

**DEPARTMENT OF ADMINISTRATIVE SERVICES**  
**DIVISION OF PROFESSIONAL REGULATION**  
**3100 Board of Funeral Services**  
**Statutory Authority: 24 Delaware Code, Section 3105(f) (24 Del.C. §3105(f))**  
**24 DE Admin. Code 3100**

**ORDER**

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on January 26, 2005 at a scheduled meeting of the Delaware Board Funeral Services to receive comments regarding proposed Regulation 11.0. The proposed regulation identifies crimes substantially related to the practice of funeral services as mandated by SB 229 enacted by the 142<sup>nd</sup> General Assembly. The proposed regulation was published in the *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004.

**Background**

The enabling legislation for the practice of funeral services is found in 24 **Del.C.** Chapter 31. One of the qualifications for licensure is that the applicant “shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of funeral services. Applicants who have criminal convictions records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the record or charge is substantially related to the practice of funeral services.” 24 **Del.C.** §3107(a)(7). Furthermore, it is grounds for discipline if a practitioner “has been convicted of a crime that is substantially related to the provision of funeral services or any offense which would limit the ability of the practitioner to carry out the practitioner’s professional duties with due regard for the health and safety of the public; a copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefore...” 24 **Del.C.** §3112(a)(3). “‘Substantially related’ means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice funeral services.” 24 **Del.C.** §3101(12). The Board is empowered “to promulgate regulations specifically identifying those crimes which are substantially related to the provision of funeral services.” 24 **Del.C.** §3105(f). This regulation specifically identifies those crimes which are substantially related to the practice of funeral services.

**Summary Of The Evidence And Information Submitted**

No written comments were received. No public comment was received at the January 26, 2005 hearing.

**Findings Of Fact With Respect To The Evidence And Information Submitted**

The Board carefully reviewed and considered the crimes presented as a compilation of crimes extracted from the **Delaware Code**. The overarching concerns of the Board of Funeral Services were the public health, the protection of clients who are especially vulnerable during a time of bereavement, and the dignity of the decedent. The ability to maintain the public trust and work with a diverse population are essential to the practice of funeral services. A practitioner may have access to confidential information about the decedent. Children may not be well monitored during a funeral service by grieving family. Practitioners have access to chemicals that can be harmful if abused. At times a practice may involve animals who have passed.

The Board finds that the identified crimes are substantially related to fitness or ability to perform 1 or more of the duties and responsibilities of a practitioner in that they involve: the use of physical violence or force, or the threat thereof, toward or upon the person of another; sexual abuse or inappropriate sexual conduct; violation of privacy; dishonesty, or false or fraudulent conduct; mistreatment or abuse of children, the elderly or animals; and offenses involving the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment.

In summary, the Board finds that adopting regulation 11.0 as proposed is in the best interest of the citizens of the State of Delaware and is necessary to protect the health and safety of the individuals who need the services of a practitioner and maintain appropriate standards in the delivery of services. 24 **Del.C.** §3100.

## Decision And Effective Date

The Board hereby adopts the changes to Regulation 11.0 to be effective 10 days following publication of this order in the *Register of Regulations*.

## Text And Citation

The text of the revised rule remains as published in *Register of Regulations*, Vol. 8, Issue 6, December 1, 2004.

**SO ORDERED** this 26th day of January, 2005.

### BOARD OF FUNERAL SERVICES

Kelly Anne Pepper, President

William J. Doherty II, Secretary

Lyle Dabson

Rose L. Pritchett

### **11.0** Crimes substantially related to the provision of Funeral Services

11.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of the solicitation to commit any of the following crimes, is deemed to be a crime substantially related to the provision of Funeral Services in the State of Delaware without regard to the place of conviction:

