

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 524

Representative Ghanbari

A BILL

To amend sections 2108.75, 2108.82, 3705.20, 1
4513.17, 4717.04, 4717.05, 4717.07, 4717.10, 2
4717.13, 4717.14, 4717.28, 4717.30, 4717.31, 3
4717.35, and 4717.36 of the Revised Code to make 4
changes to the laws that impact funeral homes, 5
funeral professionals, funeral hearses, funeral 6
escort vehicles, and preneed funeral contracts. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2108.75, 2108.82, 3705.20, 8
4513.17, 4717.04, 4717.05, 4717.07, 4717.10, 4717.13, 4717.14, 9
4717.28, 4717.30, 4717.31, 4717.35, and 4717.36 of the Revised 10
Code be amended to read as follows: 11

Sec. 2108.75. (A) A person shall be disqualified from 12
serving as a representative or successor representative, or from 13
having the right of disposition for a deceased adult pursuant to 14
section 2108.81 of the Revised Code, if any of the following 15
occurs: 16

(1) The person dies. 17

(2) A probate court declares or determines that the person 18
is incompetent. 19

(3) The person resigns or declines to exercise the right 20
as described in section 2108.88 of the Revised Code. 21

(4) The person ~~refuses~~ fails to exercise the right within 22
~~two days~~ forty-eight hours after notification of the declarant's 23
or deceased adult's death or, if there is no notification, 24
within seventy-two hours of the declarant's or deceased adult's 25
death. 26

(5) The person cannot be located with reasonable effort. 27

(6) The person meets the criteria described in section 28
2108.76 or 2108.77 of the Revised Code. 29

(7) The person refuses to assume the liability for the 30
costs of disposition. 31

(B) No owner, employee, or agent of a funeral home, 32
cemetery, or crematory providing funeral, burial, or cremation 33
services for a declarant shall serve as a representative or 34
successor representative for the declarant unless the owner, 35
employee, or agent is related to the declarant by blood, 36
marriage, or adoption. 37

(C) Subject to divisions (C) (2) and ~~(D) (2)~~ (D) of section 38
2108.70 of the Revised Code, if a person is disqualified from 39
serving as the declarant's representative or successor 40
representative, or from having the right of disposition for a 41
deceased adult pursuant to section 2108.81 of the Revised Code, 42
as described in division (A) of this section, the right is 43
automatically reassigned to, and vests in, the next person who 44
has the right pursuant to the declarant's written declaration or 45
pursuant to the order of priority in section 2108.81 of the 46
Revised Code. 47

If a right of disposition for a deceased adult is assigned 48

to a funeral director under division (B) (9) of section 2108.81 49
of the Revised Code, the funeral director is not liable for the 50
cost of disposition. 51

Sec. 2108.82. (A) Notwithstanding section 2108.81 of the 52
Revised Code and in accordance with division (B) of this 53
section, the probate court for the county in which the declarant 54
or deceased person resided at the time of death may, on its own 55
motion or the motion of another person, assign to any person the 56
right of disposition for a declarant or deceased person. 57

(B) In making a determination for purposes of division (A) 58
of this section and division (C) of section 2108.79 of the 59
Revised Code, the court shall consider the following: 60

(1) Whether evidence presented to, or in the possession of 61
the court, demonstrates that the person who is the subject of 62
the motion and the declarant or deceased person had a close 63
personal relationship; 64

(2) The reasonableness and practicality of any plans that 65
the person who is the subject of the motion may have for the 66
declarant's or deceased person's funeral, burial, cremation, or 67
final disposition, including the degree to which such plans 68
allow maximum participation by all persons who wish to pay their 69
final respects to the deceased person; 70

~~(3) The willingness of the person who is the subject of~~ 71
~~the motion to assume the responsibility to pay for the~~ 72
~~declarant's or deceased person's funeral, burial, cremation, or~~ 73
~~final disposition and the desires of that person;~~ 74

~~(4) The convenience and needs of other families and~~ 75
~~friends wishing to pay their final respects to the declarant or~~ 76
~~deceased person;~~ 77

~~(5)-(4)~~ The express written desires of the declarant or
deceased person. 78
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~~(C) Except to the extent considered under division (B) (3)~~
~~of this section, the following persons do~~ The personal
representative of either the declarant or the deceased person
does not have a greater claim to the right of disposition than
such persons otherwise have pursuant to law. 80
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~~(1) A person who is willing to assume the responsibility~~
~~to pay for the declarant's or deceased person's funeral, burial,~~
~~cremation, or final disposition;~~ 85
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~~(2) The personal representative of the declarant or~~
~~deceased person.~~ 88
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Sec. 3705.20. (A) The fetal death of the product of human
conception of at least twenty weeks of gestation shall be
registered on a fetal death certificate. 90
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On application of the funeral director or either parent,
the fetal death of the product of human conception prior to
twenty weeks of gestation shall be registered on a fetal death
certificate, except that the fetal death certificate shall not
list the cause of death. 93
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The funeral director or the parent shall include with the
application a copy of the statement required by division (B) (1)
of section 3727.16 or division (B) (1) of section 4731.82 of the
Revised Code. If the father submits the application, he shall
also include with it a signed and notarized document from the
mother attesting that she voluntarily provided the father with a
copy of the statement. 98
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A fetal death certificate for the product of human
conception prior to twenty weeks gestation is not proof of a 105
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live birth for purposes of federal, state, and local taxes. 107

(B) The product of human conception of at least twenty 108
weeks of gestation that suffers a fetal death occurring in Ohio 109
shall not be interred, deposited in a vault or tomb, cremated, 110
or otherwise disposed of by a funeral director or other person 111
until a fetal death certificate or provisional death certificate 112
has been filed with and a burial permit is issued by the local 113
registrar of vital statistics of the registration district in 114
which the fetal death occurs, or the body is found. 115

A burial permit for the product of human conception that 116
suffers a fetal death prior to twenty weeks of gestation shall 117
be issued by the local registrar of vital statistics of the 118
registration district in which the fetal death occurs if the 119
funeral director or either parent files a fetal death 120
certificate with that registrar. 121

(C) (1) The department of health and the local registrar 122
shall keep a separate record and index record of fetal death 123
certificates. 124

(2) The personal or statistical information on the fetal 125
death certificate shall be obtained by the funeral director or 126
other person in charge of interment or cremation from the best 127
qualified persons or sources available. 128

(D) When a burial permit is issued under division (B) of 129
this section for the product of human conception of at least 130
twenty weeks of gestation that suffers a fetal death, the local 131
registrar shall inform the parent or parents listed on the fetal 132
death certificate or provisional death certificate of the option 133
of applying for a certificate that is issued under division (B) 134
(3) of section 3705.23 of the Revised Code. 135

Sec. 4513.17. (A) Whenever a motor vehicle equipped with 136
headlights also is equipped with any auxiliary lights or 137
spotlight or any other light on the front thereof projecting a 138
beam of an intensity greater than three hundred candle power, 139
not more than a total of five of any such lights on the front of 140
a vehicle shall be lighted at any one time when the vehicle is 141
upon a highway. 142

(B) Any lighted light or illuminating device upon a motor 143
vehicle, other than headlights, spotlights, signal lights, or 144
auxiliary driving lights, that projects a beam of light of an 145
intensity greater than three hundred candle power, shall be so 146
directed that no part of the beam will strike the level of the 147
roadway on which the vehicle stands at a distance of more than 148
seventy-five feet from the vehicle. 149

(C) (1) Flashing lights are prohibited on motor vehicles, 150
except as a means for indicating a right or a left turn, or in 151
the presence of a vehicular traffic hazard requiring unusual 152
care in approaching, or overtaking or passing. ~~This~~ 153

(2) The prohibition in division (C) (1) of this section 154
does not apply to ~~emergency~~ any of the following: 155

(a) Emergency vehicles, road service vehicles servicing or 156
towing a disabled vehicle, stationary waste collection vehicles 157
actively collecting garbage, refuse, trash, or recyclable 158
materials on the roadside, rural mail delivery vehicles, 159
vehicles as provided in section 4513.182 of the Revised Code, 160
highway maintenance vehicles, ~~funeral hearses, funeral escort~~ 161
~~vehicles,~~ and similar equipment operated by the department or 162
local authorities, ~~which shall be~~ provided such vehicles are 163
equipped with and display, when used on a street or highway for 164
the special purpose necessitating such lights, a flashing, 165

oscillating, or rotating amber light, ~~but shall not display a~~ 166
~~flashing, oscillating, or rotating light of any other color, nor~~ 167
~~to vehicles;~~ 168

(b) Vehicles or machinery permitted by section 4513.11 of 169
the Revised Code to have a flashing red light. 170

