



Funeral Consumers Alliance of Maryland and Environs

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

HB 127 - Oppose

Senate Committee on Education, Health and Environmental Affairs

April 1, 2015

Submitted by Brian E. Ditzler, FCAME Vice President

Madam Chair and Members of the Committee:

Thank you for the opportunity to provide testimony from the Funeral Consumers Alliance of Maryland and Environs (FCAME) in opposition to House Bill 127.

House Bill 127 would advance the sunset reviews of the Board of Morticians and Funeral Directors a full year. The full evaluation would occur in 2015 vs. 2016, and Title 7, the Maryland Morticians and Funeral Directors Act, as well as all rules and regulations adopted under that title, would have to be reestablished by the General Assembly by 2017 vs. 2018 or it all would terminate.

The logical first question to ask is, "Why is it necessary to move up the sunset review?"

A review of some of the reforms the Board of Morticians has initiated and implemented during the past several years (many times with the assistance of laws passed by the General Assembly) speaks to how effective the Board has been and continues to be.

- The Board now can require an applicant or licensee to have a mental health or physical exam if there is evidence the individual cannot practice mortuary science of funeral direction competently because they may be suffering from substance abuse, dementia or physical limitations.
- Funeral establishments and crematories now are required to handle human remains in a specified, dignified manner, including refrigerating an unembalmed body that is to be stored for more than 48 hours before final disposition.
- The Board strengthened the requirements for an individual to receive an apprentice license.
- Funeral establishments that do not provide full service on site are now issued a restricted license that must be posted on their premises for potential customers to see.
- Most individuals licensed by the Board now will have their photo on their Board identification card. This will severely curtail such IDs from being passed around and used by multiple people as happened in the past.
- The Board now may suspend, revoke or put on probation the license of a funeral establishment for certain violations of law if done with the knowledge or at the direction of the establishment.
- The Board now must approve apprentice sponsors and supervising morticians at funeral establishments to ensure they are not on probation or otherwise not in good standing.
- Board inspectors now have immediate access to body preparation rooms of funeral establishments that have been the subject of a complaint or that are on probation because of one or more past problems.
- The responsibilities of the executor for a funeral establishment owned by a deceased sole proprietor's estate have been spelled out, and the pre-need funds received from consumers no longer can be kept by the estate of the sole proprietor.
- 35 mortuary transport businesses that operate in our state are now licensed and regulated for the first time, their 160 employees who work as transporters are now trained and licensed, and their transport vehicles are being inspected.

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- 35 of the 38 crematories in Maryland are now licensed and regulated by the Board for the first time, their 150 crematory operators are now trained and licensed, and their facilities have been visited two or three times so they now pass inspection.

Creating and implementing the regulatory regime for the mortuary transport businesses and crematories in our state continue to be particularly time consuming. The Board of Morticians and its staff also remain quite busy carrying out their normal duties including supervising and assisting with continuing education of licensees, inspecting funeral establishments all around the state, responding to inquiries from licensees and the public, investigating complaints and addressing problems with individual licensees and establishments, reviewing the qualifications of applicants, as well as other regulatory and licensing matters.

It's worth noting that virtually all of the complaints made about the Board in recent years allege that the Board or its Executive Director are being too strict, uncompromising or unnecessarily prosecutorial. Contrary to that perspective, my view as a consumer advocate (who has read the Public Orders posted on the Board's website) is that the Board is too lenient and forgiving of problems that have been identified. Those Public Orders along with statements made to me by Board members and the Executive Director over several years clearly demonstrate that the Board's primary focus is to encourage and assist licensees in achieving compliance with laws and regulations vs. to penalize those who violate laws and regulations.

It's also important to understand that the Board's staff is responsible for providing evidence (including photos taken to document problems) when alleged violations have been observed. Decisions on whether to take disciplinary action are made by the Board (and not the staff) after reviewing the evidence. Since 2008, the Board has voted to proceed with only eight summary suspensions. The Attorney General's Office reviewed the evidence in each case and found sufficient legal basis to issue each order.

In summary, with all the Board has accomplished in the past several years and all the work they are doing now, there is no justification for accelerating the sunset review of the Board by one year. What HB 127 proposes is unwarranted and would not help protect the health and welfare of the public. The bill also would place an unnecessary burden on the Department of Legislative Services that had not planned or allocated resources needed to do a sunset review of the Board of Morticians this year.

The Funeral Consumers Alliance of Maryland & Environs strongly opposes HB 127 and asks this committee to issue an unfavorable report on it.

FCAME is the volunteer-run, regional chapter of the Funeral Consumers Alliance (FCA), the oldest and largest consumer protection organization focused solely on guarding 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.