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HOUSE BILL NO. 379

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 54.1-2800 and 54.1-2807 of the Code of Virginia, relating to alkaline hydrolysis; penalty.

Patron—Pogge

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-2800 and 54.1-2807 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any information disseminated or placed before the public.

"Alkaline hydrolysis," "bio-cremation," or "resomation" mean the chemical process to dissolve human tissue, human remains, or a dead human body involving heat, high pressure, water, and potassium hydroxide, or an alternative alkaline solution.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.

"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the preservation and disinfection of the human dead by external or internal application of chemicals.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch or chapel which is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing, the practice of funeral services, or the act of embalming is performed.

"Funeral service intern" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following persons, regardless of the relationship to the decedent: any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over 18 years of age, custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal siblings over 18 years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

§ 54.1-2807. Other prohibited activities.

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59 A. A person licensed for the practice of funeral service shall not (i) remove or embalm a body when
60 he has information indicating the death was such that a medical examiner's investigation is required
61 pursuant to § 32.1-283 or 32.1-285.1 or (ii) cremate or bury at sea a body until he has obtained
62 permission of the medical examiner as required by § 32.1-284.

63 B. Except as provided in §§ 32.1-288 and 32.1-301, funeral service establishments shall not accept a
64 dead human body from any public officer except a medical examiner, or from any public or private
65 facility or person having a professional relationship with the decedent without having first inquired about
66 the desires of the next of kin and the persons liable for the funeral expenses of the decedent. The
67 authority and directions of any next of kin shall govern the disposal of the body, subject to the
68 provisions of § 54.1-2807.01 or 54.1-2825.

69 Any funeral service establishment violating this subsection shall not charge for any service delivered
70 without the directions of the next of kin. However, in cases of accidental or violent death, the funeral
71 service establishment may charge and be reimbursed for the removal of bodies and rendering necessary
72 professional services until the next of kin or the persons liable for the funeral expenses have been
73 notified.

74 C. No company, corporation or association engaged in the business of paying or providing for the
75 payment of the expenses for the care of the remains of deceased certificate holders or members or
76 engaged in providing life insurance when the contract might or could give rise to an obligation to care
77 for the remains of the insured shall contract to pay or pay any benefits to any licensee of the Board or
78 other individual in a manner which could restrict the freedom of choice of the representative or next of
79 kin of a decedent in procuring necessary and proper services and supplies for the care of the remains of
80 the decedent.

81 D. No person licensed for the practice of funeral service or preneed funeral planning or any of his
82 agents shall interfere with the freedom of choice of the general public in the choice of persons or
83 establishments for the care of human remains or of preneed funeral planning or preneed funeral
84 contracts.

85 E. This section shall not be construed to apply to the authority of any administrator, executor, trustee
86 or other person having a fiduciary relationship with the decedent.

87 *F. No person shall offer alkaline hydrolysis in the Commonwealth. Nothing in this section shall be*
88 *construed as limiting the Board's authority to regulate crematories or cremation services. A violation of*
89 *this section is a Class 1 misdemeanor.*