~~(2) When used on a street or highway, farm;~~ 171

(c) Farm machinery and vehicles escorting farm machinery 172
may be, provided such machinery and vehicles are equipped with 173
and display, when used on a street or highway, a flashing, 174
oscillating, or rotating amber light, ~~and the prohibition~~ 175
~~contained in division (C) (1) of this section does not apply to~~ 176
~~such machinery or vehicles.~~ Farm machinery also may display the 177
lights described in section 4513.11 of the Revised Code. 178

(d) A funeral hearse or funeral escort vehicle, provided 179
that the funeral hearse or funeral escort vehicle is equipped 180
with and displays, when used on a street or highway for the 181
special purpose necessitating such lights, a flashing, 182
oscillating, or rotating purple or amber light. 183

(D) (1) Except a person operating a public safety vehicle, 184
as defined in division (E) of section 4511.01 of the Revised 185
Code, or a school bus, no person shall operate, move, or park 186
upon, or permit to stand within the right-of-way of any public 187
street or highway any vehicle or equipment that is equipped with 188
and displaying a flashing red or a flashing combination red and 189
white light, or an oscillating or rotating red light, or a 190
combination red and white oscillating or rotating light, ~~and~~ 191
~~except.~~ 192

(2) Except a public law enforcement officer, or other 193
person sworn to enforce the criminal and traffic laws of the 194

state, operating a public safety vehicle when on duty, no person 195
shall operate, move, or park upon, or permit to stand within the 196
right-of-way of any street or highway any vehicle or equipment 197
that is equipped with, or upon which is mounted, and displaying 198
a flashing blue or a flashing combination blue and white light, 199
or an oscillating or rotating blue light, or a combination blue 200
and white oscillating or rotating light. 201

(E) This section does not prohibit the use of warning 202
lights required by law or the simultaneous flashing of turn 203
signals on disabled vehicles or on vehicles being operated in 204
unfavorable atmospheric conditions in order to enhance their 205
visibility. This section also does not prohibit the simultaneous 206
flashing of turn signals or warning lights either on farm 207
machinery or vehicles escorting farm machinery, when used on a 208
street or highway. 209

(F) Whoever violates this section is guilty of a minor 210
misdemeanor. 211

Sec. 4717.04. (A) The board of embalmers and funeral 212
directors shall adopt rules in accordance with Chapter 119. of 213
the Revised Code for the government, transaction of the 214
business, and the management of the affairs of the board of 215
embalmers and funeral directors and the crematory review board, 216
and for the administration and enforcement of this chapter. 217
These rules shall include all of the following: 218

(1) The nature, scope, content, and form of the 219
application that must be completed and license examination that 220
must be passed in order to receive an embalmer's license or a 221
funeral director's license under section 4717.05 of the Revised 222
Code. The rules shall ensure both of the following: 223

(a) That the embalmer's license examination tests the applicant's knowledge through at least a comprehensive section and an Ohio laws section;	224 225 226
(b) That the funeral director's license examination tests the applicant's knowledge through at least a comprehensive section, an Ohio laws section, and a sanitation section.	227 228 229
(2) The minimum license examination score necessary to be licensed under section 4717.05 of the Revised Code as an embalmer or as a funeral director;	230 231 232
(3) Procedures for determining the dates of the embalmer's and funeral director's license examinations, which shall be administered at least once each year, the time and place of each examination, and the supervision required for each examination;	233 234 235 236
(4) Procedures for determining whether the board shall accept an applicant's compliance with the licensure, registration, or certification requirements of another state as grounds for granting the applicant a license under this chapter;	237 238 239 240
(5) A determination of whether completion of a nationally recognized embalmer's or funeral director's examination sufficiently meets the license requirements for the comprehensive section of either the embalmer's or the funeral director's license examination administered under this chapter;	241 242 243 244 245
(6) Continuing education requirements for licensed embalmers and funeral directors;	246 247
(7) Requirements for the licensing and operation of funeral homes;	248 249
(8) Requirements for the licensing and operation of embalming facilities;	250 251

(9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A) (9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:	252 253 254 255
(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;	256 257 258
(b) Purposely violating any provision of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B) (1) or (2), (C) (1) or (2), (D), (E), or (F) (1) or (2), or divisions (H) to (K) of section 4717.26; division (D) (1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code;	259 260 261 262 263 264 265
(c) Committing unprofessional conduct;	266
(d) Knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;	267 268 269 270
(e) Refusing to promptly submit the custody of a dead human body or cremated remains upon the express order of the person legally entitled to the body;	271 272 273
(f) Transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board <u>and following the requirements of section 4717.11 of the Revised Code;</u>	274 275 276 277 278
(g) Misleading the public using false or deceptive advertising;	279 280

(h) Failing to forward to the board on or before its due date the annual report of preneed funeral sales required by division (J) of section 4717.31 of the Revised Code. If the annual report is sent to the board by United States mail, it shall be postmarked on or before the due date for the submission of the annual report in order to be timely filed with the board. Mail that is not postmarked shall be considered filed on the date it is received by the board.

Each instance of the commission of any of the types of conduct described in division (A) (9) of this section is a separate violation. The rules adopted under division (A) (9) of this section shall establish the amount of the forfeiture for a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. The amount of the forfeiture may differ among the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the board to take possession of and to arrange the lawful disposition of unclaimed cremated remains that were held or stored at a funeral home or crematory that has been closed;

(12) Procedures for the issuance of duplicate licenses;

(13) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(14) The amount and content of corrective action courses required by the board under section 4717.14 of the Revised Code;

(15) Requirements for the sale of preneed funeral services 310
and preneed funeral goods, the content and funding of preneed 311
funeral contracts, and the payment and administration of preneed 312
funeral funds. 313

(B) The board may adopt rules governing the educational 314
standards for licensure as an embalmer or funeral director, or 315
obtaining a permit to be a crematory operator, and the standards 316
of service and practice to be followed in embalming, funeral 317
directing, and cremation, and in the operation of funeral homes, 318
embalming facilities, and crematory facilities in this state. 319

(C) Nothing in this chapter authorizes the board of 320
embalmers and funeral directors to regulate cemeteries, except 321
that the board shall license and regulate funeral homes, 322
embalming facilities, and crematory facilities located at 323
cemeteries in accordance with this chapter. 324

Sec. 4717.05. (A) Any person who desires to be licensed as 325
an embalmer shall apply to the board of embalmers and funeral 326
directors on a form provided by the board. The applicant shall 327
include with the application an initial license fee as set forth 328
in section 4717.07 of the Revised Code and evidence, verified by 329
oath and satisfactory to the board, that the applicant meets all 330
of the following requirements: 331

(1) The applicant is at least eighteen years of age and of 332
good moral character. 333

(2) If the applicant has pleaded guilty to, has been found 334
by a judge or jury to be guilty of, or has had a judicial 335
finding of eligibility for treatment in lieu of conviction 336
entered against the applicant in this state for aggravated 337
murder, murder, voluntary manslaughter, felonious assault, 338

kidnapping, rape, sexual battery, gross sexual imposition, 339
aggravated arson, aggravated robbery, or aggravated burglary, or 340
has pleaded guilty to, has been found by a judge or jury to be 341
guilty of, or has had a judicial finding of eligibility for 342
treatment in lieu of conviction entered against the applicant in 343
another jurisdiction for a substantially equivalent offense, at 344
least five years has elapsed since the applicant was released 345
from incarceration, a community control sanction, a post-release 346
control sanction, parole, or treatment in connection with the 347
offense. 348

(3) The applicant holds at least a bachelor's degree from 349
a college or university authorized to confer degrees by the 350
department of higher education or the comparable legal agency of 351
another state in which the college or university is located and 352
submits an official transcript from that college or university 353
with the application. 354

(4) The applicant has satisfactorily completed at least 355
twelve months of instruction in a prescribed course in mortuary 356
science as approved by the board and has presented to the board 357
a certificate showing successful completion of the course. The 358
course of mortuary science college training may be completed 359
either before or after the completion of the educational 360
standard set forth in division (A) (3) of this section. 361

(5) The applicant has been certified by the board prior to 362
beginning an embalmer apprenticeship. 363

(6) The applicant has satisfactorily completed at least 364
one year of apprenticeship under an embalmer licensed in this 365
state and has participated in embalming at least twenty-five 366
dead human bodies. 367

(7) The applicant, upon meeting the educational standards provided for in divisions (A) (3) and (4) of this section and completing the apprenticeship required in division (A) (6) of this section, has completed the examination for an embalmer's license required by the board.

(B) Upon receiving satisfactory evidence verified by oath that the applicant meets all the requirements of division (A) of this section, the board shall issue the applicant an embalmer's license.

(C) Any person who desires to be licensed as a funeral director shall apply to the board on a form prescribed by the board. The application shall include an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) Except as otherwise provided in division (D) of this section, the applicant has satisfactorily met all the requirements for an embalmer's license as described in divisions (A) (1) to (4) of this section.

(2) The applicant has been certified by the board prior to beginning a funeral director apprenticeship.

