or alternative container in which the decedent was 1198
delivered to the facility; the name of the person who delivered 1199
the decedent to the facility; if applicable, the name of the 1200
funeral home or other establishment with whom the delivery 1201
person is affiliated; and the name of the person who received 1202
the decedent on behalf of the facility. If the dead human body 1203
was donated to science for purposes of medical education or 1204
research, the receipt shall consist of a copy of the cremation 1205
authorization form executed under section 4717.21, 4717.24, or 1206
4717.25 of the Revised Code that authorizes the cremation of the 1207
decedent or body parts that has been signed by both a 1208
representative of the crematory facility and the person who 1209
delivered the decedent or body parts to the crematory facility 1210
and that indicates the date and time of the delivery. The 1211
operator may provide the copy of the receipt to the person who 1212
delivered the decedent or body parts to the facility either in 1213
person or by certified mail, return receipt requested. 1214

(B) No crematory facility shall fail to ensure at the time 1215
of releasing cremated remains that a written receipt signed by 1216
both a representative of the crematory facility and the person 1217
who received the cremated remains is provided to the person who 1218
received the cremated remains. Unless the cremated remains are 1219
those of a dead human body that was donated to science for 1220

purposes of medical education or research or are those of body 1221
parts, the receipt shall indicate the name of the decedent; the 1222
date and time of the release; the name of the person to whom the 1223
cremated remains were released; if applicable, the name of the 1224
funeral home, cemetery, or other entity to whom the cremated 1225
remains were released; and the name of the person who released 1226
the cremated remains on behalf of the crematory facility. If the 1227
cremated remains are those of a dead human body that was donated 1228
to science for purposes of medical education or research or are 1229
those of body parts, the receipt shall consist of a copy of the 1230
cremation authorization form executed under section 4717.21, 1231
4717.24, or 4717.25 of the Revised Code that authorizes the 1232
cremation of the decedent or body parts that has been signed by 1233
both a representative of the crematory facility and the person 1234
who received the cremated remains and that indicates the date 1235
and time of the release. If the cremated remains were delivered 1236
to the authorizing agent or other individual designated on the 1237
cremation authorization form by a method described in division 1238
(I) of section 4717.26 of the Revised Code that is acceptable 1239
under that division, the receipt required by this division shall 1240
accompany the cremated remains, and the signature of the 1241
authorizing agent or other designated individual on the delivery 1242
receipt meets the requirement of this division that the person 1243
receiving the cremated remains sign the receipt provided by the 1244
crematory facility. 1245

(C) ~~No~~ For each cremation carried out at a crematory 1246
facility shall fail to make or keep on file during the time 1247
that, the crematory facility remains engaged in the business of 1248
cremating dead human bodies or body parts, all of shall make and 1249
keep on file the following records and documents for the time 1250
period described in division (E) of this section: 1251

(1) A copy of each receipt issued upon acceptance by or delivery to the crematory facility of a dead human body under division (A) of this section;	1252 1253 1254
(2) <u>A copy of each delivery receipt issued under division (B) of this section;</u>	1255 1256
<u>(3) A record of each cremation conducted at the facility, containing at least the name of the decedent or, in the case of body parts, the name of the decedent or living person from whom the body parts were removed, the date and time of the cremation, and the final disposition made of the cremated remains;</u>	1257 1258 1259 1260 1261
(3) A copy of each delivery receipt issued under division (B) of this section;	1262 1263
(4) A separate record of the cremated remains of each decedent or the body parts removed from each decedent or living person that were disposed of in accordance with division (C) (1) or (2) of section 4717.27 of the Revised Code, containing at least the name of the decedent, the date and time of the cremation, and the location, date, and manner of final disposition of the cremated remains.	1264 1265 1266 1267 1268 1269 1270
(D) All records required to be maintained under sections 4717.21 to 4717.30 of the Revised Code are subject to inspection by the board of embalmers and funeral directors or an authorized representative of the board, upon reasonable notice, at any reasonable time.	1271 1272 1273 1274 1275
<u>(E) The documents listed in divisions (C) (1) and (2) of this section shall be retained for the shorter of the time that the crematory facility remains engaged in the business of cremating dead human bodies or body parts or ten years following the date of the cremation. The documents listed in divisions (C)</u>	1276 1277 1278 1279 1280

