

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Thursday, October 10, 2024, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Lacyn Barton, FSL, President
K. Scott Hickey, MD, Secretary-Treasurer
Jason Graves, FSL
Muhammad Hanif, Citizen Member
Blair Nelsen, FSL
John Piotrowski, FSL
R. Thomas Slusser, FSL
Eric Wray, II, FSL

BOARD MEMBERS NOT PRESENT:

S. Jonathan Hines, FSL, Vice-President

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Erin Barrett, Director of Legislative and Regulatory Affairs
Alesia Baskin, Senior Licensing Program Coordinator
Sarah Georgen, Licensing and Operations Supervisor
James Jenkins, RN, Agency Chief Deputy
Annette Kelley, MS, CSAC, Deputy Executive Director
Arne Owens, Agency Director
Matt Novak, Policy and Economic Analyst
Brent Saunders, Senior Assistant Attorney General, Board Counsel
Kelly Smith, Director of Communications
Corie E. Tillman Wolf, JD, Executive Director

OTHER GUESTS PRESENT:

Angela Bezik, Principle Advantage Government Relations Group for Virginia Funeral Directors Association
Paul Harris, Regulatory Support Services
Raymond Rhodes, Virginia State Anatomical Program
Janet Stephens, FSL*

**Participant indicates attendance to count toward continuing education requirements*

CALL TO ORDER

Ms. Barton called the meeting to order at 10:02 a.m. and asked the Board Members and staff to introduce themselves.

With eight Board Members present at the meeting, a quorum was established.

Ms. Barton read the mission of the Board, which is also the mission of the Department of Health Professions (DHP).

Ms. Barton reminded the Board Members and audience about microphones, computer agenda materials, breaks, sign-in sheets, and attendance for continuing education requirements.

Ms. Tillman Wolf then read the emergency egress instructions.

APPROVAL OF MINUTES

Ms. Barton opened the floor to any edits or corrections regarding the draft minutes for the Board Meeting held on July 16, 2024. Hearing none, the minutes were approved as presented.

ORDERING OF THE AGENDA

Ms. Barton opened the floor to any additional items to add to the agenda.

Upon a **MOTION** by Mr. Nelsen, properly seconded by Mr. Graves, the Board voted to accept the agenda as presented. The motion carried (8-0).

PUBLIC COMMENT

Paul Harris, Regulatory Support Services, provided public comment regarding HB652 (2024). He encouraged the Board to consider an amendment to include a deadline when next of kin disagree for the parties to take action to resolve the dispute. He stated that funeral homes in the Commonwealth had raised concerns about the possibility of being deadlocked without an end in sight for resolution of the dispute or disposition of the remains.

Janet Stephens, FSL, provided public comment on mortuary education students who are enrolled in online programs outside of Virginia and the need for the students to embalm at locations in Virginia. She asked the Board to consider the acceptance of off-campus embalming instruction at Virginia funeral homes for educational programs physically located outside of Virginia, but that are accredited through the American Board of Funeral Service Education (ABFSE).

Barry Robinson, Virginia Morticians' Association (VMA), provided written public comment thanking the Board for its participation in the upcoming November VMA educational seminar and looked forward to additional information from the Board related to solicitation using in-person communication related to preneed contracts.

BOARD MEMBER RECOGNITION

Ms. Barton recognized Joseph Michael Williams, FSL, for his service and dedication to the Board of Funeral Directors and Embalmers from 2020 to 2024. She announced that Mr. Williams' first term expired on June 30, 2024, and provided brief remarks on his contributions to the Board.

AGENCY REPORT

Mr. Owens welcomed Mr. Piotrowski as a new Board Member and Mr. Nelsen as a returning Board Member. He thanked all Board Members for their service and significant contributions to the profession.

Mr. Owens reported on the new protocols for enhanced security in the Perimeter Center known as "Expect the Check," a standard security precaution for many government agencies in the Commonwealth of Virginia.

Mr. Owens spoke about legislative proposals for the upcoming 2025 General Assembly, which had been submitted for consideration.

Mr. Owens reported on employee retention efforts by recent studies of agency salaries.

With no questions, Mr. Owens concluded his report.

STAFF REPORTS

Executive Director's Report – Corie E. Tillman Wolf, JD, Executive Director

Welcome Board Members

Ms. Tillman Wolf welcomed Mr. Piotrowski and Mr. Nelsen to the Board as new members.

