

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

**Department of Health Professions  
Perimeter Center  
9960 Mayland Drive, Henrico VA 23233-1463  
Board Room #2, Second Floor  
July 16, 2012 at 10:00 a.m.**

## **BOARD MEETING AGENDA**

### **CALL TO ORDER**

### **ORDERING OF AGENDA**

### **ACCEPTANCE OF MINUTES - Tab 1**

- Board Meeting - April 24, 2012
- Legislative/Regulatory Meeting - April 12, 2012

### **INFORMAL CONFERENCES HELD**

- (4) - held on April 17, 2012
- (2) - held on June 6, 2012

### **PUBLIC COMMENT PERIOD**

### **AGENCY DIRECTORS REPORT - Dr. Reynolds-Cane**

### **EXECUTIVE DIRECTOR'S REPORT - Lisa R. Hahn - Tab 2**

### **NEW BUSINESS**

- Legislative/Regulatory Reports- Elaine Yeatts - Tab 3
  - Report on status of regulations
  - Text of draft legislative proposals from Board
  - Adoption of amendments to continuing education - exempt action
  - Discussion of HB439 and SB433 - Notification to Dept. of Veteran's Affairs prior to cremation of unclaimed remains
- Guidance Document Regarding Practicing on Expired License - Lisa R. Hahn - Tab 4

# Tab1

**UNAPPROVED**  
**VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
**BOARD MEETING MINUTES**

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, April 24, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

**BOARD MEMBERS PRESENT**

Robert B. Burger, Jr., FSP, President  
Blair Nelsen, FSP, Vice-President  
Junius Williams, Citizen Member, Secretary-Treasurer  
Randolph T. Minter, FSP  
Michael J. Leonard, FSP  
Walter Ball, Citizen Member  
Robert Oman, FSP  
Christopher P. Vincent, FSP  
Eric V. Wray, II, FSP

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

Lisa R. Hahn, Executive Director  
Lynne Helmick, Deputy Executive Director  
Missy Currier, Board Operations Manager  
Kathy Petersen, Discipline Manager

**BOARD COUNSEL**

Erin Barrett, Assistant Attorney General

**QUORUM**

With 9 members present a quorum was established.

**GUESTS PRESENT**

Barry D. Robinson, Virginia Morticians Association  
Meredyth Partridge, Regulatory Support Services, Inc.  
Paul Harris, Regulatory Support Services, Inc.  
Bo Keeney, Independent Funeral Homes of Virginia  
Bruce Keeney, Independent Funeral Homes of Virginia

**CALL TO ORDER**

Mr. Burger, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:45 a.m. by welcoming everyone and asking the members and the guests in the audience to introduce themselves.

## **ORDERING OF AGENDA**

The agenda was amended and accepted by removing **Tab 4** - a guidance document regarding practicing on an expired license.

## **ACCEPTANCE OF MINUTES**

Upon a motion by Mr. Oman and properly seconded by Mr. Wray, the Board voted to accept the following Meeting Minutes:

- Board Meeting – January 17, 2012
- (2) Formal Hearings – January 17, 2012
- Possible Summary Suspension – January 17, 2012
- Formal Hearing – January 18, 2012
- Formal Hearing – March 8, 2012

The motion carried unanimously.

## **INFORMAL CONFERENCES HELD**

Mr. Burger shared that informal conferences were held on the following days and that the minutes are located on the board's website and regulatory Townhall.

- January 17, 2012
- January 17, 2012
- January 18, 2012

## **PUBLIC COMMENT PERIOD**

There was no public comment.

## **EXECUTIVE DIRECTOR'S REPORT**

### **Expenditure and Revenue Summary**

Ms. Hahn stated that the beginning cash balance as of June 30, 2011 was \$26,516, revenue received for FY 12 was \$215,920 less the direct and allocated expenditures of \$436,461 leaving a cash balance as of February 29, 2012 of \$(194,025).

### **Licensee Statistics**

Ms. Hahn referred the members to the conference room screen with updated statistics.

### **Discipline Statistics**

Ms. Hahn stated the board has 38 open cases; 17 of the 38 cases are in the Enforcement Division at the Investigative stage; 6 cases are in the Probable Cause stage, 10 cases at the APD level; 5 cases are in the informal stage; and no cases were in the formal stage. Ms. Hahn added that 5 compliance inspections have been ordered and that 13 funeral board compliance cases are being monitored.

### **Virginia Performs – 3rd Quarter ending March 31, 2012**

Ms. Hahn gave the following Virginia Performs results: 100% rating for issuing licenses in less than 30 days; a 100% rating for patient care cases closed within 250 days; customer satisfaction was at 100%; the clearance rate was at 700% and the percent of cases closed within 250 days was at 71%. She concluded her report by stating that she contributes great results to her outstanding staff.

### **Scanning Pilot Project**

Ms. Hahn shared with the board that after one year of implementing a scanning pilot program, her boards have recognized an overall cost savings of \$ 16,796.00 or 86% in copying costs. She specified that of her three boards, the Board of Long Term Care Administrators realized the largest savings because those cases are typically voluminous and include many medical reports. Ms. Hahn concluded her report by recognizing Ms. Petersen who was instrumental in assisting with the implementation of the program.

### **Presentations**

Ms. Hahn reported that the following Presentations had been given since January:

- VFDA Townhall – January 30<sup>th</sup> in Richmond, Lisa R. Hahn
- VFDA Traveling Caravan's - February 21<sup>st</sup> and March 22<sup>nd</sup> - Lynne Helmick
- VFDA Traveling Caravan – March 8<sup>th</sup> in Fredericksburg - Billie Hughes
- VFDA Job Fair @ John Tyler Comm. College – March 19<sup>th</sup> - Vicki Saxby
- IFHV – March 23<sup>rd</sup> in Richmond – Lynne Helmick

Ms. Hahn recognized staff member Vicky Saxby for doing a great job at the job fair.

