



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 65-20 Regulations of the Board of Funeral Directors and Embalmers
Department of Health Professions
Town Hall Action/Stage: 6009 / 9702
September 16, 2022

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

In response to recent legislative changes, the Board of Funeral Directors and Embalmers (Board) proposes to require licensees to retain evidence of compliance with continuing education requirements for three years.

Background

The *Regulations of the Board of Funeral Directors and Embalmers* require that “Funeral service licensees, funeral directors, and funeral embalmers complete a minimum of five hours per year of continuing education offered by a Board-approved sponsor for licensure renewal in courses that emphasize the ethics, standards of practice, preneed contracts, and funding, or federal or state laws and regulations governing the profession of funeral service.” The regulation also currently states that “One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

arrangements.” That sentence was consistent with Code of Virginia § 54.1-2816.1 prior to 2022 legislation.

Prior to the legislation § 54.1-2816.1 stated in part that:

The Board shall approve criteria for continuing education courses, requiring no more than five hours per year, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors and embalmers. Approved continuing education courses shall include, but not be limited to, at least one hour per year covering compliance with federal or state laws and regulations governing the profession, and at least one hour per year covering preneed funeral arrangements.

Chapter 170 of the 2022 Acts of Assembly² amended the text to”

The Board shall approve criteria for continuing education courses, requiring no more than five hours per year, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors, and embalmers. Approved continuing education courses shall include, ~~but not be limited to, at least~~ one hour per year covering compliance with federal or state laws and regulations governing the profession, ~~and at least or~~ **one hour per year covering preneed funeral arrangements, provided that at least one hour of continuing education in preneed is completed every three years.**

The Board has proposed to amend the regulation to be consistent with the changed text of § 54.1-2816.1 in a separate exempt action.³

The current regulation requires licensees to maintain documentation of completion of continuing education for two years. Given the new statutory requirement that a licensee must complete continuing education regarding preneed funeral planning at least once every three years, the Board is now proposing to require licensees to retain evidence of compliance with continuing education requirements for three years.

Estimated Benefits and Costs

The legislation was beneficial for licensees in that it allows them more flexibility in how they acquire continuing education hours. Since licensees will have to demonstrate completion of continuing education in preneed funeral arrangements once every three years, they would need to keep related records for three years rather than two in order to document that compliance. For

² See <https://lis.virginia.gov/cgi-bin/legp604.exe?221+ful+CHAP0170>

³ See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=6008>

those who otherwise would have purged their records after two years, the proposed change in the requirement represents a small increase in burden.

Businesses and Other Entities Affected

The proposed amendments affect the 1,528 funeral service licensees, 35 funeral directors, and 3 embalmers licensed in the Commonwealth.⁴

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposal to require that licensees retain evidence of compliance with continuing education requirements for an additional year would produce a small burden for those who otherwise would have purged those records after two years. Thus, a small adverse impact is indicated.

Small Businesses⁶ Affected:⁷

Types and Estimated Number of Small Businesses Affected

As of June 30, 2022, the Board licensed 425 funeral establishments.⁸ Most, if not all, likely qualify as small businesses. However, the actual number is not known because the Board does not have such data.

⁴ Data source: <https://www.dhp.virginia.gov/about/stats/2022Q4/04CurrentLicenseCountQ4FY2022.pdf>

⁵ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁶ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁷ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁸ Data source: <https://www.dhp.virginia.gov/about/stats/2022Q4/04CurrentLicenseCountQ4FY2022.pdf>

Costs and Other Effects

The proposed amendment modestly increases recordkeeping costs.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities⁹ Affected¹⁰

The proposed amendment does not disproportionately affect any locality and does not introduce costs for local governments.

Projected Impact on Employment

The proposed amendment does not substantively affect employment.

Effects on the Use and Value of Private Property

The proposed amendment does not substantively affect the use and value of private property, and does not affect real estate development costs.

⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.