

Am. H.B. 168  
As Reported by H. State &  
Local Gov't

**Topic:** Board of Embalmers and Funeral Directors telephone meeting; other changes

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, after "1721.211," insert "4717.03, 1  
4717.13, 4717.14, 4717.36," 2

In line 9 of the title, after the comma insert "to allow the 3  
Board of Embalmers and Funeral Directors to review and vote upon 4  
certain license suspensions by telephone, to make various other 5  
changes to the embalmers, funeral directors, and crematory 6  
licensing laws," 7

In line 11, after "1721.211," insert "4717.03, 4717.13, 8  
4717.14, 4717.36," 9

Between lines 406 and 407, insert: 10

"**Sec. 4717.03.** (A) Members of the board of embalmers and 11  
funeral directors shall annually in July, or within thirty days 12  
after the senate's confirmation of the new members appointed in 13  
that year, meet and organize by selecting from among its members a 14  
president, vice-president, and secretary-treasurer. The board may 15  
hold other meetings as it determines necessary. A quorum of the 16  
board consists of four members, of whom at least three shall be 17

members who are ~~embalmers and~~ funeral directors. The concurrence 18  
of at least four members is necessary for the board to take any 19  
action. The president and secretary-treasurer shall sign all 20  
licenses issued under this chapter and affix the board's seal to 21  
each license. 22

(B) The board may appoint an individual who is not a member 23  
of the board to serve as executive director of the board. The 24  
executive director serves at the pleasure of the board and shall 25  
do all of the following: 26

(1) Serve as the board's chief administrative officer; 27

(2) Act as custodian of the board's records; 28

(3) Execute all of the board's orders; 29

(4) Employ staff who are not members of the board and who 30  
serve at the pleasure of the executive director to provide any 31  
assistance that the board considers necessary. 32

(C) In executing the board's orders as required by division 33  
(B)(3) of this section, the executive director may enter the 34  
premises, establishment, office, or place of business of any 35  
embalmer, funeral director, or crematory operator in this state. 36  
The executive director may serve and execute any process issued by 37  
any court under this chapter. 38

(D) The executive director may employ necessary inspectors, 39  
who shall be licensed embalmers and funeral directors. An 40  
inspector employed by the executive director may enter the 41  
premises, establishment, office, or place of business of any 42  
embalmer, funeral director, or crematory operator, embalming 43  
facility, funeral home, or crematory facility in this state, for 44  
the purposes of inspecting the facility and premises; the license, 45  
permit, and registration of embalmers, funeral directors, and 46

crematory operators operating in the facility; and the license of  
the funeral home, embalming facility, or crematory facility and  
perform any other duties delegated to the inspector by the board  
or assigned to the inspector by the executive director. The  
executive director may enter the facility or premises of a funeral  
home, embalming facility, or crematory for the purpose of an  
inspection if accompanied by an inspector or, if an inspector is  
not available, when a situation presents a danger of immediate and  
serious harm to the public.

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(E) The president of the board shall designate three of the  
board's members to serve on the crematory review board, which is  
hereby created, for such time as the president finds appropriate  
to carry out the provisions of this chapter. Those members of the  
crematory review board designated by the president to serve and  
three members designated by the cemetery dispute resolution  
commission shall designate, by a majority vote, one person who  
holds a crematory operator permit, who is experienced in the  
operation of a crematory facility, and who is not affiliated with  
a cemetery or a funeral home to serve on the crematory review  
board for such time as the crematory review board finds  
appropriate. Members serving on the crematory review board shall  
not receive any additional compensation for serving on the board,  
but may be reimbursed for their actual and necessary expenses  
incurred in the performance of official duties as members of the  
board. Members of the crematory review board shall designate one  
from among its members to serve as a chairperson for such time as  
the board finds appropriate. Costs associated with conducting an  
adjudicatory hearing in accordance with division (F) of this  
section shall be paid from funds available to the board of  
embalmers and funeral directors.

