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**Call to Order – Jason Graves, FSL, Board President**

- Welcome and Introductions
- Mission of the Board
- Emergency Egress Procedures

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**Approval of Minutes (p. 4-14)**

- Board Meeting – January 12, 2024
- Formal Administrative Hearing – January 12, 2024

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**Ordering of Agenda**

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**Public Comment**

*The Board will receive public comment at this time. The Board will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.*

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**Agency Report – Arne Owens, Director**

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**Staff Reports**

- Executive Director’s Report – **Corie E. Tillman Wolf, Executive Director** (p. 16)
- Discipline Report – **Melanie Pagano, Deputy Executive Director**
- Licensing Report – **Sarah Georgen, Licensing and Operations Supervisor**

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**Board Counsel Report – Brent Saunders, Senior Assistant Attorney General**

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**Committee and Board Member Reports**

- Report from the Annual Meeting of the International Conference of Funeral Service Examining Boards – **Eric Wray, II, FSL**

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**Legislative and Regulatory Report – Erin Barrett, Director of Legislative and Regulatory Affairs**

- Legislative Report (p. 18-22)
- Report on Status of Regulatory Actions (p. 23)

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**Board Action – Erin Barrett (p. 25-50)**

- Reclassification of Guidance Documents as Policy Documents
    - Guidance Document 65-3, Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement
    - Guidance Document 65-10, By-Laws of the Board
    - Guidance Document 65-14, Sanctioning Reference Points Instruction Manual
    - Guidance Document 65-16, Procedures for Auditing Continuing Education
    - Guidance Document 65-17, Initiating Disciplinary Action Against Funeral Homes for Failing to Submit Corrective Action to Deficiencies Noted During Routine Inspections
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**Board Member Recognition**

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**Next Meeting** – July 16, 2024

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**Business Meeting Adjournment**

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This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to the Code of Virginia.

# Approval of Minutes

**January 12, 2024**

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Friday, January 12, 2024, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room #2, Henrico, Virginia.

**BOARD MEMBERS PRESENT:**

Jason Graves, FSL, President  
Lacyn Barton, FSL, Vice-President  
S. Jonathan Hines, FSL, Secretary-Treasurer  
Muhammad Hanif, Citizen Member  
Mia F. Mimms, FSL, JD  
R. Thomas Slusser, FSL  
Eric Wray, II, FSL

**BOARD MEMBERS NOT PRESENT:**

Joseph Michael Williams, FSL

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:**

Erin Barrett, Director of Legislative and Regulatory Affairs  
Alesia Baskin, Senior Licensing Program Coordinator  
Sarah Georgen, Licensing and Operations Supervisor  
Melanie Pagano, Deputy Executive Director  
Matt Novak, Policy and Economic Analyst  
Brent Saunders, Senior Assistant Attorney General, Board Counsel  
Corie Tillman Wolf, Executive Director

**OTHER GUESTS PRESENT:**

Seth Austin, State Registrar, Director, Office of Vital Records, Virginia Department of Health  
Laura McHale, Association of Independent Funeral Homes of Virginia/Keeney Group  
Gary Pond, Senior Inspector, Department of Health Professions  
Barry Robinson, Virginia Morticians' Association

*\*Participant indicates attendance to count toward continuing education requirements*

**CALL TO ORDER**

Mr. Graves called the meeting to order at 10:01 a.m. and asked the Board members and staff to introduce themselves.

Mr. Graves welcomed Mr. Slusser and Mr. Wray as new board members.

With seven board members present at the meeting, a quorum was established.

Mr. Graves read the mission of the Board, which is also the mission of the Department of Health Professions.

Mr. Graves reminded the Board members and audience about microphones, computer agenda materials, breaks, sign-in sheets, and attendance for continuing education requirements.

Ms. Tillman Wolf then read the emergency egress instructions.

### **APPROVAL OF MINUTES**

Mr. Graves opened the floor to any edits or corrections regarding the draft minutes for the Board meeting and Formal Hearing held on October 12, 2023. With no edits or corrections, the minutes were approved as presented.

### **ORDERING OF THE AGENDA**

Mr. Graves opened the floor to any additional items to add to the agenda.

Ms. Tillman Wolf noted that Ms. Morton was unable to attend the meeting and would provide an Enforcement Inspections update at a future meeting.

Ms. Tillman Wolf also stated that Mr. Novak was prepared to provide the Legislative and Regulatory Report if Ms. Barrett was unable to attend the meeting due to a possible conflict.

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Hanif, the Board voted to accept the agenda as amended. The motion carried (7-0).

### **PUBLIC COMMENT**

Mr. Robinson, Virginia Morticians' Association (VMA), thanked the Board members and staff for their commitment and service. Mr. Robinson requested the Board to consider adjusting the inspection process to require the Manager of Record of an establishment to be present during an inspection to allow for possible deficiencies to be addressed at the time of the inspection.

Ms. Barrett arrived at 10:07 a.m.

### **AGENCY REPORT**

Mr. Owens welcomed Mr. Slusser and Mr. Wray as new board members. He spoke briefly about the start of the 2024 General Assembly session. He stated that Sarah Rogers has been recently hired to the position of DHP Enforcement Director.

Mr. Owens stated that DHP has begun a Business Process Reengineering (BPR) review to evaluate any possible improvements to the licensure process. He said that two boards have completed the process with

possible proposals. Mr. Owens also reported on the building improvements throughout the building, including LED lighting on all floors.

Mr. Owens thanked the Board Members for their service, dedication, and time to the Board.

With no questions, Mr. Owens concluded his report.

## **PRESENTATION**

*Electronic Death Registration System (EDRS) - Seth Austin, State Registrar, Director, Office of Vital Records, Virginia Department of Health*

Mr. Austin stated that Celes Davis, Chief Deputy State Registrar, Virginia Department of Health, Office of Vital Records was unable to attend the meeting. Mr. Austin provided a presentation to the Board on the Electronic Death Registration System (EDRS) and organizational changes at the Office of Vital Records following the retirement of key personnel.

Mr. Graves thanked Mr. Austin for his presentation, as well as the improvements made in customer service at the Office of Vital Records.

Mr. Wray commented on the field team's quick response time at Vital Records. He requested clarification on death certificate amendments regarding accuracy of decedent's information. Mr. Austin stated that the Code of Virginia has information related to evidence and would be open to a discussion on this topic and suggested that Mr. Wray contact the Vital Records office for further assistance.

## **STAFF REPORTS**

*Executive Director's Report – Corie E. Tillman Wolf, JD, Executive Director*

*Welcome "New" Board Members*

Ms. Tillman Wolf welcomed Mr. Slusser and Mr. Wray to the Board as newly appointed Board Members.

*Board Updates*

Ms. Tillman Wolf stated that the Board sent out several email notifications to licensees since the last Board meeting, including information on updates to the e-amendment process from the Office of Vital Records, Department of Health (December 4, 2023), changes to release hours for the Northern District of the Office of the Chief Medical Examiner's Office (December 1, 2023), and the Board's news brief (December 13, 2023).

Ms. Tillman Wolf reported on the Virginia Morticians' Association training provided in November 2023 on Laws, Regulations, and Inspections. She also reported on the upcoming Tidewater Funeral Directors Association Laws and Regulations training to be provided by Jason Graves on January 15, 2024.

Ms. Tillman Wolf reported that, following a request from a Board Member in April 2023, staff identified Funeral Supervisors with current, active registrations but who did not currently have active interns under their supervision. She noted that Funeral Supervisors must separately register for each intern for whom they were providing supervision. Following a December 2023 notice to the expired funeral supervisors, the Board's records would be updated to accurately reflect this information.

Ms. Tillman Wolf stated that the Board has successfully completed the process of implementing automated email bots to notify applicants of the status of their applications, as well as the notification following approval of a license or registration.

Ms. Tillman Wolf stated that board staff held a new board member orientation on December 14, 2023. She noted that Mr. Wray was in attendance.

Ms. Tillman Wolf noted several items in progress for 2024 including updates to the board website, the Business Process Reengineering consultation for the licensure process, the continued implementation of online applications, the necessity for the Examination Committee to convene to update the Laws, Rules, and Regulations (LRR) examination, and upcoming board member training. She stated that Board staff would remain on stand-by for possible legislation in 2024 that may impact the Board.

Ms. Tillman Wolf stated that there were a number of items on the radar: increased inquiries related to stand-alone crematories, complaints related to unlicensed practice, and incoming questions related to inspections. She noted that additional information would be provided as it became available.

#### *International Conference Updates*

Ms. Tillman Wolf provided an update regarding the upcoming annual meeting of the International Conference of Funeral Service Examining Boards scheduled for February 2024. The International Conference recently updated its publication with state licensure comparisons, *Regulations in Licensing*.