(3) and (4) of this section shall be retained during the time 1281
that the crematory facility remains engaged in the business of 1282
cremating dead human bodies or body parts. 1283

Sec. 4717.30. (A) A crematory operator, crematory 1284
facility, funeral director, or funeral home is not liable in 1285
damages in a civil action for any of the following actions or 1286
omissions, unless the actions or omissions were made with 1287
malicious purpose, in bad faith, or in a wanton or reckless 1288
manner or unless any of the conditions set forth in divisions 1289
(B) (1) to (3) of this section apply: 1290

(1) (a) For having arranged or performed the cremation of 1291
the decedent, or having released or disposed of the cremated 1292
remains, in accordance with the instructions set forth in the 1293
cremation authorization form executed by the decedent on an 1294
antemortem basis under section 4717.21 of the Revised Code; 1295

(b) For having arranged or performed the cremation of the 1296
decedent or body parts removed from the decedent or living 1297
person or having released or disposed of the cremated remains in 1298
accordance with section 4717.27 of the Revised Code or the 1299
instructions set forth in a cremation authorization form 1300
executed by the person authorized to serve as the authorizing 1301
agent for the cremation of the decedent or for the cremation of 1302
body parts of the decedent or living person, named in the 1303
cremation authorization form executed under section 4717.24 or 1304
4717.25 of the Revised Code. 1305

(2) For having arranged or performed the cremation of the 1306
decedent, or having released or disposed of the cremated 1307
remains, in accordance with section 4717.27 of the Revised Code 1308
or the instructions set forth in the cremation authorization 1309
form executed by a designated agent under division (C) of 1310

section 4717.24 of the Revised Code. 1311

(B) The crematory operator, crematory facility, funeral 1312
director, or funeral home is not liable in damages in a civil 1313
action for refusing to accept a dead human body or body parts or 1314
to perform a cremation under any of the following circumstances, 1315
unless the refusal was made with malicious purpose, in bad 1316
faith, or in a wanton or reckless manner: 1317

(1) The crematory operator, crematory facility, funeral 1318
director, or funeral home has actual knowledge that there is a 1319
dispute regarding the cremation of the decedent or body parts, 1320
until such time as the crematory operator, crematory facility, 1321
funeral director, or funeral home receives an order of the 1322
probate court having jurisdiction ordering the cremation of the 1323
decedent or body parts or until the crematory operator, 1324
crematory facility, funeral director, or funeral home receives 1325
from the parties to the dispute a copy of a written agreement 1326
resolving the dispute and authorizing the cremation to be 1327
performed. 1328

(2) The crematory operator, crematory facility, funeral 1329
director, or funeral home has a reasonable basis for questioning 1330
the accuracy of any of the information or statements contained 1331
in a cremation authorization form executed under section 1332
4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, 1333
that authorizes the cremation of the decedent or body parts. 1334

(3) The crematory operator, crematory facility, funeral 1335
director, or funeral home has any other lawful reason for 1336
refusing to accept the dead human body or body parts or to 1337
perform the cremation. 1338

(C) A crematory operator, crematory facility, funeral 1339

director, or funeral home is not liable in damages in a civil 1340
action for refusing to release or dispose of the cremated 1341
remains of a decedent or body parts when the crematory operator, 1342
crematory facility, funeral director, or funeral home has actual 1343
knowledge that there is a dispute regarding the release or final 1344
disposition of the cremated remains in connection with any 1345
damages sustained, prior to the time the crematory operator, 1346
crematory facility, funeral home, or funeral director receives 1347
an order of the probate court having jurisdiction ordering the 1348
release or final disposition of the cremated remains, or prior 1349
to the time the crematory operator, crematory facility, funeral 1350
director, or funeral home receives from the parties to the 1351
dispute a copy of a written agreement resolving the dispute and 1352
authorizing the cremation to be performed. 1353

