



Funeral Consumers Alliance of Maryland and Environs

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

Testimony before the House Committee on Health & Government Operations
of the Maryland General Assembly

Support of HB 394 with Amendments

February 15, 2012

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

Thank you for the opportunity to provide comments on House Bill 394, which would continue the Office of Cemetery Oversight and make other changes to the law relating to that office.

Our organization is the volunteer-run, regional chapter of the national non-profit Funeral Consumers Alliance. We are dedicated to educating consumers about death care options available to them and protecting the public from fraud and abuse in funeral and burial transactions.

First off, we agree with extending the Office of Cemetery Oversight along with the Advisory Council on Cemetery Operations as they perform very important functions in our state and definitely should be continued.

We agree that the statute should be amended to specifically exempt family cemeteries that do not conduct public sales from requirements for registration and permit, perpetual care and preneed burial contracts that are specified in the Maryland Cemetery Act.

We also agree that a representative of crematories should be added as a seventh industry member to the Advisory Council on Cemetery Operations, creating a 12-person council. That council plays a central role in advising the Director about rules and regulations before they are adopted.

Increasing the statutory minimum of Advisory Council meetings makes sense. However, we feel the number of required meetings should be increased to eight times a year, twice the number sought in this bill. We appreciate that keeping down the number of Advisory Council meetings would reduce costs a little for the Department of Labor, Licensing and Regulation, but believe that doing so would

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not be taking full advantage of the many years of industry experience and consumer perspective that its members offer, and would significantly lessen the value of the Council to the Office of Cemetery Oversight.

Ideally the council would meet 10 or more times a year so the advice provided to the Director is timely and helpful vs. episodic and no longer pertinent as would be the result of fewer meetings. Having fewer Advisory Council meetings also would limit the value of the council and its ability to attract and retain members.

We believe a good way to improve the effectiveness of the Office would be to amend the statute so the Advisory Council's function and role are expanded and more clearly spelled out. For example, the Council needs the authority to set its own meeting agenda and to be able to go into closed session with the Director and staff to discuss current issues and investigations of consumer complaints received. While the Advisory Council clearly should not be a policy-making body per se, nor should it be expected to review every complaint received, the Council can be of greatest service to the Office if authorized to provide meaningful and on-going advice to the Director and staff on the full range of cemetery matters.

We support requiring the Director to maintain a complete listing of cemetery registrants and permit holders for each licensing category, and to provide those counts in the Office's annual report to the General Assembly.

In addition, our consumer organization believes the Director should be required to publish on the Office's website the name and address of each cemetery, the name and address of the organization that owns and operates the cemetery, and the name and address of the individual who is responsible for the oversight of the cemetery. This should be possible because most cemeteries, including those exempt from the registration and permit requirements of the Maryland Cemetery Act, are required to file with the Office at least once every two years a statement that includes the previously mentioned information. Obviously, cemeteries at which no burials have taken place within the previous five years need not be listed on the website.

Maintaining a complete list of cemeteries in the state, by category and region, would help the Office verify that all cemeteries that should be meeting statutory registration and permit requirements actually are doing so. Having the listing online also would be a very useful resource for consumers considering their cemetery options.

We agree that a copy of the Office's annual report should be provided to each member of the Advisory Council, with the council then developing a plan that responds to issues raised by the Director in that report.

Having the Director provide more information to the General Assembly about the number and nature of complaints and inquiries received, along with how they are resolved makes sense and we support this change.

One recommendation we have regarding consumer complaints on cemeteries is to create of an online listing of complaints received and their status. The Office of Consumer Protection in Montgomery County, MD, maintains a system tracking complaints on merchants in its jurisdiction, and that system could serve as a model for establishing a similar system tracking complaints on cemeteries.

The county's online system shows the number of consumer complaints received by merchant, the number resolved, the number of complaints that resulted in legal action, and the number of complaints still awaiting resolution. Consumers benefit from such a system in two ways. First, having information available on complaints received on different establishments assists consumers in making purchase decisions. Secondly, such an online listing inevitably gives establishments greater incentive to act in a responsible manner to avoid having complaints filed on them in the first place, as well as to seek rapid resolution of complaints that were submitted.

We agree that it would be useful to require cemeteries to provide supporting documentation on their sales contracts. Since the Office collects \$10 per sales contract of \$250 or more, revenue would be increased if any cemeteries are found to be underreporting the number of applicable sales contracts on their permit renewals.

We support amending the statute to require that the name, address and telephone number of the Office of Cemetery Oversight be contained on a separate form, which must be independently signed and dated by the consumer, and that a copy of this form should be given to the consumer along with a copy of the contract.

We agree it makes sense for the Advisory Council to develop a plan to improve consumer outreach, including disseminating more information to nursing homes, hospices, churches and consumer protection agencies of every county.

Improving recordkeeping at cemeteries definitely should be a primary focus of the Advisory Council. At present, there are no standards established for cemeteries to record relevant information in a consistent and reliable manner relating to the sale of burial rights and preneed goods and services to customers, as well as the amounts collected for perpetual care funds. Effective recordkeeping requirements are critically important because it may be decades between when purchases are made and when cemetery goods and services may be used.

There also is a great need for electronic copies of all cemetery records to be created and stored off-site in the case of pandemic or natural disaster, as well as to be stored online to enable historical research of family lineage.

Our understanding is that the Advisory Council has studied recordkeeping practices extensively already, so we agree the council needs to develop a legislative proposal on recordkeeping requirements by cemeteries for introduction no later than the 2014 regular session of the General Assembly.

We agree that the recordkeeping proposal should specify which requirements are needed by the different categories of cemeteries, and a timetable should be provided that allows new rules to be implemented in phases to limit the economic impact on cemeteries.

We agree it is appropriate for the Director and Advisory Council to monitor the rate of growth of cremation. However, we question the wisdom of asking them to devote their limited resources to actively studying that issue when there are many other issues more deserving of the Office's attention.

For example, we think there is great need for an in-depth study of perpetual care funds. Current statute requires that 10 percent of the cost of a plot at most for-profit cemeteries be devoted to perpetual care, but there has been no study to determine whether the amount currently collected is sufficient, and whether the current restrictions on use of those funds make sense. Different approaches being used successfully by various cemeteries should be examined.

Finally, we agree it makes sense to ensure that the newsletter of the Office of Cemetery Oversight be updated regularly with inclusion of articles written by Advisory Council members. To increase awareness of the Office and what it is doing, the newsletter needs to be posted on the Office's website.