#### *Notes and Reminders*

Ms. Tillman Wolf reminded Board Members of the required Annual Statement of Economic Interests due on February 1, 2024. She asked that Board Members provide any updates to their contact information.

#### *2024 Board Meetings*

Ms. Tillman Wolf announced the remaining 2024 Board meeting schedule.

- April 16, 2024
- July 16, 2024
- October 10, 2024

Mr. Graves requested additional information on the BPR process. Ms. Tillman Wolf stated that it would benefit all of the boards by reviewing the global and all-inclusive efficiency of the application process.

With no further questions, Ms. Tillman Wolf concluded her report.

***Discipline Report – Melanie Pagano, JD, Deputy Executive Director***

Ms. Pagano reported the following Total Cases Received and Closed:

- Q3 2021 – 20/22
- Q4 2021 – 22/10
- Q1 2022 – 19/18
- Q2 2022 – 19/12
- Q3 2022 – 24/22
- Q4 2022 – 28/21
- Q1 2023 – 5/23
- Q2 2023 – 10/21
- Q3 2023 – 11/13
- Q4 2023 – 27/11
- Q1 2024 – 24/22

As of December 31, 2023, Ms. Pagano reported the following disciplinary statistics:

- 20 Patient Care Cases
  - 6 at Informal
  - 4 at Formal
  - 3 at Enforcement
  - 7 at Probable Cause
  - 0 at APD
- 61 Non-Patient Care Cases
  - 5 at Informal
  - 2 at Formal
  - 22 at Enforcement
  - 30 at Probable Cause
  - 2 at APD
- 14 at Compliance

With no questions, Ms. Pagano concluded her report.

***Licensure Report – Sarah Georgen, Licensing and Operations Manager***

*Licensure Statistics – All Licenses*

Ms. Georgen presented licensure statistics with no updates from the prior meeting.

License	June 30, 2023 (Q4 2023)	September 30, 2023 (Q1 2024)	Difference (+/-)
Funeral Service Licensees	1,542	1,580	+38
Funeral Director	43	45	+2
Embalmer Only	4	5	+1
Supervisors	585	607	+22



Funeral Service Interns	208	232	+24
Funeral Directing Interns	36	39	+3
Embalmer Interns	2	2	0
Funeral Establishments	423	425	+2
Branch Establishments	84	87	+3
Crematories	132	137	+5
CE Providers	11	11	0
Courtesy Card Holders	131	134	+4
Surface Transport & Removal Svc.	45	47	+2
<b>Total (*not incl. supervisors)</b>	2,661	2,744	+83

*License Renewal Notifications*

Ms. Georgen reported on the upcoming licensure renewal notifications for licenses set to expire on March 31, 2024.

*Updates*

Ms. Georgen provided an update on the Board’s licensure bots, the online application for Funeral Supervisor registration, documentation uploads, and an upcoming redesign of the Board’s website.

*Customer Satisfaction*

Ms. Georgen reported on the quarterly results of the customer satisfaction survey for 2023.

*Updates for Expense Reimbursement Vouchers*

Ms. Georgen provided an update on the 2024 Internal Revenue Service (IRS) standard mileage rate increase.

Ms. Georgen also provided a reminder to Board Members regarding the Remittance Electronic Data Interchange (REDI) regarding notification of pending deposits for expense reimbursement.

With no questions, Ms. Georgen concluded her report.

**BREAK**

The Board took a break at 10:53 a.m. and reconvened at 11:00 a.m.

*Inspections Report – Lynne Helmick, Inspections Compliance Specialist*

Ms. Helmick provided a reporting of the type of inspections conducted in 2023 for main establishments, branch establishments, and crematories, as well as the deficiencies reported. She further reported on the types of investigations resulting from inspections and provided information on correction deadlines, repeat deficiencies, and inspector updates.

**BOARD COUNSEL REPORT – M. Brent Saunders, Senior Assistant Attorney General**

Mr. Saunders provided an update on two pending court cases involving the Board.

With no questions, Mr. Saunders concluded his report.

**COMMITTEE AND BOARD MEMBER REPORTS**

*Report from the International Conference of Funeral Service Examining Boards – Lacyn Barton, FSL*

Ms. Barton reported on The International Conference of Funeral Service Examining Boards (the Conference) regarding virtual learning opportunities in 2024.

She also reported on new legislation in Colorado to regulate Funeral Directors. She stated that she would report more information as it became available, but it could potentially effect licensure to Virginia by endorsement.

Ms. Barton reported on the National Board Examination (NBE) Pass Rates.

With no questions, Ms. Barton concluded her report.

**LEGISLATION AND REGULATORY ACTIONS**

*Report on Status of Regulations –Matt Novak, Policy and Economic Analyst*

Mr. Novak provided an update on pending regulatory actions.

With no questions, Mr. Novak concluded his report.

*Legislative Report - Erin Barrett, Director of Legislative and Regulatory Affairs*

Ms. Barrett provided a brief overview of pending legislation from the 2024 General Assembly. She noted that more information would be available at the next Board meeting following the conclusion of the session.

Mr. Wray asked for clarification in relation to HB 652 Funeral arrangements; definition of next of kin; proof of designated person as it applies to a conservatorship and the next of kin. Ms. Barrett said that she would examine the text further. Ms. Tillman Wolf clarified that the bill includes language to prioritize or to clarify the order of next of kin within the definition of “next of kin.”

With no other questions or comments, Ms. Barrett concluded her report.

## **BOARD DISCUSSION AND ACTIONS**

### *Completion of Periodic Review of Public Participation Guidelines (18VAC65-11-10 et seq.)*

Mr. Novak provided an overview of the completion of a periodic review of the Board's Public Participation Guidelines.

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Wray, the Board voted to retain the Public Participation Guidelines in 18VAC65-11-10 et seq., as presented with no amendments. The motion passed unanimously (7-0).

## **NEXT MEETING**

The next meeting date is April 16, 2024.

## **ADJOURNMENT**

Mr. Graves stated that the Board would convene a formal hearing following adjournment and asked all Board Members to participate, with the exception of Ms. Mimms and Ms. Barton. He requested that Board Members participate in probable cause review prior to the formal hearing.

Mr. Graves called for any objections to adjourn the meeting. Hearing no objections and with all business concluded, the meeting adjourned at 11:29 a.m.

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Corie Tillman Wolf, J.D., Executive Director

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Date

Unapproved

**VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS  
FORMAL ADMINISTRATIVE HEARING  
MINUTES**

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**Friday, January 12, 2024**

**Department of Health Professions  
Perimeter Center  
9960 Mayland Drive  
Henrico, Virginia 23233**

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**CALL TO ORDER:**

The formal hearing of the Board was called to order at 1:10 p.m.

**MEMBERS PRESENT:**

Jason Graves, FSL, President (Chair)  
R. Thomas Slusser, FSL  
Eric Wray II, FSL  
Jonathan Hines, FSL  
Muhammed Hanif, Citizen Member

**BOARD COUNSEL:**

M. Brent Saunders, Senior Assistant Attorney General

**DHP STAFF PRESENT:**

Corie Tillman Wolf, Executive Director  
Sarah Georgen, Licensing and Operations Manager

**COURT REPORTER:**

Juan Ortega, Freelance Court Reporter

**PARTIES ON BEHALF OF  
COMMONWEALTH:**

Claire Foley, Adjudication Specialist, Administrative Proceedings Division

**COMMONWEALTH'S  
WITNESS:**

Gale Miller, Senior Investigator, DHP  
Glenna Young

**MATTER:**

**Nancy Province, FD  
License No.: 0503-000353  
Case Numbers: 214082, 217167**

**ESTABLISHMENT OF A  
QUORUM:**

With five (5) members present, a quorum was established.

**DISCUSSION:**

Nancy S. Province, FD, did not appear before the Board in accordance with the Notice dated December 5, 2023 and Amended Notice of Formal Hearing dated December 18, 2023, nor was she represented by counsel at the Formal Hearing.

The Board received evidence and sworn testimony on behalf of the Commonwealth regarding the allegations in the Notice.

**CLOSED SESSION:**

Upon a motion by Jonathan Hines, FSL, and duly seconded by Muhammed Hanif, the Board voted to convene a closed meeting, pursuant to §2.2-3711.A (27) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Nancy S. Province, FD.

Additionally, Mr. Hines moved that Mr. Saunders, Ms. Tillman Wolf, and Ms. Georgen attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

**RECONVENE:**

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Board reconvened in open session.

**DECISION:**

Upon a motion by Jonathan Hines, FSL, and duly seconded by Eric Wray, FSL, the Board voted to issue an order to Indefinitely Suspend Nancy Province's right to renew her license.