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(F) Upon receiving written notice from the board of embalmers

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and funeral directors of any of the following, the crematory  
 review board shall conduct an adjudicatory hearing on the matter  
 in accordance with Chapter 119. of the Revised Code, except as  
 otherwise provided in this section or division (C) of section  
 4717.14 of the Revised Code:

(1) Notice provided under division (I) of this section of an  
 alleged violation of any provision of this chapter or any rules  
 adopted under this chapter governing or in connection with  
 crematory operators, crematory facilities, or cremation;

(2) Notice provided under division (B) of section 4717.14 of  
 the Revised Code that the board of embalmers and funeral directors  
 proposes to refuse to grant or renew, or to suspend or revoke, a  
 license to operate a crematory facility;

(3) Notice provided under division (C) of section 4717.14 of  
 the Revised Code that the board of embalmers and funeral directors  
 has issued an order summarily suspending a crematory operator  
 permit or a license to operate a crematory facility;

(4) Notice provided under division (B) of section 4717.15 of  
 the Revised Code that the board of embalmers and funeral directors  
 proposes to issue a notice of violation and order requiring  
 payment of a forfeiture for any violation described in divisions  
 (A)(9)(a) to (g) of section 4717.04 of the Revised Code alleged in  
 connection with a crematory operator, crematory facility, or  
 cremation.

Nothing in division (F) of this section precludes the  
 crematory review board from appointing an independent examiner in  
 accordance with section 119.09 of the Revised Code to conduct any  
 adjudication hearing required under division (F) of this section.

The crematory review board shall submit a written report of

findings and advisory recommendations, and a written transcript of  
 its proceedings, to the board of embalmers and funeral directors.  
 The board of embalmers and funeral directors shall serve a copy of  
 the written report of the crematory review board's findings and  
 advisory recommendations on the party to the adjudication or the  
 party's attorney, by certified mail, within five days after  
 receiving the report and advisory recommendations. A party may  
 file objections to the written report with the board of embalmers  
 and funeral directors within ten days after receiving the report.  
 No written report is final or appealable until it is issued as a  
 final order by the board of embalmers and funeral directors and  
 entered on the record of the proceedings. The board of embalmers  
 and funeral directors shall consider objections filed by the party  
 prior to issuing a final order. After reviewing the findings and  
 advisory recommendations of the crematory review board, the  
 written transcript of the crematory review board's proceedings,  
 and any objections filed by a party, the board of embalmers and  
 funeral directors shall issue a final order in the matter. Any  
 party may appeal the final order issued by the board of embalmers  
 and funeral directors in a matter described in divisions (F)(1) to  
 (4) of this section in accordance with section 119.12 of the  
 Revised Code, except that the appeal may be made to the court of  
 common pleas in the county in which is located the crematory  
 facility to which the final order pertains, or in the county in  
 which the party resides.

(G) On its own initiative or on receiving a written complaint  
 from any person whose identity is made known to the board of  
 embalmers and funeral directors, the board shall investigate the  
 acts or practices of any person holding or claiming to hold a  
 license, permit, or registration under this chapter that, if  
 proven to have occurred, would violate this chapter or any rules

adopted under it. The board may compel witnesses by subpoena to appear and testify in relation to investigations conducted under this chapter and may require by subpoena duces tecum the production of any book, paper, or document pertaining to an investigation. If a person does not comply with a subpoena or subpoena duces tecum, the board may apply to the court of common pleas of any county in this state for an order compelling the person to comply with the subpoena or subpoena duces tecum, or for failure to do so, to be held in contempt of court.

(H) If, as a result of its investigation conducted under division (G) of this section, the board of embalmers and funeral directors has reasonable cause to believe that the person investigated is violating any provision of this chapter or any rules adopted under this chapter governing or in connection with embalming, funeral directing, cremation, funeral homes, embalming facilities, or cremation facilities, or the operation of funeral homes, embalming facilities, or crematory facilities, it may, after providing the opportunity for an adjudicatory hearing, issue an order directing the person to cease the acts or practices that constitute the violation. The board shall conduct the adjudicatory hearing in accordance with Chapter 119. of the Revised Code except that, notwithstanding the provisions of that chapter, the following shall apply:

(1) The board shall send the notice informing the person of the person's right to a hearing by certified mail.

(2) The person is entitled to a hearing only if the person requests a hearing and if the board receives the request within thirty days after the mailing of the notice described in division (H)(1) of this section.

