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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Funeral Directors and Embalmers, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC65-20; 18VAC65-30; and 18VAC65-40
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Funeral Services; Regulations for Preneed Funeral Planning; and Regulations for the Funeral Service Internship Program
<b>Action title</b>	2023 Regulatory Reduction
<b>Date this document prepared</b>	April 26, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Board reviewed and identified potential regulatory reductions in Chapters 20, 30, and 40 of 18VAC65.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

N/A

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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The impetus for this action is [Executive Order 19](#).

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Regulations of the Board of Funeral Directors and Embalmers are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Additionally, Virginia Code § 54.1-2803 requires the Board to establish standards in regulation for funeral service practice, regulate and inspect funeral service establishments, regulate funeral interns, approve schools of mortuary or funeral service, regulate preneed contracts, and inspect and regulate crematories.

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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These are not new regulations, so the Board has made no determination with respect to this filing that the regulations in these chapters are essential to protect the health, safety, or welfare of citizens. The Board has, however, identified areas or topics in these three chapters which may be reduced without impacting the health, safety, or welfare of citizens.

### Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The Board intends to amend 18VAC65-20 to:

- Eliminate the restriction on reinstatement of expired licenses and registrations in 18VAC65-20-140 to three years;
- Increase the type of documents that can be provided to the Board for approval of continuing education in 18VAC65-20-152;
- Remove redundant language regarding documentation of compliance with continuing education requirements in 18VAC65-20-153;
- Remove date restrictions regarding when an establishment or crematory must apply for a license or registration in 18VAC65-20-170;
- Update references where appropriate to the state rules and regulations examination;
- Allow a funeral director to apply for license by endorsement by demonstrating active practice in another jurisdiction if the applicant did not receive education that meets Virginia's regulatory requirement for education in 18VAC65-20-350;
- Reorganize 18VAC65-20-435 regarding registration of crematories for clarity; and
- Revise 18VAC65-20-581 to clarify that crematories must follow requirements of 18VAC65-20-436 regarding refrigeration.

The Board intends to amend 18VAC65-30 to:

- Amend portions of Chapter 30 which provide form contracts and disclosures for licensees. These amendments would remove the form contracts from the regulatory section and add those to an appendix. The language of the sections will be amended to direct licensees to the new appendices. This change would include the following:
  - 18VAC65-30-110;
  - 18VAC65-30-220; and
  - 18VAC65-30-230.

The Board intends to amend 18VAC65-40 to:

- Amend 18VAC65-40-40 to remove unnecessary language regarding fee direction;
- Amend 18VAC65-40-130 and 180 to reorganize and list requirements for internships and applications in order to make the section more readable and provide clarity; and
- Amend 18VAC65-40-250 to allow the Board discretion to deny a supervisor registration in certain circumstances rather than require the Board deny the supervisor registration.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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No alternative to regulatory action exists. These regulations already exist; the Board must file a regulatory action to change them.

## Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board of Funeral Directors and Embalmers is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.