The motion carried.

**VOTE:**

The vote was unanimous. (5-0)

**ADJOURNMENT:**

The Board adjourned at 2:17 p.m.

For the Board:

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Corie Tillman Wolf, JD, Executive Director

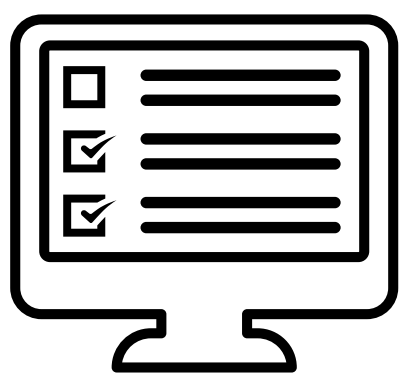
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Date

# Staff Reports

## At a Glance

### Exams



**6,500+**

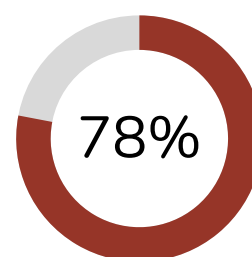
Exams administered annually

- National Board Exam-Arts
- National Board Exam-Sciences
- Laws, Rules, and Regulation

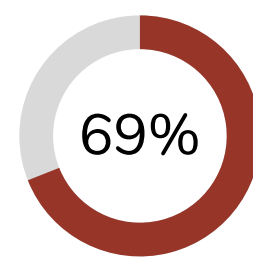
The NBE is recognized in all 50 states and District of Columbia.

### NBE Pass Rates

ABFSE Accredited Programs



Arts



Sciences

2023 First-Time Candidates

### Services

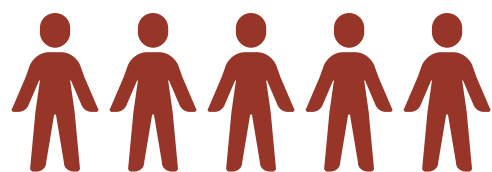
Over the course of one year, The Conference receives...



2,000+ Emails

7,000+ Phone Calls

320,000+ Website Views



The Conference has 5 full-time staff members.

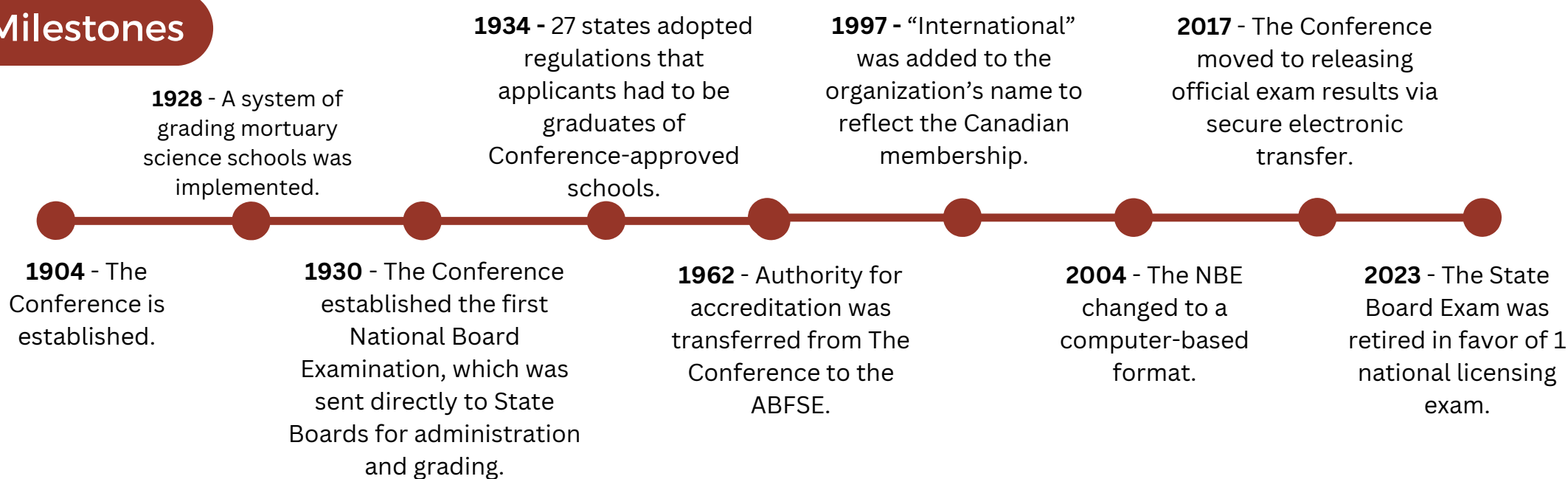
Nationally validated licensure exams

Model docs to promote uniformity

Regulatory education

Stakeholder connections

### Milestones



### CONTACT



479-442-7076



1885 Shelby Lane, Fayetteville, AR, 72704



[www.theconferenceonline.org](http://www.theconferenceonline.org)



# Legislative and Regulatory Report

**Legislative Report**  
**Board of Funeral Directors and Embalmers**  
**April 16, 2024**

*Duplicative bills have been removed from list.*

**HB 52 Alkaline hydrolysis; establishes registration requirement, regulations.**

*Chief patron:* Taylor

**DEAD BILL**

**Alkaline hydrolysis; registration; regulations.** Establishes a registration requirement for alkaline hydrolysis providers. The bill defines alkaline hydrolysis and adds alkaline hydrolysis and hydrolyzed remains to statutes dealing with cremation and cremains. The bill grants the Board of Funeral Directors and Embalmers the power to regulate and inspect alkaline hydrolysis providers and their operations. The bill requires the Board of Funeral Directors and Embalmers to consult with the Department of Environmental Quality, the Department of Health, and representatives of wastewater treatment facilities and funeral service associations to promulgate regulations related to alkaline hydrolysis.

01/30/24 House: Subcommittee recommends reporting with amendments (7-Y 1-N)

02/01/24 House: Reported from Health and Human Services with amendment(s) (19-Y 3-N)

02/07/24 House: VOTE: Passage (53-Y 47-N)

02/14/24 Senate: Reported from General Laws and Technology (8-Y 7-N)

**02/19/24 Senate: Defeated by Senate (6-Y 32-N)**

**HB 652 Funeral arrangements; next of kin, proof of designated person to make funeral arrangements.**

*Chief patron:* Coyner

**Funeral arrangements; disputes between next of kin; proof of next of kin**

**status.** Establishes a dispute resolution process for disagreements about what persons are responsible for a decedent's funeral and the disposition for such decedent's remains. The bill permits funeral service licensees to require a person claiming next of kin status to execute a document affirming that such person is the next of kin.

02/01/24 House: Subcommittee recommends reporting with substitute (8-Y 0-N)

02/06/24 House: Reported from Health and Human Services with substitute (22-Y 0-N)

02/12/24 House: VOTE: Block Vote Passage (100-Y 0-N)

02/21/24 Senate: Reported from General Laws and Technology (15-Y 0-N)

02/26/24 Senate: Passed Senate (40-Y 0-N)

[Governor's Action Deadline 11:59 p.m., April 8, 2024](#)

### **SB 281 Family cemeteries; interment rights, proof of kinship.**

*Chief patron:* Roem

**Family cemeteries; interment rights; proof of kinship.** Allows a family member or descendant, as defined in the bill, of a deceased person buried in a family cemetery, also defined in the bill, that is located on private property to petition the circuit court of the county or city where the property is located for interment rights upon such property. The bill provides that such family member or descendant may prove kinship to the court through official documentation or nonofficial documentation, such as obituaries, family Bibles or other documents with family signatures, journals or letters of the deceased person interred on the private property, family photographs, or other documentation deemed by the court to be reliable.

01/24/24 Senate: Reported from General Laws and Technology with amendment (15-Y 0-N)

01/30/24 Senate: Read third time and passed Senate (40-Y 0-N)

02/22/24 House: Subcommittee recommends reporting (8-Y 0-N)

02/27/24 House: Reported from General Laws (20-Y 2-N)

03/01/24 House: VOTE: Passage (65-Y 31-N)

[Governor's Action Deadline 11:59 p.m., April 8, 2024](#)

### **SB 513 Funeral services; transportation protection agreements.**

*Chief patron:* Williams Graves

**Funeral services; transportation protection agreements.** Defines "transportation protection agreement" as an agreement that provides for the coordination and arranging of all professional services related to transportation of human remains or cremated remains beyond the distance stated in the preneed funeral contract. The bill clarifies that transportation protection agreements are not considered preneed funeral contracts.

