

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Chapter 03 Inspection of Funeral Establishments and Funeral Service Businesses

Authority: Health Occupations Article, §§7-101, 7-205, and 7-310, Annotated Code of Maryland

10.29.03.01

.01 Scope.

The purpose and intent of this chapter is to prescribe minimum standards for new funeral establishments, renovations of existing funeral establishments, and change of ownership of funeral establishments where the practice of mortuary science or funeral direction is conducted.

10.29.03.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(2) "Deficiency" means a specific failure to comply with the requirements set forth by the Board.

(3) "Funeral establishment" means any building, structure, or premises licensed by the Board, with facilities for:

(a) Embalming or holding a dead human body for disposition;

(b) Viewing of the body; and

(c) Funeral services.

(4) "Funeral service business" means a business owned or co-owned by a licensed mortician or funeral director involving the practice of mortuary science or funeral direction by a licensed mortician or funeral director.

(5) "Holding room" means a room which is:

(a) Used exclusively for the holding of dead human bodies if arterial embalming is not a function of the funeral home establishment; and

(b) Distinct from the viewing room, chapel, or any other part of a funeral home establishment.

(6) "Inspection" means a survey of a funeral establishment by an investigator designated by the Board to ensure compliance with this chapter.

(6-1) "Ownership" means having or controlling directly or indirectly at least 10 percent interest in the corporation, partnership, association, organization, or other business entity.

(7) Practice Funeral Direction.

(a) "Practice funeral direction" means:

(i) To operate a funeral establishment; and

(ii) To arrange for or make final disposition of a dead human body for compensation.

(b) "Practice funeral direction" does not include, for compensation:

(i) Disinfecting or preserving a dead human body or a dead human body's parts by arterial or cavity injection or any other type of preservation; or

(ii) Otherwise preparing a dead human body for disposition.

(8) "Practice mortuary science" means:

(a) To operate a funeral establishment;

(b) For compensation, to prepare a dead human body for disposition, including disinfecting or preserving a dead human body or a dead human body's parts by arterial or cavity injection; and

(c) For compensation, to arrange for or make final disposition of a dead human body.

(9) "Preneed contract" means an agreement between a consumer and a licensed funeral director or licensed mortician to provide any goods and services purchased before the time of death.

(10) "Preparation room" means an area with a minimum of 120 square feet which is used exclusively to prepare dead human bodies for final disposition if arterial or cavity injection is a function of the funeral home establishment, and which is separate and distinct from the viewing room, chapel, or any other part of a funeral establishment.

(11) "Supervising funeral director" means a funeral director who is responsible to the Board for compliance with the Maryland Morticians Act for all operations of a funeral establishment including, but not limited to, the administration of pre-need accounts.

(12) "Supervising mortician" means a mortician who is responsible to the Board for compliance with the Maryland Morticians Act for all operations of a funeral establishment including, but not limited to, the administration of preneed accounts.

(13) "Viewing room" means an area in which a dead human body is placed on display and which is a separate and distinct area from the preparation and holding room.

.03 License Required for Funeral Establishment.

A. The Board shall license a funeral establishment before the establishment may be used for the practice of mortuary science.

B. The Board shall issue a funeral establishment license to a funeral establishment that:

- (1) Has complied with all applicable federal, State, and local laws;
- (2) Has submitted an application to the Board on the required form at least 60 days before the opening of the business;
- (3) Has paid the application fee; and
- (4) Operates in accordance with Health Occupations Article, Title 7, Annotated Code of Maryland.

C. A license shall expire on the date set by the Board, unless the license is renewed for an additional term at a fee set by the Board.

D. A license is nontransferable and may not be renewed for a term longer than 2 years.

E. Upon a sale or change in ownership of the funeral establishment, the new owner shall request a new license which shall be submitted to the Board in writing with supporting documentation reflecting the sale or change of ownership.

F. The Board shall issue a new establishment license reflecting the sale or change in ownership if:

- (1) The Board approves the submitted documentation; and
- (2) An inspection of the establishment results in a finding that the establishment is in compliance with all applicable laws.

G. A license, and the licenses of individual licensees employed at the establishment, shall be displayed prominently at the premises.