### **Board Member Recognition**

Ms. Hahn shared that the day's meeting could potentially be Bob Burger's and Randy Minter's last official meeting. She boasted that they had both filled two terms, worked in every capacity, and did an amazing amount of work for the Commonwealth of Virginia. They have both shown a lot of appreciation of the staff and have been delightful to work with. She thanked them for their hard work and dedication while on the board. She stated that the entire staff and board will sorely miss them.

## **Regulatory News**

Ms. Hahn reminded the board that they had approved regulations for a fee increase during the October 22, 2010 board meeting. She reported that the regulations have remained unapproved at the Secretary's office for 485 days. She indicated that she would go into further detail under New Business.

Ms. Hahn briefed on the status of the following regulations relating to:

- The identification of human remains – remain at the Governor's Office
- Fast-Track regarding termination of irrevocable trusts – remain at Governor's Office

## **Calendar**

Ms. Hahn announced the scheduled dates for the next meetings in 2012; July 17th, and October 16<sup>th</sup>.

## **NEW BUSINESS**

### **Final Report of the 2012 General Assembly Session**

Ms. Hahn briefly reviewed the status of bills submitted before the 2012 General Assembly that may directly or indirectly affect the Agency: HB 195; HB 265, HB 272, HB 337, HB 378, HB 379, HB 439, HB 937, HB 938, & SB 433.

### **Regulations for a Fee Increase**

Ms. Hahn began her report by stating that she was just notified that the Secretary's office had rejected the Board's proposed regulations related to a fee increase as presented. She explained that they were opposed to the incremental two step proposal. Ms. Hahn suggested that the board resubmit the proposed regulations but strike out the 2014 incremental increase.

Upon a motion by Mr. Minter and properly seconded by Mr. Leonard, the board voted to accept the staff recommendation to strike the July 1, 2014 incremental fee increase from the original proposal the board accepted during their October 22, 2010 meeting. The motion carried unanimously.

### **Legislative/Regulatory Committee Oral Report – Junius Williams, Chair**

A motion was made by Mr. Williams and properly seconded by Mr. Nelsen, that the Board allow staff to edit the following legislation to address and re-define "structural damage" and in addition to add that verbal authorization as being acceptable notification provided it is followed up in writing or to include this language in regulation if deemed more appropriate.

#### **1) Consideration of an Emergency Provision § 54.1-2810. - Draft**

If a licensed funeral establishment incurs structural damage that prevents normal business operations, a request may be made to the board for permission to operate temporarily out of another licensed funeral establishment. The request must be submitted in writing to the board no later than 30 days from the time of damage and must include the circumstances of the emergency, a completion date of the repair, and the arrangements that have been agreed upon by both establishments involved. The provision will not be considered for building renovations.

The motion carried unanimously.

## 2) 2013 Session Draft Legislation

A motion was made by Mr. Williams and properly seconded by Mr. Leonard, that the Board approve the 2013 Draft Legislation which primarily consisted of removing old language for cleanup and adding the following to § 54.1-2806. Refusal, suspension or revocation of license:

(27) Incompetence to practice his profession with safety to his clients and the public;

The motion carried unanimously.

## REGULATORY

### 3) Consistency of Time Requirements in the Regulations

A motion was made by Mr. Williams and properly seconded by Mr. Vincent that the Board accept the following changes in the regulations in order to establish consistency with time requirements:

1. New funeral establishment and crematory application time requirements
  - a. **18VAC65-20-170 (C)** At least ~~45~~ **30** days prior to opening an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously a completed application, any additional documentation as may be required by the board to determine eligibility, and the applicable fee. An incomplete package will be returned to the licensee. A license shall not be issued until an inspection of the establishment has been completed and approved.
2. Retention of records
  - b. **18VAC65-30-60 (B)** Preneed contracts and reporting documents shall be retained on the premises of the establishment for ~~one year~~ **three years** after the death of the contract beneficiary.

The motion carried unanimously.

Mr. Williams concluded his report by stating that the Committee had discussed other topics but they had no additional recommendations at this time.

The Board recessed at 11:39 a.m. and reconvened at 11:49 a.m.

### **Conflict with FTC Rule and Appendix I – Lynne Helmick**

Ms. Helmick led discussion regarding a possible conflict between Appendix 1 of the GPL and FTC requirements. She stated that FTC requires that if you offer two alternative containers for direct cremation that there should be two separate prices listed on the GPL. Following discussion, the members decided to table the matter for the next meeting in July.

### **Petition for Reconsideration of Board Order**

The Board received a Motion to Reconsider from Kiplin Jordan regarding Board Orders entered on October 9, 2007. Upon a motion by Mr. Leonard and properly seconded by Mr. Wray, the board denied the request of Kiplin Jordan to modify previously issued Board Orders and Consent Orders signed by Mr. Jordan on October 8, 2007. The motion carried unanimously.

Mr. Nelsen recused himself from the decision on this matter.

### **Election of Officers**

Upon a motion by Mr. Minter and properly seconded by Mr. Wray, the board nominated the election of Blair Nelsen as Board President effective July 1, 2012. The motion carried unanimously.

Upon a motion by Mr. Leonard and properly seconded by Mr. Nelsen, the board nominated the election of Junius Williams as Board Vice-President effective July 1, 2012. The motion carried unanimously.

Upon a motion by Mr. Nelsen and properly seconded by Mr. Burger, the board nominated the election of Christopher P. Vincent as Board Secretary-Treasurer effective July 1, 2012. The motion carried unanimously.

### **Board Member Comments**

Mr. Burger thanked everyone for making his tenure while on the board successful and he gave a special thank you to Ms. Hahn and her staff for helping to make his job go smoothly and for keeping the members so organized.