01/24/24 Senate: Reported from General Laws and Technology (15-Y 0-N)

01/30/24 Senate: Read third time and passed Senate (40-Y 0-N)

02/20/24 House: Subcommittee recommends reporting (8-Y 0-N)

02/22/24 House: Reported from Health and Human Services (21-Y 0-N)

02/27/24 House: VOTE: Block Vote Passage (97-Y 0-N)

[Governor's Action Deadline 11:59 p.m., April 8, 2024](#)

**SB 521 Preneed funeral contracts; declinable preneed funeral guarantee fee.**

*Chief patron:* Williams Graves

**Preneed funeral contracts; declinable preneed funeral guarantee fee.** Defines "declinable preneed funeral guarantee fee" as an optional and declinable fee agreed to by a preneed funeral contract purchaser, if offered by a seller, for which the cost of the supplies and services as described in the preneed funeral contract are guaranteed. The bill describes certain requirements that must be met for funeral service licensees to offer declinable preneed funeral guarantee fees. The bill directs the Board of Funeral Directors and Embalmers to adopt emergency regulations to implement the provisions of the bill.

01/24/24 Senate: Reported from General Laws and Technology (14-Y 0-N 1-A)

01/30/24 Senate: Read third time and passed Senate (40-Y 0-N)

01/30/24 Senate: Reconsideration of passage agreed to by Senate (38-Y 2-N)

01/31/24 Senate: Read third time and passed Senate (40-Y 0-N)

02/20/24 House: Subcommittee recommends reporting (8-Y 0-N)

02/22/24 House: Reported from Health and Human Services (21-Y 0-N)

02/27/24 House: VOTE: Block Vote Passage (97-Y 0-N)

[Governor's Action Deadline 11:59 p.m., April 8, 2024](#)

**HB 120 DPOR and DHP; certain suspensions not considered disciplinary action.**

*Chief patron:* Sullivan

**Approved by GOV**

**Department of Professional and Occupational Regulation; Department of Health Professions; certain suspensions not considered disciplinary action.** Prohibits any board of the Department of Professional and Occupational Regulation or the Department of Health Professions issuing a suspension upon any regulant of such board pursuant to such regulant's having submitted a check, money draft, or similar instrument for payment of a fee required by statute or regulation that is not honored by the bank or financial institution named from considering or describing such suspension as a disciplinary action.

01/18/24 House: Subcommittee recommends reporting (8-Y 0-N)  
01/23/24 House: Reported from General Laws (21-Y 0-N)  
01/30/24 House: Reported from Health and Human Services (22-Y 0-N)  
02/05/24 House: VOTE: Block Vote Passage (98-Y 0-N)  
02/14/24 Senate: Reported from General Laws and Technology (15-Y 0-N)  
02/19/24 Senate: Passed Senate (39-Y 0-N)  
03/08/24 Governor: Approved by Governor-Chapter 18 (effective 7/1/24)

**HB 722 Regulatory Budget Program; established, report.**

*Chief patron:* Webert

**DEAD BILL**

**Department of Planning and Budget; Regulatory Budget Program established; report.** Directs the Department of Planning and Budget to establish a Regulatory Budget Program under which each executive branch agency subject to the Administrative Process Act shall reduce overall regulatory requirements by 30 percent by January 1, 2027. The bill requires the Department to report to the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules on the status of the Program no later than October 1 of each year, beginning October 1, 2025. Finally, the bill provides that the Department, in consultation with the Office of the Governor, shall issue guidance for agencies regarding the Program and how an agency can comply with the requirements of the Program. The bill has an expiration date of January 1, 2027.

01/25/24 House: Subcommittee recommends striking from docket (8-Y 0-N)

01/30/24 House: Stricken from docket by General Laws (22-Y 0-N)

**HB 1428 Regulatory boards; application review timelines.**

*Chief patron:* Shin

**DEAD BILL**

**Department of Professional and Occupational Regulation; application review timelines.** Requires each regulatory board within the Department of Professional and Occupational Regulation to adopt a timeline of each stage that a completed application for licensure, certification, or registration will undergo as it is reviewed by such board. The bill also requires that such regulatory board approve any completed application within 30 days of its

receipt unless such board has reasonable certainty that such application includes grounds for denial.

02/08/24 House: Subcommittee recommends striking from docket (7-Y 0-N)

02/08/24 House: Stricken from docket by General Laws (20-Y 0-N)

**SB 682 Health professions; universal licensure, requirements.**

*Chief patron:* Suetterlein

**DEAD BILL**

**Health professions; universal licensure; requirements.** Requires health regulatory boards within the Department of Health Professions to recognize licenses or certifications issued by other United States jurisdictions, as defined in the bill, as fulfillment for licensure or certification in the Commonwealth if certain conditions are met. The bill also requires such health regulatory boards to recognize work experience as fulfillment for licensure or certification in the Commonwealth if certain conditions are met. The bill does not apply to licensure for physicians or dentists.

02/08/24 Senate: Reported from Education and Health with substitute (15-Y 0-N)

02/09/24 Senate: Continued to 2025 in Rules (8-Y 6-N 1-A)

**Board of Funeral Directors and Embalmers**  
**Current Regulatory Actions**  
**As of March 22, 2024**

**In the Governor’s Office**

None.

**In the Secretary’s Office**

VAC	Stage	Subject Matter	Submitted from agency	Time in current location	Notes
18VAC65-20	Fast-Track	Adjustment of requirements related to documentation of continuing education pursuant to 2022 legislation	7/28/2022	548 days	Changes the amount of time documents related to continuing education must be kept from two to three years.
18VAC65-20 18VAC65-30 18VAC65-40	NOIRA	2023 Regulatory reduction	5/8/2023	308 days	Reduces requirements related to practice, funeral interns, and preneed funeral planning.

No actions at DPB, OAG, or waiting for publication/recently effective.

# Board Action



**Agenda Item: Previously posted guidance documents that do not meet the definition of “guidance document” under Va. Code 2.2-4101**

**Included in your agenda packet:**

- Virginia Code 2.2-4101
- Guidance document 65-3: Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement
- Guidance Document 65-10: Bylaws
- Guidance Document 65-14: Sanction Reference Points
- Guidance Document 65-16: Auditing continuing competency requirements
- Guidance Document 65-17: Inspection deficiencies

**Staff Note:** Because the documents above do not meet the definition of “guidance document” in Virginia Code § 2.2-4101, these should be considered to be removed from the roster of guidance documents and be maintained as policy documents on the Board’s website.

**Action Needed:**

- Motion to send to board counsel for review.

Code of Virginia  
 Title 2.2. Administration of Government  
 Chapter 41. Virginia Register Act

## § 2.2-4101. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth with express or implied authority to issue regulations other than the General Assembly, courts, municipal corporations, counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes made under the provisions of § 30-150, and educational institutions operated by the Commonwealth with respect to regulations that pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

"Virginia Administrative Code" means the codified publication of regulations under the provisions of Chapter 15 (§ 30-145 et seq.) of Title 30.

"Commission" means the Virginia Code Commission

"Guidance document" means any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.

"Registrar" means the Registrar of Regulations employed as provided in § 2.2-4102.

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.


"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

1973, c. 535, § 9-6.16; 1975, c. 502; 1982, c. 489; 1984, c. 5; 1985, cc. 67, 602; 1993, c. 669; 1997, cc. 11, 87; 2001, c. 844; 2019, c. 362

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

3/18/202

### Virginia Law Library

The Code of Virginia, Constitution of Virginia, Charters, Authorities, Compacts and Uncodified Acts are now available in EPub eBook format. 

### Helpful Resources

[Virginia Code Commission](#)  
[Virginia Register of Regulations](#)  
[U.S. Constitution](#)

### For Developers

The Virginia Law website data is available via a web service. 



## Virginia Board of Funeral Directors and Embalmers

### Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement

Applicants for licensure or registration by examination, endorsement and reinstatement who meet the qualifications as set forth in the law and regulations shall be issued a license, registration, or certificate pursuant to authority delegated to the Executive Director of the Board of Funeral Directors and Embalmers as specified in the Bylaws of the Board. (See Guidance Document 65-10, Bylaws, Article V.)

An applicant whose license, registration, or certificate has been revoked or suspended for any reason other than nonrenewal by another jurisdiction is not eligible for licensure or certification in Virginia unless the credential has been reinstated by the jurisdiction which revoked or suspended it. (Va. Code § 54.1-2408.) A suspension or revocation by another jurisdiction that has been stayed on terms is not considered to be reinstated for purposes of Virginia Code § 54.1-2408.

Affirmative responses to any questions on applications for licensure, registration, or certification that might constitute grounds for the Board to refuse to admit a candidate to an examination, refuse to issue a license, registration, or certificate, or impose sanction shall be referred to the Board President for guidance on how to proceed.