(3) A stenographic record shall be taken, in the manner

prescribed in section 119.09 of the Revised Code, at every 168  
 adjudicatory hearing held under this section, regardless of 169  
 whether the record may be the basis of an appeal to a court. 170

(I) If, as a result of its investigation conducted under 171  
 division (G) of this section, the board of embalmers and funeral 172  
 directors has reasonable cause to believe that the person 173  
 investigated is violating any provision of this chapter or any 174  
 rules adopted under this chapter governing or in connection with 175  
 crematory operators, crematory facilities, or cremation, the board 176  
 shall send written notice of the alleged violation to the 177  
 crematory review board. If, after the conclusion of the 178  
 adjudicatory hearing in the matter conducted under division (F) of 179  
 this section, the board of embalmers and funeral directors finds 180  
 that a person is in violation of any provision of this chapter or 181  
 any rules adopted under this chapter governing or in connection 182  
 with crematory operators, crematory facilities, or cremation, the 183  
 board may issue a final order under that division directing the 184  
 person to cease the acts or practices that constitute the 185  
 violation. 186

(J) The board of embalmers and funeral directors may bring a 187  
 civil action to enjoin any violation or threatened violation of 188  
 sections 4717.01 to 4717.15 of the Revised Code or a rule adopted 189  
 under any of those sections; division (A) or (B) of section 190  
 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or 191  
 (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 192  
 division (D)(1) of section 4717.27; divisions (A) to (C) of 193  
 section 4717.28, or division (D) or (E) of section 4717.31 of the 194  
 Revised Code. The action shall be brought in the county where the 195  
 violation occurred or the threatened violation is expected to 196  
 occur. At the request of the board, the attorney general shall 197  
 represent the board in any matter arising under this chapter. 198

(K) The board of embalmers and funeral directors and the crematory review board may issue subpoenas for any person holding a license or permit under this chapter or persons holding themselves out as such, or for any other person whose testimony, in the opinion of either board, is necessary. The subpoena shall require the person to appear before the appropriate board or any designated member of either board, upon any hearing conducted under this chapter. The penalty for disobedience to the command of such a subpoena is the same as for refusal to answer such a process issued under authority of the court of common pleas.

(L) Except as provided in section 4717.41 of the Revised Code, all moneys received by the board of embalmers and funeral directors from any source shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code.

(M) The board of embalmers and funeral directors shall submit a written report to the governor on or before the first Monday of July of each year. This report shall contain a detailed statement of the nature and amount of the board's receipts and the amount and manner of its expenditures.

**Sec. 4717.13.** (A) No person shall do any of the following:

(1) Engage in the business or profession of funeral directing unless the person is licensed as a funeral director under this chapter, is certified as an apprentice funeral director in accordance with rules adopted under section 4717.04 of the Revised Code and under the supervision of a funeral director licensed under this chapter, or is a student in a college of mortuary sciences approved by the board of embalmers and funeral directors and is under the direct supervision of a funeral director licensed



by the board;	228
(2) Engage in embalming unless the person is licensed as an embalmer under this chapter, is certified as an apprentice embalmer in accordance with rules adopted under section 4717.04 of the Revised Code and is under the supervision of an embalmer licensed under this chapter, or is a student in a college of mortuary science approved by the board and is under the direct supervision of an embalmer licensed by the board;	229 230 231 232 233 234 235
(3) Advertise or otherwise offer to provide or convey the impression that the person provides funeral directing services unless the person is licensed as a funeral director under this chapter and is employed by or under contract to a licensed funeral home and performs funeral directing services for that funeral home in a manner consistent with the advertisement, offering, or conveyance;	236 237 238 239 240 241 242
(4) Advertise or otherwise offer to provide or convey the impression that the person provides embalming services unless the person is licensed as an embalmer under this chapter and is employed by or under contract to a licensed funeral home or a licensed embalming facility and performs embalming services for the funeral home or embalming facility in a manner consistent with the advertisement, offering, or conveyance;	243 244 245 246 247 248 249
(5) Operate a funeral home without a license to operate the funeral home issued by the board under this chapter;	250 251
(6) Practice the business or profession of funeral directing from any place except from a funeral home that a person is licensed to operate under this chapter;	252 253 254
(7) Practice embalming from any place except from a funeral home or embalming facility that a person is licensed to operate	255 256

