

KNOW THE CODE

An online course based on the Annotated Code of Maryland Health Occupations Article Title 7 – Maryland Morticians & Funeral Directors Act

Maryland State Funeral Directors Association

Online Course – 1.0 CEU

March 2016

Credit approved and accepted by the Maryland Board of Morticians & Funeral Directors

Purpose of Title 7

- ▶ The purpose of Title 7 is to protect the health and welfare of the public.
- ▶ The scope of Title 7, in general, does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.
- ▶ This title does not apply to the business of operating a cemetery or crematory, including the sale of cemetery lots, grave sites, mausoleums, monuments, lawn crypts, or vaults.

Practice Mortuary Science

- ▶ **“Practice mortuary science” means:**
 - ▶ To operate a funeral establishment;
 - ▶ For compensation, to prepare a dead human body for disposition; or
 - ▶ For compensation, to arrange for or make final disposition of a dead human body.

Practice Mortuary Science

- ▶ **“Practice mortuary science” includes:**
 - ▶ The practice of funeral direction, and
 - ▶ Disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection.

Practice Mortuary Science

- ▶ “Practice mortuary science” **does not** include the pickup, removal, or transportation of a dead human body, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director.

Practice Mortuary Science

- ▶ **“Pre-need contract”** means an agreement between a consumer and a licensed funeral director, licensed mortician, or surviving spouse to provide any goods and services purchased prior to the time of death. Goods and services shall include:
 - ▶ A service, including any form of preservation and disposition, that a mortician normally provides in the ordinary course of business; or
 - ▶ Merchandise, including a casket, vault, or clothing, that a mortician normally provides in the ordinary course of business.

Licensing

- In general, an individual shall be licensed by the Board before the individual may practice mortuary science in the state of Maryland.

Licensing

► Morticians License

- An individual shall be licensed by the Board before the individual may practice **mortuary science** in the state of Maryland.
- A mortician license issued under this title authorizes the licensee to practice **mortuary science** while the license is effective.

Licensing

► Funeral Director License

- An individual shall be licensed by the Board before the individual may practice **funeral direction** in the state of Maryland.
- A funeral director license issued under this title authorizes the licensee to practice **funeral direction** while the license is effective.

Licensing

- **The Board shall examine all applications for licensure to the practice of mortuary science or funeral direction and shall issue the mortician or funeral director license to an individual who:**
 - Is judged to be of good moral character;
 - Has completed not less than one (1) year and not more than two (2) years of licensed apprenticeship, unless the Board allowed extensions for additional one-year terms;
 - Has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;
 - Has passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States.
 - Has passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating competency in the preparation of dead human bodies for final disposition and sanitary science; and
 - Has submitted an application to the Board on the required form and has paid a fee set by the Board.

Licensing – Inactive Status

- ▶ The Board shall place a licensee on inactive status if the licensee submits to the Board:
 - ▶ An application for inactive status on the form required by the Board; and
 - ▶ Pays the inactive status fee set by the Board.

Licensing – Inactive Status - Reactivation

- ▶ A licensee on inactive status may reactivate the license at any time if the licensee:
 - ▶ Complies with the continuing education requirements in effect for the year in which the licensee seeks to reactive the license;
 - ▶ Has not practiced mortuary science in the state of Maryland while on an inactive status; and
 - ▶ Pays the reactivation fee set by the Board.

Licensing – Inactive Status – More Than Five Years

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

Courtesy Card - Scope

- ▶ The courtesy card allows the holder of the courtesy card to make a removal of a dead human body in the state of Maryland and to return the body to another state or country, to return a dead human body from another state or country to the state of Maryland for final disposition, to fill out the family history portion of the death certificate, and to sign the death certificate in the holder's capacity as a licensed practitioner of mortuary science, **but** does not allow the holder of the courtesy card to operate a funeral establishment, make funeral arrangements, or conduct funerals in the state of Maryland.

Courtesy Card - Issuance

- ▶ The Board may issue a courtesy card to a practitioner of mortuary science who:
 - ▶ Is licensed to practice mortuary science in another state;
 - ▶ Maintains a license in good standing with that state;
 - ▶ Files an application with the Board; and
 - ▶ Pays to the Board a license fee set by the Board

Courtesy Card - Transferability

- A courtesy card issued by the Board under this title is not transferable.