A criminal conviction for any felony may cause an applicant to be denied licensure or registration. Each applicant, however, is considered on an individual basis, and there are no criminal convictions or impairments that are an absolute bar to licensure or registration by the Board of Funeral Directors and Embalmers. The Board may, in its discretion, license an individual convicted of a felony if he or she has successfully fulfilled all conditions of sentencing, been pardoned, or had his or her civil rights restored. (Va. Code § 54.1-2813.) The Board shall not, however, approve an application to be a funeral service intern for any person convicted of embezzlement or of violating subsection B of Virginia Code § 18.2-126. (Va. Code § 54.1-2817.)

Applications for licensure, registration, and certification include questions about the applicant's history, including:

1. Any and all criminal convictions;
2. Any past action taken against the applicant in another state or jurisdiction, including denial of licensure, certification, or registration in another state or jurisdiction;
3. Whether the applicant has any reason to believe that they would pose a risk to the safety or well-being of patients or clients; and
4. Whether the applicant is able to perform the essential functions of a practitioner in their area of practice with or without reasonable accommodations.

Replying "yes" to any questions about convictions, past actions, or possible impairment does not mean the application will be denied. It simply means more information must be gathered and considered before a decision can be made. Sometimes an administrative proceeding is required before a decision regarding the application can be made. The Board of Funeral Directors and Embalmers has the ultimate authority to approve or deny an applicant for licensure, registration, or certification. (Va. Code § 54.1-2806.)

#### **The following information will be requested from an applicant with criminal conviction:**

- A certified copy of all conviction orders (obtained from the courthouse of record);

- Evidence that all court ordered requirements were met (i.e., letter from the probation officer if on supervised probation, evidence of paid fines and restitution, etc.); and
- A letter from the applicant explaining the factual circumstances leading to the criminal offense(s).

**The following information will be requested from an applicant with past disciplinary action or licensure/certification/registration denial in another state (unrelated to criminal convictions):**

- A certified copy of the Order for disciplinary action or denial from the other state licensing entity;
- A certified copy of any subsequent actions (i.e. reinstatement), if applicable; and
- A letter from the applicant explaining the factual circumstances leading to the action or denial.

**The following information may be requested from an applicant with an identified impairment that may impact safety to practice:**

- Evidence of any past treatment (i.e., discharge summary from outpatient treatment and inpatient hospitalizations);
- A letter from the applicant's current treating healthcare provider(s) describing diagnosis, treatment regimen, compliance with treatment, and an analysis of the applicant's ability to practice safely; and  
A letter from the applicant explaining the factual circumstances of the condition or impairment and addressing ongoing efforts to function safely (including efforts to remain compliant with treatment, maintain sobriety, attendance at AA/NA meetings, etc.).

**The Executive Director may approve the application without referral to the Board President in the following cases:**

1. The applicant's history of a criminal conviction does not constitute grounds for denial (any felony or any misdemeanor involving moral turpitude) or constitute grounds for Board action pursuant to §54.1-2806 of the Code of Virginia. (Article V, Bylaws; Va. Code § 54.1-2806.)
2. The applicant has a history of criminal conviction for felonies or misdemeanors involving moral turpitude, but the following criteria are met:
  - Conviction history includes only misdemeanors which are greater than 5 years old, as long as court requirements have been met;
  - If one misdemeanor conviction is less than 5 years old, the court requirements have been met, and the crime was unrelated to the license or registration sought; or
  - If the applicant was convicted of one felony more than 10 years ago, when that one felony was non-violent in nature and all court/probationary/parole requirements have been met.
3. Reported juvenile convictions.
4. Applicants with a conviction history previously reviewed and approved by the Board of Funeral Directors and Embalmers, provided no subsequent criminal convictions exist. (Guidance Document 65-10, Bylaws, Article V.)

## **VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

### **BYLAWS**

#### **ARTICLE I: AUTHORIZATION**

##### **A. Statutory and Regulatory Authority.**

The Virginia Board of Funeral Directors and Embalmers (“Board”) is established and operates pursuant to Sections 54.1-2400 and 54.1-2800 et seq., of the Code of Virginia. Regulations promulgated by the Board may be found in 18 VAC 65-20, Chapters 11, 20, 30, and 40.

##### **B. Duties.**

The Board is authorized to license individuals and establishments providing funeral and/or embalming services, to regulate and inspect funeral establishments and crematories, to supervise programs for funeral service interns, to regulate preneed funeral contracts and preneed funeral trust accounts, to register crematories, and to promulgate regulations to improve and promote standards of service and practice and otherwise carry out the licensing act.

##### **C. Mission.**

The mission of the Department of Health Professions is to ensure the delivery of safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to healthcare practitioners and the public.

#### **ARTICLE II: THE BOARD**

##### **A. Members and Duties.**

1. The Board consists of nine members appointed by the Governor in accordance with Virginia Code § 54.1-2802.
2. Members shall attend all scheduled meetings of the Board and the committee(s) on which they serve unless prevented by illness or similar unavoidable cause. In the event of two consecutive unexcused absences at any meeting of the Board or its committees, the President shall make a recommendation about the Board member’s continued service to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.

3. Members of the Board shall not hold a voting office in any related professional association within the Commonwealth of Virginia or one that takes a policy position on the regulations of the Board. Members of the Board holding office in a national professional association shall abstain from voting on issues where there may be a conflict of interest present.

B. Election of Officers.

1. The organizational year for the Board shall be from July 1<sup>st</sup> through June 30<sup>th</sup>.
2. During the first meeting of the organizational year, the Board shall elect from its members a President, Vice-President, and Secretary-Treasurer.
3. The term of office shall be one year; an officer may be re-elected in that same position for a second consecutive term.
4. Nominations for office shall be received from the floor and elections conducted by voice vote; election shall require a majority of the quorum of members present.
5. A vacancy occurring in any office shall be filled during the next meeting of the Board.

B. Duties of Officers.

1. The President presides at all meetings and formal administrative hearings in accordance with parliamentary rules and the Administrative Process Act, and requires adherence of it to those rules on the part of the board members. The President shall appoint all committees and committee chairpersons unless otherwise ordered or delegated by the Board.
2. The Vice-President shall act as President in the absence of the President.
3. The Secretary-Treasurer shall perform those duties necessary and usually pertaining to such office and shall preside in the absence of the President and the Vice-President.
4. In the absence of the President, Vice-President and Secretary-Treasurer, the President shall appoint another board member to preside at the meeting and/or formal administrative hearing.

C. Duties of Executive Director.

The Executive Director shall be the custodian of all Board records and all papers of value; shall preserve a correct list of all applicants and licensees; shall manage the correspondence of the Board; and shall perform all such other duties as naturally pertain to this position.

**ARTICLE III: MEETINGS.**

A. For purposes of these Bylaws, the Board schedules full board meetings to take place during each quarter, with the right to change the date or cancel any board meeting, with the exception that the Board shall hold at least two meetings each year pursuant to Virginia Code § 54.1-2802.

B. Board members shall attend all board meetings in person, or by electronic means as permitted by law and Board policy, unless prevented by illness or similar unavoidable cause. A majority of the members of the Board shall constitute a quorum for the transaction of business.

C. The current edition of Robert’s Rules of Order, revised, shall apply unless overruled by these bylaws or when otherwise agreed. §

D. The order of the business shall be as follows:

1. Call to order with statement made for the record of how many and which board members are present and that it constitutes a quorum.
2. Approval of minutes.
3. The Executive Director and the President shall collaborate on the remainder of the agenda.

**ARTICLE IV: COMMITTEES**

A. Standing Committees:

1. Special Conference Committee.

The committee shall consist of at least two board members. The committee shall hold informal conferences for licensee and applicant cases in accordance with §§ 2.2-4019, 2.2-4021, and 54.1-2400 of the Code of Virginia with the right to change the date or cancel any meeting. The committee shall meet as necessary to adjudicate cases in a timely manner in accordance with agency standards for case resolution. The President may designate two additional board members as alternates on this committee who may be contacted to serve in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date. Further, should the caseload increase to the level that additional special conference committees are needed, the President may appoint additional committees.

2. Examination Committee.

The committee shall consist of three board members, two funeral service licensees and one citizen member. The committee shall meet as required for the purpose of writing new items for the jurisprudence examination to maintain the integrity, defensibility and current status of the examination for the purpose of licensure.

3. Credentials Committee.

The committee shall consist of at least two board members. The members of the committee shall review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations. The committee member who conducted the initial review shall provide guidance to staff on action to be taken. The Credentials Committee shall not be required to meet collectively to conduct initial reviews.