under this chapter;	257
(8) Operate a crematory or perform cremation without a license to operate the crematory issued under this chapter;	258 259
(9) Cremate animals in a cremation chamber in which dead human bodies or body parts are cremated or cremate dead human bodies or human body parts in a cremation chamber in which animals are cremated;	260 261 262 263
(10) Hold a dead human body, before final disposition, for more than forty-eight hours after the time of death unless the dead human body is embalmed or placed into refrigeration and maintained at a constant temperature of less than forty degrees;	264 265 266 267
(11) Knowingly refuse to promptly submit the custody of a dead human body or cremated remains upon the oral or written order of the person legally entitled to the body or cremated remains;	268 269 270
(12) Except as ordered by <u>the coroner or</u> the person holding the right of disposition under section 2108.70 or 2108.81 of the Revised Code, knowingly fail to carry out the final disposition of a dead human body within thirty days after taking custody of the body;	271 272 273 274 275
<u>(13) Engage in cremation as defined in section 4717.01 of the Revised Code unless the person holds a crematory operator permit under this chapter;</u>	276 277 278
<u>(14) Engage in the business or profession of funeral directing, engage in embalming, or operate a crematory or perform cremation with a lapsed license as defined under section 4717.01 of the Revised Code.</u>	279 280 281 282
(B) No funeral director or other person in charge of the final disposition of a dead human body shall fail to do one of the following prior to the interment of the body:	283 284 285

(1) Affix to the ankle or wrist of the deceased a tag encased	286
in a durable and long-lasting material that contains the name,	287
date of birth, date of death, and social security number of the	288
deceased;	289
(2) Place in the casket a capsule containing a tag bearing	290
the information described in division (B)(1) of this section;	291
(3) If the body was cremated, place in the vessel containing	292
the cremated remains a tag bearing the information described in	293
division (B)(1) of this section.	294
(C) No person who holds a funeral home license for a funeral	295
home that is closed, or that is owned by a funeral business in	296
which changes in the ownership of the funeral business result in a	297
majority of the ownership of the funeral business being held by	298
one or more persons who solely or in combination with others did	299
not own a majority of the funeral business immediately prior to	300
the change in ownership, shall fail to submit to the board within	301
thirty days after the closing or such change of ownership of the	302
funeral business owning the funeral home, a clearly enumerated	303
account of all of the following from which the licensee, at the	304
time of the closing or change of ownership of the funeral business	305
and in connection with the funeral home, was to receive payment	306
for providing the funeral services, funeral goods, or any	307
combination of those in connection with the funeral or final	308
disposition of a dead human body:	309
(1) Preneed funeral contracts governed by sections 4717.31 to	310
4717.38 of the Revised Code;	311
(2) Life insurance policies or annuities the benefits of	312
which are payable to the provider of funeral or burial goods or	313
services;	314

(3) Accounts at banks or savings banks insured by the federal deposit insurance corporation, savings and loan associations insured by the federal savings and loan insurance corporation or the Ohio deposit guarantee fund, or credit unions insured by the national credit union administration or a credit union share guaranty corporation organized under Chapter 1761. of the Revised Code that are payable upon the death of the person for whose benefit deposits into the accounts were made.

(D)(1) No person who holds a funeral home license for a funeral home that is closed shall negligently fail to send written notice to the purchaser of every preneed funeral contract to which the funeral business is a party via first class United States mail. Such notice shall be addressed to the purchaser's last known address and shall explain that the funeral business is being closed and the name of any funeral business that has been designated to assume the obligations of the preneed contract.

(2) Within thirty days of the closing of a funeral home, no person who held the funeral home license for the closed funeral home shall negligently fail to transfer all preneed contracts to the funeral home or funeral homes that have been designated to assume the obligation of the preneed contracts. If the person who holds a funeral home license for a funeral home that is closed fails to designate a successor funeral home or funeral homes to assume the obligations of the preneed funeral contracts, the board shall make such designations and order the transfer of the preneed funeral contracts to the designated funeral home or funeral homes.

**Sec. 4717.14.** (A) The board of embalmers and funeral directors may refuse to grant or renew, or may suspend or revoke, any license or permit issued under this chapter or may require the holder of a license or permit to take corrective action courses

