



**Virginia
Regulatory
Town Hall**

**Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Board of Funeral Directors and Embalmers
VAC Chapter Number:	18 VAC 65-30-10 et seq.
Regulation Title:	Regulations Governing Preneed Funeral Services
Action Title:	Periodic review
Date:	

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Regulations 18 VAC 65-30-10 et seq. govern the solicitation, sale and content of a preneed contract for funeral services. Regulations also provide requirements for record-keeping and reporting, disclosures to the consumer, and funding mechanisms. Rules on the transfer, cancellation or termination of a contract are set forth, and the required content and format of a contract is specifically stipulated.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The statutory authority for this regulation is found in § 54.1-2400 and Chapter 28 of Title 54.1 of the Code of Virginia.

Section 54.1-2400 establishes the general powers and duties of health regulatory boards including the responsibility to establish qualifications for licensure, to set fees and schedules for renewal, to establish requirements for an inactive license and to promulgate regulations, in accordance with the Administrative Process Act, which are reasonable and necessary to effectively administer the regulatory system.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of*

Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.

9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

Chapter 28 of Title 54.1 sets forth statutory provisions for the licensure and practice of funeral establishments and funeral service licensees. Excerpts related to preneed are:

§ 54.1-2800. Definitions.

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

"Advertisement" means any information disseminated or placed before the public.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.

"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the preservation and disinfection of the human dead by external or internal application of chemicals.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch or chapel which is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing or the act of embalming is performed.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following persons, regardless of the relationship to the decedent: any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over eighteen years of age, custodial parent, noncustodial parent, siblings over eighteen years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over eighteen years of age and paternal siblings over eighteen years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means 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.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

§ 54.1-2803. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this subtitle, the Board shall have the following specific powers and duties:

- 1. To establish standards of service and practice for the funeral service profession in this Commonwealth.*
- 2. To regulate and inspect funeral service establishments, their operation and licenses.*
- 3. To require licensees and resident trainees to submit all information relevant to their practice or business.*
- 4. To enforce the relevant regulations of the Board of Health.*
- 5. To enforce local ordinances relating to funeral service establishments.*
- 6. To advise the Department of Health Professions of any training appropriate for inspectors serving as the Board's agents.*
- 7. To establish, supervise, regulate and control, in accordance with the law, programs for resident trainees.*
- 8. To establish standards for and approve schools of mortuary science or funeral service.*
- 9. To regulate preneed funeral contracts and preneed funeral trust accounts as prescribed by this chapter, including, but not limited to, the authority to prescribe preneed contract forms, disclosure requirements and disclosure forms and to require reasonable bonds to insure performance of preneed contracts.*

§ 54.1-2804. Licensing authority.

The Board of Funeral Directors and Embalmers is authorized to determine the qualifications to enable any person to engage in the practice of funeral service, preneed funeral planning, funeral directing, embalming and the operation of a funeral service establishment.

§ 54.1-2805. Engaging in the practice of funeral services or the business of preneed funeral planning or acting as a funeral director or embalmer without a license.

It shall be unlawful for any person to engage in or hold himself out as engaging in the practice of funeral services or the business of preneed funeral planning, to operate a funeral service establishment, or to act as a funeral director or embalmer or hold himself out as such unless he is licensed by the Board.

Engaging in the practice of funeral services, preneed funeral planning, operating a funeral service establishment, or acting as a funeral director or embalmer shall be recognized as that of a health profession.

§ 54.1-2806. Refusal, suspension or revocation of license.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

- 1. Conviction of any felony or any crime involving moral turpitude;*
- 2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;*
- 3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;*
- 4. False or misleading advertising or solicitation;*
- 5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;*
- 6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;*
- 7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;*
- 8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;*
- 9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;*
- 10. Aiding or abetting an unlicensed person to practice within the funeral service profession;*
- 11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;*
- 12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;*
- 13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;*
- 14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;*
- 15. Knowingly making any false statement on a certificate of death;*
- 16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;*
- 17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;*

18. *Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;*
19. *Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;*
20. *Violating or cooperating with others to violate any provision of this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;*
21. *Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral trainees;*
22. *Failure to provide proper and adequate supervision and training instruction to registered funeral trainees as required by regulations of the Board;*
23. *Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased; and*
24. *Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers.*

§ 54.1-2807. Other prohibited activities.

