

AN ACT

RELATING TO CEMETERIES; REVISING THE ENDOWED CARE CEMETERY ACT TO UPDATE IT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-17-1 NMSA 1978 (being Laws 1961, Chapter 156, Section 1) is amended to read:

"58-17-1. DECLARATION OF POLICY.--It is declared to be necessary in the public interest that cemeteries advertising or selling "endowed care or perpetual care" in connection with the sale of cemetery lots or burial spaces be subject to sufficient regulation by the state to ensure the establishment of sound business practices necessary to furnish the endowed care or perpetual care guaranteed. The provisions of the Endowed Care Cemetery Act shall be liberally construed to carry out its purposes."

Section 2. Section 58-17-2 NMSA 1978 (being Laws 1961, Chapter 156, Section 2) is amended to read:

"58-17-2. SHORT TITLE.--Chapter 58, Article 17 NMSA 1978 may be cited as the "Endowed Care Cemetery Act". "

Section 3. Section 58-17-3 NMSA 1978 (being Laws 1961, Chapter 156, Section 3) is repealed and a new Section 58-17-3 NMSA 1978 is enacted to read:

"58-17-3. DEFINITIONS.--As used in the Endowed Care

Cemetery Act:

A. "affiliate" means a corporation that is related to another corporation by shareholdings or other means of control and includes a subsidiary, parent or sibling corporation;

B. "burial park" means a tract of land that has been dedicated to the purposes of and used, and intended to be used, for the interment of remains in graves;

C. "care funds" means realty or personalty impressed with a trust by the terms of a gift, grant, contribution, payment, devise, bequest or contract, and income accumulated therefrom where legally so directed by the terms of the transaction by which the principal was established;

D. "cemetery" means a place dedicated to and used and intended to be used for the permanent interment of remains;

E. "cemetery authority" means a person that owns, operates, controls or manages a cemetery or holds lands for burial purposes;

F. "columbarium" means a structure or space in a structure used, or intended to be used, to contain cremated remains;

G. "cremated remains" means remains after incineration in a crematory;

H. "cremation" means the irreversible process of reducing remains to bone fragments through intense heat and evaporation in a specifically designed furnace or retort and includes a mechanical or thermal process whereby the bone fragments are pulverized, or otherwise further reduced in size or quantity;

I. "crematory" means a structure of most durable and lasting fireproof construction containing one or more specifically designed furnaces or retorts, used, or intended to be used, for cremation of remains;

J. "crypt" means the chamber in a mausoleum of sufficient size to entomb the remains;

K. "depository institution" means an insured bank, thrift institution or credit union;

L. "director" means the director of the financial institutions division of the regulation and licensing department;

M. "endowed care" means the general maintenance of the cemetery area dedicated to endowed care, including the cutting and trimming of lawns, shrubs and trees at reasonable intervals, keeping all places where interments have been made in proper order, keeping in repair the drains, waterlines, roads, buildings, fences and other structures consistent with a well-maintained cemetery; "endowed care" includes overhead expenses necessary for the foregoing purposes, including

maintenance of machinery, tools and equipment, compensation of employees for the performance of duties related to endowed care, including reasonable payments for employees' pension and other benefit plans, payment of reasonable and necessary insurance premiums, the maintenance of necessary records of lot ownership, transfers and burials and the administration of care funds in those instances where those administering the funds fail or refuse to act;

N. "endowed or perpetual care cemetery" means a cemetery or that designated portion of a cemetery for the benefit of which a care fund is established;

O. "entombment" means the permanent interment of remains in a crypt or vault;

P. "fraternal cemetery" means a cemetery owned, operated, controlled or managed by any fraternal organization or its auxiliary organizations, in which the sale of burial space is restricted principally to its members;

Q. "grave" means a space of ground in a burial park intended to be used for the permanent interment in the ground of remains;

R. "interment" means the permanent disposition of the remains by inurnment, entombment or burial;

S. "inurnment" means placing cremated remains in an urn;

T. "lot", "plot" or "burial space" means space in

a cemetery owned by one or more individuals, an association or fraternal or other organization and used, or intended to be used, for the permanent interment of the remains of one or more deceased persons and includes adjoining graves, adjoining crypts or adjoining niches;