4. Legislative/Regulatory Committee.

The committee shall consist of at least three Board members. The committee is responsible for the development of proposals for new regulations or amendments to existing regulations; the recommendation in response to a petition for rulemaking; the development of proposals for legislative initiatives of the Board; the consideration of and recommended response to public comment as required in conjunction with rulemaking; the conduct of the required periodic review of all existing regulations as required by the Board's Public Participation Guidelines and any Executive Order of the Governor, and other required tasks related to regulations. Any proposed draft regulation or draft legislation shall be reviewed and approved by the full Board prior to publication.

5. Continuing Education Committee.

The committee shall consist of at least two board members. The members of the committee shall review requests from licensees for exemptions from continuing education requirements, from applicants for approval as funeral service continuing education providers and for approval of courses, and other matters related to continuing education. The Board delegates the approval of funeral service continuing education programs to the committee.

B. Ad Hoc Committees:

There may be Ad Hoc Committees consisting of at least two persons who are knowledgeable in the particular area of practice or education under consideration by the Board. The committee shall review matters as requested by the Board and advise or make recommendations for consideration by the Board.

**ARTICLE V: GENERAL DELEGATION OF AUTHORITY**



- A. Delegation to Executive Director, Board staff, and/or Department of Health Professions staff.
1. The Board delegates to Board staff the authority to issue and renew licenses, registrations and certificates where minimum statutory and regulatory qualifications have been met.
  2. The Board delegates to the Executive Director the authority to reinstate licenses, registrations and certificates when the reinstatement is due to the lapse of the license, registration or certificate and not due to previous Board disciplinary action unless specified in the Board order.
  3. The Board delegates to Board staff the authority to develop and approve any and all forms used in the daily operations of the Board business, to include, but not limited to, licensure applications, renewal forms, and documents used in the disciplinary process.
  4. The Board delegates to the Executive Director the authority to sign as entered any Order or Board-approved Consent Order resulting from the disciplinary process.
  5. The Board delegates to the Executive Director, who may consult with a special conference committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary.
  6. The Board delegates to the Executive Director, who shall consult with a member of the Board, the authority to review information regarding alleged violations of law or regulations and determine whether probable cause exists to proceed with possible disciplinary action.
  7. The Board delegates to the Executive Director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.
  8. The Board delegates to the Department of Health Professions' inspectors the authority to issue a Compliance Notice upon completion of an inspection, and the Board delegates to the Executive Director the authority to issue letters regarding reported deficiencies to the facilities or licensees.
  9. The Board delegates to the Executive Director the review and approval of hardship waiver applications. Should the Executive Director receive a non-routine application regarding the waiver provision, the application may be reviewed for approval by the Credentials Committee.
  10. The Board delegates to the Executive Director, the authority to approve applications with criminal convictions in accordance with Guidance Document 65-3.

11. The Board delegates to the Executive Director the authority to issue an Advisory Letter to the person who is the subject of a complaint pursuant to Virginia Code § 54.1-2400.2(G), when a probable cause review indicates a disciplinary proceeding will not be instituted.
12. The Board delegates to the Executive Director the authority to offer a confidential consent agreement or a Consent Order for action consistent with any board-approved guidance document, or to negotiate a Consent Order in consultation with the chair of a Special Conference Committee or formal hearing.
13. The Board delegates to the Executive Director the authority to grant an individual extension for good cause shown for up to one (1) year for the completion of education requirements upon written request from the licensee prior to the renewal date.
14. The Board authorizes the Executive Director to delegate tasks to the Deputy Executive Director.

**B. Delegation to Board President.**

The Board delegates to the President the authority to represent the Board in instances where Board “consultation” or “review” may be requested, where a vote of the Board is not required, and where a meeting is not feasible.

**C. Delegation to Agency Subordinate.**

The Board may delegate an informal fact-finding proceeding to any agency subordinate in accordance with 18VAC65-20-15 of the Regulations of the Board of Funeral Directors and Embalmers.

**ARTICLE VI. AMENDMENTS**

A board member or staff personnel may propose amendments to these Bylaws by presenting the amendment in writing to all Board members prior to any regularly scheduled meeting of the Board. Such proposed amendment shall be adopted upon favorable vote of at least two-thirds of the Board members present at said meeting.

# **Sanctioning**

## **Reference Points**

### **Instruction Manual**

#### **Board of Funeral Directors**

#### **and Embalmers**

Guidance Document 65-14  
Adopted March 2007  
(Revised April 2010)  
(Revised January 2018)

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# COMMONWEALTH of VIRGINIA

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February 6, 2018

Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia’s 13 health regulatory boards. The purpose of the study was to “...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members...” The purposes and goals of the study were consistent with state statutes which specify that the Board of Health Professions (BHP) periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

After interviewing the Board of Funeral Directors and Embalmers members and staff, a committee of board members, staff, and research consultants assembled a research agenda involving the most exhaustive statistical study of sanctioned Funeral Service Providers and Establishments ever conducted in the United States. The analysis included collecting over 100 factors on all Board of Funeral Directors and Embalmers sanctioned cases in Virginia between 2002 and 2006. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of sanctioning reference points (SRP). Using both the data and collective input from the Board of Funeral Directors and Embalmers and staff, analysts developed a usable sanctioning worksheet as a way to implement the reference system.

More recently, BHP recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. After conducting board member and staff interviews and an updated analysis to assess worksheet factors, scores, and sanctioning recommendations, the Board of Funeral Directors and Embalmers made a number of revisions to its Sanctioning Reference Points worksheet. This manual reflects those adopted revisions and provides the Board with a new SRP worksheet representing the most current sanctioning data available.

Sincerely yours,

David E. Brown, D.C.  
Director  
Virginia Department of Health Professions

Cordially,

Elizabeth A. Carter, Ph.D.  
Executive Director  
Virginia Board of Health Professions

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# GENERAL INFORMATION

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## Overview

The Virginia Board of Health Professions has spent the last 15 years studying sanctioning in disciplinary cases. The study is examining all 13 health regulatory boards. Focusing on the Board of Funeral Directors and Embalmers (Funeral), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, and a revised worksheet with offense and respondent factors that are scored in order to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Virginia Board of Funeral. Moreover, the worksheets and sanctioning thresholds have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The current SRP system is comprised of a single worksheet which scores a number of offense and respondent factors identified using quantitative and qualitative analyses and built upon the Department's effort to maintain consistency in sanctioning over time. The original Funeral SRP Manual was adopted in March 2007, and has been applied to cases closed in violation for the past 12 years.

These instructions and the use of the SRP system fall within current DHP and Board of Funeral policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Board and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policy supersedes the worksheet recommendation.

## Background

In 2010, the Board of Health Professions (BHP) recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The purpose of this study was to evaluate the SRP system against its own unique set of objectives. The SRPs were designed to aid board members, staff and the public in a variety of ways. This Effectiveness Study sought to examine whether or not the SRPs were successful, and if not, which areas required improvement. The study resulted in changes to the manual for the Board of Funeral. This manual is the result of those adopted changes.

## Goals

The Board of Health Professions and the Board of Funeral cite the following purposes and goals for establishing Sanctioning Reference Points:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the Board and those involved in proceedings.
- “Neutralizing” sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Constraining the influence of undesirable factors— e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services and terms

## Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, in order to ensure and maintain a system that better reflects current sanctioning practice. The SRP manual adopted in 2007 was based on a descriptive approach with a limited number of normative adjustments. This study was conducted in a similar manner; however, it draws on data covering a more recent historical time period (2012-2016, partial 2017) and relies on the full Funeral Board's input to inform SRP system modifications.

## Qualitative Analysis

Researchers conducted in-depth personal interviews with board members and staff. Researchers also had informal conversations with representatives from the Attorney General's office and the Executive Director of BHP. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further guide this study's analysis. Additionally, interviews helped ensure the factors that board members consider when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors were examined for their continued relevance and sanctioning influence.

## **Quantitative Analysis**

In 2007, researchers collected detailed information on all Funeral disciplinary cases ending in a violation between 2002 and 2006; five years of sanctioning data. Over 100 different factors were collected on each case in order to describe the case attributes board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP's case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, board notices, board orders, and all other documentation that is made available to board members when deciding a case sanction.

A comprehensive database was created to analyze the factors that were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the relevant factors along with their relative weights were derived. Those factors and weights were formulated into a sanctioning worksheet, which became the SRPs. As mentioned, the revised worksheet reflects the most recent data available; this ensures that worksheet factors, scores, and recommendations continue to reflect current sanctioning practice.

Offense factors such as financial or material gain were examined along with such factors as prior board or criminal history and past substance abuse. Some factors were deemed inappropriate for use in a structured sanctioning reference system. Although many factors, both "legal" and "extra-legal," can help explain sanction variation, only those "legal" factors the Boards felt should consistently play a role in a sanction decision were included on the final worksheet. By using

this method, the hope is to achieve more neutrality in sanctioning by making sure the same set of "legal" factors are considered in every case.