Mr. Minter mentioned how important his appointment to the board was and how appreciative he was to all the staff that helped to make his experience so wonderful. He expressed his gratitude to Ms. Hahn and all her staff for their hard work and willingness to help the members carry out their duties.



**ADJOURNMENT:**

With no further business before the Board, the meeting adjourned at 12:12 p.m.

\_\_\_\_\_  
Robert B. Burger, Jr., President

\_\_\_\_\_  
Lisa R. Hahn, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**UNAPPROVED  
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS  
REGULATORY/LEGISLATIVE COMMITTEE  
MEETING MINUTES**

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, April 24, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

**COMMITTEE MEMBERS PRESENT**

Junius Williams, Citizen Member, Chair  
Randolph T. Minter, FSP  
Eric V. Wray, II, FSP

**OTHER BOARD MEMBERS PRESENT**

Michael J. Leonard, FSP  
Christopher P. Vincent, FSP

**DHP STAFF PRESENT**

Lisa R. Hahn, Executive Director  
Lynne Helmick, Deputy Executive Director  
Missy Currier, Board Operations Manager  
Kathy Petersen, Discipline Manager

**QUORUM**

With 5 members present a quorum was established.

**GUESTS PRESENT**

Barry D. Robinson, Virginia Morticians Association  
Meredyth Partridge, Regulatory Support Services, Inc.  
Paul Harris, Regulatory Support Services, Inc.

**CALL TO ORDER**

Mr. Williams, Chair called the committee meeting of the Virginia Board of Funeral Directors and Embalmers to order at 9:04 a.m.

**LEGISLATIVE MATTERS**

**Consideration of "Emergency" status for Establishments – Lisa R. Hahn**

Ms. Hahn gave an overview of the purpose for the proposed legislation. Ms. Hahn indicated that on occasion, the board will receive a request from an establishment seeking permission to

operate temporarily out of another funeral establishment due to unexpected damage to their building.

It was suggested that during the regulatory process that something be added to allow for verbal authorization as being acceptable notification provided it is followed up in writing within a stated period of time. The Committee recommended that we amend the language to address and define "structural damage". The Committee concluded that they would ask the full board to consider adding legislation for Emergency Provisions under **§54.1-2810 Licensure of Funeral Establishments**.

### **2013 Draft Legislation**

Ms. Hahn reviewed the following proposed draft legislation for the 2013 Session of the General Assembly and indicated that these proposed changes more accurately reflect current practice.

- *A bill to amend and reenact §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.*

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.**

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. ~~No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.~~

#### **§ 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 or incompetence to practice his profession with safety to his clients and the public;
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 service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns 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;
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;
25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; and
26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order.

**§ 54.1-2814. Examination.**

Each applicant for license for the practice of funeral service shall be examined in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;
2. Funeral service arts and sciences including embalming and restorative art;
3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

~~The Board may recognize other examinations that it considers equivalent to its examination.~~

**§ 54.1-2815. Application for license; ~~how license signed~~; duration.**

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

The Committee agreed to ask the full board to consider the 2013 Proposed Draft Legislation with the following changes:

**§ 54.1-2806 (9)** Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity ~~or incompetence to practice his profession with safety to his clients and the public;~~

**§ 54.1-2806 (27)** Incompetence to practice his profession with safety to his clients and the public;

**REGULATORY MATTERS**

**Consistency of Time Requirements in the Regulations**

Upon staff recommendation, the Committee agreed to ask the full board to consider making the following changes to maintain consistency with time requirements:

**18VAC65-20-170 (C)** At least 45 30 days prior to opening an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously a completed application, any additional documentation as may be required by the board to determine eligibility, and the applicable fee. An incomplete package will be returned to the licensee. A license shall not be issued until an inspection of the establishment has been completed and approved.

**18VAC65-30-60 (B)** Preneed contracts and reporting documents shall be retained on the premises of the establishment for ~~one year~~ three years after the death of the contract beneficiary.

## **DISCUSSION MATTERS**

### **Future Funeral Practice**

Lynne Helmick led a discussion on “bricks and mortar” laws and regulations that may need to be addressed by the board in keeping with current industry practices in Virginia and other states: such as virtual offices, two or more separately owned funeral homes sharing a space with one preparation room, and funeral homes without chapels. Additionally, Ms. Helmick gave examples of questionable situations she encountered while performing inspections in her previous position of Senior Inspector. She stated that the laws and regulations only speak to the preparation room and perhaps they should be broadened to require all public areas are maintained in a safe, clean, and sanitary condition.

### **Virtual Funeral Homes**

The Committee discussed “Virtual” Funeral Homes whereby an office is established for the sole purpose of meeting with a family to arrange for a service without the family ever stepping foot into the funeral establishment. The Committee recommended collecting information and researching what other states are doing and to determine how to define a Virtual Funeral Home. Ms. Hahn agreed to contact the Conference for information and asked the members to forward any information they come across to the board staff who will maintain the information.

### **Maryland Courtesy Card**

Discussion on the matter was deferred for a later date.

**Mr. Burger, Mr. Nelsen and Mr. Oman arrived at 10:10 a.m.**

### **Requiring Signature of Responsibility**

The committee had a discussion regarding adding regulations that would require documentation at the time of first call, obligating any future removals to be paid by receiving establishment. The Committee decided that these matters needed to be handled in small claims court because

the board has no authority over such business practices. No recommendations will be made to the full board.

### **Establishing Owners to take CEU's Licensed or Non Licensed**

The Committee also discussed requiring unlicensed owners of funeral establishments to know the law and regulations of the funeral industry in the Commonwealth. The point was made that although MOR's are responsible for the entire establishment, however; sometimes the business ownership overrules in making business decisions, leaving the MOR's hands tied in many cases. After brief discussion, the Committee decided not to make any recommendations to the full board.