U. "mausoleum" means a structure or building of most durable and lasting fireproof construction used or intended to be used for the permanent interment in crypts of remains;

V. "municipal cemetery" means a cemetery owned, operated, controlled or managed by a incorporated or unincorporated political subdivision;

W. "niche" means a recess in a columbarium used, or intended to be used, for the permanent interment of cremated remains;

X. "no endowed care cemetery" means a cemetery for the benefit of which no care fund has been established;

Y. "plot owner", "owner" or "lot proprietor" means a person in whose name a burial plot is recorded in the office of the cemetery authority as owner of the exclusive right of burial, or who holds from the authority a conveyance of the exclusive rights of burial or a certificate of ownership of the exclusive right of burial;

Z. "religious cemetery" means a cemetery owned, operated, controlled or managed by a recognized church,

religious society, association or denomination, or by a cemetery authority or a corporation administering, or through which is administered the secular matters of a recognized church, religious society, association or denomination;

AA. "remains" means the body of a deceased person; and

BB. "vault" means a container that is designed for placement in a grave space around a casket or urn."

Section 4. Section 58-17-4 NMSA 1978 (being Laws 1961, Chapter 156, Section 4) is amended to read:

"58-17-4. GIFTS AND CONTRIBUTIONS--CARE FUNDS--TRUST FUNDS.--

A. A cemetery authority is authorized and empowered to accept care funds and hold them in trust in perpetuity for the care of its cemetery; for the care of any lot, grave, crypt or niche in its cemetery; for the special care of any lot, grave, crypt or niche in its cemetery; or for the special care of any lot, grave, crypt or niche or of any family mausoleum or memorial, marker or monument in its cemetery. Creation of care funds shall not be invalid by reason of any indefiniteness or uncertainty as to the beneficiary designated in the instrument creating the funds. If care funds accepted by a cemetery authority include nonincome producing property, the authority may sell that property and invest the funds obtained in accordance with the

provisions of this section.

B. In acquiring, investing, reinvesting, exchanging, retaining, selling and managing care funds, the cemetery authority or trustee of the funds shall exercise the judgment and care under the circumstances then prevailing that men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of this standard, the cemetery authority or the trustee of the care funds is authorized to acquire and retain every kind of property and every kind of investment that men of prudence, discretion and intelligence acquire or retain for their own account. Within the limitations of this standard, the cemetery authority or trustee is authorized to retain property properly acquired, without limitation as to time and without regard as to the suitability for original purpose.

C. Care funds may be commingled with other trust funds received by the cemetery authority for the care of its cemetery or for the care or special care of any lot, grave, crypt, niche, marker or monument in its cemetery, whether received by gift, grant, devise, bequest, contribution, payment, contract or other conveyance made to the cemetery authority. The net income only from the investment of the

care funds shall be allocated and used for the purposes specified in the transaction by which the principal was established in the proportion that each contribution bears to the entire sum invested.

D. With the prior written approval of the director, care funds may be commingled with trust funds of other cemetery authorities received by those authorities pursuant to this section. Net income only from the investment of those care funds shall be allocated to each cemetery authority and used for the purposes specified in the transaction by which the principal was established in the proportion that each authority's contribution bears to the entire sum invested. "

Section 5. Section 58-17-5 NMSA 1978 (being Laws 1961, Chapter 156, Section 5) is amended to read:

"58-17-5. LOANS BY CEMETERIES. -- Except upon written approval of the director, no loan or investment of care funds accepted by a cemetery authority shall be made:

A. to any officer, director or trustee of the cemetery authority or to any person in which any officer, director or trustee of the cemetery authority has a controlling interest;

B. on or in real estate or in a note, bond, mortgage or deed of trust in which any officer, director or trustee of the cemetery authority has any financial interest;

or

C. on or in any unproductive real estate or real estate outside this state or permanent improvements of the cemetery or any of its facilities unless specifically authorized by the instrument by which the principal fund was created. No commission or brokerage fee for the purchase or sale of property shall be paid in excess of that usual and customary at the time and in the locality where the purchase or sale is made, and all commissions and brokerage fees shall be fully reported in the next annual statement of the cemetery authority or trustee. "