(D) A crematory operator, crematory facility, funeral 1354
director, or funeral home is not liable in damages in a civil 1355
action in connection with the cremation of, or disposition of 1356
the cremated remains of, any dental gold, jewelry, or other 1357
items of value delivered to the crematory facility or funeral 1358
home with a dead human body or body parts, unless either or both 1359
of the following apply: 1360

(1) The cremation authorization form authorizing the 1361
cremation of the decedent or body parts executed under section 1362
4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, 1363
contains specific instructions for the removal or recovery and 1364
disposition of any such dental gold, jewelry, or other items of 1365
value prior to the cremation, and the crematory operator, 1366
crematory facility, funeral director, or funeral home has failed 1367
to comply with the written instructions. 1368

(2) The actions or omissions of the crematory operator, 1369

crematory facility, funeral director, or funeral home were made 1370
with malicious purpose, in bad faith, or in a wanton or reckless 1371
manner. 1372

(E) (1) This section does not create a new cause of action 1373
against or substantive legal right against a crematory operator, 1374
crematory facility, funeral director, or funeral home. 1375

(2) This section does not affect any immunities from civil 1376
liability or defenses established by another section of the 1377
Revised Code or available at common law to which a crematory 1378
operator, crematory facility, funeral director, or funeral home 1379
may be entitled under circumstances not covered by this section. 1380

Sec. 4717.31. (A) Only a funeral director licensed 1381
pursuant to this chapter may sell a preneed funeral contract 1382
that includes funeral services. Sections 4717.31 to 4717.38 of 1383
the Revised Code do not prohibit a person who is not a licensed 1384
funeral director from selling funeral goods pursuant to a 1385
preneed funeral contract; however, when a seller sells funeral 1386
goods pursuant to a preneed funeral contract, that seller shall 1387
comply with those sections unless the seller is specifically 1388
exempt from compliance under section 4717.38 of the Revised 1389
Code. 1390

(B) An insurance agent licensed pursuant to Chapter 3905. 1391
of the Revised Code may sell, solicit, or negotiate the sale of 1392
an insurance policy or annuity that will be used to fund a 1393
preneed funeral contract, but in so doing the insurance agent 1394
may not offer advice or make recommendations about funeral 1395
services and may not discuss the advantages or disadvantages of 1396
any funeral service. In selling, soliciting, or negotiating the 1397
sale of an insurance policy or annuity that will be used to fund 1398
a preneed funeral contract, the insurance agent may do any of 1399

the following:	1400
(1) Provide the person purchasing the insurance policy or annuity with price lists from one or more funeral homes and other materials that may assist the person in determining the cost of funeral goods and services;	1401 1402 1403 1404
(2) Discuss the cost of funeral goods and services with the person in order to assist the person in selecting the appropriate amount of life insurance or annuity coverage;	1405 1406 1407
(3) Complete a worksheet or other record to calculate the estimated cost of a funeral.	1408 1409
(C) Activities conducted pursuant to division (B) of this section by an insurance agent licensed pursuant to Chapter 3905. of the Revised Code do not constitute funeral directing, funeral arranging, the business of directing and supervising funerals for profit, or the sale of a preneed funeral contract.	1410 1411 1412 1413 1414
(D) No seller shall fail to comply with the requirements and duties specified in this section and sections 4717.32 to 4717.38 of the Revised Code.	1415 1416 1417
(E) No trustee of a preneed funeral contract trust shall fail to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of the Revised Code.	1418 1419 1420
(F) No insurance agent or insurance company that sells or offers life insurance policies or annuities used to fund a preneed funeral contract shall fail to comply with this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code. To the extent this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code apply to insurance companies or insurance agents, those sections constitute laws of this state relating to insurance for purposes	1421 1422 1423 1424 1425 1426 1427 1428

of sections 3901.03 and 3901.04 of the Revised Code and the 1429
superintendent of insurance shall enforce those sections with 1430
respect to insurance companies and insurance agents. The 1431
superintendent may adopt rules in accordance with Chapter 119. 1432
of the Revised Code for purposes of administering and enforcing 1433
this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 1434
of the Revised Code as those sections apply to insurance 1435
companies or insurance agents. 1436