A. *A person licensed for the practice of funeral service shall not (i) remove or embalm a body when he has information indicating the death was such that a medical examiner's investigation is required pursuant to § 32.1-283 or § 32.1-285.1 or (ii) cremate or bury at sea a body until he has obtained permission of the medical examiner as required by § 32.1-284.*

B. *Funeral service establishments shall not accept a dead human body from any public officer except a medical examiner, or from any public or private facility or person having a professional relationship with the decedent without having first inquired about the desires of the next of kin and the persons liable for the funeral expenses of the decedent. The authority and directions of any next of kin shall govern the disposal of the body.*

Any funeral service establishment violating this subsection shall not charge for any service delivered without the directions of the next of kin. However, in cases of accidental or violent death, the funeral service establishment may charge and be reimbursed for the removal of bodies and rendering necessary professional services until the next of kin or the persons liable for the funeral expenses have been notified.

C. *No company, corporation or association engaged in the business of paying or providing for the payment of the expenses for the care of the remains of deceased certificate holders or members or engaged in providing life insurance when the contract might or could give rise to an obligation to care for the remains of the insured shall contract to pay or pay any benefits to any licensee of the Board or other individual in a manner which could restrict the freedom of choice of the representative or next of kin of a decedent in procuring necessary and proper services and supplies for the care of the remains of the decedent.*

D. *No person licensed for the practice of funeral service or preneed funeral planning or any of his agents shall interfere with the freedom of choice of the general public in the choice of persons or establishments for the care of human remains or of preneed funeral planning or preneed funeral contracts.*

E. *This section shall not be construed to apply to the authority of any administrator, executor, trustee or other person having a fiduciary relationship with the decedent.*

§ 54.1-2820. Requirements of preneed funeral contracts.

A. *It shall be unlawful for any person residing or doing business within this Commonwealth, to make, either directly or indirectly by any means, a preneed funeral contract unless the contract:*

1. *Is made on forms prescribed by the Board and is written in clear, understandable language and printed in easy-to-read type, size and style;*
2. *Identifies the seller, seller's license number and contract buyer and the person for whom the contract is purchased if other than the contract buyer;*
3. *Contains a complete description of the supplies or services purchased;*
4. *Clearly discloses whether the price of the supplies and services purchased is guaranteed;*
5. *States if funds are required to be trusted pursuant to § 54.1-2822, the amount to be trusted, the name of the trustee, the disposition of the interest, the fees, expenses and taxes which may be deducted from the interest and a statement of the buyer's responsibility for taxes owed on the interest;*
6. *Contains the name, address and telephone number of the Board and lists the Board as the regulatory agency which handles consumer complaints;*
7. *Provides that any person who makes payment under the contract may terminate the agreement at any time prior to the furnishing of the services or supplies contracted for; if the purchaser terminates the contract within thirty days of execution, the purchaser shall be refunded all consideration paid or delivered, together with any interest or income accrued thereon; if the purchaser terminates the contract after thirty days, the purchaser shall be refunded any amounts required to be deposited under § 54.1-2822, together with any interest or income accrued thereon; however, nothing herein shall prohibit the creation of an irrevocable inter vivos trust which may be established by any person residing or doing business within this Commonwealth for the purpose of paying the grantor's funeral and burial expenses;*
8. *Provides that if the particular supplies and services specified in the contract are unavailable at the time of delivery, the seller shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship and the representative of the deceased shall have the right to choose the supplies or services to be substituted;*
9. *Discloses any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or prearrangement guarantee; and*
10. *Complies with all disclosure requirements imposed by the Board.*

If the contract seller will not be furnishing the supplies and services to the purchaser, the contract seller must attach to the preneed funeral contract a copy of the seller's agreement with the provider.