Section 6. Section 58-17-6 NMSA 1978 (being Laws 1961, Chapter 156, Section 6, as amended) is amended to read:

"58-17-6. INSTRUMENT REGARDING CARE TO BE FURNISHED BY CEMETERY AUTHORITY.--If a cemetery authority accepts care funds, either in connection with the sale of a lot, grave, crypt or niche or in pursuance of a contract, or if, as a condition precedent to the purchase of a lot, grave, crypt or niche, the cemetery authority requires the establishment of a care fund or a deposit in an already existing care fund, the cemetery authority shall execute and deliver to the person from whom it receives care funds an instrument in writing that shall specifically state:

A. the nature and extent of the care to be furnished;

B. that the care shall be furnished only insofar as the net income derived from the amount deposited in trust will permit, and that the income from the amount so deposited less necessary expenditures of administering the trust constitutes net income;

C. that the cemetery is operated as an endowed care cemetery, which means that a care fund for its maintenance has been established in conformity with the Endowed Care Cemetery Act and the definition of endowed care in that act; and

D. that not less than the following amounts will be set aside and deposited in trust:

(1) for graves, twenty-five percent of the lot or land sales price unless a lesser amount is approved by the director;

(2) for a crypt or niche, ten percent of the sales price; and

(3) for the special care of any lot, grave, crypt or niche or the family mausoleum, memorial, marker or monument, the full amount received.

E. The setting aside and deposit pursuant to Subsection D of this section shall be made by the cemetery authority not later than thirty days after the close of the month in which a payment was received from any source on the purchase price of each lot, grave, crypt or niche or a

payment was received from any source for the general or special care of a lot, grave, crypt or niche or of a family mausoleum, memorial, marker or monument. If payments are made in installments, only the applicable pro rata share of the payments shall be deposited. Amounts deposited shall be held by the trustee of the care funds of the cemetery authority in trust in perpetuity for the specific purpose stated in the written instrument."

Section 7. Section 58-17-7 NMSA 1978 (being Laws 1961, Chapter 156, Section 7) is amended to read:

"58-17-7. REPRESENTATIONS REGARDING CARE AND MAINTENANCE TO BE FURNISHED. --A cemetery authority, agent, servant or employee of it or another person shall not advertise, represent, guarantee, promise or contract that perpetual care, permanent care, perpetual or permanent maintenance, care forever, continuous care, eternal care, everlasting care, endowed care or any similar or equivalent care or care for any number of years of any cemetery or of any lot, grave, crypt or niche or of any family mausoleum, memorial, marker or monument will be furnished until he has complied with the provisions of the Endowed Care Cemetery Act."

Section 8. Section 58-17-8 NMSA 1978 (being Laws 1961, Chapter 156, Section 8) is amended to read:

"58-17-8. CARE FUNDS NOT SUBJECT TO TAX. --The care

funds authorized in the Endowed Care Cemetery Act and all sums paid into those funds or contributed to those funds are expressly permitted and are for charitable and eleemosynary purposes. Care funds are provided for the discharge of the duty due from the person contributing to those funds to the persons interred and to be interred in the cemetery and likewise are a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming places of disorder, reproach and desolation in the communities in which they are situated. The care funds authorized in the Endowed Care Cemetery Act and the income from those funds and funds received under a contract to furnish care of burial space shall be exempt from taxation. No payment, gift, grant, bequest or other contribution for general endowed care is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the trust nor shall care funds or a contribution to them be deemed to be invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property."

Section 9. Section 58-17-9 NMSA 1978 (being Laws 1961, Chapter 156, Section 9) is amended to read:

"58-17-9. COMPLIANCE WITH LAW REQUIRED. - -

A. It is unlawful for a cemetery to hold out to the public or sell endowed care in connection with the sale

of burial space until it has complied with the requirements of the Endowed Care Cemetery Act. Endowed care cemeteries shall establish and maintain with a state or federally chartered depository institution or trust company doing business in the state an irrevocable trust fund, the income only of that fund to be available to the cemetery in the furnishing of endowed care. Provided, however, that when the cemetery authority certifies to the director that the services of a state or federally chartered depository institution or trust company are not available, the cemetery may appoint as trustee one or more individuals, none of whom shall be an officer, director, representative, employee or relative of an officer, director or employee of the cemetery authority, which trustee shall have all powers of investment as provided in this section. Endowed care cemeteries may pool their care funds pursuant to Subsection D of Section 58-17-4 NMSA 1978 as approved by the director upon request by the cemeteries. The net income from the investment of care funds shall never be used for the improvement or embellishment of unsold property to be offered for sale.