- 11.1.1 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
- 11.1.2 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606
- 11.2.3 Assault in the second degree. 11 **Del.C.** §612.
- 11.1.4 Assault in the first degree. 11 **Del.C.** §613.
- 11.1.5 Felony abuse of a sports official. 11 **Del.C.** §614
- 11.1.6 Assault by abuse or neglect. 11 **Del.C.** §615.
- 11.1.7 Unlawfully administering of drugs. 11 **Del.C.** §625.
- 11.1.8 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 11.1.9 Prohibited acts as to substances releasing vapors or fumes. 11 **Del.C.** §627.
- 11.1.10 Manslaughter. 11 **Del.C.** §632.
- 11.1.11 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 11.1.12 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 11.1.13 Murder in the second degree. 11 **Del.C.** §635.
- 11.1.14 Murder in the first degree. 11 **Del.C.** §636.
- 11.1.15 Promoting suicide. 11 **Del.C.** §645
- 11.1.16 Abortion. 11 **Del.C.** §651
- 11.1.17 Self-abortion. 11 **Del.C.** §652
- 11.1.18 Issuing abortion articles. 11 **Del.C.** §653
- 11.1.19 Unlawful sexual contact in the third degree. 11 **Del.C.** §767
- 11.1.20 Unlawful sexual contact in the second degree. 11 **Del.C.** §768
- 11.1.21 Unlawful sexual contact in the first degree. 11 **Del.C.** §769
- 11.1.22 Rape in the fourth degree. 11 **Del.C.** §770
- 11.1.23 Rape in the third degree. 11 **Del.C.** §771
- 11.1.24 Rape in the second degree. 11 **Del.C.** §772
- 11.1.25 Rape in the first degree. 11 **Del.C.** §773
- 11.1.26 Sexual extortion. 11 **Del.C.** §776
- 11.1.27 Bestiality. 11 **Del.C.** §777
- 11.1.28 Continuous sexual abuse of a child. 11 **Del.C.** §778
- 11.1.29 Dangerous crimes against a child. 11 **Del.C.** §779
- 11.1.30 Female genital mutilation. 11 **Del.C.** §780
- 11.1.31 Kidnapping in the second degree. 11 **Del.C.** §783

11.1.32	Kidnapping in the first degree. 11 Del.C. §783A
11.1.33	Acts constituting coercion. 11 Del.C. §791
11.1.34	Arson in the third degree. 11 Del.C. §801
11.1.35	Arson in the second degree. 11 Del.C. §802
11.1.36	Arson in the first degree. 11 Del.C. §803
11.1.37	Reckless burning or exploding. 11 Del.C. §804
11.1.38	Burglary in the third degree. 11 Del.C. §824
11.1.39	Burglary in the second degree. 11 Del.C. §825
11.1.40	Burglary in the first degree. 11 Del.C. §826
11.1.41	Possession of burglar's tools or instruments facilitating theft. 11 Del.C. §828
11.1.42	Robbery in the second degree. 11 Del.C. §831
11.1.43	Robbery in the first degree. 11 Del.C. §832
11.1.44	Carjacking in the second degree. 11 Del.C. §835
11.1.45	Carjacking in the first degree. 11 Del.C. §836
11.1.46	Felony theft. 11 Del.C. §841
11.1.47	Theft; lost or mislaid property. 11 Del.C. §842
11.1.48	Theft; false pretense. 11 Del.C. §843
11.1.49	Extortion 11 Del.C. §844
11.1.50	Theft, extortion; claim of right as an affirmative defense. 11 Del.C. §846
11.1.51	Misapplication of property. 11 Del.C. §848
11.1.52	Use, possession manufacture, distribution and sale of unlawful telecommunication and access devices 11 Del.C. §850
11.1.53	Receiving stolen property 11 Del.C. §851
11.1.54	Unauthorized use of a vehicle 11 Del.C. §853
11.1.55	Identity theft 11 Del.C. §854
11.1.56	Forgery 11 Del.C. §861
11.1.57	Possession of forgery devices 11 Del.C. §862
11.1.58	Falsifying business records 11 Del.C. §871
11.1.59	Tampering with public records in the second degree 11 Del.C. §873
11.1.60	Tampering with public records in the first degree 11 Del.C. §876
11.1.61	Offering a false instrument for filing. 11 Del.C. §877
11.1.62	Issuing a false certificate 11 Del.C. §878
11.1.63	Bribery 11 Del.C. §881
11.1.64	Bribe receiving 11 Del.C. §882
11.1.65	Unlawful use of credit card. 11 Del.C. §903
11.1.66	Reencoder and scanning devices. 11 Del.C. §903A
11.1.67	Criminal impersonation . 11 Del.C. §907
11.1.68	Criminal impersonation, accident related. 11 Del.C. §907A
11.1.69	Criminal impersonation of a police officer. 11 Del.C. §907B
11.1.70	Unlawfully concealing a will. 11 Del.C. §908
11.1.71	Securing execution of documents by deception. 11 Del.C. §909
11.1.72	Insurance fraud 11 Del.C. §913
11.1.73	Use of consumer identification information. 11 Del.C. §914
11.1.74	Use of credit card information. 11 Del.C. §915
11.1.75	Unauthorized access 11 Del.C. §932
11.1.76	Misuse of computer system information. 11 Del.C. §935
11.1.77	Endangering the welfare of a child 11 Del.C. §1102
11.1.78	Endangering the welfare of an incompetent person. 11 Del.C. §1105
11.1.79	Unlawfully dealing with a child. 11 Del.C. §1106
11.1.80	Sexual exploitation of a child. 11 Del.C. §1108
11.1.81	Unlawfully dealing in child pornography. 11 Del.C. §1109
11.1.82	Possession of child pornography. 11 Del.C. §1111
11.1.83	Sexual solicitation of a child. 11 Del.C. §1112A
11.1.84	Perjury in the second degree. 11 Del.C. §1222
11.1.85	Perjury in the first degree. 11 Del.C. §1223
11.1.86	Making a false written statement. 11 Del.C. §1233
11.1.87	Tampering with physical evidence. 11 Del.C. §1269