(G) A preneed funeral contract may be funded by the 1437
purchase or assignment of an insurance policy or annuity in 1438
accordance with section 3905.45 of the Revised Code. A preneed 1439
funeral contract that is funded by the purchase or assignment of 1440
an insurance policy or annuity in accordance with section 1441
3905.45 of the Revised Code is not subject to section 4717.36 of 1442
the Revised Code. 1443

(H) The board of embalmers and funeral directors shall 1444
administer and enforce the provisions of sections 4717.31 to 1445
4717.38 of the Revised Code concerning the requirements for and 1446
sale of preneed funeral contracts. The superintendent of 1447
insurance shall enforce sections 4717.31, 4717.33, 4717.34, 1448
4717.35, and 4717.37 of the Revised Code to the extent those 1449
sections apply to insurance companies and insurance agents. 1450
Payments from a trust, insurance policy, or annuity, including 1451
any fraudulent activities in which a person engages to obtain 1452
payments from a trust, insurance policy, or annuity, shall be 1453
regulated in accordance with Chapter 1111. or Title XXXIX of the 1454
Revised Code, as applicable. 1455

(I) Except as provided in division (K) of this section, a 1456
seller of a preneed funeral contract that is funded by insurance 1457
or otherwise annually shall submit to the board the reports the 1458

board requires pursuant to division (J) of this section. 1459

(J) Except as provided in division (K) of this section, 1460
the board shall adopt rules specifying the procedures and 1461
requirements for annual reporting of the sales of all preneed 1462
funeral contracts sold by every seller who is subject to 1463
sections 4717.31 to 4717.38 of the Revised Code. 1464

(K) A cemetery company or cemetery association that sells 1465
merchandise or services pursuant to a preneed cemetery 1466
merchandise and services contract and that also sells funeral 1467
goods pursuant to a preneed funeral contract shall be deemed to 1468
have met the requirements in divisions (I) and (J) of this 1469
section by submitting the annual preneed funeral contract report 1470
to the division of real estate of the department of commerce 1471
along with or as part of the annual cemetery merchandise and 1472
services contract affidavit required under division (F) (1) of 1473
section 1721.211 of the Revised Code. With the exception of the 1474
submission of an annual preneed funeral contract report under 1475
this division, a cemetery company or cemetery association that 1476
sells funeral goods, including caskets, pursuant to a preneed 1477
funeral contract is subject to all requirements of sections 1478
4717.31 to 4717.38 of the Revised Code that apply to such sales. 1479

Sec. 4717.35. If a preneed funeral contract contains a 1480
provision stating that the preneed funeral contract will be 1481
funded by the purchase of an insurance policy, the insurance 1482
agent who sold the policy that will fund that preneed funeral 1483
contract shall require that any payment made by the purchaser be 1484
made in the form of a check, cashier's check, money order, or 1485
debit or credit card, payable only to the insurance company. The 1486
insurance agent shall remit the application for insurance and 1487
the premium paid to the insurance company designated in the 1488

preneed funeral contract within the time period specified in 1489
division (B) (15) of section 3905.14 of the Revised Code, unless 1490
the purchaser rescinds the preneed funeral contract in 1491
accordance with division (A) of section 4717.34 of the Revised 1492
Code. If the purchaser made payment in the form of a check made 1493
payable to the seller, the seller may, within five business days 1494
of receiving the check, sign over and forward the check to the 1495
insurance company designated in the preneed funeral contract. 1496

If the purchaser of a preneed funeral contract that is 1497
revocable and that is funded by an insurance policy or annuity 1498
elects to cancel the preneed funeral contract, the purchaser 1499
shall provide a written notice to the seller and the insurance 1500
company designated in the contract stating that the purchaser 1501
intends to cancel that contract. Fifteen days after the 1502
purchaser provides the notice to the seller of the contract and 1503
the insurance company, the purchaser may cancel the preneed 1504
funeral contract and change the beneficiary of the insurance 1505
policy or annuity or reassign the benefits under the policy or 1506
annuity. 1507

