



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

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**18 VAC 65-20 Regulations Governing the Practice of Funeral Services**  
**18 VAC 65-30 Regulations for Preneed Funeral Planning**  
**18 VAC 65-40 Regulations for the Funeral Service Internship Program**  
**Department of Health Professions**  
**Town Hall Action/Stage: 5635 / 9241**  
June 16, 2021

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 943 of the 2020 Acts of Assembly (legislation),<sup>1</sup> emergency regulations became effective on January 5, 2021 that established licensure requirements for funeral directors and embalmers. The Board of Funeral Directors and Embalmers (Board) also reduced the minimum required number of hours of training in internships from 3,000 to 2,000.

The emergency regulations will expire on July 4, 2022. The Board proposes to replace the emergency regulations with permanent regulations. The proposed permanent regulations are not word-for-word identical to the emergency regulations, but are identical in terms of how requirements have been applied.

### **Background**

Since 1973 the Board has only issued a funeral service license, which covers both funeral directing and embalming, and has not issued separate licenses for funeral directing and for embalming. Prior to 1973, the Board issued either a funeral director or an embalmer license, and the Board has continued to allow persons who obtained those licenses in or prior to 1973 to renew their licenses.

The current (pre-emergency) regulations do not specify the education, examination, and experience required to be licensed as a funeral director or an embalmer. Prompted by Chapter 943, the proposed permanent regulations (and the emergency regulations) specify the required

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<sup>1</sup> See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0943>

education, examination, and experience required to be licensed as either a funeral director or an embalmer.

### ***Funeral Services***

Code of Virginia § 54.1-2813 specifies that:

To be licensed for the practice of funeral service, a person shall (i) be at least 18 years of age; (ii) hold a high school diploma or its equivalent; (iii) have completed a funeral service internship prescribed by the Board in regulation; (iv) have graduated from a school of mortuary science or funeral service approved by the Board; and (v) have passed the examination for licensure.

Both the current (pre-emergency) 18 VAC 65-20 *Regulations Governing the Practice of Funeral Services* and the proposed regulation further specify that the applicant for a funeral service license pay the \$325 application fee, pass the National Board Examination<sup>2</sup> of the International Conference of Funeral Service Examining Boards (ICFSEB), and pass the Virginia State Board Examination.<sup>3</sup>

There are no proposed changes to 18 VAC 65-30 *Regulations for Preneed Funeral Planning* that directly affect funeral service licensure.

The current (pre-emergency) 18 VAC 65-40 *Regulations for the Funeral Service Internship Program* requires that the funeral service internship consist of at least 3,000 hours of training. The proposed regulation reduces that requirement to 2,000 hours.

### ***Funeral Directors and Embalmers***

The Code of Virginia does not specify requirements to be licensed as either a funeral director or an embalmer. The Board proposes to specify in 18 VAC 65-20 *Regulations Governing the Practice of Funeral Services* the requirements for initial licensure as either a funeral director or as an embalmer that are comparable to the requirements for initial funeral service licensure, but more focused on the individual sub-discipline. A comparison of the requirements is shown in the table below.

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<sup>2</sup> The National Board Examination is on the competent practice of the profession.

<sup>3</sup> The Virginia State Board Examination is on the laws, rules, and regulations for funeral practice.

	<b>Funeral Director</b>	<b>Embalmer</b>	<b>Funeral Service</b>
<b>Minimum age and High School</b>	Be at least 18, high school diploma or equivalent.	Be at least 18, high school diploma or equivalent.	Be at least 18, high school diploma or equivalent.
<b>Internship</b>	Complete funeral service or funeral directing internship.	Complete funeral service or embalming internship.	Complete funeral service internship.
<b>Post-Secondary Education</b>	Graduate from accredited <sup>4</sup> school of mortuary science or funeral service or complete associate's degree or equivalent, which consists of at least 60 credit hours of coursework, with at least 30 hours from funeral directing program approved by Board.	Graduate from accredited school of mortuary science or funeral service or complete embalming program approved by Board.	Graduate from funeral service program offered by accredited school of mortuary science or funeral service.
<b>Pathology</b>	Complete coursework in the area of pathology approved by the Board.	Programs already include pathology as required course.	Programs already include pathology as required course.
<b>App. Fee</b>	Pay \$325 fee.	Pay \$325 fee.	Pay \$325 fee.
<b>National Exam</b>	Pass National Board Exam in Arts or State Board Exam in Arts of the ICFSEB.	Pass National Board Exam in Sciences or State Board Exam in Sciences of the ICFSEB.	Pass National Board Exam of the ICFSEB.
<b>State Exam</b>	Pass Virginia State Board Examination on laws, rules, and regulations for funeral practice.	Pass Virginia State Board Exam on laws, rules, and regulations for funeral practice.	Pass Virginia State Board Exam on laws, rules, and regulations for funeral practice.

<sup>4</sup> In this document accredited means accredited by the American Board of Funeral Service Education.