## **Wide Sanctioning Ranges**

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Boards with a sanctioning model that encompasses roughly 75% of historical practice. This means that approximately 25% of past cases receive sanctions either higher or lower than what the reference points indicate, recognizing that aggravating and mitigating factors play a legitimate role in sanctioning. The wide sanctioning ranges allow the Board to individualize sanctions within the broader SRP recommended range to fit the circumstances of each case.

## **Voluntary Nature**

The SRP system should be viewed as a decision-aid to be used by the Board of Funeral. Sanctioning within the SRP ranges is totally voluntary, meaning that the system is viewed strictly as a tool and the Board may choose any sanction outside the recommendation. The Board maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Board is not provided with the appropriate coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conferences and Pre-Hearing Consent Orders. The coversheet and worksheet will be referenced by Board members during Closed Session after a violation has been determined.

## Worksheets Not Used in Certain Cases

The SRPs will not be applied in any of the following circumstances:

Formal Hearings — SRPs will not be used in cases that reach a Formal Hearing level.

Mandatory Suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the licensee must be suspended. The sanction is defined by law and is therefore excluded from the SRPs system.

Compliance/Reinstatements – The SRPs should be applied to new cases only.

Action by another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Board of Funeral, the

Board often attempts to mirror the sanction handed down by the other Board. The Virginia Board of Funeral usually requires that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.

Confidential Consent Agreements (CCAs) – SRPs will not be used in cases settled by CCA.

Certain Pre-Defined Sanctions – The Sanctioning Reference Points system does not apply to certain cases that have already been assigned pre-determined actions as set by the health regulatory board. The Board of Funeral has adopted Guidance Documents in the areas of Continuing Education Deficiencies (Guidance document 65-16), Failing to Submit Corrective Action to Deficiencies Noted During Routine Inspections (Guidance document 65-17) as follows:

<b>Continuing Education Deficiencies, Guidance Document, 65-16</b>	<b>Possible Action</b>
If the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of the CE requirements.	Issue a CCA for those licensees who fail to meet the CE requirements, the CCA may require the licensee to submit proof of completion of the missing contact hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next annual CE requirement for renewal.
If the licensee was not truthful in responding to the renewal attestation or if the licensee has previously been found in violation of CE requirements.	Issue a PHCO: 1. Monetary Penalty of \$100 per missing contact hour; 2. Monetary Penalty of \$300 for a fraudulent renewal certification; and 3. Submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal.
If the licensee fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered or has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.	The case will be referred to an informal fact-finding conference.

<b>Failing to Submit Corrective Action to Deficiencies Noted During Routine Inspections, Guidance Document: 65-17</b>	<b>Possible Action</b>
If the licensee fails to respond within 14 days of the inspection Board staff will send a certified letter to the Manager of Record's address of record in 2-5 days of the response due date. The letter will include a new due date which will be 10 days after the date of the letter. Board staff will initiate disciplinary action against the funeral home 5 days after second due date if there is no response.	A Pre-hearing Consent Order based on the following guidelines will be sent to the MOR: 1. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for each citation of deficiency. 2. FH must submit acceptable corrective action. 3. \$100 penalty will be added for each week after the deadline the PHCO remains unsigned, unless a special conference committee has been requested by the licensee.
If the licensee fails to respond to the pre-hearing consent order or does not agree to it	The matter will be referred to an informal conference



## Case Selection When Multiple Cases Exist

When multiple cases have been combined into one “event” (one order) for disposition by the Board, only one coversheet and worksheet should be completed and it should encompass the entire event. If a case (or set of cases) has more than one offense type, one case type is selected for scoring according to the offense group which appears highest on the following table. For example, a respondent found in violation for Mishandling of preneed funds and Impairment due to use of alcohol would receive 50 points, since Inability to Safely Practice is above Fraud in the Case Type Group column and receives more points. If an offense type is not listed, the most analogous offense type is used.

## Sanctioning Reference Points Case Type Table

Case Type Group	Included Case Categories	Applicable Points
Inability to Safely Practice	<ul style="list-style-type: none"> <li>• Impairment due to use of alcohol, illegal substances, or prescription drugs</li> <li>• Incapacitation due to mental, physical or medical conditions</li> </ul>	50
Unlicensed Activity	<ul style="list-style-type: none"> <li>• Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity</li> </ul>	40
Fraud	<ul style="list-style-type: none"> <li>• Improper patient billing, mishandling of pre-need funds, fee splitting, and falsification of licensing/renewal documents</li> </ul>	30
Business Practice Issues	<ul style="list-style-type: none"> <li>• Solicitation, records, inspections, audits, required report not filed, or disclosure</li> <li>• Care and handling of a decedent</li> </ul>	15

## Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the Board to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the board and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, the manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: [www.dhp.virginia.gov](http://www.dhp.virginia.gov) (paper copy also available on request).

## Scoring Factor Instructions

To ensure accurate scoring, instructions are provided for scoring each factor on the SRP worksheet. When scoring a worksheet, the numeric values assigned to a factor on the worksheet *cannot be adjusted*. The scores can only be applied as ‘yes or no’- with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board members have final say in how a case is scored.

## Using Sanctioning Thresholds to Determine a Specific Sanction

The Funeral worksheet has four scoring thresholds with increasing point values and respectively increasing sanction severities. The table here shows the historically used sanctions for each threshold. The column to the left, “Worksheet Score,” contains the

threshold scores located at the bottom of the worksheet. The column to the right, “Available Sanctions,” shows the specific sanction types that each threshold level covers. After considering the sanction recommendation, the Board may fashion a more detailed sanction(s) based on individual case circumstances.

**Sanctioning Reference Points Threshold Table**

Worksheet Score	Available Sanctions
0 - 60	No Sanction Reprimand Monetary Penalty
61 - 130	Monetary Penalty Treatment/Monitoring <ul style="list-style-type: none"> <li>• Stayed Suspension</li> <li>• Probation</li> <li>• Terms               <ul style="list-style-type: none"> <li>• HPMP</li> <li>• Inspection</li> <li>• Continuing Education (CE)</li> <li>• Reimburse client</li> <li>• Shall not be MOR (either indefinitely or during probationary period)</li> <li>• Honor previous client contract, repay original amount plus 3% interest</li> <li>• Prohibited from applying for licensure until completion of terms, provide Board with documentation of completion</li> <li>• Take and pass state exam for funeral service providers</li> <li>• Mental health/substance abuse evaluation</li> <li>• Begin/continue in outpatient treatment (mental health/substance abuse, medical) with report from therapist</li> <li>• Shall not use alcohol or mood altering drugs except as prescribed</li> <li>• Unrestricted communication between provider and board</li> <li>• Notify board of change in employment</li> <li>• Shall not write preneed contracts (either indefinitely or during probation period)</li> <li>• MOR shall read chapter 28 of title 54.1 of code and regulations</li> <li>• Provide evidence to board that all deficiencies have been corrected</li> </ul> </li> </ul>
131 - 220	Treatment/Monitoring <ul style="list-style-type: none"> <li>• Stayed Suspension</li> <li>• Probation</li> <li>• Terms               <ul style="list-style-type: none"> <li>• HPMP</li> <li>• Inspection</li> <li>• Continuing Education (CE)</li> <li>• Reimburse client</li> <li>• Shall not be MOR (either indefinitely or during probationary period)</li> <li>• Honor previous client contract, repay original amount plus 3% interest</li> <li>• Prohibited from applying for licensure until completion of terms, provide Board with documentation of completion</li> <li>• Take and pass state exam for funeral service providers</li> <li>• Mental health/substance abuse evaluation</li> <li>• Begin/continue in outpatient treatment (mental health/substance abuse, medical) within report from therapist</li> <li>• Shall not use alcohol or mood altering drugs except as prescribed</li> <li>• Unrestricted communication between provider and board</li> <li>• Notify board of change in employment</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Shall not write preneed contracts (either indefinitely or during probation period)</li> <li>• MOR shall read chapter 28 of title 54.1 of code and regulations</li> <li>• Provide evidence to board that all deficiencies have been corrected</li> </ul> <p>Recommend Formal Hearing</p> <ul style="list-style-type: none"> <li>• Loss of License</li> <li>• Revocation</li> <li>• Suspension</li> <li>• Surrender</li> </ul>
221 or more	<p>Recommend Formal Hearing</p> <ul style="list-style-type: none"> <li>• Loss of License</li> <li>• Revocation</li> <li>• Suspension</li> <li>• Surrender</li> </ul>

# **Sanctioning Reference Points Coversheet, Worksheet, & Instructions**





Step 1: Case Type – Select the case type from the list and score accordingly. If a case has multiple aspects, enter the point value for the one most serious case type that is highest on the list. (score only one)

Inability to Safely Practice/Drug Related-Patient Care – 50 Points

- Impairment due to use of alcohol, illegal substances, or prescription drugs
- Incapacitation due to mental, physical or medical conditions

Unlicensed Activity – 40 Points

- Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity

Fraud – 30 Points

- Improper patient billing, mishandling of pre-need funds, fee splitting, and falsification of licensing/renewal documents

Business Practice Issues – 15 Points

- Solicitation, records, inspections, audits, required report not filed, or disclosure
- Care and handling of a decedent

Step 2: Offense and Prior Record Factors – Score all factors relative to the totality of the case presented. (score all that apply)

Enter "50" if the offense involved two or more decedents or a third party acting on behalf of one or more decedent. There must be a minimum total of two decedents to score this factor. Third party involvement includes, but is not limited to, family members acting on behalf of the decedent. Third party involvement is not limited to family.

