



Funeral Consumers Alliance of Maryland and Environs

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

SB 358 - Support with an amendment

Senate Committee on Education, Health and Environmental Affairs
Of the Maryland General Assembly

February 20, 2013

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

Chairperson Conway 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 Senate Bill 358.

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.

Senate Bill 358 would allow the holders of funeral establishment licenses in the state to be held accountable for violations committed by employees of the licensed establishments - just as restaurants may be closed if some employees do not follow proper health and hygiene practices; just as hospitals are held accountable for the misdeeds of doctors and nurses in that hospital.

Put simply - this bill would require responsibility as well as accountability.

Funeral establishments that are responsible and follow good procedures - that protect the public welfare - should have no concern with this bill. In fact, funeral establishments that act responsibly should strongly support this bill because it would encourage proper actions by all establishments in their industry, and thereby help maintain the reputation of integrity all industries seek.

And when irresponsible activities occur, there needs to be accountability. The holders of funeral establishment licenses need to be subject to similar provisions

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as their licensed employees must adhere to, as spelled out in the Annotated Code of Maryland Health Occupations Article Title 7-316.

The issue that prompted this legislation was the gross mishandling of the bodies of a number of veterans awaiting burial in Arlington National Cemetery several years ago. As the *Washington Post* clippings attached to this testimony point out, all five funeral establishments that abused the veteran's bodies were owned by one large corporation.

For anyone to suggest that individual employees in the corporation's five funeral establishments in the Washington metro area just coincidentally happened to follow the same shoddy practices is not credible. Clearly, corporate practices played a role.

It's worth noting that CBS News' "60 Minutes" aired a long segment on that large corporation last May, hosted by correspondent Anderson Cooper, that questioned some of the company's practices. That same corporation now is helping fund lobbyists to actively oppose this bill.

In Northern Virginia, where the large corporation's regional embalming facility is located that mishandled the bodies of veterans awaiting burial in Arlington National Cemetery, the corporate owner was fined \$50,000, and the facility was put on two years probation and subject to six announced inspections each year.

In Maryland, that same corporation received no penalty whatsoever for the gross mishandling of a veteran's body. Why? Maryland law currently exempts the holders of funeral establishment licenses from being held responsible for actions that occurred in their funeral establishments. Instead, the supervising mortician for the funeral establishment was temporarily suspended, put on probation and fined. Why should only an employee be punished when it was the company's practices that caused the problem?

Even if SB 358 were passed as now proposed, the maximum amount of fine the Board of Morticians and Funeral Directors could levy on the holder of a funeral establishment license would be \$5,000. A fine that low is not much of a deterrent, so FCAME supports amending the bill to permit fines of up to \$50,000 that the Board could levy against the holders of funeral establishment licenses who are found guilty of severe violations of law.

An amendment made to the cross-filed version of this bill (HB 314) in the House of Delegates would allow the Board to discipline the holder of a funeral license only if an employee of the funeral establishment committed a violation "with the knowledge or at the direction of the funeral establishment." FCAME disagrees with this severe weakening of the bill because any violation could too easily turn into a "he said, she said" situation with the funeral establishment claiming it was an employee's individual actions that caused the violation(s) while the employee

claims the establishment directed his/her actions. Whose claim does one believe?

Let's keep it simple and clear. Just as restaurant owners are accountable for the actions of their employees in their restaurants, and hospitals are held responsible for actions taken by doctors and nurses in the hospital, the holders of funeral establishment licenses need to be held accountable and be subject to discipline for violations of the law on their premises.

FCAME strongly urges this committee to issue a favorable report on SB 358, ideally after including the amendment we suggest to raise the amount of fine that can be levied.