Board Updates

Ms. Tillman Wolf stated that Board Member Orientation was conducted on September 25, 2024, with Mr. Piotrowski, to provide a comprehensive overview of the Board.

Ms. Tillman Wolf announced that a meeting of the Exam Committee would be scheduled for late 2024/early2025, pending regulation amendments. She stated that initial examination questions will be provided to Committee members to review in the meantime.

Ms. Tillman Wolf said she would contact Board members to determine scheduling availability for requests for training and presentations received from professional organizations related to the Board's laws and regulations.

Ms. Tillman Wolf announced that the Department of Health Professions (DHP) Enforcement Division entered into an agreement with the Virginia Department of Health, Office of Vital Records, to allow DHP investigators to access the Electronic Death Registration System (EDRS) to streamline investigations related to disciplinary cases or complaints received related to death certificates.

Ms. Tillman Wolf stated that the Board’s 2024-2025 Committee Assignments had been updated following the appointment of Mr. Piotrowski and Mr. Nelsen as new board members.

International Conference Updates

Ms. Tillman Wolf provided updates from the International Conference of Funeral Service Examining Boards (ICFSEB), including Regulatory Training attended by Ms. Kelley on October 1, 2024, and the Board Administrators Forum attended by Ms. Tillman Wolf, Ms. Kelley, Ms. Georgen, and Ms. Baskin on September 12, 2024.

Ms. Tillman Wolf also reported on the ICFSEB August News Release, which recognized two Virginia licensees, Donna Austin, FSL, and Jake Smith, FSL, as item writers.

Ms. Tillman Wolf announced that the ICFSEB 2025 Annual Meeting will be held in Palm Springs, California, on February 26-27, 2025. She encouraged interested Board Members to attend and advised them to contact her for further details.

Expenditure and Revenue Summary as of June 30, 2024

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of June 30, 2024.

Cash Balance as of June 30, 2023	\$ 857,874
FY 2024 Revenue	\$ 750,730
<u>FY 2024 Direct & In-Direct Expenditures</u>	<u>\$ 739,064</u>
Cash Balance as of June 30, 2024	\$ 869,540

2025 Board Meetings

Ms. Tillman Wolf announced the 2025 meeting schedule.

- January 14, 2025
- April 15, 2025
- July 8 or 10, 2025
- October 7, 2025

Notes and Reminders

Ms. Tillman Wolf thanked the Board Members for their service to the Board and reminded them to keep their contact information and addresses up to date.

Ms. Barton requested clarification on the July 2025 meeting date. Ms. Tillman Wolf stated that the date would be finalized and communicated soon, but would likely be the July 10th date.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Annette Kelley, MS, CSAC, Deputy Executive Director

As of August 31, 2024, Ms. Kelley reported the following disciplinary statistics:

- 3 Patient Care Cases
 - 1 at Informal
 - 0 at Formal
 - 0 at Enforcement
 - 2 at Probable Cause
 - 0 at APD

- 65 Non-Patient Care Cases
 - 1 at Informal
 - 0 at Formal
 - 21 at Enforcement
 - 41 at Probable Cause
 - 2 at APD

- 12 at Compliance

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

- | | |
|-------------------|-------------------|
| • Q1 2022 – 19/18 | • Q3 2023 – 11/13 |
| • Q2 2022 – 19/12 | • Q4 2023 – 27/11 |
| • Q3 2022 – 24/22 | • Q1 2024 – 24/22 |
| • Q4 2022 – 28/21 | • Q2 2024 – 23/32 |
| • Q1 2023 – 5/23 | • Q3 2024 – 19/28 |
| • Q2 2023 – 10/21 | • Q4 2024 – 21/37 |

Ms. Kelley spoke to the Board's efforts to increase case closure rates over the past several years.

Ms. Kelley provided a brief overview of the ICFSEB Regulatory Board training. She noted the benefits of networking with other jurisdictions and training on administrator operations and best practices.

With no questions, Ms. Kelley concluded her report.

Licensure Report – Sarah Georgen, Licensing and Operations Supervisor

Licensure Statistics – All Licenses

Ms. Georgen presented licensure statistics and trends in license count.

