



Funeral Consumers Alliance of Maryland and Environs

Protecting a consumer's right to a meaningful, dignified, and affordable funeral.

HB 1031 - Favorable

**Testimony for the House Committee on Health and Government Operations
Of the Maryland General Assembly**

March 5, 2014

Submitted by Brian E. Ditzler, Vice President
Funeral Consumers Alliance of Maryland & Environs

Chairman Hammen, Vice Chair Pendergrass and Members of the Committee:

Thank you for the opportunity to provide testimony from the Funeral Consumers Alliance of Maryland and Environs (FCAME) in support of House Bill 1031.

FCAME is the volunteer-run, regional chapter of the Funeral Consumers Alliance (FCA), the oldest and largest non-profit watchdog organization protecting the rights (and wallets) of grieving consumers. FCA's many chapters across the country are dedicated to: helping consumers be more informed about death care options, and protecting the public from fraud and abuse in cremation, funeral and burial transactions. FCA and its chapters take no money from the death care industry or government, and act as a voice for consumer interests.

House Bill 1031 would require a funeral establishment to give immediate access to an inspector or other representative of the State Board of Morticians and Funeral Directors to conduct an unannounced inspection of all areas of the funeral establishment. Within 24 hours after completion of an unannounced inspection, the Board would be required to provide the results of the inspection to the holder of the funeral establishment license or the licensee who supervises the establishment.

This bill is intended to address difficulties that Board members or staff now face during inspections of funeral establishments, when immediate access to the preparation and body storage areas is denied about 10 percent of the time. The excuse given for denial of access usually is that no mortician or funeral director is available to accompany a Board member or employee then.

The importance of inspections to uncover problems at funeral establishments is demonstrated by the fact that the majority of serious violations of law are uncovered during an inspection vs. first being reported in a complaint, according to an examination of the Public Orders posted on the Board of Morticians' website.

An inspection that is not immediate and that does not include access to all areas of an establishment is not likely to catch problems. If there's nothing to hide, why be against immediate access for inspections? Any delays in beginning an inspection, however brief, can allow problems to be quickly cleaned up and incriminating evidence to be washed away or otherwise removed.

Doctors' offices, hospitals, pharmacies, restaurants, day care centers and other establishments that impact our public health must give immediate access to inspectors. Last year, the committee of morticians, funeral directors and cemetery owners in Maryland that reviewed proposed crematory regulations agreed that crematories should be subject to unannounced inspection and

Funeral Consumers Alliance of Maryland & Environs (FCAME)

<http://www.mdfunerals.org>

tel: 301-564-0006. email: info@mdfunerals.org.

9601 Cedar Lane, Bethesda, MD 20814

immediate access. Why shouldn't funeral establishments also be subject to unannounced inspection and immediate access to all areas?

The Board of Morticians has a legally-mandated obligation to thoroughly inspect funeral establishments to ensure regulations are being followed and the public welfare is being protected. Unannounced inspection with immediate access to all parts of a funeral establishment is important to ensure that the bodies of our loved ones are being cared for properly and in the manner prescribed by law.

An advisory letter to Delegate J. Pena-Melnyk last year from the State Attorney General's Office said unannounced inspection of funeral establishments are authorized under current health-related statute in Maryland and are not an infringement of the 14th amendment of the U.S. Constitution.

The assertion by any funeral directors and supervising morticians that a licensee needs to accompany a Board representative during an inspection ignores two fundamental facts. First, virtually everything being checked (eg., deceased bodies on the premises are being handled properly; required equipment is present and working properly; chemicals are stored properly; surfaces are clean and sanitary; workers are properly licensed; required forms are available, etc.) either meets requirements or it doesn't. Photos are taken by the inspector to verify deficiencies. No explanation from a licensee will change what the inspector sees (or possibly smells).

Second, the Board of Morticians reviews all inspection reports. Licensees are routinely given more than enough time by the Board to provide an explanation for why things were as the inspector found them. In most cases, when deficiencies or problems are identified by an inspector, the establishment is given sufficient time (usually several weeks or more) by the Board to fix the problems since the Board believes compliance is the primary goal vs. looking to discipline violations.

A pharmacy owner who testified before the Senate EHEA Committee a few weeks ago regarding unannounced inspections and immediate access to all parts of health-related establishments summarized their importance quite well. He said, "Yes, inspections are burdensome, but public safety trumps all such concerns."

Asserting that competitive advantage might be obtained by a Board member who is allowed to inspect all areas of other funeral establishments is not a valid claim. The assertion overlooks a practice in the past when Board members inspected funeral establishments nearby their own because no inspector was then on staff at the Board. There was no complaint from funeral homes about losing competitive advantage then.

In summary, House Bill 1031 is reasonable and appropriate, and addresses problems the Board of Morticians and staff have faced in the past attempting to carry out their responsibilities to protect the public welfare. This bill would increase consumer protection and deserves a favorable report from this committee.