

Virginia Department of
Health Professions
Board of Funeral Directors and Embalmers

Full Board Meeting

July 11, 2019

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Thursday, July 11, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Joseph Frank Walton, FSL, President
Mia F. Mimms, FSL, JD, Vice-President
R. Thomas Slusser, Jr., FSL, Secretary-Treasurer
Muhammad Hanif, Citizen Member
Kenneth Scott Hickey, M.D., Citizen Member
Louis R. Jones, FSL
Blair H. Nelsen, FSL
Larry T. Omph, FSL
Connie B. Steele, FSL

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Erin Barrett, Assistant Attorney General, Board Counsel
David Brown, D.C., Director, DHP
Elizabeth Carter, PhD, Director, Healthcare Workforce Data Center
Sarah Georgen, Licensing and Operations Manager
Melody Morton, Inspections Manager, DHP Enforcement Division
Kelley Palmatier, Deputy Executive Director
Corie Tillman Wolf, Executive Director
Heather Wright, Program Manager
Elaine Yeatts, Sr. Policy Analyst

OTHER GUESTS PRESENT

Paul Harris, Regulatory Support Services, Inc.
Barry Robinson, Virginia Mortician's Association
Brenda Roberts, Virginia Funeral Directors' Association
Trasean Boatwright, DHP
Amanda Reidelbach, DHP

CALL TO ORDER

Mr. Walton called the meeting to order at 10:00 a.m. and asked the Board members and staff to introduce themselves.

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

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

Mr. Walton provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, attendance for continuing education requirements, and breaks.

Ms. Tillman Wolf then read the emergency egress instructions.

APPROVAL OF MINTUES

Upon a *MOTION* by Ms. Steele, and properly seconded by Ms. Mimms, the Board voted to accept the April 16, 2019 Board meeting minutes and the April 16, 2019 Formal Hearing meeting minutes. The motion passed unanimously.

ORDERING OF THE AGENDA

Ms. Tillman Wolf requested to postpone the Agency Report until Dr. Brown or Ms. Hahn could attend the meeting.

Upon a *MOTION* by Mr. Omps and properly seconded by Mr. Hanif, the Board voted to accept the agenda as amended. The motion passed unanimously.

PUBLIC COMMENT

Barry Robinson, Virginia Morticians Association (“VMA”) thanked Mr. Walton for attending and speaking at the VMA Annual Conference. Mr. Robinson thanked the Board for its Spring newsletter and requested the Board to consider listing newly licensed individuals in the Board’s future newsletters.

Brenda Roberts, Virginia Funeral Directors Association, read a public comment letter from Laurence Spiaggi in opposition to the proposed regulations for a reduction of internship hours.

STAFF REPORTS

Executive Director’s Report –Corie E. Tillman Wolf

Ms. Tillman Wolf welcomed the new Deputy Executive Director, Kelley Palmatier, and the new Long-Term Care Administrators Licensing Specialist, Trasean Boatwright. Ms. Tillman Wolf noted that Mr. Boatwright will also receive cross-training on licensure issues related to the Board of Funeral Directors and Embalmers.

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of May 31, 2019.

Cash Balance as of June 30, 2018	\$526,645
YTD FY19 Revenue	\$707,435
Less YTD Direct & In-Direct Expenditures	\$543,349
Cash Balance as of May 31, 2019	\$690,641

Ms. Tillman Wolf announced that, based upon the Board's current cash balance and projected cash balance at the end of FY2020, the Department's Budget Manager has made the recommendation that the Board consider a one-time reduction of the renewal fee for the March 2020 renewal date. Ms. Tillman Wolf stated that this item would be on the agenda for the Board's consideration in October.

Ms. Tillman Wolf provided updates to the Board regarding the status of updates to the Board's current Memoranda of Understanding with other agencies. Ms. Tillman Wolf noted that the reciprocity agreement with the D.C. Board of Funeral Directors would be considered later in the agenda by the Board. Ms. Tillman Wolf stated that she is in the process of reviewing the Memoranda of Understanding with the Virginia Department of Agriculture and Consumer Services, and the Department of Professional and Occupational Regulations, Cemetery Board.

Ms. Tillman Wolf reported that the Department of Health Professions ("DHP") is currently updating all Board websites. She reported that updates to the Board of Funeral Directors and Embalmers website should be completed by the end of 2019.

Ms. Tillman Wolf stated that the Board's spring newsletter was emailed to all active email addresses on file with the Board, as well as posted on the Board's website.

Ms. Tillman Wolf announced that Guidance Document 65-18: Guidance on Surface Transportation & Removal Services became effective on June 13, 2019.

Ms. Tillman Wolf provided an update on SB1300, which became effective on July 1, 2019, and provided for a larger number of calls between two establishments operating under one manager of record pursuant to a hardship waiver. She reported that no new applications related to this legislation had been received, but she would continue to track this information over the next year and report back to the Board.