- for any of the following reasons: 345
- (1) The holder of a license or permit obtained the license or 346  
 permit by fraud or misrepresentation either in the application or 347  
 in passing the examination. 348
- (2) The applicant, licensee, or permit holder has been 349  
 convicted of or has pleaded guilty to a felony or of any crime 350  
 involving moral turpitude. 351
- (3) The applicant, licensee, or permit holder has ~~purposely~~ 352  
recklessly violated any provision of sections 4717.01 to 4717.15 353  
 or a rule adopted under any of those sections; division (A) or (B) 354  
 of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), 355  
 (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; 356  
 division (D)(1) of section 4717.27; or divisions (A) to (C) of 357  
 section 4717.28 of the Revised Code; or any provisions of sections 358  
 4717.31 to 4717.38 of the Revised Code; any rule or order of the 359  
 department of health or a board of health of a health district 360  
 governing the disposition of dead human bodies; or any other rule 361  
 or order applicable to the applicant or licensee. 362
- (4) The applicant, licensee, or permit holder has committed 363  
 immoral or unprofessional conduct. 364
- (5) The applicant or licensee knowingly permitted an 365  
 unlicensed person, other than a person serving an apprenticeship, 366  
 to engage in the profession or business of embalming or funeral 367  
 directing under the applicant's or licensee's supervision. 368
- (6) The applicant, licensee, or permit holder has been 369  
 habitually intoxicated, or is addicted to the use of morphine, 370  
 cocaine, or other habit-forming or illegal drugs. 371
- (7) The applicant, licensee, or permit holder has refused to 372  
 promptly submit the custody of a dead human body or cremated 373

remains upon the express order of the person legally entitled to 374  
the body or cremated remains. 375

(8) The licensee or permit holder loaned the licensee's own 376  
license or the permit holder's own permit, or the applicant, 377  
licensee, or permit holder borrowed or used the license or permit 378  
of another person, or knowingly aided or abetted the granting of 379  
an improper license or permit. 380

(9) The applicant, licensee, or permit holder misled the 381  
public by using false or deceptive advertising. As used in this 382  
division, "false and deceptive advertising" includes, but is not 383  
limited to, any of the following: 384

(a) Using the names of persons who are not licensed to 385  
practice funeral directing in a way that leads the public to 386  
believe that such persons are engaging in funeral directing; 387

(b) Using any name for the funeral home other than the name 388  
under which the funeral home is licensed; 389

(c) Using in the funeral home's name the surname of an 390  
individual who is not directly, actively, or presently associated 391  
with the funeral home, unless such surname has been previously and 392  
continuously used by the funeral home. 393

(B)(1) The board of embalmers and funeral directors shall 394  
refuse to grant or renew, or shall suspend or revoke a license or 395  
permit only in accordance with Chapter 119. of the Revised Code. 396

(2) The board shall send to the crematory review board 397  
written notice that it proposes to refuse to issue or renew, or 398  
proposes to suspend or revoke, a license to operate a crematory 399  
facility. If, after the conclusion of the adjudicatory hearing on 400  
the matter conducted under division (F) of section 4717.03 of the 401  
Revised Code, the board of embalmers and funeral directors finds 402

that any of the circumstances described in divisions (A)(1) to (9) 403  
of this section apply to the person named in its proposed action, 404  
the board may issue a final order under division (F) of section 405  
4717.03 of the Revised Code refusing to issue or renew, or 406  
suspending or revoking, the person's license to operate a 407  
crematory facility. 408

(C) If the board of embalmers and funeral directors 409  
determines that there is clear and convincing evidence that any of 410  
the circumstances described in divisions (A)(1) to (9) of this 411  
section apply to the holder of a license or permit issued under 412  
this chapter and that the licensee's or permit holder's continued 413  
practice presents a danger of immediate and serious harm to the 414  
public, the board may suspend the licensee's license or permit 415  
holder's permit without a prior adjudicatory hearing. The 416  
executive director of the board shall prepare written allegations 417  
for consideration by the board. 418

The board, after reviewing the written allegations, may 419  
suspend a license or permit without a prior hearing. 420

Notwithstanding section 121.22 of the Revised Code, the board 421  
may suspend a license or permit under this division by utilizing a 422  
telephone conference call to review the allegations and to take a 423  
vote. 424

The board shall issue a written order of suspension by a 425  
delivery system or in person in accordance with section 119.07 of 426  
the Revised Code. Such an order is not subject to suspension by 427  
the court during the pendency of any appeal filed under section 428  
119.12 of the Revised Code. If the licensee or permit holder 429  
requests an adjudicatory hearing by the board, the date set for 430  
the hearing shall be within fifteen days, but not earlier than 431  
seven days, after the licensee or permit holder has requested a 432

hearing, unless the board and the licensee or permit holder agree 433  
to a different time for holding the hearing. 434