License	March 31, 2024 (Q3 2024)	June 30, 2024 (Q4 2024)	Difference (+/-)
Funeral Service Licensees	1,618	1,554	-64
Funeral Director	54	58	+4

Embalmer Only	5	4	-1
Supervisors	280	282	+2
Funeral Service Interns	236	193	-43
Funeral Directing Interns	42	37	-5
Embalmer Interns	3	5	+2
Funeral Establishments	428	412	-16
Branch Establishments	89	88	-1
Crematories	138	137	-1
CE Providers	12	13	+1
Courtesy Card Holders	140	137	-3
Surface Transport & Removal Svc.	52	49	-3
Total (*not incl. supervisors)	2,817	2,687	-130

Ms. Georgen reviewed the trends of licensure counts since Q4 – 2020.

Updates

Ms. Georgen provided information on an upcoming newsletter that would feature updates by the Board.

DHP’s Travel Policy

Ms. Georgen provided a reminder to board members about travel authorization requests.

With no questions, Ms. Georgen concluded her report.

BOARD COUNSEL REPORT – M. Brent Saunders, Senior Assistant Attorney General

Mr. Saunders reported that the Board had no pending legal matters.

With no questions, Mr. Saunders concluded his report.

COMMITTEE AND BOARD MEMBER REPORTS

Report from the International Conference of Funeral Service Examining Boards – Lacyn Barton, FSL

Ms. Barton provided an update regarding the recent activities of the International Conference of Funeral Service Examining Boards (ICFSEB) and the National Board Examination (NBE) national pass rate statistics for first-time test takers.

Ms. Barton also announced the ICFSEB's 121st Annual Meeting, which will be held in Palm Springs, California, on February 26-27, 2025. She stated that online registration was available and that delegate grants for board members and staff to participate would be available.

With no questions, Ms. Barton concluded her report.

LEGISLATIVE AND REGULATORY REPORT

Report on Status of Regulations and Legislative Report - Erin Barrett, Director of Legislative and Regulatory Affairs, and Matt Novak, Policy and Economic Analyst

Mr. Novak provided an update on pending regulatory actions and concluded his report without questions.

NEW BUSINESS/BOARD DISCUSSION

Follow up – Reference to Performance of Embalming - HB652 (2024)

Ms. Tillman Wolf provided information related to House Bill 652 (2024) related to funeral arrangements, the definition of next of kin, and proof of the designated person to make funeral arrangements. Ms. Tillman Wolf stated that the reference to embalming and allowing an establishment to embalm a body pending a dispute resolution raised a potential conflict with existing language in the Code regarding the performance of embalming only with the express permission of the next-of-kin. Ms. Tillman Wolf stated that a request had been made to Board Counsel to provide advice to the Board on this issue.

Upon a **MOTION** by Dr. Hickey, properly seconded by Mr. Wray, the Board voted to convene a closed meeting pursuant to §2.2-3711(A)(8) of the Code of Virginia for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel, in this instance, advice regarding the Board's interpretation of language contained in HB652 in relation to existing Code sections. Additionally, Dr. Hickey moved that Mr. Saunders, Ms. Tillman Wolf, Ms. Kelley, Ms. Georgen, and Ms. Baskin attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its consideration of the topic.

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3711(A)(8) of the Code of Virginia, the Board reconvened in open session.

Ms. Barton asked that the minutes reflect that Mr. Saunders provided legal advice to the Board regarding his interpretation of the new statutory language resulting from HB652 and whether a conflict exists with existing provisions requiring the express permission of next of kin to perform embalming. Ms. Barton stated that based on that advice, a Guidance Document would be developed to provide additional information to licensees about the Board's interpretation of these provisions. She said the Board would review the Guidance Document at its January business meeting.

Draft Revisions to Appendix I – General Price List – Preneed Funeral Guarantee Fee

Ms. Tillman Wolf presented draft revisions to Appendix I — General Price List, including the addition of language related to the declinable preneed funeral guarantee fee as defined in Senate Bill 521 (2024).

Following discussion by the Board, this topic will carry over to the January 2025 board business meeting for future adoption, pending finalization of the pending emergency regulations related to the declinable preneed funeral guarantee fee.

There were no revisions to the presented information.

Questions from Licensees

Solicitation using in-person communication related to preneed contracts

Ms. Tillman Wolf presented information related to a licensee's question about soliciting preneed contracts using in-person communication. Specifically, the licensee's question related to events hosted by a third-party preneed company, where consumers are invited to learn more about preneed funeral contracts. Consumers in attendance are then directed to follow up with a specific funeral home/funeral licensee with which the third-party preneed company contracts.