Ms. Tillman Wolf provided an update on the legislation regarding death certificates and electronic certification by physicians that became effective July 1, 2019. She stated that she has been communicating with Janet Rainey at the Division of Vital Records regarding the distribution of information to licensees. Ms. Rainey also reported to Ms. Tillman Wolf that the DVR has seen an increase in medical certifier registrations since the legislation passed.

Ms. Tillman Wolf presented licensure statistics that included the following information:

Licensure Statistics – All Licenses

License	July 10, 2019	April 11, 2019
Funeral Service Licensees	1,518	1,487
Funeral Director	36	33
Embalmer Only	2	2

Supervisors	568	561
Interns	186	165
Establishments	420	404
Branch Establishments	79	66
Crematories	115	112
CE Providers	12	14
Courtesy Card Holders	110	93
Surface Transport & Removal Svc.	44	39
Total (*not incl. supervisors)	2,522	2,415

Ms. Tillman Wolf provided the following statistics regarding the Virginia Performs – Customer Satisfaction Survey Results:

- Q1 2018 – 100%
- Q2 2018 – N/A
- Q3 2018 – N/A
- Q4 2018 – 100%
- Q1 2019 – 100%
- Q2 2019 – 100%
- Q3 2019 – 100%

Ms. Tillman Wolf provided reminders to the Board members regarding continuing education credit, traveling on Board business, requests for presentations, and changes in contact information. She announced that DHP has installed wireless internet in the Perimeter Center Conference Center for business use only by Board members and staff.

The Board meeting dates for 2019 are:

- October 10, 2019 at 10:00 a.m.

Ms. Tillman Wolf announced the proposed Board meeting dates for 2020:

- January 14, 2020
- April 16, 2020
- July 14, 2020
- October 6, 2020

Ms. Tillman Wolf stated that an email will be sent to Board members with the proposed dates. She requested that Board members notify her or Sarah Georgen if there are any conflicts with the dates provided.

With no questions, Ms. Tillman Wolf ended her report.

Discipline Report – Kelley Palmatier, Deputy Executive Director

As of June 21, 2019, Ms. Palmatier reported the following disciplinary statistics:

- 48 total cases
 - 3 at Informal
 - 1 at Formal
 - 18 in Investigation
 - 26 in Probable Cause
 - 6 in Compliance Monitoring

Ms. Palmatier stated that the Clearance Rate was 83% (Goal is 100%) – 6 cases, 5 cases closed. Ms. Palmatier stated that the caseload over 250 days was 18% (Goal under 20%) – 4 cases. Ms. Palmatier stated that the cases closed within 250 days is 100% (Goal is over 90%) – 5 cases closed within 250 days.

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

- Q1 2017 – 8/10
- Q2 2017 – 12/17
- Q3 2017 – 9/15
- Q4 2017 – 22/20
- Q1 2018 – 12/14
- Q2 2018 – 8/7
- Q3 2018 – 12/18
- Q4 2018 – 13/24
- Q1 2019 – 26/13
- Q2 2019 – 23/6
- Q3 2019 – 18/25

Percentage of all cases closed in 365 days

	Q2-18	Q3-18	Q4-18	Q1-19	Q2-19	Q3-19
FDE	85.7%	61.1%	87%	69.2%	83.3%	100%
Agency	86.7%	87.6%	80.6%	85.5%	84%	76.4%

Average age of cases closed

	Q2-18	Q3-18	Q4-18	Q1-19	Q2-19	Q3-19
FDE	169.1	383.3	211.8	225.7	298.8	116
Agency	186.5	196.4	201.1	173.8	169.2	258

With no questions, Ms. Palmatier concluded her report.

BOARD COUNSEL REPORT – Erin Barrett, Assistant Attorney General

Ms. Barrett stated that she did not have a report to provide.

COMMITTEE AND BOARD MEMBER REPORTS

Report from the Board of Health Professions – Louis R. Jones, FSL

Mr. Jones stated that the minutes from the Board of Health Professions' last meeting were included in the agenda packet. He reported that the Board of Health Professions is currently studying the possibility of establishing a regulatory process for music therapists and reported that more information would be provided throughout the process.

Report from the International Conference - Blair Nelsen, FSL and Frank Walton, FSL

Mr. Nelsen reported that the Conference recently updated its state licensure guide for 2019, which is available on the International Conference' website. He encouraged the Board members to review that information when able. He announced the Conference Fall Board meeting is scheduled for August 25-26, 2019 in Alexandria, Virginia. He announced that the Conference's 116th Annual Meeting would be held February 19-20, 2020 in Palm Coast, Florida.