### **Practicum for Licensure**

The Committee also discussed a concern that many new licensees are not efficient in embalming and preparations because of improper training. It was suggested that the board consider adding the Anatomical Program using cadavers as part of the practicum, to ensure those obtaining a license here in the Commonwealth receive proper training and knowledge. The Committee concluded that this suggestion be given to the Mortuary Schools and that no recommendations be made to the full board.

### **ADJOURNMENT:**

With no further business before the Board, the meeting adjourned at 10:26 a.m.

\_\_\_\_\_  
Junius Williams, Chair

\_\_\_\_\_  
Lisa R. Hahn, Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**Tab2**

Virgina Department of Health Professions  
Cash Balance  
As of May 31, 2012

	<b>104- Funeral Directors and Emba</b>
<b>Cash Balance as of June 30, 2011</b>	\$ 26,516
<b>YTD FY12 Revenue</b>	528,200
<b>Less: YTD FY12 Direct and In-Direct Expenditures</b>	<u>600,484</u>
<b>Board Cash Balance as of May 31, 2012</b>	<u><u>\$ (45,768)</u></u>

**Virginia Dept. of Health Professions**  
**Revenue and Expenditures Summary**  
 July 1, 2011 through May 31, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - May 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Revenue</b>				
<b>2400 · Fee Revenue</b>				
2401 · Application Fee	35,825.00	34,225.00	1,600.00	104.68%
2406 · License & Renewal Fee	471,255.00	488,660.00	-17,405.00	96.44%
2407 · Dup. License Certificate Fee	255.00	480.00	-225.00	53.13%
2409 · Board Endorsement - Out	2,200.00	2,600.00	-400.00	84.62%
2421 · Monetary Penalty & Late Fees	6,380.00	5,395.00	985.00	118.26%
2430 · Board Changes Fee	5,050.00	5,075.00	-25.00	99.51%
2432 · Misc. Fee (Bad Check Fee)	35.00	35.00	0.00	100.0%
<b>Total 2400 · Fee Revenue</b>	<u>521,000.00</u>	<u>536,470.00</u>	<u>-15,470.00</u>	<u>97.12%</u>
<b>3000 · Sales of Prop. &amp; Commodities</b>				
3020 · Misc. Sales-Dishonored Payments	0.00			
<b>Total 3000 · Sales of Prop. &amp; Commodities</b>	<u>0.00</u>			
<b>9000 · Other Revenue</b>				
Miscellaneous Revenue	0.00	5,700.00	-5,700.00	0.0%
9060 · Miscellaneous Revenue	7,200.00			
<b>Total 9000 · Other Revenue</b>	<u>7,200.00</u>	<u>5,700.00</u>	<u>1,500.00</u>	<u>126.32%</u>
<b>Total Revenue</b>	<u>528,200.00</u>	<u>542,170.00</u>	<u>-13,970.00</u>	<u>97.42%</u>
<b>Expenditures</b>				
<b>1100 · Personal Services</b>				
<b>1110 · Employee Benefits</b>				
1111 · Employer Retirement Contrib.	5,004.97	4,909.03	95.94	101.95%
1112 · Fed Old-Age Ins- Sal St Emp	5,096.11	5,707.30	-611.19	89.29%
1113 · Fed Old-Age Ins- Wage Earners	0.00	783.00	-783.00	0.0%
1114 · Group Insurance	728.58	760.97	-32.39	95.74%
1115 · Medical/Hospitalization Ins.	15,955.10	20,440.80	-4,485.70	78.06%
1116 · Retiree Medical/Hospitalizatn	706.77	738.59	-31.82	95.69%
1117 · Long term Disability Ins	471.26	492.39	-21.13	95.71%
<b>Total 1110 · Employee Benefits</b>	<u>27,962.79</u>	<u>33,832.08</u>	<u>-5,869.29</u>	<u>82.65%</u>
<b>1120 · Salaries</b>				
1123 · Salaries, Classified	71,142.73	74,605.27	-3,462.54	95.36%
1125 · Salaries, Overtime	0.00	200.00	-200.00	0.0%
<b>Total 1120 · Salaries</b>	<u>71,142.73</u>	<u>74,805.27</u>	<u>-3,662.54</u>	<u>95.1%</u>
<b>1130 · Special Payments</b>				
1131 · Bonuses and Incentives	0.00	0.00	0.00	0.0%
1138 · Deferred Compnstrn Match Pmts	529.00	816.00	-287.00	64.83%
<b>Total 1130 · Special Payments</b>	<u>529.00</u>	<u>816.00</u>	<u>-287.00</u>	<u>64.83%</u>
<b>1140 · Wages</b>				
1141 · Wages, General	0.00	10,026.00	-10,026.00	0.0%
<b>Total 1140 · Wages</b>	<u>0.00</u>	<u>10,026.00</u>	<u>-10,026.00</u>	<u>0.0%</u>
<b>1160 · Terminatn Personal Svce Costs</b>				
1165 · Employee Retirement Contributio	438.72	439.00	-0.28	99.94%