H. The funeral establishment:

- (1) Shall employ and designate, on a form provided by the Board, a supervising mortician or supervising funeral director, licensed in accordance with State laws, who shall be continuously responsible;
- (2) Shall prominently display on a sign, not smaller than 5 inches by 11 inches, located either immediately outside or immediately inside the main entrance, in letters not less than 1-inch high, the following information:
 - (a) The names of each licensee who holds at least a 10 percent ownership interest in the partnership, professional association, or sole proprietorship which operates the funeral establishment;
 - (b) The names of any individual, corporations, or other business entities, which either directly or indirectly hold an ownership interest of 10 percent or more in the corporation or business entity that operates the funeral establishment; and
 - (c) The names of all restricted establishments operating from that funeral home.
- (3) That does embalmings and has designated a funeral director as the supervising agent shall employ a licensed mortician on staff;

10.29.03.03

- (4) May not be required to apply for a new funeral establishment license if there is a change of a supervising mortician or supervising funeral director;
- (5) Shall notify the Board, on a form provided by the Board, of a change of supervising mortician or supervising funeral director within 10 days of any change;
- (6) May not operate without a supervising mortician or supervising funeral director, who shall be continuously responsible, for more than 30 calendar days; and
- (7) Shall either:
 - (a) Ensure that medical waste is picked up by a licensed medical waste disposer not less often than every 60 days from the date generated; or
 - (b) Develop a written plan to submit for approval by the Board that outlines specific procedures for disposal of medical waste not later than 60 days from the date generated, in accordance with methods outlined in COMAR 10.06.06.

10.29.03.04

.04 Inspection by the Board of Morticians.

A. A licensed funeral establishment shall be open at all reasonable times for inspection by the Board. Inspection results shall be written on forms approved by the Board.

B. Each funeral establishment shall be inspected:

- (1) On a biennial basis;
- (2) In furtherance of an investigation; or
- (3) Upon the sale or change of ownership of the establishment.

C. An owner, supervising mortician, supervising funeral director, or licensed designee shall be available to accompany the inspector during the inspection and sign the inspection report.

D. The following forms shall be available for inspection, with a copy given to the inspector for the inspector's records:

- (1) A general price list of charges for services to the public;
- (2) A completed and duly signed funeral service contract with any invoices attached;
- (3) A price list of caskets as charged to the public;
- (4) A price list of outer containers, as charged to the public;
- (5) Cremation forms:
 - (a) Authorization form to cremate,
 - (b) Cremation identification form, and
 - (c) Disposition of cremated remains notification;

- (6) A preneed contract form with a bank statement form, for verification of an escrow or trust account;
- (7) A copy of the hazardous waste certification form described in §E(6)(d) of this regulation; and
- (8) An authorization to release the body to the establishment.

E. Standards for Inspection of Licensed Funeral Establishments.

(1) Preparation Room. If arterial or cavity injection will take place at the funeral establishment, the funeral establishment shall maintain on the premises a preparation room which shall be adequately equipped and maintained in a sanitary manner for the preservation and care of dead human bodies. The minimal requirements are as follows:

- (a) The floors, walls, and ceilings shall be smooth and made of tile or other high gloss, impervious, washable material,
- (b) The floors, walls, and ceilings shall be in a clean and sanitary condition,
- (c) The lighting shall be adequate,
- (d) The ventilation shall be in accordance with current Occupational Safety and Health Administration (OSHA) regulations,
- (e) Doors to the preparation room shall be tight-closing and the windows maintained to obstruct any view into the preparation room;
- (f) The preparation room shall be a minimum of 120 square feet; and
- (g) If a refrigeration unit is on the premises, the refrigeration unit shall be clean, sanitary, and in good working condition.

(2) Holding Room. If arterial or cavity injection will not take place at the funeral establishment, the funeral establishment shall maintain on the premises a holding room which shall be adequately equipped for the holding of dead human bodies which shall be kept in a clean and sanitary manner and used exclusively for the holding and storage of dead human bodies. The minimal requirements for the holding room shall be as follows:

- (a) The floors, walls, and ceilings shall be smooth and made of tile or other high gloss, impervious, washable material;
- (b) The floors, walls, and ceilings shall be in a clean and sanitary condition;
- (c) The lighting shall be adequate;
- (d) The ventilation shall be in accordance with current Occupational Safety and Health Administration (OSHA) regulations;
- (e) Doors to the holding room shall be tight-closing and the windows maintained to obstruct any view into the holding room; and
- (f) The holding room shall be a minimum of 120 square feet.