Denials, Reprimands, Suspensions & Revocations (Grounds)

General

- ▶ **In general, subject to the hearing provisions (§ 7-319 Denials, Reprimands, Suspensions & Revocations – Hearings) and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:**
 - ▶ Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
 - ▶ Fraudulently or deceptively uses a license;
 - ▶ Commits fraud or misrepresentation in the practice of mortuary science;
 - ▶ Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
 - ▶ Aids or abets an unauthorized person in the practice of mortuary science;
 - ▶ Advertises falsely or in a misleading manner;

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Denials, Reprimands, Suspensions & Revocations (Grounds)

General

(Continued)

- Solicits mortuary science business, either personally or by an agent, from a dying individual or the relatives of a dead or dying individual, other than through general advertising;
- Employs, pays or offers to pay a “capper,” “steerer,” “solicitor,” or any other person to obtain business, either in general or for a licensee or funeral establishment;
- Directly or indirectly pays or offers to pay to obtain mortuary science business;
- Solicits or accepts any payment or rebate for recommending any crematory, mausoleum, or cemetery or causing a dead human body to be disposed of there;
- Refuses to surrender custody of a dead human body on the demand of a person who is entitled to its custody;
- Sells or offers to sell any share, certificate, or interest in a mortuary science business with a promise or offer to perform services to the buyer at a cost less than that offered to the general public;
- Fails, after proper demand, to refund promptly any payments received under a pre-need contract with interest;
- At the time funeral arrangements are made, fails to give the contract required by § 7-404 this title;
- Violates any state, municipal, or county law, rule or regulation on the handling, custody, care, or transportation of dead human bodies or the disposal of instruments, materials, and wastes relevant to preparation of a dead human body for final disposition;

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Denials, Reprimands, Suspensions & Revocations (Grounds)

General

(Continued)

- Practices mortuary science under a name other than the name that appears on the license of that person or the name of the partnership in accordance with § 7-401 of this title;
- Signs an application for a funeral establishment license if the signer knew or should have known that grounds existed for which the funeral establishment license later was denied, suspended or revoked;
- Violates any provision of this title or of the laws relating to cremation;
- Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- Willfully makes or files a false report or record in the practice of mortuary science;
- Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- Submits a false statement to collect a fee;
- Provides professional services while under the influence of alcohol or using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- Violates any rule or regulation adopted by the Board;

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Denials, Reprimands, Suspensions & Revocations (Grounds)

General

(Continued)

- ▶ Is professionally, physically, or mentally incompetent;
- ▶ Commits an act of unprofessional conduct in the practice of mortuary science;
- ▶ Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
- ▶ Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control's guidelines on universal precautions;
- ▶ Fails to allow an inspection under § 7-205(a)(8) of this title;
- ▶ Fails to comply with inspection requirements in the time specified by the Board; or
- ▶ Fails to provide the Board the certification required under § 7-405(i) of Title 7.

Denials, Reprimands, Suspensions & Revocations (Grounds)

Funeral Establishment

► Funeral Establishment:

- Subject to the hearing provisions of § 7-319 of this subtitle, the Board may reprimand, place on probation, deny, suspend, or revoke a funeral establishment license for any of the grounds listed in previous slides.
- The Board may not reprimand, place on probation, deny, suspend, or revoke a funeral establishment license because of a violation of a provision of this title by an employee of the establishment, unless the employee has a proprietary interest in the business that is conducted from the establishment.

Contract of Initial Agreement

- ▶ At the time a licensee makes funeral arrangements, the licensee shall give to the individual who requested the funeral arrangements, a contract that includes:
 - ▶ An itemized list of all service and merchandise that will be provided and the total price;
 - ▶ To the extent possible, a specification of any item for which the licensee will advance money to accommodate the buyer; and
 - ▶ The terms and method of payment.

Contract of Initial Agreement

- ▶ The contract shall be in duplicate and contain the signatures of the licensee, other than an apprentice, and the payer of the required service.
- ▶ A copy of the signed contract shall be given to the payer at the time the arrangements are finalized.
- ▶ In addition, the licensee shall give to the individual who requested a funeral, a similar written statement that reflects any change in the arrangements agreed to between the parties.

Partnerships

- ▶ Two or more licensed morticians or funeral directors may practice mortuary science as a partnership.
- ▶ A partnership shall be conducted under the names of all the partners.
- ▶ Application – before practicing as a partnership, the licensees shall:
 - ▶ Notify the Board that they will be practicing as a partnership; and
 - ▶ Submit to the Board the name and address of each partner.

Cremation

- ▶ A licensee shall maintain a complete file of a cremation that includes the signature of the next of kin, person identifying the body, or person responsible for disposition, time of death, and the date and time of cremation.
- ▶ A licensee or the agent of a licensee may not represent that a burial or funeral casket is required for cremation.