Upon issuing a written order of suspension to the holder of a 435  
license to operate a crematory facility, the board of embalmers 436  
and funeral directors shall send written notice of the issuance of 437  
the order to the crematory review board. The crematory review 438  
board shall hold an adjudicatory hearing on the order under 439  
division (F) of section 4717.03 of the Revised Code within fifteen 440  
days, but not earlier than seven days, after the issuance of the 441  
order, unless the crematory review board and the licensee agree to 442  
a different time for holding the adjudicatory hearing. 443

Any summary suspension imposed under this division shall 444  
remain in effect, unless reversed on appeal, until a final 445  
adjudicatory order issued by the board of embalmers and funeral 446  
directors pursuant to this division and Chapter 119. of the 447  
Revised Code, or division (F) of section 4717.03 of the Revised 448  
Code, as applicable, becomes effective. The board of embalmers and 449  
funeral directors shall issue its final adjudicatory order within 450  
sixty days after the completion of its hearing or, in the case of 451  
the summary suspension of a license to operate a crematory 452  
facility, within sixty days after completion of the adjudicatory 453  
hearing by the crematory review board. A failure to issue the 454  
order within that time results in the dissolution of the summary 455  
suspension order, but does not invalidate any subsequent final 456  
adjudicatory order. 457

(D) If the board of embalmers and funeral directors suspends 458  
or revokes a funeral director's license or a license to operate a 459  
funeral home for any reason identified in division (A) of this 460  
section, the board may file a complaint with the court of common 461  
pleas in the county where the violation occurred requesting 462



appointment of a receiver and the sequestration of the assets of  
the funeral home that held the suspended or revoked license or the  
licensed funeral home that employs the funeral director that held  
the suspended or revoked license. If the court of common pleas is  
satisfied with the application for a receivership, the court may  
appoint a receiver.

The board or a receiver may employ and procure whatever  
assistance or advice is necessary in the receivership or  
liquidation and distribution of the assets of the funeral home,  
and, for that purpose, may retain officers or employees of the  
funeral home as needed. All expenses of the receivership or  
liquidation shall be paid from the assets of the funeral home and  
shall be a lien on those assets, and that lien shall be a priority  
to any other lien.

(E) Any holder of a license or permit issued under this  
chapter who has pleaded guilty to, has been found by a judge or  
jury to be guilty of, or has had a judicial finding of eligibility  
for treatment in lieu of conviction entered against the individual  
in this state for aggravated murder, murder, voluntary  
manslaughter, felonious assault, kidnapping, rape, sexual battery,  
gross sexual imposition, aggravated arson, aggravated robbery, or  
aggravated burglary, or who has pleaded guilty to, has been found  
by a judge or jury to be guilty of, or has had a judicial finding  
of eligibility for treatment in lieu of conviction entered against  
the individual in another jurisdiction for any substantially  
equivalent criminal offense, is hereby suspended from practice  
under this chapter by operation of law, and any license or permit  
issued to the individual under this chapter is hereby suspended by  
operation of law as of the date of the guilty plea, verdict or  
finding of guilt, or judicial finding of eligibility for treatment  
in lieu of conviction, regardless of whether the proceedings are

brought in this state or another jurisdiction. The board shall 494  
 notify the suspended individual of the suspension of the 495  
 individual's license or permit by the operation of this division 496  
 by a delivery system or in person in accordance with section 497  
 119.07 of the Revised Code. If an individual whose license or 498  
 permit is suspended under this division fails to make a timely 499  
 request for an adjudicatory hearing, the board shall enter a final 500  
 order revoking the license. 501

(F) No person whose license or permit has been suspended or 502  
 revoked under or by the operation of this section shall knowingly 503  
 practice embalming, funeral directing, or cremation, or operate a 504  
 funeral home, embalming facility, or crematory facility until the 505  
 board has reinstated the person's license or permit. 506

**Sec. 4717.36.** (A) This section applies only to preneed 507  
 funeral contracts that are funded by any means other than an 508  
 insurance policy or policies, or an annuity or annuities. 509

No money in a preneed funeral contract trust shall be 510  
 distributed from the trust except as provided in this section. 511

