

Testimony before the Senate Committee on Finance
of the Maryland General Assembly

On **Recommendations from the Sunset Review of
The Office of Cemetery Oversight**
by the Department of Legislative Services

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Chairman Middleton and Members of the Committee:

Thank you for the opportunity to provide comments from The Funeral Consumers Alliance of Maryland and Environs on the recommendations regarding The Office of Cemetery Oversight. We commend the Department of Legislative Services for its very comprehensive sunset review of the Office, and for including our organization among the many that it sought comments from during its evaluation of the Office.

Our organization is the volunteer-run, regional chapter of the national non-profit Funeral Consumers Alliance. The 100 or so chapters across the country of the Funeral Consumers Alliance are dedicated to helping the consumer be more informed about death care options available to them, and protecting the public from fraud and abuse in funeral and burial transactions. I am vice president of the local chapter, which has several hundred members across the state who take an active interest in funeral and burial-related topics.

During the 1970's and 1980's, the Funeral Consumers Alliance helped push for the successful passage of the Federal Trade Commission's Funeral Rule, which set minimum standards for funeral homes in their interactions with the consumer. Unfortunately, the federal government has not set comparable standards for cemeteries, which makes state rules regarding cemeteries and their practices all the more important.

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

We also agree that the statute should be amended to add a representative of crematories as a seventh industry member to the Advisory Council on Cemetery Operations, creating a 12-person council. That council has a central role in

advising the Director before rules and regulations are adopted to carry out the Maryland Cemetery Act, and can be an invaluable resource to a Director interested in taking advantage of the many years of industry experience and consumer perspective its members offer.

We appreciate the desire of the Department of Labor, Licensing and Regulation to reduce the number of Advisory Council meetings to reduce overall costs, but believe that doing so would significantly lessen the value of the Council, as well as have a detrimental impact on the effectiveness of the Office of Cemetery Oversight.

In fact, we believe the statutory minimum number of Advisory Council meetings should be increased to at least eight times a year (twice the number recommended in the report). 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.

It's important to recognize also that a reduction in the number of Advisory Council meetings inevitably would lessen the communication between the Office and the Council which was a concern identified in the sunset review, in addition to limiting the value of the council and its ability to attract and retain members.

Our organization agrees with the three recommendations to increase consumer awareness of the Office of Cemetery Oversight and the role its plays.

Specifically, 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 to ensure that the newsletter of the Office of Cemetery Oversight be published regularly online, with inclusion of articles written by Advisory Council members. Other measures to increase consumer awareness of the Office and information it has available should be pursued too.

We agree with the recommendation to require the Director to maintain a complete listing of cemetery registration and permit numbers by licensing categories, and to provide those counts in the Office's annual report to the General Assembly.

In addition, our consumer organization believes it would be useful for the Director to also maintain a complete listing of cemeteries in the state which is available for viewing on the Office's website. This is 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 name and address of the 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. (Note: the statement is not required from exempt cemeteries at which no burials have taken place within the previous five years.)

Compiling and maintaining a complete list of cemeteries in the state, by category and region, would help verify that all cemeteries that should be meeting statutory registration and permit requirements actually are doing so, as well as serving as a useful resource for consumers considering their cemetery options.

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 the statute should be amended to allow an individual to transfer a registration from one business to another without requiring a new registration to be issued by the Office.

There is great need for cemeteries to keep accurate and comprehensive records on the sale of burial rights and preneed goods and services, as well as on perpetual care funds, 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. However, there are no standards established at present for doing this in a consistent and reliable manner.

Our understanding is that the Advisory Council has studied recordkeeping extensively already, and what is needed now is for them to develop a legislative proposal spelling out recordkeeping requirements for cemeteries, including a process for implementing new rules in phases to limit the economic impact on cemeteries.

We believe that the Office of Cemetery Oversight currently does not have sufficient staff to carry out its mandated mission, and strongly support the Office hiring an accountant capable of analyzing regulated cemeteries' perpetual care trust reports for noncompliance with statutory requirements.

Another way to improve the effectiveness of the Office is 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.

The two recommendations to improve the annual complaint reports required by statute make eminent sense to us. Specifically, the statute should be amended to require the Director to modify the report to distinguish the type of purchase, focus of dissatisfaction, and type of the resolution for each complaint. Also, the Director must comply with the statutory requirement to develop a schedule and process to resolve each complaint received in a timely manner, and then note on future annual complaint reports how many complaints are resolved within the desired timeframe.

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.

Finally, 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 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.