(3) The applicant, following mortuary science college training described in division (A) (4) of this section, has satisfactorily completed a one-year apprenticeship under a licensed funeral director in this state and has participated in directing at least twenty-five funerals.

(4) The applicant has satisfactorily completed the examination for a funeral director's license as required by the board.

(D) In lieu of mortuary science college training required 397
for a funeral director's license under division (C) (1) of this 398
section, the applicant may substitute a satisfactorily completed 399
two-year apprenticeship under a licensed funeral director in 400
this state assisting that person in directing at least fifty 401
funerals. 402

(E) Upon receiving satisfactory evidence that the 403
applicant meets all the requirements of division (C) of this 404
section, the board shall issue to the applicant a funeral 405
director's license. 406

(F) A funeral director or embalmer may request the funeral 407
director's or embalmer's license be placed on inactive status by 408
submitting to the board a form prescribed by the board and such 409
other information as the board may request. A funeral director 410
or embalmer may not place the funeral director's or embalmer's 411
license on inactive status unless the funeral director or 412
embalmer is in good standing with the board and is in compliance 413
with applicable continuing education requirements. A funeral 414
director or embalmer who is granted inactive status is 415
prohibited from participating in any activity for which a 416
funeral director's or embalmer's license is required in this 417
state. A funeral director or embalmer who has been granted 418
inactive status is exempt from the continuing education 419
requirements under section 4717.09 of the Revised Code during 420
the period of the inactive status. 421

(G) A funeral director or embalmer who has been granted 422
inactive status may not return to active status for at least two 423
years following the date that the inactive status was granted. 424
Following a period of at least two years of inactive status, the 425
funeral director or embalmer may apply to return to active 426

status upon completion of all of the following conditions: 427

(1) The funeral director or embalmer files with the board 428
a form prescribed by the board seeking active status and 429
provides any other information as the board may request; 430

(2) The funeral director or embalmer takes and passes the 431
Ohio laws examination for each license being activated; 432

(3) The funeral director or embalmer pays ~~a reactivation~~ 433
~~fee to the board in the amount of one hundred forty dollars for~~ 434
~~each license being reactivated~~the reactivation fee described in 435
division (A) (1) of section 4717.07 of the Revised Code. 436

(H) As used in this section: 437

(1) "Community control sanction" has the same meaning as 438
in section 2929.01 of the Revised Code. 439

(2) "Post-release control sanction" has the same meaning 440
as in section 2967.01 of the Revised Code. 441

Sec. 4717.07. (A) The board of embalmers and funeral 442
directors shall charge and collect the following fees: 443

(1) For applying for an initial or biennial renewal of an 444
embalmer's or funeral director's license, or a reactivation of a 445
license as described in division (G) of section 4717.05 of the 446
Revised Code, two hundred dollars; 447

(2) For applying for an embalmer or funeral director 448
certificate of apprenticeship, thirty-five dollars; 449

(3) For the application to take the examination for a 450
license to practice as an embalmer or funeral director, or to 451
retake a section of the examination, thirty-five dollars; 452

(4) For applying for an initial license to operate a 453

funeral home, four hundred dollars and biennial renewal of a 454
license to operate a funeral home, four hundred dollars; 455

(5) For the reinstatement of a lapsed embalmer's or 456
funeral director's license, the renewal fee prescribed in 457
division (A) (1) of this section plus fifty dollars for each 458
month or portion of a month the license is lapsed, but not more 459
than one thousand dollars; 460

(6) For the reinstatement of a lapsed license to operate a 461
funeral home, the renewal fee prescribed in division (A) (4) of 462
this section plus fifty dollars for each month or portion of a 463
month the license is lapsed until reinstatement, but not more 464
than one thousand dollars; 465

(7) For applying for a license to operate an embalming 466
facility, four hundred dollars and biennial renewal of a license 467
to operate an embalming facility, four hundred dollars; 468

(8) For the reinstatement of a lapsed license to operate 469
an embalming facility, the renewal fee prescribed in division 470
(A) (7) of this section plus fifty dollars for each month or 471
portion of a month the license is lapsed until reinstatement, 472
but not more than one thousand dollars; 473

(9) For applying for a license to operate a crematory 474
facility, four hundred dollars and biennial renewal of a license 475
to operate a crematory facility, four hundred dollars; 476

(10) For the reinstatement of a lapsed license to operate 477
a crematory facility, the renewal fee prescribed in division (A) 478
(9) of this section plus fifty dollars for each month or portion 479
of a month the license is lapsed until reinstatement, but not 480
more than five hundred dollars; 481

(11) For applying for the initial or biennial renewal of a 482

crematory operator permit, one hundred fifty dollars; 483

(12) For the reinstatement of a lapsed crematory operator 484
permit, the renewal fee prescribed in division (A) (11) of this 485
section plus fifty dollars for each month or portion of a month 486
the permit is lapsed, but not more than five hundred dollars; 487

(13) For the issuance of a duplicate of a license issued 488
under this chapter, ten dollars; 489

(14) For each preneed funeral contract sold in the state 490
other than those funded by the assignment of an existing 491
insurance policy, ten dollars. 492

(B) In addition to the fees set forth in division (A) of 493
this section, an applicant shall pay the examination fee 494
assessed by any examining agency the board uses for any section 495
of an examination required under this chapter. 496

(C) Subject to the approval of the controlling board, the 497
board of embalmers and funeral directors may establish fees in 498
excess of the amounts set forth in this section, provided that 499
these fees do not exceed the amounts set forth in this section 500
by more than fifty per cent. 501

Sec. 4717.10. (A) The board of embalmers and funeral 502
directors may recognize ~~licenses~~ a license issued to ~~embalmers~~ 503
~~and an embalmer or a funeral directors director by other states,~~ 504
~~and upon another state.~~ Upon presentation of such 505
~~licenses~~ license and evidence satisfactory to the board showing 506
such embalmer or funeral director meets all requirements of this 507
division and is in good standing in that other state, may the 508
board shall issue to the holder an embalmer's or funeral 509
director's license under this chapter. The board shall charge 510
the same fee as prescribed in section 4717.07 of the Revised 511

Code to issue or renew such an embalmer's or funeral director's 512
license. Such licenses shall be renewed biennially as provided 513
in section 4717.08 of the Revised Code. The board shall not 514
issue a license to any person under this division ~~(A) of this~~ 515
~~section~~ unless the applicant proves that the applicant, in the 516
state in which the applicant is licensed, has complied with 517
requirements substantially equal to those established in section 518
4717.05 of the Revised Code. 519

(B) The board of embalmers and funeral directors may issue 520
courtesy card permits. A courtesy card permit holder shall be 521
authorized to undertake both the following acts in this state: 522

(1) Prepare and complete those sections of a death 523
certificate and other permits needed for disposition of deceased 524
human remains in this state and sign and file such death 525
certificates and permits; 526

(2) Supervise and conduct funeral ceremonies, interments, 527
and entombments in this state. 528

(C) The board of embalmers and funeral directors ~~may shall~~ 529
determine under what conditions a courtesy card permit ~~may shall~~ 530
be issued to funeral directors in bordering states after taking 531
into account whether and under what conditions and fees such 532
border states issue similar courtesy card permits to funeral 533
directors licensed in this state. A courtesy card permit holder 534
shall comply with all applicable laws and rules of this state 535
while engaged in any acts of funeral directing in this state. 536
The board may revoke or suspend a courtesy card permit or 537
subject a courtesy card permit holder to discipline in 538
accordance with the laws, rules, and procedures applicable to 539
funeral directors under this chapter. Applicants for courtesy 540
card permits shall apply on forms prescribed by the board, pay a 541

biennial fee set by the board for initial applications and 542
renewals, and adhere to such other requirements imposed by the 543
board on courtesy card permit holders. 544

(D) No courtesy card permit holder shall be authorized to 545
undertake any of the following activities in this state: 546

(1) Arranging funerals or disposition services with 547
members of the public in this state; 548

(2) Be employed by or under contract to a funeral home 549
licensed in this state to perform funeral services in this 550
state; 551

(3) Advertise funeral or disposition services in this 552
state; 553

(4) Enter into or execute funeral or disposition contracts 554
in this state; 555

(5) Prepare or embalm deceased human remains in this 556
state; 557

(6) Arrange for or carry out the disinterment of human 558
remains in this state. 559

(E) As used in this section, "courtesy card permit" means 560
a special permit that may be issued to a funeral director 561
licensed in a state that borders this state and who does not 562
hold a funeral director's license under this chapter. 563

Sec. 4717.13. (A) No person shall do any of the following: 564

(1) Engage in the business or profession of funeral 565
directing unless the person is licensed as a funeral director 566
under this chapter, is certified as an apprentice funeral 567
director in accordance with rules adopted under section 4717.04 568

of the Revised Code and under the supervision of a funeral 569
director licensed under this chapter, or is a student in a 570
college of mortuary sciences approved by the board of embalmers 571
and funeral directors and is under the direct supervision of a 572
funeral director licensed by the board; 573