Mr. Walton provided a report on the Conference's Exam Item Writing Committee meeting held in Bloomington, MN on June 10-13, 2019, in which he participated remotely by telephone. He stated that he had a better understanding of and respect for the exam development process. He reported on the general development and screening process for examination questions. Ms. Steele requested information on the 90-day wait period following a failed exam score and the information on the score report provided to test takers. She asked Mr. Walton if more information would be provided in the future that identified the missed questions to the test taker rather than the general areas of strengths and weaknesses. Mr. Walton stated that individual, missed questions would not be provided to the test taker in an effort to protect both the questions and the integrity of the examination process.

LEGISLATION AND REGULATORY ACTIONS

Report on Status of Regulatory Actions

Ms. Yeatts reported on the three periodic reviews initiated by the Board related to the regulations of the Board, Preneed Funeral Planning and the Funeral Service Intern Program. She reported that the comment period for the Regulations of the Board of Funeral Directors and Embalmers and the Regulations for Preneed Funeral Planning had ended, and that the comment period for the Regulations for the Funeral Service Intern Program would end on August 7, 2019.

Legislative Report

Ms. Yeatts provided an overview of bills passed in the 2019 Session of the General Assembly. She reported on HB 1828: *Legislation Regarding Casket Sales*, SB1300: *Funeral Establishments; Full Time Manager Requirement*, and SB1439: *Death certificates; medical certification; electronic filing*.

Adoption of Proposed Regulations from Periodic Review (18VAC65-20-10 et seq., 18VAC65-30-10 et seq.)

Ms. Yeatts provided a review of the Proposed Regulations from Periodic Review (18VAC65-20-10 et seq., 18VAC65-30-10 et seq.) and noted that the discussion of regulations related to interns in Chapter 40 will be slated for the October 2019 meeting agenda.

Adoption of Proposed Regulations from Periodic Review (18VAC65-20-10 et seq.)

Ms. Yeatts reviewed a draft of proposed amendments to the regulations with Board members based upon the changes identified in the NOIRA previously adopted by the Board.

Upon a **MOTION** by Mr. Nelsen, which was properly seconded by Mr. Jones, the Board voted to adopt a proposed amendment to 18VAC65-20-170(F) to approve the emergency operation of another licensed funeral establishment for a period of no more than 60 days and include an extension of an additional 30 days upon good cause shown. The vote was unanimous.

Upon a **MOTION** by Ms. Steele, which was properly seconded by Ms. Mimms, the Board voted to adopt proposed regulations for 18VAC65-20-10 et seq. as presented and amended. The vote was unanimous.

Ms. Yeatts reviewed proposed revisions to Appendix I of the regulations. The Board deferred the review of Appendix I, II, and III until a later date to allow Board Counsel an opportunity to review the Federal Trade Commission (FTC) Rule to ensure that there is no conflict created by the language proposed by the Board.

BREAK

The Board took a break at 11:11 a.m. The Board reconvened at 11:25 a.m.

Dr. Brown arrived at 11:27 a.m.

AGENCY REPORT

Mr. Walton welcomed Dr. Brown to the meeting and requested that he provide the Agency Report due to Dr. Brown's time constraints.

Dr. Brown provided an update on the agency website. He reported that website pages for the Board of Nursing, the DHP homepage and the DHP programs including Prescription Monitoring Program, Healthcare Workforce Data Center, and Health Practitioners Monitoring Program, had all been updated. He stated that each Board website would be updated soon. Dr. Brown requested that Board members provide feedback to Board staff on the website updates.

With no questions, Dr. Brown concluded his report.

*Adoption of Proposed Regulations from Periodic Review (18VAC65-20-10 et seq., 18VAC65-30-10 et seq.)
Continued*

Ms. Yeatts continued the review of draft proposed amendments to the regulations with the Board's preneered regulations in 18VAC65-30-10 et seq.

The Board discussed proposed amendments related to the notification process where there is a change of ownership or a discontinuation of business operations (closure). Board members discussed whether there should be a notification only where the new owners do not intend to honor existing contracts. Board members further discussed whether a form of public notification would be sufficient.

The Board deferred further review of the preneed regulations in 18VAC65-30-10 et seq. until a later date to ensure that the changes discussed, including those related to notification, are drafted to ensure the safety of the public.

Mr. Walton requested to convene the Legislative/Regulatory Committee and tasked them with the review of 18VAC65-30-10 et seq. The Legislative/Regulatory Committee should provide recommendations to the Board at the next Board meeting.

Approval and Adoption of Reciprocal Agreement with the D.C. Board of Funeral Directors (Revised Guidance Document 65-5)

Ms. Tillman Wolf provided an overview of the updates to the existing Reciprocal Agreement with the D.C. Board of Funeral Directors (Revised Guidance Document 65-5). The Board members discussed the reciprocity provisions of the agreement as they relate to existing licensees.

