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TESTIMONY OF JENNIFER HAWK

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

NEITHER FOR NOR AGAINST LD 1223

*AN ACT TO ALLOW CREMATORIES USING CHEMICAL DISSOLUTION PROCESSES IN
FACILITIES OTHER THAN CEMETERIES*

Presented by Senator Anne Carney

BEFORE THE JOINT STANDING COMMITTEE ON INNOVATION, DEVELOPMENT,
ECONOMIC ADVANCEMENT AND BUSINESS

Public Hearing: Tuesday, April 6, 2021, at 1:00 p.m.

Senator Curry, Representative Roberts, and Members of the Committee, my name is Jennifer Hawk; I am a Regulatory Board Manager at the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, and I oversee the financial management and daily functions of the Board of Funeral Service (“Board”). I am here today to provide information to the Committee which may be helpful in your consideration of LD 1223.

LD 1223 amends Title 13, Chapter 83 (Cemetery Corporations) by removing the requirements governing age and size of cemeteries in which a community crematory may be erected for those crematories that exclusively use a chemical dissolution process, commonly referred to in the funeral industry as the process of alkaline hydrolysis. Title 13, Section 1341, subsection 1 currently requires that any community crematory, regardless of the process used, may only be erected in a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years.

The bill also seeks to amend Title 32, Chapter 21, by assigning the Board of Funeral Service regulatory oversight over crematories that exclusively use a chemical dissolution process. DHHS, more specifically, the Maine CDC, Division of Environmental Health, oversees and regulates all crematories. It appears that this bill is attempting to remove this subset of crematories from the oversight of DHHS, which is confusing to the public because the Board of Funeral Service does not have any authority to regulate crematories.

DHHS rules define cremation as “[t]he technical process, using direct flame and heat, or other process, that reduces human remains to bone fragments. The reduction takes place through heat

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and evaporation, or through other processes, including, but not limited to, chemical dissolution.” Therefore, DHHS rules include chemical dissolution cremations. DHHS rules also provide, identical to the law regarding community crematories, that “[a] crematorium must be constructed on a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure, and is consistent with local zoning regulations and current Maine law.” DHHS rules further provide for the establishment, operation, and maintenance of a crematorium in Maine, including but not limited to rules regarding licensure, recordkeeping and cremation procedures.

This kind of substantial expansion of the regulatory authority of the Board of Funeral Service would trigger a sunrise review process and the Department of Professional and Financial Regulation would attach a significant fiscal note to cover the sunrise review, as well as the need to hire an environmental specialist. The Board is not in a position to oversee anything that is not included in the practice of funeral service. Pursuant to 32 M.R.S. § 1400(5), “[p]ractice of funeral service” excludes the ownership or operation of a cemetery, crematorium, mausoleum or columbarium or any other facility used for burial of human remains. To administer such authority, the Board would have to adopt rules to create an entirely new license category, as well as adopt rules for the maintenance and inspection of the crematories that exclusively use a chemical dissolution process.

Thank you for your attention. I am happy to answer questions now or at the work session.