The purchaser of a preneed funeral contract that is 1508
irrevocable and that is funded by an insurance policy or annuity 1509
may transfer the preneed funeral contract to a successor seller 1510
by notifying the original seller of the designation of a 1511
successor seller. Within fifteen days after receiving the 1512
written notice of the designation of the successor seller from 1513
the purchaser, the original seller shall assign the seller's 1514
rights to the proceeds of the policy to the successor seller. 1515
The insurance company shall confirm the change of assignment by 1516
providing written notice to the policyholder. 1517

If, after a preneed funeral contract has been performed 1518

and paid for by the proceeds of an insurance policy or annuity, 1519
there are excess funds that the purchaser previously assigned by 1520
a written contract to the seller to pay for preneed funeral 1521
services or funeral goods for other individuals, the insurance 1522
company or annuity company holding such excess funds shall pay 1523
those funds directly to the seller, and the seller shall deposit 1524
the funds into a trust or purchase insurance or annuity policies 1525
to fund additional preneed funeral contracts. 1526

Sec. 4717.36. (A) This section applies only to preneed 1527
funeral contracts that are funded by any means other than an 1528
insurance policy or policies, or an annuity or annuities. 1529

No money in a preneed funeral contract trust shall be 1530
distributed from the trust except as provided in this section. 1531

(B) A seller of a preneed funeral contract that stipulates 1532
a fixed or firm or guaranteed price for funeral services and 1533
funeral goods to be provided under a preneed funeral contract 1534
may charge an initial service fee not to exceed ten per cent of 1535
the total amount of all payments to be paid under the preneed 1536
funeral contract for such guaranteed price funeral services and 1537
funeral goods. If the amount to be paid by the purchaser is to 1538
be paid in installments, the seller may collect the initial 1539
service fee only after all of the installments have been paid. 1540

~~(C) All (1) Except for the following, all payments made by~~ 1541
~~the purchaser of a preneed funeral contract, except for the~~ 1542
~~initial service fee permitted by division (B) of this section~~ 1543
~~and any applicable sales tax,~~ shall be made in the form of a 1544
check, cashier's check, money order, or debit or credit card, 1545
payable only to the trustee of the preneed funeral contract 1546
trust or to the trustee's designated depository: 1547

<u>(a) The initial service fee permitted by division (B) of this section;</u>	1548
	1549
<u>(b) The fee collected under division (A) (14) of section 4717.07 of the Revised Code;</u>	1550
	1551
<u>(c) Any applicable sales tax.</u>	1552
<u>(2) If the purchaser makes payment in the form of a check made payable to the seller, the seller may, within five business days of receiving the check, sign over and forward the check to the trustee or the trustee's designated depository.</u>	1553
	1554
	1555
	1556
<u>(3) Within thirty days of the seller receiving any form of payment made payable to the trustee or the trustee's designee, the seller shall remit the payment to the trustee or the trustee's designee unless the purchaser rescinds the preneed funeral contract in accordance with division (A) of section 4717.34 of the Revised Code. The funds deposited with the trustee shall remain intact and held in trust for the contract beneficiary.</u>	1557
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	1564
(D) The seller shall establish a preneed funeral contract trust at one of the following types of institutions and shall designate that institution as the trustee of the preneed funeral contract trust:	1565
	1566
	1567
	1568
(1) A trust company licensed under Chapter 1111. of the Revised Code;	1569
	1570
(2) A national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code;	1571
	1572
	1573
(3) A credit union authorized to conduct business in this state pursuant to Chapter 1733. of the Revised Code.	1574
	1575

(E) Moneys deposited in a preneed funeral contract trust 1576
fund shall be held and invested in the manner in which trust 1577
funds are permitted to be held and invested pursuant to Chapter 1578
1111. of the Revised Code. 1579

(F) The seller shall establish a separate preneed funeral 1580
contract trust for the moneys paid under each preneed funeral 1581
contract, unless the purchaser or purchasers of a preneed 1582
funeral contract or contracts authorize the seller to place the 1583
moneys paid for that contract or those contracts in a combined 1584
preneed funeral contract trust. The trustee of a combined 1585
preneed funeral contract trust shall keep exact records of the 1586
corpus, income, expenses, and disbursements with regard to each 1587
purchaser and contract beneficiary for whom moneys are held in 1588
the trust. The terms of a preneed funeral contract trust are 1589
governed by this section and the payments from that trust are 1590
governed by Chapter 1111. of the Revised Code, except as 1591
otherwise provided in this section. 1592

