



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

Board of Morticians and Funeral Directors

April 11, 2012

James J. Doyle, Esquire
212 Duke of Gloucester Street
Annapolis, Maryland 21401

Dear Mr. Doyle:

The Board of Morticians and Funeral Directors has reviewed both your memorandum of March 8, 2012, regarding the use of Courtesy Cards by Maryland licensed morticians and funeral directors as well as the ensuing public discussion of March 14, 2012, which encompassed that matter as well as the propriety of out-of-state Maryland licensed morticians and funeral directors making funeral arrangements in this State with no attachment to a Maryland licensed funeral establishment either by way of ownership of a full service or restricted establishment, or as an employee.

In light of the concerns that you and others have raised, the Board has decided not to require out-of-state Maryland licensed morticians or funeral directors to obtain courtesy cards. Instead, the Board will simply require all Maryland licensed morticians and funeral directors who are based outside of Maryland to declare their out of state funeral home affiliation at the time of initial Maryland licensure and again at time of renewal. This will ensure that the Board will be able to track the location of human remains that have been transported out of Maryland. The Board will rely on the licensees to self report any changes in out of state affiliation between renewal periods. For the short term, the Board will be corresponding with these licensees asking for the name of the out of state funeral establishment they wish their Maryland license to be attached with. This information will be shared with the Division of Vital Records so that agency will be able to verify that the funeral facility provided by the licensee on line 22 of the death certificate corresponds to facilities on the list. The Board currently provides the Division of Vital Records with a similar list of Maryland Courtesy Card holders and their affiliation as well as lists of all Maryland licensed establishments, licensed morticians and funeral directors.

Recognizing the need to regulate the storage and transportation of human remains, the Maryland General Assembly recently voted to pass the Handling Human Remains

410-764-4792 • Fax 410-358-6571

Toll Free 1-877-4MD-DHMH • TTY for Disabled – Maryland Relay Service 1-800-735-2258

Web Site: www.dhmh.state.md.us/bom

2012 APR 20 PM 3:19
RECEIVED
MAY 1 2012

with Dignity Act of 2012. *See* HB 540/SB 415. The Board suggests that all licensees immediately become familiar with its requirements. Md. Code Ann., Health Gen. § 5-513(G), among other things, will bar the transporting of decedents to out-of-state facilities that have not entered in to an inspection agreement with the Board.

Regarding making funeral arrangements in Maryland, the Board's position has been and, upon advice of counsel, continues to be that a licensee making arrangements for final disposition must either be an owner of a full service or restricted Maryland licensed establishment, or be an employee of such an establishment. Their Maryland license must be displayed at one of the aforementioned establishments. This is also true for a Maryland licensee who works as a trade embalmer. Under the Morticians and Funeral Director's Act, "Funeral Establishment means any building, structure or premises from which the business of practicing mortuary science is conducted."¹ *See* Md. Code Ann., Health Occ. §7-101(k). Under Health Occ. § 7-101(u)(1) "Practice mortuary science means: (i) To operate a funeral establishment; (ii) For compensation, to prepare a dead human body for disposition; or (iii) For compensation, to arrange for or make final disposition of a dead human body."

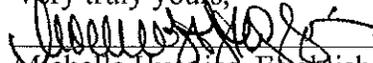
The Act contemplates that the business of the practice of mortuary science will be conducted from or out of an establishment, either full service, restricted or as an employee. In order to accommodate licensed morticians wanting to advance independently in their profession and to be able serve their community without having to build full service facilities and at the same time stay in compliance with the Act, the Board created the designation of "Funeral Service Business" which has since evolved to the "Restricted Funeral Establishment" that is in effect today. *See* Health Occ. § 7-310.

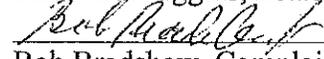
In order to carry out its mandate of protecting the public welfare, the Board is, under Health Occ. §7-205, authorized to inspect funeral establishments for compliance with the Act and accompanying regulations which can be found at COMAR 10.29.03.04. Inspections focus on, among other things, all documents associated with making of funeral arrangements for final disposition, including verification of compliance with the FTC Funeral Rule. *See* 16 CFR Part 453. This process enables the Board to monitor sales of funeral goods and services and to safeguard pre-need accounts in Maryland in all full service and restricted establishments. The Act mandates that the Board audit these accounts as we build and protect the Family Security Trust Fund. *See* Health Occ. § 7-205(b). There is nothing in the Act that in any way indicates that a Maryland licensed mortician or funeral director can practice independent of a Maryland licensed establishment.

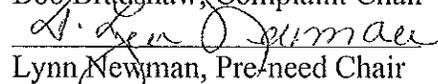
¹ Prior to 1980, the practice of mortuary science was known as the practice of funeral direction.

Please be aware that the opinions of the Board do not constitute a formal legal opinion.

Very truly yours,


Michelle Huggins, Establishment Chair


Bob Bradshaw, Complaint Chair


Lynn Newman, Pre-need Chair

cc: Hon. George C. Edwards
Desiree Kroeger, Division of Vital Records
Funeral Directors and Morticians Association of Maryland
Delmarva Funeral Service Association
Maryland State Funeral Directors Association
David A. Balto, Esquire
District of Columbia Board
Kia Winston, Esquire
Staci Mason
Kevin Cyrus
Virginia Board
Pennsylvania Board
Delaware Board
West Virginia Board