B. If a life insurance or annuity contract is used to fund the preneed funeral contract, the life insurance or annuity contract shall provide either that the face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States, or a benefit payable at death under such contract that will equal or exceed the sum of all premiums paid for such contract plus interest or dividends, which for the first fifteen years shall be compounded annually at a rate of at least five percent. In any event, interest or dividends shall continue to be paid after fifteen years. In addition, the following must also be disclosed as prescribed by the Board:

1. *The fact that a life insurance policy or annuity contract is involved or being used to fund the preneed contract;*
2. *The nature of the relationship among the soliciting agent, the provider of the supplies or services, the prearranger and the insurer;*
3. *The relationship of the life insurance policy or annuity contract to the funding of the preneed contract and the nature and existence of any guarantees relating to the preneed contract; and*
4. *The impact on the preneed contract of (i) any changes in the life insurance policy or annuity contract including but not limited to changes in the assignment, beneficiary designation or use of the proceeds, (ii) any penalties to be incurred by the policyholder as a result of failure to make premium payments, (iii) any penalties to be incurred or moneys to be received as a result of cancellation or surrender of the life insurance policy or annuity contract, and (iv) all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy or annuity contract and the amount actually needed to fund the preneed contract.*

C. When the consideration consists in whole or in part of any real estate, the contract shall be recorded as an attachment to the deed whereby such real estate is conveyed, and the deed shall be recorded in the clerk's office of the circuit court of the city or county in which the real estate being conveyed is located.

D. If any funeral supplies are sold and delivered prior to the death of the subject for whom they are provided, and the seller or any legal entity in which he or a member of his family has an interest thereafter stores these supplies, the risk of loss or damage shall be upon the seller during such period of storage.

§ 54.1-2821. Exemptions.

This article shall not apply to the preneed sale of cemetery services or supplies regulated under Article 3.2 (§ 57-35.11 et seq.) of Chapter 3 of Title 57.

§ 54.1-2822. Deposit of money received pursuant to preneed funeral contract.

Within thirty days following the receipt of any money paid pursuant to any preneed funeral contract or interest or income accrued thereon, unless such amounts are paid to fund either an annuity or an insurance policy which will be used to purchase the funeral supplies or services contracted for, the person receiving such amounts shall deposit all consideration paid pursuant to the terms of a preneed funeral contract in which the price of the supplies and services is not guaranteed, or ninety percent of all consideration paid pursuant to the terms of a preneed funeral contract in which the price of the supplies and services is guaranteed, in a special account in a bank or savings institution doing business in this Commonwealth.

The funds shall be deposited in separate, identifiable trust accounts setting forth the names of the depositor, the trustee for the person who is the subject of the contract, the name of the person who will render the funeral services and the name of the person who is the subject of the contract. The purchaser shall have the right to change the beneficiary and trustee of the trust at any time prior to the furnishing of the services or supplies contracted for under the preneed funeral contract. Trust account records shall be subject to examination by the Board.

No funeral director, embalmer, funeral service licensee, owner of a funeral establishment, or any person employed by or having an interest in a funeral establishment shall serve as trustee of a trust account for which any such person, or any funeral establishment owned by or employing such person or in which such person has an interest, has been named the beneficiary or designated the provider of services, unless two or more such persons are named and serve as trustees and are required to act jointly in such fiduciary capacity.

§ 54.1-2822.1. Funeral establishments to maintain preneed records.

Every person selling preneed funeral contracts within this Commonwealth shall keep and maintain such records of preneed transactions, including copies of preneed contracts, as may be prescribed by the Board. All such records shall be maintained on the premises of the funeral establishment providing the preneed services and supplies, except that preneed records of funeral establishments under common ownership, control, or management may be maintained at a single location within this Commonwealth.

§ 54.1-2823. Exemption from levy, garnishment and distress.

Any money, personal property or real property paid, delivered or conveyed subject to § 54.1-2822 shall be exempt from levy, garnishment or distress.

§ 54.1-2824. Declaration of trust in consideration other than money.

Within thirty days following the receipt of any personal property other than money delivered pursuant to any preneed funeral contract, the person receiving it, if title thereto is transferred, or the person making such delivery, if title thereto is not transferred, shall execute in writing a declaration of trust setting forth all the terms, conditions and considerations upon which the personal property is delivered, which shall be

acknowledged in the same manner as the contract and recorded in the clerk's office of the circuit court of the city or county in which the person delivering the personal property resides; provided, that if such terms, conditions and considerations are contained in the preneed funeral contract, the contract shall be recorded.