Preneed funeral planning (including preneed funeral contracting)<sup>5</sup> is part of the job of funeral directing, but not embalming. The Board proposes to amend 18 VAC 65-30 *Regulations for Preneed Funeral Planning* to reflect that the preneed funeral planning requirements apply to funeral directing licensees as well as funeral service licensees.

The current (pre-emergency) 18 VAC 65-40 *Regulations for the Funeral Service Internship Program* states that “A funeral service intern shall receive training in all areas of funeral service.” The Board proposes to add that:

D. A funeral directing intern shall receive training in all areas of funeral directing, including assisting in at least 25 funerals, 25 arrangement conferences, as well as visitations and financing of funeral services.

E. An embalming intern shall receive training in all aspects of embalming practice, including assisting in at least 25 embalmings, as well as treatment, restorative art, safety and sanitation, and organ, tissue, or anatomical donation.

As is the case for the funeral service internship, the funeral directing and embalming internships would consist of at least 2,000 hours of training under the proposed regulation.

### **Estimated Benefits and Costs**

The proposed reduction of required internship hours from 3,000 to 2,000 is substantial. If one were to intern 40 hours a week, the proposal reduces interning time from 75 weeks to 50 weeks (or about 1.5 years to 1 year). Thus, individuals could enter the profession fully licensed about six months earlier. Since there are no reductions in required degrees and coursework, and National Board and Virginia State Board examinations must still be passed, it seems likely that public safety would not be substantively affected, while those seeking licensure would benefit by the ability to start working and earning as a fully licensed professional sooner.

According to the Department of Health Professions, the Board proposed the educational and professional requirements so that there would be parity across the three license types. The intention is that the amount of time and fees necessary to gain each type of licensure would be similar. The prompting of the legislation to establish the required education, examination, and experience required to be licensed as a funeral director or an embalmer came from individuals

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<sup>5</sup> Code of Virginia § 54.1-2800 defines “preneed funeral planning” as “the making of arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies,” and “preneed funeral contract” as “any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies.”

and groups who object to<sup>6</sup> or just prefer not to participate in the practice of embalming. The proposed license in funeral directing would allow such individuals to avoid spending time training on a craft that they object to, or at least would not use in practice. In this respect, the creation of the requirements for the funeral directing license is beneficial, and more individuals may choose to enter the industry. Additionally, there may be individuals who only wish to work in embalming and whose time is not well spent training on the funeral directing portion of funeral services. The proposal to have separate requirements for embalming licensure is beneficial for these individuals as well.

In the five months that the emergency regulations have been in effect, there have been nine applications for the funeral directing internship, five applications for the funeral director license, one application for the embalming internship, and no applications for the embalming license. So the legislation and proposed regulations appear to be impactful. During the same five months, there were 44 funeral service internship applications and 30 funeral service license applications.<sup>7</sup>

### **Businesses and Other Entities Affected**

The proposed amendments affect the two accredited schools of mortuary science or funeral service in the Commonwealth.<sup>8</sup> There have not been any specific funeral director or embalming programs approved thus far. Any such programs would be at accredited schools of mortuary science or funeral service, whether in Virginia or out-of-state. The proposed amendments also potentially affect the 420 funeral establishments in the Commonwealth.<sup>9</sup> The proposal does not produce any costs.

### **Small Businesses<sup>10</sup> Affected:**

The proposed amendments do not appear to adversely affect small businesses.

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<sup>6</sup> Muslim, Bahá'í and orthodox Jewish faiths consider embalming to be a desecration of the body, and prohibit it. See <https://funerals.org/what-you-should-know-about-embalming/>

<sup>7</sup> Data source: Department of Health Professions

<sup>8</sup> The two accredited schools of mortuary science or funeral service in the Commonwealth are at John Tyler Community College in Chester and Tidewater Community College in Virginia Beach.

<sup>9</sup> Data source: Department of Health Professions' website. See <https://www.dhp.virginia.gov/about/stats/2021Q3/04CurrentLicenseCountQ3FY2021.pdf>

<sup>10</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

## Localities<sup>11</sup> Affected<sup>12</sup>

The proposal to establish the requirements of licensure for funeral directors separate from the requirements of funeral service licensure may particularly affect localities that have a disproportionately large portion of their population that object to embalming.<sup>13</sup> The requirements of funeral service licensure include embalming, while the requirements of licensure for funeral directors does not. The proposed amendments do not introduce costs for local governments.

## Projected Impact on Employment

The proposals to reduce the required time in an internship by 1,000 hours, and to essentially in practice create two more focused separate licenses, may moderately increase the number of individuals entering and becoming employed in the industry.

## Effects on the Use and Value of Private Property

The potential moderate increase in the number of individuals seeking licensure in the industry may make it easier for funeral establishments to find qualified employees. This may moderately reduce their costs and commensurately increase their value. The proposal does not affect real estate development costs.

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for

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<sup>11</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>12</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

<sup>13</sup> As alluded to earlier, Muslim, Bahá’í and orthodox Jewish faiths consider embalming to be a desecration of the body, and prohibit it.

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preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.