A trustee of a preneed funeral contract trust may pay 1593
taxes and expenses for a preneed funeral contract trust and may 1594
charge a fee for managing a preneed funeral contract trust. The 1595
fee shall not exceed the amount regularly or usually charged for 1596
similar services rendered by the institutions described in 1597
division (D) of this section when serving as a trustee. 1598

(G) If the purchaser of a preneed funeral contract that is 1599
revocable elects to cancel the contract, the purchaser shall 1600
provide a written notice to the seller of the contract and the 1601
trustee of the preneed funeral contract trust stating that the 1602
purchaser intends to cancel the contract. Fifteen days after the 1603
purchaser provides that notice to the seller and trustee, the 1604
purchaser may cancel the contract. Upon canceling a preneed 1605

funeral contract pursuant to this division, one of the following 1606
shall occur, as applicable: 1607

(1) If the preneed funeral contract does not stipulate a 1608
firm or fixed or guaranteed price for funeral goods and funeral 1609
services to be provided under the preneed funeral contract, the 1610
trustee shall give to the purchaser all of the assets of the 1611
trust that exist at the time of cancellation, less any fees 1612
charged, distributions paid, and expenses incurred by the 1613
trustee pursuant to division (F) of this section. 1614

(2) If the preneed funeral contract does stipulate a firm 1615
or fixed or guaranteed price for funeral goods and funeral 1616
services to be provided under the contract, the purchaser may 1617
request and receive from the trustee all of the assets of the 1618
trust at the time of cancellation, less a cancellation fee that 1619
the original seller may collect from the trustee that is equal 1620
to or less than ten per cent of the value of the assets of the 1621
trust on the date the trust is cancelled, provided, however, 1622
that to the extent the original seller took an initial service 1623
fee as permitted by division (B) of this section, the aggregate 1624
amount of the cancellation fee and the initial service fee may 1625
not exceed ten per cent of the value of those assets. In 1626
addition to any cancellation fee, there may also be deducted any 1627
fees charged, distributions paid, and expenses incurred by the 1628
trustee pursuant to division (F) of this section. 1629

If more than one purchaser enters into the contract, all 1630
of those purchasers must request cancellation of the contract 1631
for it to be effective under this division, and the trustee 1632
shall refund to each purchaser only those funds that purchaser 1633
has paid under the contract and any income earned on those funds 1634
in an amount that is in direct proportion to the amount of funds 1635

that purchaser paid relative to the total amount of payments 1636
deposited in that trust, less any fees charged, distributions 1637
paid, and expenses incurred by the trustee pursuant to division 1638
(F) of this section, the amount of which are in direct 1639
proportion to the amount of funds that purchaser paid relative 1640
to the total amount of payments deposited in that trust. 1641

(H) The purchaser of a preneed funeral contract that is 1642
irrevocable may transfer the preneed funeral contract to a 1643
successor seller. A purchaser who elects to make such a transfer 1644
shall provide a written notice of the designation of a successor 1645
seller to the trustee and the original seller. Within fifteen 1646
days after receiving the written notice of the new designation 1647
from the purchaser, the trustee shall list the successor seller 1648
as the seller of the preneed funeral contract and the original 1649
seller shall relinquish and transfer all rights under the 1650
preneed funeral contract to the successor seller. The trustee 1651
shall confirm the transfer by providing written notice of the 1652
transfer to the original seller, the successor seller, and the 1653
purchaser. If the preneed funeral contract stipulates a firm or 1654
fixed or guaranteed price for the funeral goods and funeral 1655
services to be provided under the preneed funeral contract, the 1656
original seller may collect from the trustee a transfer fee from 1657
the trust that equals up to ten per cent of the value of the 1658
assets of the trust on the date the trust is transferred, 1659
provided, however, that to the extent the original seller took 1660
an initial service fee as permitted by division (B) of this 1661
section, the aggregate amount of the transfer fee and the 1662
initial service fee may not exceed ten per cent of the value of 1663
those assets. If the preneed funeral contract does not stipulate 1664
a firm or fixed or guaranteed price for funeral goods and 1665
funeral services to be provided under the preneed funeral 1666

