



MARYLAND Department of Health

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

January 10, 2018

The Honorable Joan Carter Conway
Chair, Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, 2 West Wing
11 Bladen Street
Annapolis, MD 21401-1991

The Honorable Shane E. Pendergrass
Chair, House Health and Government Operations Committee
House Office Building, Room 241
6 Bladen Street
Annapolis, MD 21401

Re: 2017 Senate Bill 548, Chapter 824 – State Board of Morticians and Funeral Directors – Sunset Extension and Program Evaluation

Dear Chair Conway and Chair Pendergrass:

Enclosed please find the Maryland Department of Health's submission of a report in accordance with Senate Bill 548, Chapter 824 of the Acts of 2017. This document reflects the Board of Morticians and Funeral Directors response concerning bordering states' restrictions on the transportation of a decedent's body out of state as requested by the General Assembly.

If you have any questions regarding this report, please contact Kimberly Lang, Director of Health Occupations Boards and Commissions, at (410) 764-4682 or at kimberly.lang@maryland.gov.

Sincerely,

Robert R. Neall
Secretary

Enclosure

cc: Kimberly Lang, Director of Health Occupations Boards and Commissions
Webster Ye, Deputy Chief of Staff

Report to the Legislature Regarding Inspection Practices of Maryland's Surrounding Border States

Please accept this response to the inquiry regarding state inspections of funeral establishment facilities. This question was raised in response to the enacted legislation, The Human Dignity Act of 2012. In that Statute, there is a provision that on a voluntary basis, Maryland's surrounding states can request an inspection of their preparation and storage facilities if they plan to remove Maryland remains from Maryland for preparation or storage and then return those remains to Maryland for viewing or disposition. This provision was passed in consideration of the many out-of-state funeral establishments near Maryland that may be utilized for remains with a Maryland Death Certificate; which allows certain remains to be maintained in a dignified and healthful manner. However, remains that will leave Maryland and will not return do not pose a public health risk and, therefore, are not governed by the afore-mentioned provision.

The following are the five border-states where remains with Maryland Death Certificates are frequently brought to be maintained:

Washington, D.C.-This jurisdiction does not require the inspection of funeral establishment facilities, and as a result, does not have the personnel to perform such duties. There are, currently, multiple news reports on the ongoing health issues arising from these facilities due to the lack of inspections.

Delaware- This jurisdiction does not require the inspection of funeral establishment facilities, and as a result, does not have the personnel to perform such duties. The Delaware legislature passed legislation to change its current inspection policy; however, the State has not implemented any protocol for performing inspections.

Pennsylvania- This jurisdiction performed inspections until 2010 when the Pennsylvania State Funeral Directors Association successfully sued the Pennsylvania Board for alleged violations of the Fourth Amendment. Consequently, inspections stopped for approximately four years. However, the Third Circuit Court of Appeals reversed the lower court's decision in 2014 when it determined that inspections of funeral facilities are not a violation of the Fourth Amendment. Accordingly, inspections have resumed in Pennsylvania and multiple public health issues have been discovered in funeral establishment facilities. In an effort to mitigate public health issues, Pennsylvania is attempting to perform regular inspections and generally provides funeral establishment owners notice one week prior to an inspection.

West Virginia- This jurisdiction performs routine inspections of their funeral establishment facilities. West Virginia has hired adequate staff to conduct these inspections. Funeral establishment facility owners are generally notified of a pending inspection a day prior to the performance of the inspection.

Virginia- This jurisdiction did not respond to our survey inquiry. However, the Department understands from our experience working with Virginia that there is not dedicated staff for this

function by specialized funeral facility inspectors. Instead, their staff works in multiple disciplines, including funeral establishment facility inspections.

The Board has also determined that none of the afore-mentioned states conduct funeral establishment facility inspections outside of their respective jurisdictions.