(2) Engage in embalming unless the person is licensed as 574
an embalmer under this chapter, is certified as an apprentice 575
embalmer in accordance with rules adopted under section 4717.04 576
of the Revised Code and is under the supervision of an embalmer 577
licensed under this chapter, or is a student in a college of 578
mortuary science approved by the board and is under the direct 579
supervision of an embalmer licensed by the board; 580

(3) Advertise or otherwise offer to provide or convey the 581
impression that the person provides funeral directing services 582
unless the person is licensed as a funeral director under this 583
chapter and is employed by or under contract to a licensed 584
funeral home and performs funeral directing services for that 585
funeral home in a manner consistent with the advertisement, 586
offering, or conveyance; 587

(4) Advertise or otherwise offer to provide or convey the 588
impression that the person provides embalming services unless 589
the person is licensed as an embalmer under this chapter and is 590
employed by or under contract to a licensed funeral home or a 591
licensed embalming facility and performs embalming services for 592
the funeral home or embalming facility in a manner consistent 593
with the advertisement, offering, or conveyance; 594

(5) Operate a funeral home without a license to operate 595
the funeral home issued by the board under this chapter; 596

(6) Practice the business or profession of funeral 597

directing from any place except from a funeral home that a	598
person is licensed to operate under this chapter;	599
(7) Practice embalming from any place except from a	600
funeral home or embalming facility that a person is licensed to	601
operate under this chapter;	602
(8) Operate a crematory or perform cremation without a	603
license to operate the crematory issued under this chapter;	604
(9) Cremate animals in a cremation chamber in which dead	605
human bodies or body parts are cremated or cremate dead human	606
bodies or human body parts in a cremation chamber in which	607
animals are cremated;	608
(10) Hold a dead human body, before final disposition, for	609
more than forty-eight hours after the time of death unless the	610
dead human body is embalmed or placed into refrigeration and	611
maintained at a constant temperature of less than forty degrees;	612
(11) Knowingly refuse to promptly submit the custody of a	613
dead human body or cremated remains upon the oral or written	614
order of the person legally entitled to the body or cremated	615
remains;	616
(12) Except as ordered by the coroner or the person	617
holding the right of disposition under section 2108.70 or	618
2108.81 of the Revised Code, knowingly fail to carry out the	619
final disposition of a dead human body within thirty days after	620
taking custody of the body;	621
(13) Engage in cremation as defined in section 4717.01 of	622
the Revised Code unless the person holds a crematory operator	623
permit under this chapter;	624
(14) Engage in the business or profession of funeral	625

directing, engage in embalming, or operate a crematory or 626
perform cremation with a lapsed license as defined under section 627
4717.01 of the Revised Code. 628

(B) No funeral director or other person in charge of the 629
final disposition of a dead human body shall fail to do one of 630
the following prior to the interment of the body: 631

(1) Affix to the ankle or wrist of the deceased a tag 632
encased in a durable and long-lasting material that contains the 633
name, date of birth, date of death, and social security number 634
of the deceased; 635

(2) Place in the casket a capsule containing a tag bearing 636
the information described in division (B)(1) of this section; 637

(3) If the body was cremated, place ~~in the vessel~~ 638
~~containing the cremated remains~~ a tag bearing the information 639
described in division (B)(1) of this section in any vessel 640
containing either of the following: 641

(a) All the cremated remains; 642

(b) More than ten cubic inches of the cremated remains. 643

(C) No person who holds a funeral home license for a 644
funeral home that is closed, or that is owned by a funeral 645
business in which changes in the ownership of the funeral 646
business result in a majority of the ownership of the funeral 647
business being held by one or more persons who solely or in 648
combination with others did not own a majority of the funeral 649
business immediately prior to the change in ownership, shall 650
fail to submit to the board within thirty days after the closing 651
or such change of ownership of the funeral business owning the 652
funeral home, a clearly enumerated account of all of the 653
following from which the licensee, at the time of the closing or 654

change of ownership of the funeral business and in connection 655
with the funeral home, was to receive payment for providing the 656
funeral services, funeral goods, or any combination of those in 657
connection with the funeral or final disposition of a dead human 658
body: 659

(1) Preneed funeral contracts governed by sections 4717.31 660
to 4717.38 of the Revised Code; 661

(2) Life insurance policies or annuities the benefits of 662
which are payable to the provider of funeral or burial goods or 663
services; 664

(3) Accounts at banks or savings banks insured by the 665
federal deposit insurance corporation, savings and loan 666
associations insured by the federal savings and loan insurance 667
corporation or the Ohio deposit guarantee fund, or credit unions 668
insured by the national credit union administration or a credit 669
union share guaranty corporation organized under Chapter 1761. 670
of the Revised Code that are payable upon the death of the 671
person for whose benefit deposits into the accounts were made. 672

(D) (1) No person who holds a funeral home license for a 673
funeral home that is closed shall negligently fail to send 674
written notice to the purchaser of every preneed funeral 675
contract to which the funeral business is a party via first 676
class United States mail. Such notice shall be addressed to the 677
purchaser's last known address and shall explain that the 678
funeral business is being closed and the name of any funeral 679
business that has been designated to assume the obligations of 680
the preneed contract. 681

(2) Within thirty days of the closing of a funeral home, 682
no person who held the funeral home license for the closed 683

funeral home shall negligently fail to transfer all preneed 684
contracts to the funeral home or funeral homes that have been 685
designated to assume the obligation of the preneed contracts. If 686
the person who holds a funeral home license for a funeral home 687
that is closed fails to designate a successor funeral home or 688
funeral homes to assume the obligations of the preneed funeral 689
contracts, the board shall make such designations and order the 690
transfer of the preneed funeral contracts to the designated 691
funeral home or funeral homes. 692

(E) No person who holds a license under this chapter for a 693
facility that is going out of business and that is in possession 694
of unclaimed cremated remains shall fail to submit to the board, 695
within thirty days prior to the closing, a copy of the written 696
notice required in division (F) of this section and a clearly 697
enumerated account of all unclaimed cremated remains in 698
possession of the facility. 699

(F) Within thirty days prior to the closing of a facility 700
that is going out of business and that is in possession of 701
unclaimed cremated remains, the person who is actually in charge 702
of and ultimately responsible for the facility shall send 703
written notice via first-class mail to the last known address of 704
the authorizing agent who executed the cremation authorization 705
form or the person designated on the cremation authorization 706
form to receive the cremated remains. Such notice shall include 707
the following: 708

(1) A statement that the funeral business is going out of 709
business and will close; 710

(2) The expected date of closure; 711

(3) The manner in which the unclaimed cremated remains 712

will be disposed and, if applicable, the location from which the 713
cremated remains can be retrieved. 714

(G) If the person who is actually in charge of and 715
ultimately responsible for the facility is unable to comply with 716
divisions (F) (1) to (3) of this section and cannot locate the 717
last known address of the authorizing agent who executed the 718
cremation authorization form or the person designated on the 719
cremation authorization form to receive the cremated remains, 720
the person who is actually in charge of and ultimately 721
responsible for the facility may seek a declaratory judgment to 722
dispose of the unclaimed cremated remains from the probate court 723
in the county in which the facility is located. 724

(H) Within thirty days prior to the closing of a facility 725
that is going out of business, no person who held the license 726
for the facility shall negligently fail to dispose of all 727
unclaimed cremated remains as designated in the written notice 728
or, if unclaimed in excess of sixty days, in a manner consistent 729
with section 4717.27 of the Revised Code. 730

Sec. 4717.14. (A) The board of embalmers and funeral 731
directors may refuse to grant or renew, or may suspend or 732
revoke, any license or permit issued under this chapter or may 733
require the holder of a license or permit to take corrective 734
action courses for any of the following reasons: 735

(1) The holder of a license or permit obtained the license 736
or permit by fraud or misrepresentation either in the 737
application or in passing the examination. 738

(2) The applicant, licensee, or permit holder has been 739
convicted of or has pleaded guilty to a felony or of any crime 740
involving moral turpitude. 741

(3) The applicant, licensee, or permit holder has 742
recklessly violated any provision of sections 4717.01 to 4717.15 743
or a rule adopted under any of those sections; division (A) or 744
(B) of section 4717.23; division (B) (1) or (2), (C) (1) or (2), 745
(D), (E), or (F) (1) or (2), or divisions (H) to (K) of section 746
4717.26; division (D) (1) of section 4717.27; or divisions (A) to 747
(C) of section 4717.28 of the Revised Code; or any provisions of 748
sections 4717.31 to 4717.38 of the Revised Code; any rule or 749
order of the department of health or a board of health of a 750
health district governing the disposition of dead human bodies; 751
or any other rule or order applicable to the applicant or 752
licensee. 753

(4) The applicant, licensee, or permit holder has 754
committed immoral or unprofessional conduct. 755