B. In establishing its care funds, the cemetery authority may from time to time adopt plans for the general care, maintenance and embellishment of its cemetery, and if the cemetery originally sold cemetery lots without provision for endowed care, it shall have the right to accept deposits

from those lot owners for the purpose of establishing endowed care on those lots, provided that the deposits are disposed of in the same manner as regular care funds."

Section 10. Section 58-17-10 NMSA 1978 (being Laws 1961, Chapter 156, Section 10, as amended) is amended to read:

"58-17-10. REGISTRATION WITH DIRECTOR. --

A. After the initial registration a cemetery authority shall register with the director by filing an annual registration statement, upon forms furnished by the director, which shall show as of the end of the preceding calendar year:

(1) the amount of the principal of the care funds held by the trustee of the care funds of the cemetery authority at the beginning of the year and in addition thereto all money or property received during the year:

(a) under and by virtue of the sale of a lot, grave, crypt or niche;

(b) under and by virtue of the terms of any contract authorized by law; or

(c) under and by virtue of any gift, grant, devise, bequest, payment or other contribution made either prior to or subsequent to the effective date of the Endowed Care Cemetery Act;

(2) the securities in which the care funds

are invested and the cash on hand as of the date of the report;

(3) the income received from the care funds during the preceding calendar year; and

(4) the amount expended in furnishing endowed care during the preceding calendar year.

B. If any of the care funds of a cemetery authority are held by a trustee, the annual registration statement filed by a cemetery authority shall contain a certificate signed by the trustee of the care funds of the cemetery authority certifying to the truthfulness of the statements in the report as to:

(1) the total amount of principal of the care funds held by the trustee;

(2) the securities in which the care funds are invested and the cash on hand as of the date of the report; and

(3) the income received from the care funds during the preceding calendar year.

C. Annual registration statements shall be filed by the cemetery authority on or before June 30 of each calendar year in the office of the director. The registration statement shall be made under oath. Each registration statement shall be accompanied by a fee of fifty dollars (\$50.00), and the director shall not accept a

registration statement unless it is accompanied by the payment of the fee.

D. The director shall charge and collect a fee of ten dollars (\$10.00) per day for late filings of registration statements up to a maximum of three hundred dollars (\$300). This late charge shall also apply when the cemetery authority is required by the director to revise a registration by a specified date and fails to file the revised registration on or before that date."

Section 11. Section 58-17-11 NMSA 1978 (being Laws 1961, Chapter 156, Section 11, as amended) is amended to read:

"58-17-11. DEPOSIT OR BOND OF ENDOWED CARE CEMETERIES. --If a cemetery authority is duly organized and desires to accept care funds authorized by the Endowed Care Cemetery Act, it shall make an initial deposit to the care fund of twenty-five thousand dollars (\$25,000). In lieu of the initial deposit, the cemetery authority may furnish a surety bond issued by a bonding company or insurance company authorized to do business in this state in the face amount of thirty-five thousand dollars (\$35,000), and the bond shall run to the trustee for the benefit of the care funds held by the trustee. This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand dollars (\$25,000) in the care fund and also for the purpose of

assuring that the cemetery authority shall provide annual endowed care in an amount equal to the annual reasonable return on a secured cash investment of twenty-five thousand dollars (\$25,000) until that amount is accumulated in the care funds, and these shall be the conditions of the surety bond; provided, however, the liability of the principal and surety on the bond shall in no event exceed thirty-five thousand dollars (\$35,000). Provided further that whenever a cemetery authority which has made an initial deposit to the care fund demonstrates to the satisfaction of the director that more than twenty-five thousand dollars (\$25,000) has been accumulated in the care fund, the cemetery authority may petition the director for an order allowing the cemetery authority to begin to withdraw its deposit from the care fund, so long as at least twenty-five thousand dollars (\$25,000) always remains in the care fund."