Upon a **MOTION** by Mr. Nelsen, which was properly seconded by Ms. Steele, the Board voted to approve the Reciprocal Agreement with the D.C. Board of Funeral Directors as presented and as Revised Guidance Document 65-5. The vote was not unanimous with six in favor (Hanif, Mimms, Walton, Hickey, Nelsen and Steele) and three opposed (Omps, Jones, Slusser).

NEW BUSINESS

2018 Workforce Report – Funeral Service Licensees – Elizabeth Carter, Ph.D.

Dr. Carter introduced the workforce report included in the agenda packet. She provided a presentation on the Funeral Service Providers workforce and the survey results from the 2019 renewal.

Upon a **MOTION** by Mr. Omps, which was properly seconded by Ms. Mimms, the Board voted to accept the 2019 Workforce Report for Funeral Service Providers. The vote was unanimous.

Overview of the DHP Inspection Process – Melody Morton, Inspections Manager

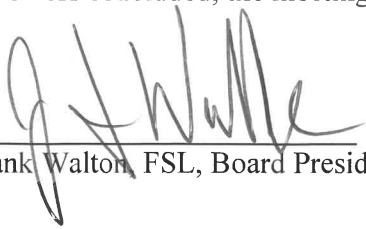
Ms. Morton provided an overview of the DHP Inspection Process.

NEXT MEETING

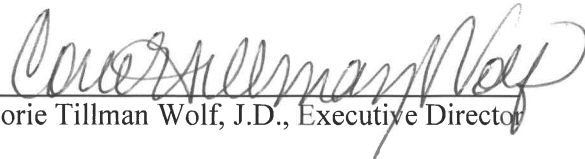
The next meeting date is October 10, 2019.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:48 p.m.



Joseph Frank Walton, FSL, Board President



Corie Tillman Wolf, J.D., Executive Director

10/10/2019

Date

October 11, 2019

Date

MAY 21 2019
DHP

RECIPROCAL AGREEMENT

Between

Virginia Board of Funeral Directors and Embalmers
Virginia Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233
(804) 367-4479

FDE
MAY 21 2019

and

District of Columbia Board of Funeral Directors
Department of Consumer and Regulatory Affairs
Occupational and Professional Licensing Administration
1100 4th Street, SW, Suite E500
Washington, DC 20024
(202) 442-4320

The Virginia Board of Funeral Directors and Embalmers (hereinafter "Virginia Board") and the District of Columbia Board of Funeral Directors (hereinafter "DC Board") hereby enter into a reciprocal licensure agreement. Under such agreement, the parties agree as follows:

- A. The Virginia Board agrees to accept for licensure a candidate who has been granted licensure in the District of Columbia, provided that the license:
1. Is a primary license issued by the DC Board and the licensee has graduated from an accredited school or college of mortuary science and has successfully passed the National Board Exam of the International Conference of Funeral Service Examining Boards;
 2. Is a license for both funeral director and embalmer; and
 3. Is current and in good standing.

The candidate must successfully pass the Virginia State Board Examination to fully qualify for Virginia licensure. The candidate will pay all required fees and will request submission of a license verification from the DC Board to the Virginia Board that attests to the following:

1. The license issued in the District of Columbia is a primary license;
2. The license issued in the District of Columbia is a dual license for both funeral directing and embalming; and
3. The license issued in the District of Columbia is current and unrestricted by disciplinary action.

MAY 21 2019

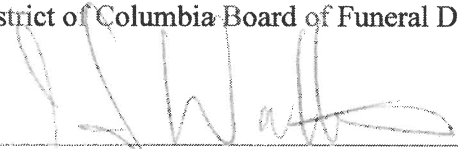
B. The DC Board agrees to accept for licensure a candidate who has been granted licensure in Virginia, provided that the license:

1. Is a primary license issued by the Virginia Board and the licensee has graduated from an accredited school or college of mortuary science and has successfully passed the National Board Exam of the International Conference of Funeral Service Examining Boards;
2. Is a license for both funeral director and embalmer; and
3. Is current and in good standing.

The candidate must successfully pass the DC Funeral Director Law Exam to fully qualify for DC licensure. The candidate will pay all required fees and will request submission of a licensure verification from the Virginia Board to the DC Board that attests to the following:

1. The license issued in Virginia is a primary license;
2. The license issued in Virginia is a dual license for both funeral directing and embalming; and
3. The license issued in Virginia is current and unrestricted by disciplinary action.


Agreed to and signed this 11 day of July, 2019, by the Virginia Board of Funeral Directors and Embalmers. Agreed to and signed this 2 day of MAY, 2019, by the District of Columbia Board of Funeral Directors.



Joseph Frank Walton, FSL, President
Virginia Board of Funeral Directors and
Embalmers

7/11/2019

Date



JOHN R. McQUIRE, Chair
District of Columbia Board of Funeral
Directors

2 MAY 2019

Date