(5) The applicant or licensee knowingly permitted an 756
unlicensed person, other than a person serving an 757
apprenticeship, to engage in the profession or business of 758
embalming or funeral directing under the applicant's or 759
licensee's supervision. 760

(6) The applicant, licensee, or permit holder has been 761
habitually intoxicated, or is addicted to the use of morphine, 762
cocaine, or other habit-forming or illegal drugs. 763

(7) The applicant, licensee, or permit holder has refused 764
to promptly submit the custody of a dead human body or cremated 765
remains upon the express order of the person legally entitled to 766
the body or cremated remains. 767

(8) The licensee or permit holder loaned the licensee's 768
own license or the permit holder's own permit, or the applicant, 769
licensee, or permit holder borrowed or used the license or 770

permit of another person, or knowingly aided or abetted the 771
granting of an improper license or permit. 772

(9) The applicant, licensee, or permit holder misled the 773
public by using false or deceptive advertising. As used in this 774
division, "false and deceptive advertising" includes, but is not 775
limited to, any of the following: 776

(a) Using the names of persons who are not licensed to 777
practice funeral directing in a way that leads the public to 778
believe that such persons are engaging in funeral directing; 779

(b) Using any name for the funeral home other than the 780
name under which the funeral home is licensed; 781

(c) Using in the funeral home's name the surname of an 782
individual who is not directly, actively, or presently 783
associated with the funeral home, unless such surname has been 784
previously and continuously used by the funeral home. 785

(10) The licensee or permit holder provided services to a 786
person knowing that those services were sold to that person by 787
another person who lacked a license or permit under this chapter 788
to perform the services. 789

(B) (1) The board of embalmers and funeral directors shall 790
refuse to grant or renew, or shall suspend or revoke a license 791
or permit only in accordance with Chapter 119. of the Revised 792
Code. 793

(2) The board shall send to the crematory review board 794
written notice that it proposes to refuse to issue or renew, or 795
proposes to suspend or revoke, a license to operate a crematory 796
facility. If, after the conclusion of the adjudicatory hearing 797
on the matter conducted under division (F) of section 4717.03 of 798
the Revised Code, the board of embalmers and funeral directors 799

finds that any of the circumstances described in divisions (A) 800
(1) to (9) of this section apply to the person named in its 801
proposed action, the board may issue a final order under 802
division (F) of section 4717.03 of the Revised Code refusing to 803
issue or renew, or suspending or revoking, the person's license 804
to operate a crematory facility. 805

(C) If the board of embalmers and funeral directors 806
determines that there is clear and convincing evidence that any 807
of the circumstances described in divisions (A) (1) to (9) of 808
this section apply to the holder of a license or permit issued 809
under this chapter and that the licensee's or permit holder's 810
continued practice presents a danger of immediate and serious 811
harm to the public, the board may suspend the licensee's license 812
or permit holder's permit without a prior adjudicatory hearing. 813
The executive director of the board shall prepare written 814
allegations for consideration by the board. 815

The board, after reviewing the written allegations, may 816
suspend a license or permit without a prior hearing. 817

Notwithstanding section 121.22 of the Revised Code, the 818
board may suspend a license or permit under this division by 819
utilizing a telephone conference call to review the allegations 820
and to take a vote. 821

The board shall issue a written order of suspension by a 822
delivery system or in person in accordance with section 119.07 823
of the Revised Code. Such an order is not subject to suspension 824
by the court during the pendency of any appeal filed under 825
section 119.12 of the Revised Code. If the licensee or permit 826
holder requests an adjudicatory hearing by the board, the date 827
set for the hearing shall be within fifteen days, but not 828
earlier than seven days, after the licensee or permit holder has 829

requested a hearing, unless the board and the licensee or permit holder agree to a different time for holding the hearing. 830
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Upon issuing a written order of suspension to the holder of a license to operate a crematory facility, the board of embalmers and funeral directors shall send written notice of the issuance of the order to the crematory review board. The crematory review board shall hold an adjudicatory hearing on the order under division (F) of section 4717.03 of the Revised Code within fifteen days, but not earlier than seven days, after the issuance of the order, unless the crematory review board and the licensee agree to a different time for holding the adjudicatory hearing. 832
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Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicatory order issued by the board of embalmers and funeral directors pursuant to this division and Chapter 119. of the Revised Code, or division (F) of section 4717.03 of the Revised Code, as applicable, becomes effective. The board of embalmers and funeral directors shall issue its final adjudicatory order within sixty days after the completion of its hearing or, in the case of the summary suspension of a license to operate a crematory facility, within sixty days after completion of the adjudicatory hearing by the crematory review board. A failure to issue the order within that time results in the dissolution of the summary suspension order, but does not invalidate any subsequent final adjudicatory order. 842
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(D) If the board of embalmers and funeral directors suspends or revokes a funeral director's license or a license to operate a funeral home for any reason identified in division (A) of this section, the board may file a complaint with the court 856
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of common pleas in the county where the violation occurred 860
requesting appointment of a receiver and the sequestration of 861
the assets of the funeral home that held the suspended or 862
revoked license or the licensed funeral home that employs the 863
funeral director that held the suspended or revoked license. If 864
the court of common pleas is satisfied with the application for 865
a receivership, the court may appoint a receiver. 866

The board or a receiver may employ and procure whatever 867
assistance or advice is necessary in the receivership or 868
liquidation and distribution of the assets of the funeral home, 869
and, for that purpose, may retain officers or employees of the 870
funeral home as needed. All expenses of the receivership or 871
liquidation shall be paid from the assets of the funeral home 872
and shall be a lien on those assets, and that lien shall be a 873
priority to any other lien. 874

(E) Any holder of a license or permit issued under this 875
chapter who has pleaded guilty to, has been found by a judge or 876
jury to be guilty of, or has had a judicial finding of 877
eligibility for treatment in lieu of conviction entered against 878
the individual in this state for aggravated murder, murder, 879
voluntary manslaughter, felonious assault, kidnapping, rape, 880
sexual battery, gross sexual imposition, aggravated arson, 881
aggravated robbery, or aggravated burglary, or who has pleaded 882
guilty to, has been found by a judge or jury to be guilty of, or 883
has had a judicial finding of eligibility for treatment in lieu 884
of conviction entered against the individual in another 885
jurisdiction for any substantially equivalent criminal offense, 886
is hereby suspended from practice under this chapter by 887
operation of law, and any license or permit issued to the 888
individual under this chapter is hereby suspended by operation 889
of law as of the date of the guilty plea, verdict or finding of 890

guilt, or judicial finding of eligibility for treatment in lieu 891
of conviction, regardless of whether the proceedings are brought 892
in this state or another jurisdiction. The board shall notify 893
the suspended individual of the suspension of the individual's 894
license or permit by the operation of this division by a 895
delivery system or in person in accordance with section 119.07 896
of the Revised Code. If an individual whose license or permit is 897
suspended under this division fails to make a timely request for 898
an adjudicatory hearing, the board shall enter a final order 899
revoking the license. 900

(F) No person whose license or permit has been suspended 901
or revoked under or by the operation of this section shall 902
knowingly practice embalming, funeral directing, or cremation, 903
or operate a funeral home, embalming facility, or crematory 904
facility until the board has reinstated the person's license or 905
permit. 906

Sec. 4717.28. (A) No crematory facility shall fail to 907
ensure that a written receipt is provided to the person who 908
delivers a dead human body or body parts to the facility for 909
cremation. If the dead human body is other than one that was 910
donated to science for purposes of medical education or 911
research, the receipt shall be signed by both a representative 912
of the crematory facility and the person who delivered the 913
decedent to the crematory facility and shall indicate the name 914
of the decedent; the date and time of delivery; the type of 915
casket or alternative container in which the decedent was 916
delivered to the facility; the name of the person who delivered 917
the decedent to the facility; if applicable, the name of the 918
funeral home or other establishment with whom the delivery 919
person is affiliated; and the name of the person who received 920
the decedent on behalf of the facility. If the dead human body 921

was donated to science for purposes of medical education or 922
research, the receipt shall consist of a copy of the cremation 923
authorization form executed under section 4717.21, 4717.24, or 924
4717.25 of the Revised Code that authorizes the cremation of the 925
decedent or body parts that has been signed by both a 926
representative of the crematory facility and the person who 927
delivered the decedent or body parts to the crematory facility 928
and that indicates the date and time of the delivery. The 929
operator may provide the copy of the receipt to the person who 930
delivered the decedent or body parts to the facility either in 931
person or by certified mail, return receipt requested. 932