**Virginia Dept. of Health Professions**  
**Revenue and Expenditures Summary**  
 July 1, 2011 through May 31, 2012

	104- Funeral Directors and Emba			
	Jul '11 - May 12	Budget	\$ Over Budget	% of Budget
Total 1160 · Terminatn Personal Svce Costs	438.72	439.00	-0.28	99.94%
Total 1100 · Personal Services	100,073.24	119,918.35	-19,845.11	83.45%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	111.17	500.00	-388.83	22.23%
1214 · Postal Services	3,653.42	4,500.00	-846.58	81.19%
1215 · Printing Services	0.00	400.00	-400.00	0.0%
1216 · Telecommunications Svcs (DIT)	715.29	800.00	-84.71	89.41%
Total 1210 · Communication Services	4,479.88	6,200.00	-1,720.12	72.26%
1220 · Employee Development Services				
1221 · Organization Memberships	0.00	500.00	-500.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	253.13	500.00	-246.87	50.63%
1225 · Employee Tuition Reimbursement	315.00	900.00	-585.00	35.0%
Total 1220 · Employee Development Services	568.13	1,900.00	-1,331.87	29.9%
1240 · Mgmnt and Informational Svcs				
1242 · Fiscal Services	5,662.11	9,520.00	-3,857.89	59.48%
1244 · Management Services	15.25			
1247 · Legal Services	1,235.00	550.00	685.00	224.55%
Total 1240 · Mgmnt and Informational Svcs	6,912.36	10,070.00	-3,157.64	68.64%
1250 · Repair and Maintenance Svcs				
1251 · Custodial Services	0.14			
1253 · Equip Repair & Maintenance	19.85			
Total 1250 · Repair and Maintenance Svcs	19.99			
1260 · Support Services				
1264 · Food & Dietary Services	1,117.81	2,000.00	-882.19	55.89%
1266 · Manual Labor Services	220.93	700.00	-479.07	31.56%
1267 · Production Services	1,504.59	1,200.00	304.59	125.38%
1268 · Skilled Services	343.13	1,241.00	-897.87	27.65%
Total 1260 · Support Services	3,186.46	5,141.00	-1,954.54	61.98%
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	4,550.26	4,000.00	550.26	113.76%
1283 · Travel, Public Carriers	36.65	700.00	-663.35	5.24%
1285 · Travel, Subsistence & Lodging	1,313.06	1,500.00	-186.94	87.54%
1288 · Trvl, Meal Reimb- Not Rprtble	369.50	780.00	-410.50	47.37%
Total 1280 · Transportation Services	6,269.47	6,980.00	-710.53	89.82%
Total 1200 · Contractual Services	21,436.29	30,291.00	-8,854.71	70.77%
1300 · Supplies And Materials				
1310 · Administrative Supplies				
1311 · Apparel Supplies	5.28			
1312 · Office Supplies	430.10	700.00	-269.90	61.44%
1313 · Stationery and Forms	71.20	-15.00	86.20	-474.67%
Total 1310 · Administrative Supplies	506.58	685.00	-178.42	73.95%

**Virginia Dept. of Health Professions**  
**Revenue and Expenditures Summary**  
 July 1, 2011 through May 31, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - May 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1320 · Energy Supplies				
1323 · Gasoline	54.91			
Total 1320 · Energy Supplies	<u>54.91</u>			
1350 · Repair and Maint. Supplies				
1352 · Custodial Rep & Maint Mat'ls	2.42			
Total 1350 · Repair and Maint. Supplies	<u>2.42</u>			
1360 · Residential Supplies				
1362 · Food and Dietary Supplies	0.00	50.00	-50.00	0.0%
1363 · Food Service Supplies	3.11	50.00	-46.89	6.22%
Total 1360 · Residential Supplies	<u>3.11</u>	<u>100.00</u>	<u>-96.89</u>	<u>3.11%</u>
1370 · Specific Use Supplies				
1373 · Computer Operating Supplies	8.89			
Total 1370 · Specific Use Supplies	<u>8.89</u>			
<b>Total 1300 · Supplies And Materials</b>	<b>575.91</b>	<b>785.00</b>	<b>-209.09</b>	<b>73.36%</b>
1400 · Transfer Payments				
1410 · Awards, Contrib., and Claims				
1413 · Premiums	180.00			
Total 1410 · Awards, Contrib., and Claims	<u>180.00</u>			
Total 1400 · Transfer Payments	180.00			
1500 · Continuous Charges				
1510 · Insurance-Fixed Assets				
1516 · Property Insurance	35.74	51.00	-15.26	70.08%
1510 · Insurance-Fixed Assets - Other	0.00	0.00	0.00	0.0%
Total 1510 · Insurance-Fixed Assets	<u>35.74</u>	<u>51.00</u>	<u>-15.26</u>	<u>70.08%</u>
1530 · Operating Lease Payments				
1534 · Equipment Rentals	0.00	0.00	0.00	0.0%
1535 · Building Rentals	9.72			
1539 · Building Rentals - Non State	7,637.55	8,288.00	-650.45	92.15%
Total 1530 · Operating Lease Payments	<u>7,647.27</u>	<u>8,288.00</u>	<u>-640.73</u>	<u>92.27%</u>
1550 · Insurance-Operations				
1551 · General Liability Insurance	128.27	183.00	-54.73	70.09%
1554 · Surety Bonds	7.57	11.00	-3.43	68.82%
Total 1550 · Insurance-Operations	<u>135.84</u>	<u>194.00</u>	<u>-58.16</u>	<u>70.02%</u>
<b>Total 1500 · Continuous Charges</b>	<b>7,818.85</b>	<b>8,533.00</b>	<b>-714.15</b>	<b>91.63%</b>
2200 · Equipment Expenditures				
Electronic & Photo Equip Impr	0.69			
2210 · Computer Equipment				
2218 · Computer Software Purchases	184.00			
Total 2210 · Computer Equipment	<u>184.00</u>			