Enter "45" if the respondent took no corrective action regarding the incident. Corrective action could include reimbursement of preneed funds (with or without interest), make up continuing education deficiencies. Corrective action must take place prior to Informal Conference or Pre-Hearing Consent Order.

Enter "25" if the respondent was the Manager of Record (MOR) at the time of the incident. This includes "acting" MOR.

Enter "25" if there was financial or material gain by the respondent.

Enter "20" if the case involved Care and handling of Decedent. Care and handling may include such cases as: improper refrigeration, improper embalming, improper cremation services, unprofessional burial services, unprofessional dressing, unprofessional casketing or cosmetology, unprofessional removal/transport services, and/or bodily desecration/abuse.

Enter "20" if this was an act of commission. An act of commission is interpreted as purposeful or with knowledge.

Enter "20" if there was any action against the respondent. Actions against the respondent can include: civil or criminal action as well as sanctioning by an employer. A sanction from an employer may include: suspension, review, or termination. The action must be related to the case.

Enter "10" if multiple respondents were associated with the case. When multiple respondents are involved there will be a separate case number for a different respondent's license number with facts from the same incident.

Enter "10" if the case involved a facility violation. These points may be scored regardless of the case type assigned points in Step 1.

Enter "10" if the respondent was impaired in any way at the time of the offense due to substance abuse (alcohol or drugs) or mental/physical incapacitation.

Enter "10" if the respondent has any prior violations decided by the Virginia Board of Funeral Directors and Embalmers.

Enter "10" if the respondent has any prior similar Virginia Board of Funeral Directors and Embalmers violations. Similar violations would be those that are contained under the same major case type heading listed in Step 1. For example, if the case being heard concerns a "Facility Operating Without a Permit" and the respondent has a prior violation for "Aiding/Abetting Unlicensed Activity" enter 10 points.

Step 3: Add Case Type and Offense and Prior Record for a Total Worksheet Score

Step 4: Determining the Sanction Recommendation

The Total Worksheet Score corresponds to the Sanctioning Reference Points recommended sanction located at the bottom of the worksheet. To determine the appropriate recommended sanction, find the range on the left that contains the Total Worksheet Score for the current worksheet. That range has a corresponding range of recommended sanctions. For instance, a Total Worksheet Score of 80 is recommended for "Monetary Penalty to Treatment/Monitoring."

Step 5: Coversheet

Complete the coversheet including the SRP sanction result, the imposed sanction and the reasons for departure if applicable.



**Case Type** (score only one)

- Inability to Safely Practice
- Unlicensed Activity
- Fraud
- Business Practice Issues

Points      Score

50	_____
40	_____
30	_____
15	_____

} Score Only One

**Offense and Prior Record Factors** (score all that apply)

- Two or more decedents involved
- Respondent took no corrective action
- Respondent was the MOR at the time of the incident
- Financial or material gain by the respondent
- Care and Handling of Decedent involved
- Act of commission
- Any action against the respondent
- Multiple respondents associated with case
- Case involved a facility violation
- Respondent impaired in any way
- One or more prior violations
- Were any of the previous violations similar to the instant offense?

50	_____
45	_____
25	_____
25	_____
20	_____
20	_____
20	_____
10	_____
10	_____
10	_____
10	_____
10	_____

} Score All That Apply

*Total Worksheet Score*

Score	Sanctioning Recommendations	Monetary Penalty Recommendations
0-60	No Sanction/Reprimand to Monetary Penalty	Up to \$1,000
61-130	Monetary Penalty to Treatment/Monitoring	\$500 to \$2,000
131-220	Treatment/Monitoring to Recommend Formal or Accept Surrender	\$1,000 to \$5,000
221 or more	Recommend Formal Hearing or Loss of License	\$5,000 or more

Respondent Name: \_\_\_\_\_

Date: \_\_\_\_\_

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia

## Virginia Board of Funeral Directors and Embalmers

### Procedures for Auditing Continued Competency Requirements

The Board of Funeral Directors and Embalmers may audit a random sample of licensees to investigate compliance with the Board's continuing competency requirements. The Board may also audit active licensees who, by terms of a Confidential Consent Agreement ("CCA") or a Pre-Hearing Consent Order ("PHCO"), are required to take continuing education ("CE") courses in addition to the continued competency requirements for renewal of a license.

1. Board staff reviews each audit report and either:
  - a. Sends an acknowledgement letter of fulfillment of the continuing competency requirements, or
  - b. Opens a case for probable cause.
2. Once a case is opened for probable cause, Board staff may:
  - a. Issue a CCA if the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of the CE requirements. For those licensees who fail to meet the CE requirements, the CCA may require the licensee to submit proof of completion of the missing contact hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next annual CE requirement for renewal; or
  - b. Issue a PHCO if the licensee was not truthful in responding to the renewal attestation or if the licensee has previously been found in violation of CE requirements. The following sanctions may apply:
    - (i) Monetary Penalty of \$100 per missing contact hour;
    - (ii) Monetary Penalty of \$300 for a fraudulent renewal certification; and
    - (iii) Submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal.
3. The case will be referred to an informal fact-finding conference if the licensee:
  - a. Fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered; or
  - b. Has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.



## Virginia Board of Funeral Directors and Embalmers

### Initiating Disciplinary Action Against Funeral Establishments or Managers of Record for Failing to Respond to Inspection Deficiencies

1. Board staff reviews all inspection reports and responses to deficiencies cited during the inspections
  - a. Licensees are given information at the time of the inspection and upon receipt of the inspection summary document that they are to respond to the deficiencies within 14 days. To expedite the review process, responses may be sent to the Board's e-mail box for funeral inspections, [funeralinspections@dhp.virginia.gov](mailto:funeralinspections@dhp.virginia.gov).
  - b. Board staff tracks receipt of the inspection reports and the deficiency corrections.
2. If the licensee fails to respond within 14 days of receiving the inspection summary document:
  - a. Board staff will send a certified letter and an e-mail to the Manager of Record's (MOR) address of record. A copy of the letter will be mailed and e-mailed to the establishment's address of record. The letter will include a new response deadline date, which will be 14 days after the date of the letter.
  - b. Board staff may initiate disciplinary action against the funeral establishment and/or the MOR if there is no response.
3. If the licensee responds with unacceptable corrective action
  - a. A letter will be sent to the MOR's address of record and email address of record, if any, and email address of record, if any, specifying the issues noted with the corrective action. The letter will include a new due date for additional corrections, which will be 14 days after the date of the letter.
  - b. If the funeral establishment fails to respond with new, acceptable corrections within the new deadline, a certified letter will be sent to the MOR's address of record, with a copy sent to the establishment's address of record.
  - c. Board staff may initiate disciplinary action against the funeral establishment and/or the MOR if there is no response or if no new, acceptable corrections are submitted in response to the letter in (3)(b).

4. If the Board initiates disciplinary action against the funeral establishment or the MOR, a Pre-hearing Consent Order based on the following guidelines may be offered:
  - a. To the facility:
    - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for each citation of deficiency.
    - ii. The funeral establishment must submit acceptable corrective action within sixty days of the date of the Order.
  - b. To the MOR:
    - i. \$100 monetary penalty for failing to respond in a timely manner plus \$100 additional penalty for every citation not addressed.
    - ii. The funeral establishment must submit acceptable corrective action within sixty days of the date of the Order.
    - iii. The MOR shall complete one (1) hour of continuing education in laws and regulations within 60 days of entry of the order, which hour shall not count toward license renewal.
  - c. If the licensee fails to respond to the pre-hearing consent order or does not agree to it, the matter will be referred to the Special Conference Committee for an informal conference.
5. If the licensee has been previously disciplined for failing to respond to inspection citations of deficiencies, the matter may be referred to the Special Conference Committee for an informal conference.