(3) Instruments and Equipment.

- (a) Instruments shall be autoclaved, steamed, or cleaned with a chemical disinfectant commonly used in the industry.

- (b) The preparation table shall have a nonporous surface.
- (c) The removal stretcher and litter shall have a waterproof pouch.
- (d) If a refrigeration unit is on the premises, it shall be clean, sanitary, and in good working condition.
- (4) Water Supply.
 - (a) Each establishment shall have hot and cold running water.
 - (b) The drain pipe for the water supply shall be at least 2 inches in diameter.
 - (c) Each establishment with a holding room or preparation room shall have floor drainage.
- (5) Chemicals. All chemicals shall be plainly marked with appropriate warning labels.
- (6) Waste.
 - (a) The preparation room shall be equipped with covered waste receptacles.
 - (b) Infectious waste shall be clearly identified and separate from other waste and put in a rigid container.
 - (c) Blood and waste shall be disposed of in accordance with COMAR 10.06.06.01—.08.
 - (d) A copy of the hazardous waste certification form provided by the licensee's hazardous waste contractor shall be provided to the Board's inspector.
 - (e) The removal vehicle shall contain a universal precaution kit which shall contain at least:
 - (i) Disposable gloves;
 - (ii) Antibacterial hand wipes; and
 - (iii) A hazardous waste container for the proper disposal of wastes.
- (7) Removal Vehicle. The removal vehicle shall be suitable for the transportation of dead human remains with remains obscured from public view and maintained in a sanitary manner.
- (8) Funeral Service Establishment Premises.
 - (a) The remaining areas of the establishment shall be in good repair and clean and safe.
 - (b) If the funeral establishment has a memorial gathering area, it shall be in good repair and clean; if that area is built or renovated, or the establishment is acquired that memorial room shall be at least 300 square feet in area.
 - (c) If a funeral establishment has a casket display room, prices shall be displayed on the casket or caskets.
 - (d) The inspection shall assess the general cleanliness of the establishment and whether there are properly functioning, sanitary restrooms.
 - (e) The business telephone shall be in working order at the establishment.
 - (f) A sign or lettering on the windows or building indicating the name of the establishment shall be conspicuously displayed and the name on the sign shall be the same name on the establishment license.

10.29.04.04

(g) If one or more businesses, in addition to a funeral establishment, are under one roof, a separate sign shall indicate the entrance and exit of the funeral establishment.

F. After the inspection is completed, an exit interview shall be conducted to apprise the owner or supervising mortician of the findings of the inspection. A copy of the inspection report shall be left with the owner or supervising mortician who shall verify receipt of the report.

10.29.03.05

.05 Establishment Inspection Report and Deficiencies.

A. The Board shall review the inspection report and make a determination as to whether a deficiency exists.

B. The Board shall notify the establishment in writing of the results of the inspection.

C. If a licensee passes an inspection, the licensee shall prominently display on the premises a statement issued by the Board that the establishment has successfully passed an inspection.

D. If the Board finds a deficiency, the Board shall send to the owner within 2 weeks of the inspection notification of the deficiency or failure to pass the inspection.

E. Correction of Deficiency.

(1) Except as provided in this section, an owner shall correct a deficiency within 30 days after receipt of notification.

(2) The Board may require immediate correction of a deficiency if the Board considers the correction necessary in the interest of public health.

(3) The owner may request an extension of time for correction of a deficiency.

(4) The Board may approve an extension of time for correction of a deficiency.

(5) Upon completion of correction of all deficiencies, the owner shall notify the Board.

(6) Upon notification, the Board or its designee shall reinspect the establishment and the Board shall notify the owner in writing of the results of the reinspection within 1 week.

(7) If reinspection reveals additional deficiencies not cited in the first report, the owner shall correct those deficiencies in the time period specified by the inspection agency unless an extension of time is requested by the owner and approved by the Board for correction of the additional deficiencies.

10.29.03.06

.06 Inspection of Funeral Service Businesses.