- 11.1.88 Hate crimes 11 **Del.C.** §1304
- 11.1.89 Aggravated harassment 11 **Del.C.** §1312
- 11.1.90 Abusing a corpse 11 **Del.C.** §1332
- 11.1.91 Trading in human remains and associated funerary objects 11 **Del.C.** §1333
- 11.1.92 Adulteration 11 **Del.C.** §1339
- 11.1.93 Desecration of a burial place. 11 **Del.C.** §1340
- 11.1.94 Act of intimidation. 11 **Del.C.** §3532
- 11.1.95 Aggravated act of intimidation. 11 **Del.C.** §3533
- 11.1.96 Attempt to intimidate. 11 **Del.C.** §3534.
- 11.1.97 Alteration, theft, or destruction of will. 12 **Del.C.** §210
- 11.1.98 Abuse, Neglect Mistreatments or Financial Exploitation of residents or patients.  
16 **Del.C.** §1136
- 11.1.99 Controlled substance prohibited acts A. 16 **Del.C.** §4751
- 11.1.100 Controlled substance prohibited acts B. 16 **Del.C.** §4752.
- 11.1.10 Trafficking in marijuana, cocaine, illegal drugs, metamphetamines,  
L.S.D., or designer drugs. 16 **Del.C.** §4753A
- 11.1.102 Possession and delivery of noncontrolled prescription drug. 16 **Del.C.**  
§4754A (d) E felony
- 11.1.103 Hypodermic syringe or needle delivering or possessing; disposal;  
exceptions. 16 **Del.C.** §4757
- 11.1.104 Distribution to persons under 21 years of age. 16 **Del.C.** §4761
- 11.1.105 Purchase of drugs from minors. 16 **Del.C.** §4761A
- 11.1.106 Distribution, delivery, or possession of controlled substance within  
1,000 feet of school property. 16 **Del.C.** §4767
- 11.1.107 Distribution, delivery or possession of controlled substance in or within  
300 feet of park, recreation area, church, synagogue or other place of worship. 16 **Del.C.** §4768
- 11.1.108 Duty of driver involved in accident resulting in injury or death to any  
person. 21 **Del.C.** §4202
- 11.2 Crimes substantially related to the provision of Funeral Services shall be deemed to  
include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially  
similar to the crimes identified in this rule.

\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Funeral Services is available at: <http://www.professionallicensing.state.de.us/boards/funeralservices/index.shtml>

**8 DE Reg. 1285 (3/1/05)**