(B) A seller of a preneed funeral contract that stipulates a 512  
 fixed or firm or guaranteed price for funeral services and funeral 513  
 goods to be provided under a preneed funeral contract may charge 514  
 an initial service fee not to exceed ten per cent of the total 515  
 amount of all payments to be paid under the preneed funeral 516  
 contract for such guaranteed price funeral services and funeral 517  
 goods. If the amount to be paid by the purchaser is to be paid in 518  
 installments, ~~not more than one half of any payment may be applied~~ 519  
~~to the seller may collect the initial service fee only after all~~ 520  
~~of the installments have been paid. If the preneed funeral~~ 521  
~~contract is revoked by the purchaser, any portion of the initial~~ 522

~~service fee that has not been paid under the preneed funeral contract is no longer due and payable to the seller.~~ 523  
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(C) All payments made by the purchaser of a preneed funeral contract, except for the initial service fee permitted by division (B) of this section and any applicable sales tax, shall be made in the form of a check, cashier's check, money order, or debit or credit card, payable only to the trustee of the preneed funeral contract trust or to the trustee's designated depository. Within thirty days of the seller receiving any form of payment made payable to the trustee or the trustee's designee, the seller shall remit the payment to the trustee or the trustee's designee unless the purchaser rescinds the preneed funeral contract in accordance with division (A) of section 4717.34 of the Revised Code. The funds deposited with the trustee shall remain intact and held in trust for the contract beneficiary. 525  
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(D) The seller shall establish a preneed funeral contract trust at one of the following types of institutions and shall designate that institution as the trustee of the preneed funeral contract trust: 538  
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(1) A trust company licensed under Chapter 1111. of the Revised Code; 542  
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(2) A national bank, federal savings bank, or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code; 544  
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(3) A credit union authorized to conduct business in this state pursuant to Chapter 1733. of the Revised Code. 547  
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(E) Moneys deposited in a preneed funeral contract trust fund shall be held and invested in the manner in which trust funds are permitted to be held and invested pursuant to Chapter 1111. of the Revised Code. 549  
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(F) The seller shall establish a separate preneed funeral contract trust for the moneys paid under each preneed funeral contract, unless the purchaser or purchasers of a preneed funeral contract or contracts authorize the seller to place the moneys paid for that contract or those contracts in a combined preneed funeral contract trust. The trustee of a combined preneed funeral contract trust shall keep exact records of the corpus, income, expenses, and disbursements with regard to each purchaser and contract beneficiary for whom moneys are held in the trust. The terms of a preneed funeral contract trust are governed by this section and the payments from that trust are governed by Chapter 1111. of the Revised Code, except as otherwise provided in this section.

A trustee of a preneed funeral contract trust may pay taxes and expenses for a preneed funeral contract trust and may charge a fee for managing a preneed funeral contract trust. The fee shall not exceed the amount regularly or usually charged for similar services rendered by the institutions described in division (D) of this section when serving as a trustee.

(G) If the purchaser of a preneed funeral contract that is revocable elects to cancel the contract, the purchaser shall provide a written notice to the seller of the contract and the trustee of the preneed funeral contract trust stating that the purchaser intends to cancel the contract. Fifteen days after the purchaser provides that notice to the seller and trustee, the purchaser may cancel the contract. Upon canceling a preneed funeral contract pursuant to this division, one of the following shall occur, as applicable:

(1) If the preneed funeral contract does not stipulate a firm or fixed or guaranteed price for funeral goods and funeral

services to be provided under the preneed funeral contract, the trustee shall give to the purchaser all of the assets of the trust that exist at the time of cancellation, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section.

(2) If the preneed funeral contract does stipulate a firm or fixed or guaranteed price for funeral goods and funeral services to be provided under the contract, the purchaser may request and receive from the trustee all of the assets of the trust at the time of cancellation, less a cancellation fee that the original seller may collect from the trustee that is equal to or less than ten per cent of the value of the assets of the trust on the date the trust is cancelled, provided, however, that to the extent the original seller took an initial service fee as permitted by division (B) of this section, the aggregate amount of the cancellation fee and the initial service fee may not exceed ten per cent of the value of those assets. In addition to any cancellation fee, there may also be deducted any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section.