(B) No crematory facility shall fail to ensure at the time 933
of releasing cremated remains that a written receipt signed by 934
both a representative of the crematory facility and the person 935
who received the cremated remains is provided to the person who 936
received the cremated remains. Unless the cremated remains are 937
those of a dead human body that was donated to science for 938
purposes of medical education or research or are those of body 939
parts, the receipt shall indicate the name of the decedent; the 940
date and time of the release; the name of the person to whom the 941
cremated remains were released; if applicable, the name of the 942
funeral home, cemetery, or other entity to whom the cremated 943
remains were released; and the name of the person who released 944
the cremated remains on behalf of the crematory facility. If the 945
cremated remains are those of a dead human body that was donated 946
to science for purposes of medical education or research or are 947
those of body parts, the receipt shall consist of a copy of the 948
cremation authorization form executed under section 4717.21, 949
4717.24, or 4717.25 of the Revised Code that authorizes the 950
cremation of the decedent or body parts that has been signed by 951
both a representative of the crematory facility and the person 952

who received the cremated remains and that indicates the date 953
and time of the release. If the cremated remains were delivered 954
to the authorizing agent or other individual designated on the 955
cremation authorization form by a method described in division 956
(I) of section 4717.26 of the Revised Code that is acceptable 957
under that division, the receipt required by this division shall 958
accompany the cremated remains, and the signature of the 959
authorizing agent or other designated individual on the delivery 960
receipt meets the requirement of this division that the person 961
receiving the cremated remains sign the receipt provided by the 962
crematory facility. 963

(C) ~~No~~ For each cremation carried out at a crematory 964
facility shall fail to make or keep on file during the time 965
~~that,~~ the crematory facility remains engaged in the business of 966
~~cremating dead human bodies or body parts, all of shall make and~~ 967
keep on file the following records and documents for the time 968
period described in division (E) of this section: 969

(1) A copy of each receipt issued upon acceptance by or 970
delivery to the crematory facility of a dead human body under 971
division (A) of this section; 972

(2) A copy of each delivery receipt issued under division 973
(B) of this section; 974

(3) A record of each cremation conducted at the facility, 975
containing at least the name of the decedent or, in the case of 976
body parts, the name of the decedent or living person from whom 977
the body parts were removed, the date and time of the cremation, 978
and the final disposition made of the cremated remains; 979

~~(3) A copy of each delivery receipt issued under division~~ 980
~~(B) of this section;~~ 981

(4) A separate record of the cremated remains of each 982
decedent or the body parts removed from each decedent or living 983
person that were disposed of in accordance with division (C) (1) 984
or (2) of section 4717.27 of the Revised Code, containing at 985
least the name of the decedent, the date and time of the 986
cremation, and the location, date, and manner of final 987
disposition of the cremated remains. 988

(D) All records required to be maintained under sections 989
4717.21 to 4717.30 of the Revised Code are subject to inspection 990
by the board of embalmers and funeral directors or an authorized 991
representative of the board, upon reasonable notice, at any 992
reasonable time. 993

(E) The documents listed in divisions (C) (1) and (2) of 994
this section shall be retained for the shorter of the time that 995
the crematory facility remains engaged in the business of 996
cremating dead human bodies or body parts or ten years following 997
the date of the cremation. The documents listed in divisions (C) 998
(3) and (4) of this section shall be retained during the time 999
that the crematory facility remains engaged in the business of 1000
cremating dead human bodies or body parts. 1001

Sec. 4717.30. (A) A crematory operator, crematory 1002
facility, funeral director, or funeral home is not liable in 1003
damages in a civil action for any of the following actions or 1004
omissions, unless the actions or omissions were made with 1005
malicious purpose, in bad faith, or in a wanton or reckless 1006
manner or unless any of the conditions set forth in divisions 1007
(B) (1) to (3) of this section apply: 1008

(1) (a) For having arranged or performed the cremation of 1009
the decedent, or having released or disposed of the cremated 1010
remains, in accordance with the instructions set forth in the 1011

cremation authorization form executed by the decedent on an 1012
antemortem basis under section 4717.21 of the Revised Code; 1013

(b) For having arranged or performed the cremation of the 1014
decedent or body parts removed from the decedent or living 1015
person or having released or disposed of the cremated remains in 1016
accordance with section 4717.27 of the Revised Code or the 1017
instructions set forth in a cremation authorization form 1018
executed by the person authorized to serve as the authorizing 1019
agent for the cremation of the decedent or for the cremation of 1020
body parts of the decedent or living person, named in the 1021
cremation authorization form executed under section 4717.24 or 1022
4717.25 of the Revised Code. 1023

(2) For having arranged or performed the cremation of the 1024
decedent, or having released or disposed of the cremated 1025
remains, in accordance with section 4717.27 of the Revised Code 1026
or the instructions set forth in the cremation authorization 1027
form executed by a designated agent under division (C) of 1028
section 4717.24 of the Revised Code. 1029

(B) The crematory operator, crematory facility, funeral 1030
director, or funeral home is not liable in damages in a civil 1031
action for refusing to accept a dead human body or body parts or 1032
to perform a cremation under any of the following circumstances, 1033
unless the refusal was made with malicious purpose, in bad 1034
faith, or in a wanton or reckless manner: 1035

(1) The crematory operator, crematory facility, funeral 1036
director, or funeral home has actual knowledge that there is a 1037
dispute regarding the cremation of the decedent or body parts, 1038
until such time as the crematory operator, crematory facility, 1039
funeral director, or funeral home receives an order of the 1040
probate court having jurisdiction ordering the cremation of the 1041

decedent or body parts or until the crematory operator, 1042
crematory facility, funeral director, or funeral home receives 1043
from the parties to the dispute a copy of a written agreement 1044
resolving the dispute and authorizing the cremation to be 1045
performed. 1046

(2) The crematory operator, crematory facility, funeral 1047
director, or funeral home has a reasonable basis for questioning 1048
the accuracy of any of the information or statements contained 1049
in a cremation authorization form executed under section 1050
4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, 1051
that authorizes the cremation of the decedent or body parts. 1052

(3) The crematory operator, crematory facility, funeral 1053
director, or funeral home has any other lawful reason for 1054
refusing to accept the dead human body or body parts or to 1055
perform the cremation. 1056

(C) A crematory operator, crematory facility, funeral 1057
director, or funeral home is not liable in damages in a civil 1058
action for refusing to release or dispose of the cremated 1059
remains of a decedent or body parts when the crematory operator, 1060
crematory facility, funeral director, or funeral home has actual 1061
knowledge that there is a dispute regarding the release or final 1062
disposition of the cremated remains in connection with any 1063
damages sustained, prior to the time the crematory operator, 1064
crematory facility, funeral home, or funeral director receives 1065
an order of the probate court having jurisdiction ordering the 1066
release or final disposition of the cremated remains, or prior 1067
to the time the crematory operator, crematory facility, funeral 1068
director, or funeral home receives from the parties to the 1069
dispute a copy of a written agreement resolving the dispute and 1070
authorizing the cremation to be performed. 1071

(D) A crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action in connection with the cremation of, or disposition of the cremated remains of, any dental gold, jewelry, or other items of value delivered to the crematory facility or funeral home with a dead human body or body parts, unless either or both of the following apply:

(1) The cremation authorization form authorizing the cremation of the decedent or body parts executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, contains specific instructions for the removal or recovery and disposition of any such dental gold, jewelry, or other items of value prior to the cremation, and the crematory operator, crematory facility, funeral director, or funeral home has failed to comply with the written instructions.

(2) The actions or omissions of the crematory operator, crematory facility, funeral director, or funeral home were made with malicious purpose, in bad faith, or in a wanton or reckless manner.

(E) (1) This section does not create a new cause of action against or substantive legal right against a crematory operator, crematory facility, funeral director, or funeral home.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a crematory operator, crematory facility, funeral director, or funeral home may be entitled under circumstances not covered by this section.

Sec. 4717.31. (A) Only a funeral director licensed pursuant to this chapter may sell a preneed funeral contract

that includes funeral services. Sections 4717.31 to 4717.38 of 1101
the Revised Code do not prohibit a person who is not a licensed 1102
funeral director from selling funeral goods pursuant to a 1103
preneed funeral contract; however, when a seller sells funeral 1104
goods pursuant to a preneed funeral contract, that seller shall 1105
comply with those sections unless the seller is specifically 1106
exempt from compliance under section 4717.38 of the Revised 1107
Code. 1108

(B) An insurance agent licensed pursuant to Chapter 3905. 1109
of the Revised Code may sell, solicit, or negotiate the sale of 1110
an insurance policy or annuity that will be used to fund a 1111
preneed funeral contract, but in so doing the insurance agent 1112
may not offer advice or make recommendations about funeral 1113
services and may not discuss the advantages or disadvantages of 1114
any funeral service. In selling, soliciting, or negotiating the 1115
sale of an insurance policy or annuity that will be used to fund 1116
a preneed funeral contract, the insurance agent may do any of 1117
the following: 1118

(1) Provide the person purchasing the insurance policy or 1119
annuity with price lists from one or more funeral homes and 1120
other materials that may assist the person in determining the 1121
cost of funeral goods and services; 1122

(2) Discuss the cost of funeral goods and services with 1123
the person in order to assist the person in selecting the 1124
appropriate amount of life insurance or annuity coverage; 1125