**Virginia Dept. of Health Professions**  
**Revenue and Expenditures Summary**  
 July 1, 2011 through May 31, 2012

	104- Funeral Directors and Emba			
	Jul '11 - May 12	Budget	\$ Over Budget	% of Budget
2220 · Educational & Cultural Equip				
2224 · Reference Equipment	0.00	300.00	-300.00	0.0%
<b>Total 2220 · Educational &amp; Cultural Equip</b>	<b>0.00</b>	<b>300.00</b>	<b>-300.00</b>	<b>0.0%</b>
2260 · Office Equipment				
2262 · Office Furniture	25.00	200.00	-175.00	12.5%
2263 · Office Incidentals	86.49			
<b>Total 2260 · Office Equipment</b>	<b>111.49</b>	<b>200.00</b>	<b>-88.51</b>	<b>55.75%</b>
<b>Total 2200 · Equipment Expenditures</b>	<b>296.18</b>	<b>500.00</b>	<b>-203.82</b>	<b>59.24%</b>
<b>Total Expenditures</b>	<b>130,380.47</b>	<b>160,027.35</b>	<b>-29,646.88</b>	<b>81.47%</b>
9001 · Allocated Expenditures				
9206 · Funeral LTA/PT	84,104.08	89,715.46	-5,611.38	93.75%
9301 · DP Operations & Equipment	90,468.70	138,158.88	-47,690.18	65.48%
9302 · Human Resources	11,082.83	12,462.60	-1,379.77	88.93%
9303 · Finance	19,234.51	22,249.56	-3,015.05	86.45%
9304 · Director's Office	10,555.72	12,263.52	-1,707.80	86.07%
9305 · Enforcement	171,338.26	164,598.84	6,739.42	104.09%
9306 · Administrative Proceedings	41,390.64	16,468.20	24,922.44	251.34%
9307 · Impaired Practitioners	0.00	12.96	-12.96	0.0%
9308 · Attorney General	25,079.33	25,290.72	-211.39	99.16%
9309 · Board of Health Professions	7,110.14	8,871.96	-1,761.82	80.14%
9311 · Moving Costs	0.00	801.36	-801.36	0.0%
9313 · Emp. Recognition Program	168.26	419.04	-250.78	40.15%
9314 · Conference Center	159.04	626.04	-467.00	25.4%
9315 · Pgm Devlpmnt & Implimentn	4,604.87	5,402.99	-798.12	85.23%
987900 · Cash Trsfr Out- Appr Act Pt. 3	4,807.22	1,530.36	3,276.86	314.12%
<b>Total 9001 · Allocated Expenditures</b>	<b>470,103.60</b>	<b>498,872.49</b>	<b>-28,768.89</b>	<b>94.23%</b>
<b>Total Direct and Allocated Expenditures</b>	<b>600,484.07</b>	<b>658,899.84</b>	<b>-58,415.77</b>	<b>91.13%</b>
<b>Net Cash Surplus\Shortfall</b>	<b>-72,284.07</b>	<b>-116,729.84</b>	<b>44,445.77</b>	<b>61.92%</b>

# Virginia Department of Health Professions

## Patient Care Disciplinary Case Processing Times:

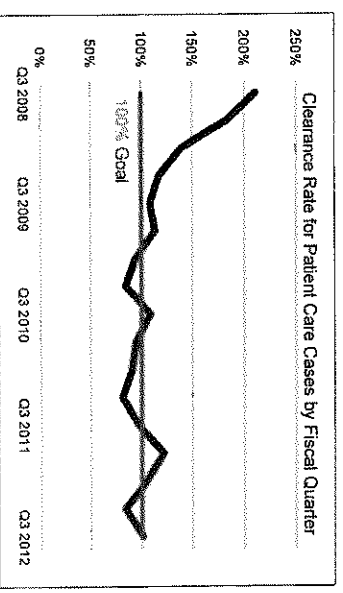
### Quarterly Performance Measurement, Q3 2008 - Q3 2012

Dianne Reynolds-Cane, M.D.  
Director

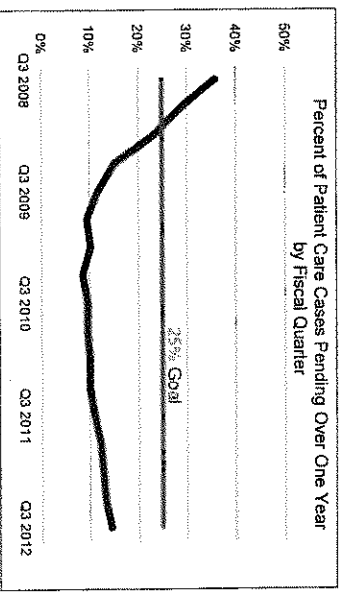
*"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."*  
DHP Mission Statement

In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload: Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

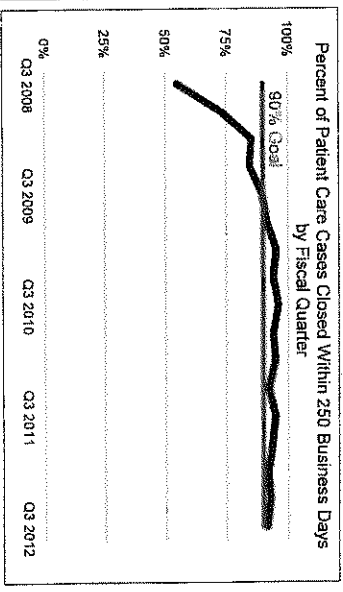
**Clearance Rate** - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2012. The current quarter's clearance rate is 101%, with 985 patient care cases received and 998 closed.



**Age of Pending Caseload** - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 25% through the end of FY 2012. That goal continues to be achieved with the percent of cases pending over 250 business days dropping dramatically from 45% to 15%. For the last quarter shown, there were 1817 patient care cases pending, with 264 pending over 250 business days.



**Time to Disposition** - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2012. That goal continues to be achieved with 92% percent of patient care cases being resolved within 250 business days this past quarter. During the last quarter, there were 986 patient care cases closed, with 904 closed within 250 business days.

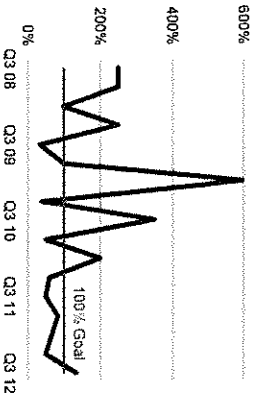


# Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

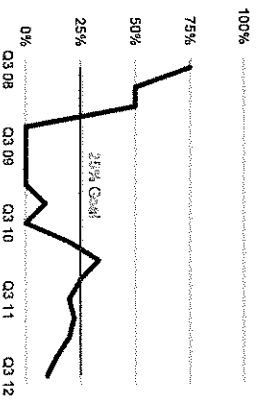
**Clearance Rate**

**Physical Therapy** - In Q3 2012, the clearance rate was 133%, the Pending Caseload older than 250 business days was 10% and the percent closed within 250 business days was 100%.

