



Exempt Action Final Regulation Agency Background Document

Agency name	Board of Funeral Directors & Embalmers, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 65-30-10 et seq.
Regulation title	Regulations for Preneed Funeral Planning
Action title	Elimination of prohibition on advertising discounts in preneed funeral planning
Final agency action date	6/1/04
Document preparation date	6/2/04

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Section 50 of Regulations for Preneed Funeral Planning sets out the rules regarding solicitation of preneed. Currently, subsection C prohibits a licensee who is engaged in preneed planning from advertising discounts, accepting or offering enticements bonuses or rebates or otherwise interfering with the freedom of choice of the general public.

The Board of Funeral Directors and Embalmers has been advised that the provisions of subsection C do not conform to requirements of federal regulation in 15 U.S.C. § 45, which makes it unlawful to engage in “unfair methods of competition in or affecting commerce,” as interpreted and enforced by the Federal Trade Commission. The requirements of subsection C may unfairly limit competition and thereby represent a conflict with federal rules.

Therefore, the Board has acted to repeal regulation 18VAC65-30-50 C under an exemption provided in the Administrative Process Act if the action is “Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation.” (§ 2.2-4006 A 4 c of the Administrative Process Act.)

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family or family stability.