(3) Complete a worksheet or other record to calculate the 1126
estimated cost of a funeral. 1127

(C) Activities conducted pursuant to division (B) of this 1128
section by an insurance agent licensed pursuant to Chapter 3905. 1129

of the Revised Code do not constitute funeral directing, funeral 1130
arranging, the business of directing and supervising funerals 1131
for profit, or the sale of a preneed funeral contract. 1132

(D) No seller shall fail to comply with the requirements 1133
and duties specified in this section and sections 4717.32 to 1134
4717.38 of the Revised Code. 1135

(E) No trustee of a preneed funeral contract trust shall 1136
fail to comply with sections 4717.33, 4717.34, 4717.36, and 1137
4717.37 of the Revised Code. 1138

(F) No insurance agent or insurance company that sells or 1139
offers life insurance policies or annuities used to fund a 1140
preneed funeral contract shall fail to comply with this section 1141
and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the 1142
Revised Code. To the extent this section and sections 4717.33, 1143
4717.34, 4717.35, and 4717.37 of the Revised Code apply to 1144
insurance companies or insurance agents, those sections 1145
constitute laws of this state relating to insurance for purposes 1146
of sections 3901.03 and 3901.04 of the Revised Code and the 1147
superintendent of insurance shall enforce those sections with 1148
respect to insurance companies and insurance agents. The 1149
superintendent may adopt rules in accordance with Chapter 119. 1150
of the Revised Code for purposes of administering and enforcing 1151
this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 1152
of the Revised Code as those sections apply to insurance 1153
companies or insurance agents. 1154

(G) A preneed funeral contract may be funded by the 1155
purchase or assignment of an insurance policy or annuity in 1156
accordance with section 3905.45 of the Revised Code. A preneed 1157
funeral contract that is funded by the purchase or assignment of 1158
an insurance policy or annuity in accordance with section 1159

3905.45 of the Revised Code is not subject to section 4717.36 of 1160
the Revised Code. 1161

(H) The board of embalmers and funeral directors shall 1162
administer and enforce the provisions of sections 4717.31 to 1163
4717.38 of the Revised Code concerning the requirements for and 1164
sale of preneed funeral contracts. The superintendent of 1165
insurance shall enforce sections 4717.31, 4717.33, 4717.34, 1166
4717.35, and 4717.37 of the Revised Code to the extent those 1167
sections apply to insurance companies and insurance agents. 1168
Payments from a trust, insurance policy, or annuity, including 1169
any fraudulent activities in which a person engages to obtain 1170
payments from a trust, insurance policy, or annuity, shall be 1171
regulated in accordance with Chapter 1111. or Title XXXIX of the 1172
Revised Code, as applicable. 1173

(I) Except as provided in division (K) of this section, a 1174
seller of a preneed funeral contract that is funded by insurance 1175
or otherwise annually shall submit to the board the reports the 1176
board requires pursuant to division (J) of this section. 1177

(J) Except as provided in division (K) of this section, 1178
the board shall adopt rules specifying the procedures and 1179
requirements for annual reporting of the sales of all preneed 1180
funeral contracts sold by every seller who is subject to 1181
sections 4717.31 to 4717.38 of the Revised Code. 1182

(K) A cemetery company or cemetery association that sells 1183
merchandise or services pursuant to a preneed cemetery 1184
merchandise and services contract and that also sells funeral 1185
goods pursuant to a preneed funeral contract shall be deemed to 1186
have met the requirements in divisions (I) and (J) of this 1187
section by submitting the annual preneed funeral contract report 1188
to the division of real estate of the department of commerce 1189

along with or as part of the annual cemetery merchandise and 1190
services contract affidavit required under division (F) (1) of 1191
section 1721.211 of the Revised Code. With the exception of the 1192
submission of an annual preneed funeral contract report under 1193
this division, a cemetery company or cemetery association that 1194
sells funeral goods, including caskets, pursuant to a preneed 1195
funeral contract is subject to all requirements of sections 1196
4717.31 to 4717.38 of the Revised Code that apply to such sales. 1197

Sec. 4717.35. If a preneed funeral contract contains a 1198
provision stating that the preneed funeral contract will be 1199
funded by the purchase of an insurance policy, the insurance 1200
agent who sold the policy that will fund that preneed funeral 1201
contract shall require that any payment made by the purchaser be 1202
made in the form of a check, cashier's check, money order, or 1203
debit or credit card, payable only to the insurance company. The 1204
insurance agent shall remit the application for insurance and 1205
the premium paid to the insurance company designated in the 1206
preneed funeral contract within the time period specified in 1207
division (B) (15) of section 3905.14 of the Revised Code, unless 1208
the purchaser rescinds the preneed funeral contract in 1209
accordance with division (A) of section 4717.34 of the Revised 1210
Code. If the purchaser made payment in the form of a check made 1211
payable to the seller, the seller may, within five business days 1212
of receiving the check, sign over and forward the check to the 1213
insurance company designated in the preneed funeral contract. 1214

If the purchaser of a preneed funeral contract that is 1215
revocable and that is funded by an insurance policy or annuity 1216
elects to cancel the preneed funeral contract, the purchaser 1217
shall provide a written notice to the seller and the insurance 1218
company designated in the contract stating that the purchaser 1219
intends to cancel that contract. Fifteen days after the 1220

purchaser provides the notice to the seller of the contract and 1221
the insurance company, the purchaser may cancel the preneed 1222
funeral contract and change the beneficiary of the insurance 1223
policy or annuity or reassign the benefits under the policy or 1224
annuity. 1225

The purchaser of a preneed funeral contract that is 1226
irrevocable and that is funded by an insurance policy or annuity 1227
may transfer the preneed funeral contract to a successor seller 1228
by notifying the original seller of the designation of a 1229
successor seller. Within fifteen days after receiving the 1230
written notice of the designation of the successor seller from 1231
the purchaser, the original seller shall assign the seller's 1232
rights to the proceeds of the policy to the successor seller. 1233
The insurance company shall confirm the change of assignment by 1234
providing written notice to the policyholder. 1235

If, after a preneed funeral contract has been performed 1236
and paid for by the proceeds of an insurance policy or annuity, 1237
there are excess funds that the purchaser previously assigned by 1238
a written contract to the seller to pay for preneed funeral 1239
services or funeral goods for other individuals, the insurance 1240
company or annuity company holding such excess funds shall pay 1241
those funds directly to the seller, and the seller shall deposit 1242
the funds into a trust or purchase insurance or annuity policies 1243
to fund additional preneed funeral contracts. 1244

Sec. 4717.36. (A) This section applies only to preneed 1245
funeral contracts that are funded by any means other than an 1246
insurance policy or policies, or an annuity or annuities. 1247

No money in a preneed funeral contract trust shall be 1248
distributed from the trust except as provided in this section. 1249

(B) A seller of a preneed funeral contract that stipulates 1250
a fixed or firm or guaranteed price for funeral services and 1251
funeral goods to be provided under a preneed funeral contract 1252
may charge an initial service fee not to exceed ten per cent of 1253
the total amount of all payments to be paid under the preneed 1254
funeral contract for such guaranteed price funeral services and 1255
funeral goods. If the amount to be paid by the purchaser is to 1256
be paid in installments, the seller may collect the initial 1257
service fee only after all of the installments have been paid. 1258

~~(C) All (1) Except for the following, all payments made by 1259
the purchaser of a preneed funeral contract, except for the 1260
initial service fee permitted by division (B) of this section 1261
and any applicable sales tax, shall be made in the form of a 1262
check, cashier's check, money order, or debit or credit card, 1263
payable only to the trustee of the preneed funeral contract 1264
trust or to the trustee's designated depository: 1265~~

(a) The initial service fee permitted by division (B) of 1266
this section; 1267

(b) The fee collected under division (A) (14) of section 1268
4717.07 of the Revised Code; 1269

(c) Any applicable sales tax. 1270

(2) If the purchaser makes payment in the form of a check 1271
made payable to the seller, the seller may, within five business 1272
days of receiving the check, sign over and forward the check to 1273
the trustee or the trustee's designated depository. 1274

(3) Within thirty days of the seller receiving any form of 1275
payment made payable to the trustee or the trustee's designee, 1276
the seller shall remit the payment to the trustee or the 1277
trustee's designee unless the purchaser rescinds the preneed 1278

funeral contract in accordance with division (A) of section 1279
4717.34 of the Revised Code. The funds deposited with the 1280
trustee shall remain intact and held in trust for the contract 1281
beneficiary. 1282

(D) The seller shall establish a preneed funeral contract 1283
trust at one of the following types of institutions and shall 1284
designate that institution as the trustee of the preneed funeral 1285
contract trust: 1286

(1) A trust company licensed under Chapter 1111. of the 1287
Revised Code; 1288

(2) A national bank, federal savings bank, or federal 1289
savings association that pledges securities in accordance with 1290
section 1111.04 of the Revised Code; 1291

