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HOUSE BILL NO. 2709

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 54.1-2314 and 54.1-2806 of the Code of Virginia, relating to cemetery operators and funeral establishments; prohibited acts.

Patron—Barlow

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2314 and 54.1-2806 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2314. Refusal, suspension or revocation of license or registration.

The Board may refuse to license or register any applicant, suspend a license or registration for a stated period or indefinitely, revoke any license or registration, censure or reprimand any person licensed or registered by the Board or place such person on probation for such time as it may designate for any of the following causes related to the sale or offering to the public of cemetery vaults, grave liners, urns, memorials, markers or monuments:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the cemetery company or its sales personnel, or in obtaining or renewing a license or registration;
4. False or misleading advertising;
5. Solicitation in violation of subsection B of § 54.1-2327;
6. Direct or indirect payment or offer of payment of a commission to others by the licensee, his sales representatives, agents, or employees for the purpose of securing business;
7. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed or registered activity;
8. Aiding or abetting an unlicensed person to engage in the business of a cemetery company;
9. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has been interred or otherwise disposed of;
10. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
11. *The interment of human remains in a manner that increases the likelihood that earth burials will be unearthed by severe weather conditions, flooding, or other acts of God;*
12. Failure to comply with subsection A of § 54.1-2327 and to keep on file an itemized statement of all retail prices and fees charged related to the sale of property or services as required by Board regulations and this chapter;
- ~~13~~13. Charging third-party handling fees, which shall not include installation fees; and
- ~~14~~14. Refusing to honor the transfer of preneed contract arrangements to another party. However the licensee shall not be responsible for paying additional costs associated with any actual transfer.

§ 54.1-2806. Refusal, suspension or revocation of license.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

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59 8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his
60 agents, or employees for the purpose of securing business;

61 9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed
62 activity;

63 10. Aiding or abetting an unlicensed person to practice within the funeral service profession;

64 11. Using profane, indecent or obscene language within the immediate hearing of the family or
65 relatives of a deceased, whose body has not yet been interred or otherwise disposed of;

66 12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of
67 recommending or causing a dead human body to be disposed of in any crematory, mausoleum or
68 cemetery;

69 13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or
70 transportation of dead human bodies;

71 14. *The interment of human remains in a manner that increases the likelihood that earth burials will*
72 *be unearthed by severe weather conditions, flooding, or other acts of God;*

73 15. Refusing to surrender promptly the custody of a dead human body upon the express order of the
74 person lawfully entitled to custody;

75 ~~16.~~ 16. Knowingly making any false statement on a certificate of death;

76 ~~17.~~ 17. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;

77 ~~18.~~ 18. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral
78 expenses in accordance with Board regulations;

79 ~~19.~~ 19. Knowingly disposing of parts of human remains, including viscera, that are received with the
80 body by the funeral establishment, in a manner different from that used for final disposition of the body,
81 unless the persons authorizing the method of final disposition give written permission that the body parts
82 may be disposed of in a manner different from that used to dispose of the body;

83 ~~20.~~ 20. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry
84 practices;

85 ~~21.~~ 21. Violating or cooperating with others to violate any provision of this chapter or the regulations
86 of the Board of Funeral Directors and Embalmers or the Board of Health;

87 ~~22.~~ 22. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered
88 funeral service interns;

89 ~~23.~~ 23. Failure to provide proper and adequate supervision and training instruction to registered funeral
90 service interns as required by regulations of the Board;

91 ~~24.~~ 24. Violating any statute or regulation of the Board regarding the confidentiality of information
92 pertaining to the deceased or the family of the deceased or permitting access to the body in a manner
93 that is contrary to the lawful instructions of the next-of-kin of the deceased;

94 ~~25.~~ 25. Failure to include, as part of the general price list for funeral services, a disclosure statement
95 notifying the next of kin that certain funeral services may be provided off-premises by other funeral
96 service providers; and

97 ~~26.~~ 26. Disciplinary action against a license, certificate or registration issued by another state, the
98 District of Columbia or territory or possession of the United States.