contract, no transfer fee shall be collected by the original 1667
seller. 1668

(I) If a seller of a preneed funeral contract elects to 1669
transfer a preneed funeral contract trust from an institution 1670
listed in divisions (D) (1) to (3) of this section to a different 1671
institution, the trustee of the original trust shall notify the 1672
purchaser of the preneed funeral contract of that transfer in 1673
writing within thirty days after the transfer occurred and shall 1674
provide the purchaser with the name of and the contact 1675
information for the institution where the new trust is 1676
maintained. Upon receipt of the trust, the trustee of the 1677
transferred trust shall notify the purchaser of the receipt of 1678
the trusts in accordance with division (A) of section 4717.33 of 1679
the Revised Code. 1680

(J) If a seller receives a notice that the contract 1681
beneficiary has died and that funeral goods and funeral services 1682
have been provided by a provider other than the seller, ~~except~~ 1683
~~as otherwise specified in this section,~~ the seller shall direct 1684
the trustee, within thirty days after receiving that notice, to 1685
pay to the provider that provided the funeral goods and 1686
services, if still unpaid, ~~or the estate of the contract~~ 1687
~~beneficiary~~ all funds held by the trustee, less any fees 1688
charged, distributions paid, and expenses incurred by the 1689
trustee pursuant to division (F) of this section. 1690

If the provider has already been paid for providing the 1691
funeral goods and funeral services to the contract beneficiary, 1692
the seller shall direct the trustee to pay to either the estate 1693
of the contract beneficiary or any person with the right of 1694
disposition under section 2108.81 of the Revised Code all funds 1695
held by the trustee, less any fees charged, distributions paid, 1696

and expenses incurred by the trustee pursuant to division (F) of 1697
this section. 1698

In the event the preneed funeral contract stipulates a 1699
firm or fixed or guaranteed price for funeral goods and funeral 1700
services that were to be provided under the preneed funeral 1701
contract, the seller may collect from the trustee a cancellation 1702
fee not exceeding ten per cent of the value of the assets of the 1703
trust on the date the trust is transferred, provided, however, 1704
that to the extent the original seller took an initial service 1705
fee as permitted by division (B) of this section, the aggregate 1706
amount of the transfer fee and the initial service fee shall not 1707
exceed ten per cent of the value of those assets. If the preneed 1708
funeral trust does not stipulate a firm or fixed or guaranteed 1709
price for funeral goods and funeral services to be provided 1710
under the preneed funeral contract, no cancellation fees shall 1711
be collected by the original seller. 1712

(K) A certified copy of the certificate of death or other 1713
evidence of death satisfactory to the trustee shall be furnished 1714
to the trustee as evidence of death, and the trustee shall 1715
promptly pay the accumulated payments and income, if any, 1716
according to the preneed funeral contract. Such payment of the 1717
accumulated payments and income pursuant to this section and, 1718
when applicable, the preneed funeral contract, relieves the 1719
trustee of any further liability on the accumulated payments and 1720
income. 1721

If, after a preneed funeral contract has been performed 1722
and paid for by the proceeds of a preneed trust fund, there are 1723
excess funds that the purchaser previously assigned by a written 1724
contract to the seller to pay for preneed funeral services or 1725
funeral goods for other individuals, the trustee holding such 1726

excess funds shall pay those funds directly to the seller, and 1727
the seller shall deposit the funds into a trust or purchase 1728
insurance or annuity policies to fund additional preneed funeral 1729
contracts. 1730

Section 2. That existing sections 2108.75, 2108.82, 1731
3705.20, 4513.17, 4717.04, 4717.05, 4717.06, 4717.07, 4717.10, 1732
4717.13, 4717.14, 4717.24, 4717.28, 4717.30, 4717.31, 4717.35, 1733
and 4717.36 of the Revised Code are hereby repealed. 1734