(3) A credit union authorized to conduct business in this 1292
state pursuant to Chapter 1733. of the Revised Code. 1293

(E) Moneys deposited in a preneed funeral contract trust 1294
fund shall be held and invested in the manner in which trust 1295
funds are permitted to be held and invested pursuant to Chapter 1296
1111. of the Revised Code. 1297

(F) The seller shall establish a separate preneed funeral 1298
contract trust for the moneys paid under each preneed funeral 1299
contract, unless the purchaser or purchasers of a preneed 1300
funeral contract or contracts authorize the seller to place the 1301
moneys paid for that contract or those contracts in a combined 1302
preneed funeral contract trust. The trustee of a combined 1303
preneed funeral contract trust shall keep exact records of the 1304
corpus, income, expenses, and disbursements with regard to each 1305
purchaser and contract beneficiary for whom moneys are held in 1306
the trust. The terms of a preneed funeral contract trust are 1307

governed by this section and the payments from that trust are 1308
governed by Chapter 1111. of the Revised Code, except as 1309
otherwise provided in this section. 1310

A trustee of a preneed funeral contract trust may pay 1311
taxes and expenses for a preneed funeral contract trust and may 1312
charge a fee for managing a preneed funeral contract trust. The 1313
fee shall not exceed the amount regularly or usually charged for 1314
similar services rendered by the institutions described in 1315
division (D) of this section when serving as a trustee. 1316

(G) If the purchaser of a preneed funeral contract that is 1317
revocable elects to cancel the contract, the purchaser shall 1318
provide a written notice to the seller of the contract and the 1319
trustee of the preneed funeral contract trust stating that the 1320
purchaser intends to cancel the contract. Fifteen days after the 1321
purchaser provides that notice to the seller and trustee, the 1322
purchaser may cancel the contract. Upon canceling a preneed 1323
funeral contract pursuant to this division, one of the following 1324
shall occur, as applicable: 1325

(1) If the preneed funeral contract does not stipulate a 1326
firm or fixed or guaranteed price for funeral goods and funeral 1327
services to be provided under the preneed funeral contract, the 1328
trustee shall give to the purchaser all of the assets of the 1329
trust that exist at the time of cancellation, less any fees 1330
charged, distributions paid, and expenses incurred by the 1331
trustee pursuant to division (F) of this section. 1332

(2) If the preneed funeral contract does stipulate a firm 1333
or fixed or guaranteed price for funeral goods and funeral 1334
services to be provided under the contract, the purchaser may 1335
request and receive from the trustee all of the assets of the 1336
trust at the time of cancellation, less a cancellation fee that 1337

the original seller may collect from the trustee that is equal 1338
to or less than ten per cent of the value of the assets of the 1339
trust on the date the trust is cancelled, provided, however, 1340
that to the extent the original seller took an initial service 1341
fee as permitted by division (B) of this section, the aggregate 1342
amount of the cancellation fee and the initial service fee may 1343
not exceed ten per cent of the value of those assets. In 1344
addition to any cancellation fee, there may also be deducted any 1345
fees charged, distributions paid, and expenses incurred by the 1346
trustee pursuant to division (F) of this section. 1347

If more than one purchaser enters into the contract, all 1348
of those purchasers must request cancellation of the contract 1349
for it to be effective under this division, and the trustee 1350
shall refund to each purchaser only those funds that purchaser 1351
has paid under the contract and any income earned on those funds 1352
in an amount that is in direct proportion to the amount of funds 1353
that purchaser paid relative to the total amount of payments 1354
deposited in that trust, less any fees charged, distributions 1355
paid, and expenses incurred by the trustee pursuant to division 1356
(F) of this section, the amount of which are in direct 1357
proportion to the amount of funds that purchaser paid relative 1358
to the total amount of payments deposited in that trust. 1359

(H) The purchaser of a preneed funeral contract that is 1360
irrevocable may transfer the preneed funeral contract to a 1361
successor seller. A purchaser who elects to make such a transfer 1362
shall provide a written notice of the designation of a successor 1363
seller to the trustee and the original seller. Within fifteen 1364
days after receiving the written notice of the new designation 1365
from the purchaser, the trustee shall list the successor seller 1366
as the seller of the preneed funeral contract and the original 1367
seller shall relinquish and transfer all rights under the 1368

preneed funeral contract to the successor seller. The trustee 1369
shall confirm the transfer by providing written notice of the 1370
transfer to the original seller, the successor seller, and the 1371
purchaser. If the preneed funeral contract stipulates a firm or 1372
fixed or guaranteed price for the funeral goods and funeral 1373
services to be provided under the preneed funeral contract, the 1374
original seller may collect from the trustee a transfer fee from 1375
the trust that equals up to ten per cent of the value of the 1376
assets of the trust on the date the trust is transferred, 1377
provided, however, that to the extent the original seller took 1378
an initial service fee as permitted by division (B) of this 1379
section, the aggregate amount of the transfer fee and the 1380
initial service fee may not exceed ten per cent of the value of 1381
those assets. If the preneed funeral contract does not stipulate 1382
a firm or fixed or guaranteed price for funeral goods and 1383
funeral services to be provided under the preneed funeral 1384
contract, no transfer fee shall be collected by the original 1385
seller. 1386

(I) If a seller of a preneed funeral contract elects to 1387
transfer a preneed funeral contract trust from an institution 1388
listed in divisions (D) (1) to (3) of this section to a different 1389
institution, the trustee of the original trust shall notify the 1390
purchaser of the preneed funeral contract of that transfer in 1391
writing within thirty days after the transfer occurred and shall 1392
provide the purchaser with the name of and the contact 1393
information for the institution where the new trust is 1394
maintained. Upon receipt of the trust, the trustee of the 1395
transferred trust shall notify the purchaser of the receipt of 1396
the trusts in accordance with division (A) of section 4717.33 of 1397
the Revised Code. 1398

(J) If a seller receives a notice that the contract 1399

beneficiary has died and that funeral goods and funeral services 1400
have been provided by a provider other than the seller, ~~except~~ 1401
~~as otherwise specified in this section,~~ the seller shall direct 1402
the trustee, within thirty days after receiving that notice, to 1403
pay to the provider that provided the funeral goods and 1404
services, if still unpaid, ~~or the estate of the contract~~ 1405
~~beneficiary~~ all funds held by the trustee, less any fees 1406
charged, distributions paid, and expenses incurred by the 1407
trustee pursuant to division (F) of this section. 1408

If the provider has already been paid for providing the 1409
funeral goods and funeral services to the contract beneficiary, 1410
the seller shall direct the trustee to pay to either the estate 1411
of the contract beneficiary or any person with the right of 1412
disposition under section 2108.81 of the Revised Code all funds 1413
held by the trustee, less any fees charged, distributions paid, 1414
and expenses incurred by the trustee pursuant to division (F) of 1415
this section. 1416

In the event the preneed funeral contract stipulates a 1417
firm or fixed or guaranteed price for funeral goods and funeral 1418
services that were to be provided under the preneed funeral 1419
contract, the seller may collect from the trustee a cancellation 1420
fee not exceeding ten per cent of the value of the assets of the 1421
trust on the date the trust is transferred, provided, however, 1422
that to the extent the original seller took an initial service 1423
fee as permitted by division (B) of this section, the aggregate 1424
amount of the transfer fee and the initial service fee shall not 1425
exceed ten per cent of the value of those assets. If the preneed 1426
funeral trust does not stipulate a firm or fixed or guaranteed 1427
price for funeral goods and funeral services to be provided 1428
under the preneed funeral contract, no cancellation fees shall 1429
be collected by the original seller. 1430

(K) A certified copy of the certificate of death or other 1431
evidence of death satisfactory to the trustee shall be furnished 1432
to the trustee as evidence of death, and the trustee shall 1433
promptly pay the accumulated payments and income, if any, 1434
according to the preneed funeral contract. Such payment of the 1435
accumulated payments and income pursuant to this section and, 1436
when applicable, the preneed funeral contract, relieves the 1437
trustee of any further liability on the accumulated payments and 1438
income. 1439

If, after a preneed funeral contract has been performed 1440
and paid for by the proceeds of a preneed trust fund, there are 1441
excess funds that the purchaser previously assigned by a written 1442
contract to the seller to pay for preneed funeral services or 1443
funeral goods for other individuals, the trustee holding such 1444
excess funds shall pay those funds directly to the seller, and 1445
the seller shall deposit the funds into a trust or purchase 1446
insurance or annuity policies to fund additional preneed funeral 1447
contracts. 1448

Section 2. That existing sections 2108.75, 2108.82, 1449
3705.20, 4513.17, 4717.04, 4717.05, 4717.07, 4717.10, 4717.13, 1450
4717.14, 4717.28, 4717.30, 4717.31, 4717.35, and 4717.36 of the 1451
Revised Code are hereby repealed. 1452