Section 12. Section 58-17-12 NMSA 1978 (being Laws 1961, Chapter 156, Section 12) is amended to read:

"58-17-12. DISPLAY OF SIGNS. -- A cemetery authority authorized to accept care funds shall post in a conspicuous place at or near each entrance of the cemetery a clearly legible sign containing letters not less than six inches in height stating "Endowed Care Cemetery". Those cemeteries that furnish endowed care to some portions and no endowed care to other portions shall display appropriate signs of the

same size letters designating which part is subject to endowed care and which part is not. Cemeteries that do not furnish endowed care shall display a sign containing letters not less than six inches in height stating "No Endowed Care". "

Section 13. Section 58-17-13 NMSA 1978 (being Laws 1961, Chapter 156, Section 13, as amended) is amended to read:

"58-17-13. ENFORCEMENT OF PROVISIONS OF ACT BY DIRECTOR. --

A. The duty of administering and enforcing the provisions of the Endowed Care Cemetery Act is imposed on the director, who shall approve all forms of contract for endowed care and shall have authority to subpoena witnesses, conduct hearings and investigations and issue orders reasonably necessary to regulate endowed care cemeteries in the public interest.

B. At the same time the registration statement is due, the director shall require the cemetery authority to submit an audit prepared by a certified public accountant. The audit shall cover in detail the information required in the annual registration statement required by law. In addition, the director may examine each endowed care cemetery to ensure that endowed care is being furnished in the manner required by law.

C. The cost of examining any cemetery authority and any endowed care cemetery shall be paid by the responsible authority, and it shall not exceed the actual cost of conducting such an examination.

D. If the director deems it necessary to hold a hearing pursuant to the power vested in him by the Endowed Care Cemetery Act, the hearing may be held in Santa Fe, New Mexico or at any other location within New Mexico designated by the director.

E. In the conduct of any examination, investigation or hearing, the director may:

(1) compel the attendance of any person or obtain any documents by subpoena;

(2) administer oaths; and

(3) examine any person under oath concerning the business of any person subject to the provisions of the Endowed Care Cemetery Act and in connection therewith require the production of any books, records or papers relevant to the inquiry.

F. In case of refusal to obey a subpoena issued to any person, the district court of the first judicial district for Santa Fe county, upon application by the director, may issue to the person an order requiring him to appear before the director or the staff member designated by the director, there to produce documentary evidence if so

ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court. "

Section 14. Section 58-17-14 NMSA 1978 (being Laws 1961, Chapter 156, Section 14, as amended) is amended to read:

"58-17-14. PROCEEDINGS IN CASE OF LAW VIOLATIONS. -- If a cemetery authority refuses or neglects to make a required report or to file an annual registration statement or willfully disobeys a valid order of the director or violates any provisions of the Endowed Care Cemetery Act or rule of the director, or if it appears to the director from any report or examination that a cemetery authority has committed a violation of law, that the care funds have not been administered properly or that it is unsafe or inexpedient for the cemetery authority or the trustee of the care funds of the cemetery authority to continue to administer those funds or that any officer of the cemetery authority or of the trustee of the care fund of the cemetery authority has abused his trust or has been guilty of misconduct in his official position injurious to the cemetery authority or that the cemetery authority has suffered as to its care funds a serious loss by larceny, embezzlement, burglary, repudiation or otherwise, the director may:

A. conduct an investigation or hold a hearing to investigate any allegations pertaining to violations of the provisions of the Endowed Care Cemetery Act;

B. issue any order in furtherance of the duty imposed on him by the Endowed Care Cemetery Act;

C. institute a lawsuit in the district court of the first judicial district for Santa Fe county to recover any amounts due to the care funds; or

D. apply to the district court of the first judicial district for Santa Fe county for other relief consistent with the duty imposed on him by the Endowed Care Cemetery Act. "

Section 15. Section 58-17-15 NMSA 1978 (being Laws 1961, Chapter 156, Section 15) is amended to read:

"58-17-15. DISPOSITION OF CARE FUNDS UPON DISSOLUTION. --Where any cemetery authority owning, operating, controlling or managing a cemetery or any trustee for the cemetery authority has accepted care funds pursuant to the Endowed Care Cemetery Act and dissolution is sought by the cemetery authority in any manner, by resolution of the cemetery authority or the trustees of the cemetery authority, notice shall be given to the director of the intentions to dissolve. It is the director's duty to see that proper disposition is made of the care funds held by or for the benefit of the cemetery authority, as provided by law or in

accordance with the trust provisions of any gift, grant, contribution, payment, devise or bequest or pursuant to any contracts whereby the funds were created. The director may apply to the district court for the appointment of any receiver, trustee or successor in trust or for direction of the court as to the proper disposition to be made of the care funds, to the end that the uses and purposes for which the trust or care funds were created may be accomplished. "

Section 16. Section 58-17-16 NMSA 1978 (being Laws 1961, Chapter 156, Section 16, as amended) is amended to read:

"58-17-16. VIOLATIONS--PUNISHMENT. --Whoever violates any provision of the Endowed Care Cemetery Act, fails to establish an irrevocable trust fund, encroaches upon the principal of an irrevocable trust, refuses to cooperate in an examination or investigation or violates the provisions of a trust instrument by willfully failing to deposit to a cemetery's trust fund the amounts provided within the time provided by Section 58-17-6 NMSA 1978, or any greater amounts if the trust instrument provides for greater amounts to be deposited, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978. "

Section 17. Section 58-17-17 NMSA 1978 (being Laws 1961, Chapter 156, Section 17) is amended to read:

"58-17-17. EXEMPTION.--The provisions of the Endowed Care Cemetery Act do not apply to municipal cemeteries, fraternal cemeteries, religious cemeteries or family burial grounds that provide burial only for members."

Section 18. A new section of the Endowed Care Cemetery Act is enacted to read:

"ESTABLISHING A CEMETERY AUTHORITY.--

A. A person establishing or acquiring a cemetery subject to the Endowed Care Cemetery Act shall file an initial registration with the director that contains the following information:

(1) a detailed financial statement of the proposed owners;

(2) a current credit report of the person establishing or acquiring the cemetery and a resume for each principal;

(3) the full name and address of the registrant, if an individual; of every member, if the registrant is a partnership or an association; of every officer, if the registrant is a corporation; and of any person owning ten percent or more of the cemetery;

(4) a plot plan that identifies the endowed care sections of the cemetery and all plans for future expansion of the cemetery;

(5) a copy of the form of contracts or

instruments to be used in the sales of endowed care lots, graves, crypts or niches;

(6) proof of ability to make the initial deposit or secure a surety bond as required by Section 58-17-11 NMSA 1978;

(7) a registration fee in the amount of fifty dollars (\$50.00); and

(8) any other information requested by the director.

B. Failure to submit the information specified in Subsection A of this section shall result in the denial of the registration to sell endowed care. Until a registration to operate a cemetery is approved by the director, a person establishing or acquiring a cemetery authority shall not advertise, represent, guarantee, promise or contract that perpetual care, endowed care or any similar care will be furnished."

Section 19. A new section of the Endowed Care Cemetery Act is enacted to read:

"TRANSFER OF OWNERSHIP. --

A. An endowed care cemetery's registration is not transferable. When any cemetery authority subject to the provisions of the Endowed Care Cemetery Act is transferred, the person acquiring the cemetery shall register with the director as required by Section 58-17-18 NMSA 1978.

B. A transfer of ownership cannot take place and no endowed care can be sold until the director has approved the registration required by Subsection A of this section."

Section 20. A new section of the Endowed Care Cemetery Act is enacted to read:

"DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION. --

A. The director may deny, suspend or revoke any registration if the registrant, or any director, officer, employee or affiliate of the registrant:

(1) lacks a good business reputation;

(2) has violated any provision of the Endowed Care Cemetery Act;

(3) has committed fraud in connection with any transaction subject to the Endowed Care Cemetery Act;

(4) has made any misrepresentations or false statements to or concealed any essential or material fact from any person in the course of the cemetery business;

(5) has knowingly made or caused to be made any false representation of material fact or has suppressed or withheld from the director any information that the applicant or registrant possesses and that if submitted by him would have rendered the applicant or registrant ineligible to be registered under the Endowed Care Cemetery Act;

(6) has refused to permit an examination by