If more than one purchaser enters into the contract, all of those purchasers must request cancellation of the contract for it to be effective under this division, and the trustee shall refund to each purchaser only those funds that purchaser has paid under the contract and any income earned on those funds in an amount that is in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments deposited in that trust, less any fees charged, distributions paid, and expenses incurred by the trustee pursuant to division (F) of this section, the amount of which are in direct proportion to the amount of funds that purchaser paid relative to the total amount of payments

deposited in that trust. 614

(H) The purchaser of a preneed funeral contract that is 615  
irrevocable may transfer the preneed funeral contract to a 616  
successor seller. A purchaser who elects to make such a transfer 617  
shall provide a written notice of the designation of a successor 618  
seller to the trustee and the original seller. Within fifteen days 619  
after receiving the written notice of the new designation from the 620  
purchaser, the trustee shall list the successor seller as the 621  
seller of the preneed funeral contract and the original seller 622  
shall relinquish and transfer all rights under the preneed funeral 623  
contract to the successor seller. The trustee shall confirm the 624  
transfer by providing written notice of the transfer to the 625  
original seller, the successor seller, and the purchaser. If the 626  
preneed funeral contract stipulates a firm or fixed or guaranteed 627  
price for the funeral goods and funeral services to be provided 628  
under the preneed funeral contract, the original seller may 629  
collect from the trustee a transfer fee from the trust that equals 630  
up to ten per cent of the value of the assets of the trust on the 631  
date the trust is transferred, provided, however, that to the 632  
extent the original seller took an initial service fee as 633  
permitted by division (B) of this section, the aggregate amount of 634  
the transfer fee and the initial service fee may not exceed ten 635  
per cent of the value of those assets. If the preneed funeral 636  
contract does not stipulate a firm or fixed or guaranteed price 637  
for funeral goods and funeral services to be provided under the 638  
preneed funeral contract, no transfer fee shall be collected by 639  
the original seller. 640

(I) If a seller of a preneed funeral contract elects to 641  
transfer a preneed funeral contract trust from an institution 642  
listed in divisions (D)(1) to (3) of this section to a different 643  
institution, the trustee of the original trust shall notify the 644

purchaser of the preneed funeral contract of that transfer in 645  
writing within thirty days after the transfer occurred and shall 646  
provide the purchaser with the name of and the contact information 647  
for the institution where the new trust is maintained. Upon 648  
receipt of the trust, the trustee of the transferred trust shall 649  
notify the purchaser of the receipt of the trusts in accordance 650  
with division (A) of section 4717.33 of the Revised Code. 651

(J) If a seller receives a notice that the contract 652  
beneficiary has died and that funeral goods and funeral services 653  
have been provided by a provider other than the seller, except as 654  
otherwise specified in this section, the seller shall direct the 655  
trustee, within thirty days after receiving that notice, to pay to 656  
the provider that provided the funeral goods and services, if 657  
still unpaid, or the estate of the contract beneficiary all funds 658  
held by the trustee, less any fees charged, distributions paid, 659  
and expenses incurred by the trustee pursuant to division (F) of 660  
this section. In the event the preneed funeral contract stipulates 661  
a firm or fixed or guaranteed price for funeral goods and funeral 662  
services that were to be provided under the preneed funeral 663  
contract, the seller may collect from the trustee a cancellation 664  
fee not exceeding ten per cent of the value of the assets of the 665  
trust on the date the trust is transferred, provided, however, 666  
that to the extent the original seller took an initial service fee 667  
as permitted by division (B) of this section, the aggregate amount 668  
of the transfer fee and the initial service fee shall not exceed 669  
ten per cent of the value of those assets. If the preneed funeral 670  
trust does not stipulate a firm or fixed or guaranteed price for 671  
funeral goods and funeral services to be provided under the 672  
preneed funeral contract, no cancellation fees shall be collected 673  
by the original seller. 674

(K) A certified copy of the certificate of death or other 675

evidence of death satisfactory to the trustee shall be furnished 676  
to the trustee as evidence of death, and the trustee shall 677  
promptly pay the accumulated payments and income, if any, 678  
according to the preneed funeral contract. Such payment of the 679  
accumulated payments and income pursuant to this section and, when 680  
applicable, the preneed funeral contract, relieves the trustee of 681  
any further liability on the accumulated payments and income." 682

In line 944, after "maintenance" insert an underlined period 683

Delete line 945 684

Delete line 992 685

In line 993, after "1721.211," insert "4717.03, 4717.13, 686  
4717.14, 4717.36," 687

The motion was \_\_\_\_\_ agreed to.