Following a discussion by the Board on this topic, Ms. Tillman Wolf stated that she would compose a response to the licensee, providing the following four recommended actions for a licensee to take when interacting/contracting with third-party preneed companies that advertise/promote the licensees' preneed services during a consumer education event: (1) ensure the third-party preneed company is a reputable preneed company; (2) ensure that consumers are clearly informed of any relationship between a named funeral home/funeral licensee and the third-party company; (3) ensure consumers know that they have the freedom of choice in contracting for preneed funeral goods and services; and (4) ensure that the funeral home is clearly identified to the consumer at any informational event or seminar.

Enrollment "in a mortuary education program in the Commonwealth" for purposes of student assistance with embalming in a licensed Virginia funeral establishment

Ms. Tillman Wolf presented information related to a question from a licensee regarding the interpretation of enrollment "in a mortuary education program in the Commonwealth" for purposes of student assistance with embalming in a licensed Virginia funeral establishment pursuant to Virginia Code § 54.1-2805 and 18VAC65-20-236 of the Board's Regulations. Ms. Tillman Wolf stated that the question before the Board is whether a student who is located in Virginia but enrolled in an online mortuary education program physically located out-of-state would be considered "enrolled in a mortuary education program in the Commonwealth" for purposes of completing embalming clinicals in a local Virginia funeral home under the supervision of a Virginia licensee.

Following discussion by the Board, this topic was deferred to the January business meeting pending advice from legal counsel.

Presence of embalming equipment in the preparation room where embalming is not performed

Ms. Tillman Wolf presented information about a licensee's question regarding the necessity of embalming equipment in a preparation room where embalming is not performed. The initial question received related to whether a new main funeral establishment would be required to have embalming equipment and supplies in the prep room in order to be in compliance with Board's regulations for issuance of a new establishment license, when the main establishment never intends to provide embalming services at the location. Ms. Tillman Wolf noted that the Board would have the opportunity to review the regulatory aspects of this question further at its January board meeting due to a pending Petition for Rulemaking, but that Board staff sought guidance from the Board regarding the pending application for licensure.

Upon a **MOTION** by Dr. Hickey, properly seconded by Mr. Graves, the Board voted to convene a closed meeting pursuant to §2.2-3711(A)(8) of the Code of Virginia for the purpose of consultation with legal counsel regarding the requirements of embalming equipment in preparation rooms where embalming is not performed. Additionally, Dr. Hickey moved that Mr. Saunders, Ms. Tillman Wolf, Ms. Kelley, Ms. Georgen, and Ms. Baskin attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its consideration of the topic.

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3711(A)(8) of the Code of Virginia, the Board reconvened in open session.

Following discussion by the Board, this topic was deferred to the January business meeting pending advice from legal counsel in conjunction with the pending Petition for Rulemaking currently in progress.

BREAK

The Board took a break at 12:04 p.m. and returned at 12:16 p.m.

PRESENTATION

Updates from the Virginia State Anatomical Program – Raymond Rhodes, Anatomical Program Director, Virginia State Anatomical Program

Mr. Rhodes updated the Board regarding anticipated changes to the Virginia State Anatomical Program (VSAP) and efforts to disseminate the information to funeral licensees in the Commonwealth, asking the Board to include information on these changes in the upcoming Board newsletter.

The Board asked clarifying questions regarding the VSAP. With no further questions, Mr. Rhodes concluded his presentation.

PRESENTATION

Communication Policies – Kelly Smith, Director of Communications

Ms. Smith introduced her role as Director of Communications. She provided information regarding the piloting of board communications with licensees through a high-quality, professional email platform to better track the information viewed by licensees. Ms. Smith also provided information about future goals,

such as creating formal public relations plans to raise awareness of DHP's high-demand careers in healthcare.

PRESENTATION

Sanctioning Reference Points Video

The Board viewed a newly produced video from the Healthcare Workforce Data Center on the Sanctioning Reference Points.

NEXT MEETING

The next meeting date is January 14, 2025.

ADDITIONAL COMMENTS

Ms. Barton stated that the Board would conduct a probable cause review directly following the adjournment of the meeting and asked that all Board Members participate.

ADJOURNMENT

Ms. Barton called for any objections to adjourn the meeting. Hearing no objections and with all business concluded, the meeting adjourned at 12:47 p.m.

Corie E. Tillman Wolf, J.D., Executive Director

Date