Decisions Concerning Disposition of Body

Individual's Own Body

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

Decisions Concerning Disposition of Body

Validity of Executed Document

- ▶ In order to be valid, any document executed as stated on the previous page, must be written and signed by the individual in the presence of a witness, who, in turn, shall sign the document in the presence of the individual.

Decisions Concerning Disposition of Body

Priority in Arranging for Disposition of Body of Another

- ▶ Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document as stated in the previous slide for *Individual's Own Body*, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:
 - ▶ The surviving spouse or domestic partner, as defined in § 1-101 of the Health-General Article, of the decedent;
 - ▶ An adult child of the decedent;
 - ▶ A parent of the decedent;
 - ▶ An adult brother or sister of the decedent;
 - ▶ The guardian of the person of the decedent at the time of the decedent's death, if a guardian has been appointed; or
 - ▶ In the absence of any person noted above, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described above.

Decisions Concerning Disposition of Body

More Than One Person Authorized

- ▶ If a decedent has more than one survivor (i.e., surviving spouse or domestic partner; adult child; parent; brother or sister), any adult child, parent, or adult brother or sister of the decedent who confirms in writing to a licensee that all of the other members of the same class have been notified may serve as the authorizing agent unless the licensee receives a written objection from another member of that class.
- ▶ If a decedent has more than one survivor (i.e., surviving spouse or domestic partner; adult child; parent; brother or sister), the majority of a class may serve as the authorizing agent.

Decisions Concerning Disposition of Body

Public Officials or Institutions Authorized

- ▶ **Public Officials Authorized:** For an individual whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the body of the individual may serve as the authorizing agent.
- ▶ **Institutions Authorized:** For an individual who has donated the individual's body to medical science or whose death occurred in a nursing home or other private institution, a representative of the institution to which the body was donated or in which the decedent died may serve as the authorizing agent of the decedent and the institution is charged with making arrangements for the final disposition of the body.

Identification Tag

- ▶ Before burial or interment, a mortician shall affix to the long bones of the deceased human body a plastic or metal identification tag.
- ▶ If the body is cremated, after cremation, a licensee shall ensure that a metal or plastic identification tag is placed in the cremains container.
- ▶ The identification tag shall contain:
 - ▶ The name of the decedent;
 - ▶ The Social Security number of the decedent;
 - ▶ The decedent's date of birth; and
 - ▶ The decedent's date of death.

Family Security Trust Fund

- ▶ **The Family Security Trust Fund was established for the collection of fees from licensed funeral establishments for claimants to recover compensation from the Family Security Trust Fund for an actual pre-need trust fund loss that occurred in this State due to theft, embezzlement, false pretenses, forgery, fraud, or misrepresentation by a licensed mortician, funeral director, or holder of a surviving spouse license. (Subtitle 29, Chapter 15)**
- ▶ **Each funeral establishment shall pay \$375 per year into the Fund, until the Fund has accumulated a balance of \$1,000,000.**
- ▶ **If after the Fund has accumulated a balance of \$1,000,000, the amount in the Fund falls below \$1,000,000, the Board shall assess each funeral establishment an additional fee in an amount that will, over a reasonable period, return the Fund to a level of at least \$1,000,000.**
- ▶ **The Board may not issue a renewal funeral establishment license if the funeral establishment has not paid the fee required.**

Family Security Trust Fund (Continued)

► Claim for Loss

- In general, a person may recover compensation from the Fund for an actual pre-need trust fund loss that occurred on or after January 1, 2010 and is based on an act of omission.

► A claim for loss shall:

- Be based on an act or omission that occurs in the provision of funeral pre-need services by a licensed mortician; a licensed funeral director; a licensed apprentice mortician; a licensed apprentice funeral director; or an unlicensed employee of a licensed funeral establishment.
- Involve a transaction that relates to pre-need funeral planning that occurred in the State; and,
- Be based on an act or omission in which pre-need money is obtained from a person by theft, embezzlement, false pretenses, or forgery; or that constitutes fraud or misrepresentation.

Family Security Trust Fund (Continued)

- Amount of recovery
 - The amount recovered for any claim against the Fund:
 - May not exceed the actual monetary loss suffered; and
 - May not include non-economic, consequential, or punitive damages.

Family Security Trust Fund (Continued)

► Contract Provision

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

Thank you for taking our online course.

Please note that while information contained in this course manual pertains to key points of the Annotated Code of Maryland Health Occupation Article Title 7 Maryland Morticians and Funeral Directors Act, it is not all inclusive. To view Title 7 in its entirety, please go to <http://dhmh.maryland.gov/bom/Pages/home.aspx>.