A. A funeral service business shall:

(1) Before commencing the conduct of a funeral service business, submit a description of the type of services offered to the public to the Board for the Board's review and approval;

(2) Comply with:

(i) All federal, State, and local laws;

10.29.04.06

- (ii) Advertising requirements as set forth in COMAR 10.29.12; and
 - (iii) Regulation .04D of this chapter;
 - (3) After July 1, 2001, submit to the Board copies of the documents listed in Regulation .04D of this chapter; and
 - (4) Beginning January 1, 2002, submit annually to the Board copies of the documents listed in Regulation .04D of this chapter created during the preceding year.
- B. Upon the Board's inspection of the funeral service business's document submission under Regulation .06A(3) and (4) of this chapter, the Board shall complete an inspection report and provide a copy to the owner of the funeral service business through a method that verifies the owner's receipt of the report.
- C. A licensee who is not an owner or employee of a funeral establishment who provides services under Regulation .02B(5) and (6) of this chapter and who intends to hire employees to provide such services, shall hire only individuals licensed by the Board.

10.29.03.07

.07 Funeral Service Business Inspection Report and Deficiencies.

- A. The Board shall review the inspection report and make a determination as to whether any deficiencies exist.
- B. The Board shall send notification of existing deficiencies or failure to pass the inspection to the funeral service business owner, within 30 days after receipt of the inspection report described in Regulation .06B of this chapter.
- C. Correction of Deficiency.
- (1) The owner shall correct the deficiencies within 30 days after receipt of the inspection report described in Regulation .06B of this chapter.
 - (2) The owner may request an extension of time from the Board to correct deficiencies which the Board may approve.
 - (3) Upon completion of corrections of the deficiencies, the owner shall notify the Board and submit documentation supporting and reflecting the corrections.
 - (4) If the Board's inspection of the submitted corrections reveals deficiencies not cited in the first inspection report, the owner shall correct those deficiencies in a time period specified by the Board.
 - (5) The owner may request an extension of time to correct the additional deficiencies, which may be granted by the Board.

10.29.03.08

.08 Penalties.

- A. Failure to allow an inspection of the establishment or funeral service business shall result in an immediate suspension of an establishment license or in the case of a funeral service business, the licensee's license, subject to a subsequent opportunity for a hearing under Health Occupations Article, §7-319, Annotated Code of Maryland.
- B. Failure to comply with a notice to correct deficiencies or violations within the 30-day period, or any reasonable extension granted by the Board in Regulation .05E or .07C of this chapter, shall result in an immediate suspension of an establishment license or in the case of a funeral service business, the licensee's license, or the denial of a renewal

10.29.04.08

of an establishment license, subject to a subsequent opportunity for a hearing as set forth under Health Occupations Article, §7-319, Annotated Code of Maryland.

C. Disciplinary action may not be taken against a supervising mortician or funeral director for the acts or omissions of another unless the supervising mortician or funeral director knew or should have known of a violation of the Maryland Morticians Act.

10.29.03.9999

Administrative History

Effective date: January 20, 1992 (19:1 Md. R. 32)

Regulation .04D amended effective November 29, 1999 (26:24 Md. R. 1858)

Chapter revised effective November 26, 2001 (28:23 Md. R. 2054)

Regulation .01 amended as an emergency provision effective November 5, 2007 (34:24 Md. R. 2154); amended permanently effective February 25, 2008 (35:4 Md. R. 514)

Regulation .02B amended effective August 27, 2007 (34:17 Md. R. 1508)

Regulation .02B amended as an emergency provision effective November 5, 2007 (34:24 Md. R. 2154); amended permanently effective February 25, 2008 (35:4 Md. R. 514)

Regulation .03H amended effective August 27, 2007 (34:17 Md. R. 1508)

Regulation .03H amended as an emergency provision effective November 5, 2007 (34:24 Md. R. 2154); amended permanently effective February 25, 2008 (35:4 Md. R. 514)

Regulation .03H amended effective September 7, 2009 (36:18 Md. R. 1380)

Regulation .04B amended effective September 7, 2009 (36:18 Md. R. 1380)

Regulation .04C amended as an emergency provision effective November 5, 2007 (34:24 Md. R. 2154); amended permanently effective February 25, 2008 (35:4 Md. R. 514)

Regulation .08C adopted effective August 27, 2007 (34:17 Md. R. 1508)

Regulation .08C amended as an emergency provision effective November 5, 2007 (34:24 Md. R. 2154); amended permanently effective February 25, 2008 (35:4 Md. R. 514)