§ 54.1-2825. Person to make arrangements for disposition of remains.

Any person may designate in a signed and notarized writing, which has been accepted in writing by the person so designated, an individual who shall make arrangements for his burial or the disposition of his remains, including cremation, upon his death.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

An announcement of the board's review of its regulations governing preneed arrangements for funeral services was posted on the Virginia Regulatory Townhall, sent to the Registrar of Regulations, and sent to persons on the Public Participation Guidelines mailing list for the board. Public comment was received from March 26, 2001 until April 25, 2001. During that period, no comment was received from members of the public. However, the Regulatory Review Committee specifically consulted with others who have particular expertise in certain aspects of practice, reviewed comments regarding regulations received in previous months, reviewed recommendations resulting from a Board workshop in 2000 on issues in the funeral industry, and considered recommendations from a Task force on the Inspection Process. During its meetings, the Committee invited and received full participation by parties interested in the regulations of the Board.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

- 1) Achieve a reduction in the number of violations related to preneed requirements..

The investigators within the Department of Health Professions perform an inspection of each funeral establishment approximately every three years. Information from the Enforcement Database of the Department indicates the following

<u>YEAR</u>	<u>INSPECTIONS</u>	<u>DEFICIENCIES</u>	<u>AVG/INSPECTION</u>
2001 YTD 8/1/01	78	294	3.8 (*)
2000	289	1167	4.0 (*)
1999	250	508	2.0
1998	90	232	2.6

1997	73	205	2.8
1996	94	247	2.6

(*) The average has increased because the inspection form was updated in 2000 to include current laws and regulations and the inspectors have been better trained to identify deficiencies. Also the process for entering inspections into the database was changed in 2000 to assure that all inspections are entered.

There are presently 499 current active funeral establishments.
The reduction of inspections in 2001 is due to the transition from a two to a three-year inspection cycle.

To ensure that members of the public are protected in making preneed arrangements for funeral services, the Board has been actively striving to educate licensees about deficiencies related to record-keeping, disclosures and required information on preneed contracts that inspections have uncovered. Periodically, the Enforcement Division of DHP prepares its “Dirty Dozen” list of most-commonly cited deficiencies; contained in that list are two common deficiencies related to preneed as follows:

- 65-30-70 Chronological listing not available or does not include required information such as how funded, 10% retained, etc.
- 65-30-80 Preneed contract does not include required information such as contract number,
- 65-30-180 license number of funeral service provider, license number of insurance agent.

That information is disseminated to the licensed establishments with citations of the law or regulation being violated and suggestions for correction. In addition, the Board intends to eliminate a requirement that is often misunderstood and unnecessary.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

During its review of regulations, the Board determined that regulations for preneed were sufficient to achieve their purpose which is to ensure that consumers are protected in making of preneed arrangements for funeral services. The Board has consulted with a variety of persons who are involved in the funding and sale of preneed and concluded that its regulations were adequate, not unnecessarily burdensome, and consistent with state and federal law. Most of the information and disclosures set forth in regulation are also requirements of the Federal Trade Commission for consumer protection. Therefore, only minor changes in the regulations are recommended.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The Board of Funeral Directors and Embalmers is recommending that 18 VAC 65-30-10 et seq. be amended to correctly define appointee and designee and to eliminate a confusing and unnecessary requirement for a number to be placed on the preneed contract. It will also consider any other issues raised during public comment on the Notice of Intended Regulatory Action.

Substance

Please detail any changes that would be implemented.

The changes that would be implemented are:

18 VAC 65-30-10. Definitions.

Amendments are recommended to distinguish between the “appointee” who is the person selected to arrange a preneed plan and a “designee” as defined in the Code in § 54.1-2825 as the person designated to make arrangements for burial or disposition of the remains.

18 VAC 65-30-80. Content and format.

Regulations require a number on the preneed contract, but there has been confusion and uncertainty about what number is to be used. The Board considered specifying the numbering of contracts but concluded that it was unnecessary since records must be maintained chronologically; therefore the date on the contract is all that is necessary for record-keeping and inspections.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability and no effect on family income.