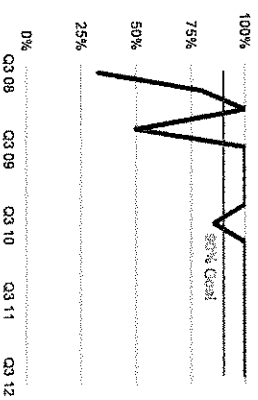
**Q3 2012 Caseloads:**  
 Received=6, Closed=8  
 Pending over 250 days=1  
 Closed within 250 days=0



**Age of Pending Caseload**  
(Percent of cases pending over one year)

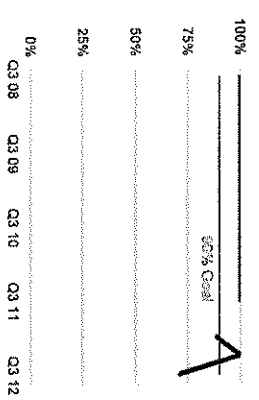
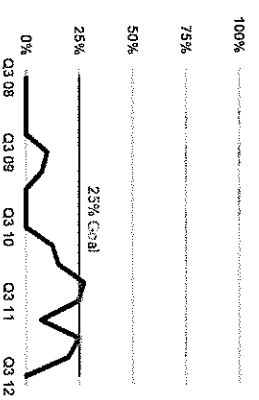
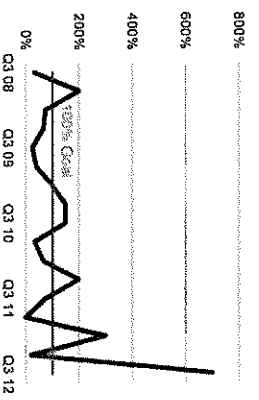


**Percent Closed in 250 Business Days**



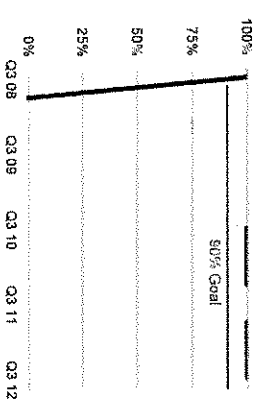
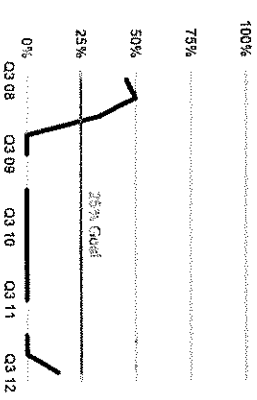
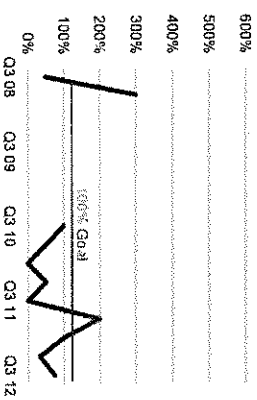
**Funeral** - In Q3 2012, the clearance rate was 700%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 71%.

**Q3 2012 Caseloads:**  
 Received=1, Closed=7  
 Pending over 250 days=0  
 Closed within 250 days=5



**Audiology** - In Q3 2012, the clearance rate was 75%, the Pending Caseload older than 250 business days was 14% and the percent closed within 250 business days was 100%.

**Q3 2012 Caseloads:**  
 Received=4, Closed=3  
 Pending over 250 days=1  
 Closed within 250 days=3



Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.



# Disciplinary Case Report for Funeral Directors July 17, 2012

Investigations	15
Probable Cause	9
APD	4
Informal Stage	8
Formal Stage	3
Total	39

FDE Orders currently being Monitored by Compliance Manager 16

# License Count Report for Funeral Directors

## July 17, 2012

Branch Establishment	60
Continuing Education Provider	26
Courtesy Card	67
Crematories	94
Funeral Establishments	448
Funeral Service Interns	158
Embalmer	5
Funeral Service Director	65
Funeral Service Providers	1,470
Funeral Service Supervisors	325
Surface Transportation & Removal Services	48
Total	2,766

# TAB 3

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions**

Staff Note: Attached is a chart with the status of regulations for the Board as of July 2, 2012

Action: None – provided for information only

<b>Board of Funeral Directors and Embalmers</b>	
<b>Chapter</b>	<b>Action / Stage Information</b>
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<p><u>Action:</u> Identification of human remains</p> <p><u>Stage:</u> Emergency/NOIRA - At Governor's Office for 599 days</p>
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<p><u>Action:</u> Fee increase</p> <p><u>Stage:</u> Proposed - DPB Review in progress</p>
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]	<p><u>Action:</u> Termination of irrevocable trusts</p> <p><u>Stage:</u> Fast-Track - At Governor's Office for 599 days</p>

# VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

## CHAPTER 497

*An Act to amend and reenact § 54.1-2816.1 of the Code of Virginia, relating to continuing education for funeral services licensees, funeral directors, and embalmers.*

[H 378]

Approved April 4, 2012

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2816.1 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2816.1. Continuing education requirements; promulgation of regulations.

A. The Board shall promulgate regulations governing continuing education requirements for funeral services licensees, funeral directors and embalmers licensed by the Board.

B. The Board shall approve criteria for continuing education courses, requiring no more than ~~40 hours over two years~~ *five hours per year*, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors and embalmers. Approved continuing education courses shall include, but not be limited to, at least one hour per year covering compliance with *federal or state* laws and regulations governing the profession, and at least one hour per year covering preneed funeral arrangements. Course providers may be required to register continuing education courses with the Board pursuant to Board regulations. The Board shall not allow continuing education credit for courses where the principal purpose of the course is to promote, sell or offer goods, products or services to funeral homes.

C. All course providers shall furnish written certification to licensees of the Board attending and completing respective courses, indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of two years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of two years the written certification issued by any Board-approved provider of continuing education courses. The Board may require course providers or licensees to submit copies of such records or certification, as it deems necessary, to ensure compliance with continuing education requirements.

D. The Board shall have the authority to grant exemptions or waivers in cases of certified illness or undue hardship.

E. The Board may provide for an inactive status for those licensees who do not practice in Virginia. The Board may adopt regulations reducing or waiving continuing education requirements for any licensee granted such inactive status. However, no licensee granted inactive status may have their license changed to active status without first obtaining additional continuing education hours as may be determined by the Board. No person or registrant shall practice in Virginia as an embalmer, funeral director, or funeral service licensee unless he holds a current, active license.

## Exempt Action – Requirements for Continuing Education

18VAC65-20-151. Continued competency requirements for renewal of an active license.

A. Funeral service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of ~~10~~ 5 hours per year of continuing education offered by a board-approved sponsor for licensure renewal ~~in even years~~ in courses that emphasize the ethics, standards of practice, preneed contracts and funding, or federal or state laws and regulations governing the profession of funeral service ~~in Virginia~~. One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell or offer goods, products or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

# VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

## CHAPTER 24

*An Act to amend and reenact § 54.1-2808.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2808.2, relating to funeral directors; disposition of unclaimed cremains belonging to veterans.*

[H 439]

Approved February 28, 2012

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2808.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2808.2 as follows:**

**§ 54.1-2808.1. Disposition of cremains.**

*A Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains of an individual by interment, entombment, inurnment, or by scattering of the cremains, if after ~~ninety~~ 120 days from the date of cremation, the contracting agent has not claimed the cremains, or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains shall be borne by the contracting agent. Upon the disposition of the cremains, the funeral director shall not be liable for the cremains or for the method of final disposition. Any Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains prior to July 1, 1993, may dispose of such cremains in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains in a manner or a location in which the cremains of the deceased are commingled, except in the scattering of cremains at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains of persons in the same container or urn.*

*For the purposes of this section, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.*

**§ 54.1-2808.2. Identification of unclaimed cremains of veterans.**

*A. If the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition within 90 days from the date of cremation, the funeral director shall provide names and any other identifying information of the unclaimed cremains to the Department of Veterans Services, in order for the Department to determine if the unclaimed cremains are those of a veteran. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

*B. Commencing July 1, 2014, the Department of Veterans Services shall notify the funeral director within 30 days of receipt of the information required by subsection A if the cremains are those of a veteran and, if so, whether such veteran is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains to a veterans cemetery.*

*C. No disposition of the unclaimed cremains of an eligible veteran shall be made until the funeral director has notified the Virginia Department of Veterans Services and has received a determination as to whether the cremains are those of an eligible veteran. Absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran to the Virginia Department of Veterans Services for purposes of disposition as provided in this section shall be liable for civil negligence.*

**2. That the Virginia Department of Veterans Services shall use every effort to verify the veteran status of the large volume of existing cremains given the limitations set by the U.S. Department of Veterans Affairs on the number of names that can be screened to determine veteran status and eligibility, which is currently five to 10 names per week. On July 1, 2014, the Virginia Department of Veterans Services shall comply with the 30-day requirement as provided in subsection B of § 54.1-2808.2 of this act.**

**Virginia Board of Funeral Directors and Embalmers  
2013 Session of the General Assembly**

**Draft Legislation #1**

*A bill to amend and reenact §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.**

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. ~~No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.~~

**§ 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 Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), 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 service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns 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;
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;
25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; ~~and~~
26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order; and
27. Incompetence to practice his profession with safety to his clients and the public.

**§ 54.1-2814. Examination.**

Each applicant for license for the practice of funeral service shall be examined in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;
2. Funeral service arts and sciences including embalming and restorative art;
3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

~~The Board may recognize other examinations that it considers equivalent to its examination.~~

**§ 54.1-2815. Application for license; ~~how license signed~~; duration.**

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

DRAFT

**Virginia Board of Funeral Directors and Embalmers  
2013 Session of the General Assembly**

**Draft Legislation #2**

*A bill to enact § 54.1-2810.1 of the Code of Virginia, relating to the operation of a funeral establishment in an emergency causing structural damage.*

**1. That § 54.1-2810.1 of the Code of Virginia is enacted as follows:**

**§ 54.1-2810.1. Temporary operation of a funeral establishment.**

If an emergency event causes a licensed funeral establishment to incur structural damage that prevents normal business operations, the establishment may request permission from the Board to operate temporarily out of another licensed funeral establishment. The request must be submitted in writing to the Board prior to temporary operation of the establishment and must include the circumstances of the emergency, a projected completion date for the repair, and the arrangements that have been agreed upon by both establishments involved.

# TAB 4

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### DISPOSITION OF DISCIPLINARY CASES FOR PRACTICING ON EXPIRED LICENSES

The Board of Funeral Directors and Embalmers delegates to the Executive Director for the Board the authority to offer a prehearing consent order to resolve disciplinary cases in which a Funeral Service Licensee or Funeral Service Establishment has been found to be practicing with an expired license.

#### **Disciplinary Action for Practicing with an Expired License**

The Board adopted the following guidelines for resolution of cases of practicing with an expired license:

Cause	Possible Action
First offense; 90 days or less	Confidential Consent Agreement
First offense; 91 days to one year	Consent Order; Monetary Penalty of \$1000