

Call to Order – Jason Graves, FSL, Board President

- Welcome and Introductions
 - Mission of the Board
 - Emergency Egress Procedures
-

Approval of Minutes (p. 3-12)

- Board Meeting – July 11, 2023
-

Ordering of Agenda

Public Comment

The Board will receive public comment at this time. The Board will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Agency Report – Arne Owens, Director

Staff Reports

- Executive Director’s Report – **Corie E. Tillman Wolf, Executive Director**
 - Discipline Report – **Melanie Pagano, Deputy Executive Director**
 - Licensing Report – **Sarah Georgen, Licensing and Operations Supervisor**
-

Board Counsel Report – Brent Saunders, Senior Assistant Attorney General

Committee and Board Member Reports

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

Legislative and Regulatory Report – Erin Barrett, Director of Legislative and Regulatory Affairs (p. 14)

- Report on Status of Regulatory Actions
-

Board Discussion and Actions - Erin Barrett, Corie Tillman Wolf (p 16-24)

- Initiation of Periodic Review of Public Participation Guidelines (18VAC65-11-10 et seq.)
 - Delegation of Acceptance and Signature of Consent Orders for Surrender, Suspension, and Revocation to Executive Director
-
-

Presentation

- Health Practitioners' Monitoring Program - **Christina Buisset, HPMP Manager & Executive Services Manager, and Amy Ressler, LCSW, Administrative Director, VCU HPMP Leadership Team**
-
-

Next Meeting - January 12, 2024

Meeting Adjournment

This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to the Code of Virginia.

Approval of Minutes

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Tuesday, July 11, 2023, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Jason Graves, FSL, President
Joseph Michael Williams, FSL, Vice-President
Lacyn Barton, FSL, Secretary-Treasurer
Muhammad Hanif, Citizen Member
Joseph Frank Walton, FSL

BOARD MEMBERS NOT PRESENT:

S. Jonathan Hines, FSL
Mia F. Mimms, FSL, JD
Blair H. Nelsen, FSL

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Alesia Baskin, Senior Licensing Program Coordinator
Sarah Georgen, Licensing and Operations Supervisor
Barbara Hodgdon, PhD, Deputy Director, Healthcare Workforce Data Center
James Jenkins, RN, Agency Chief Deputy
Melanie Pagano, Deputy Executive Director
Matt Novak, Policy and Economic Analyst
Brent Saunders, Senior Assistant Attorney General, Board Counsel
Corie Tillman Wolf, Executive Director
Yetty Shobo, PhD, Director, Healthcare Workforce Data Center

OTHER GUESTS PRESENT:

Paul Harris, Regulatory Support Services, Inc.
Barry Robinson, Virginia Morticians' Association
Laura McHale, Association of Independent Funeral Homes of Virginia/Keeney Group
Saga Balla, DHP Summer Intern
Ella Hayes, Board of Funeral Directors and Embalmers Summer Intern

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

CALL TO ORDER

Mr. Graves called the meeting to order at 10:03 a.m. and asked the Board members and staff to introduce themselves.

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

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

Mr. Graves 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

Mr. Graves opened the floor to any edits or corrections regarding the draft minutes for the Board meeting held on April 26, 2023. With no edits or corrections, the minutes were approved as presented.

ORDERING OF THE AGENDA

Mr. Graves opened the floor to any additional items to add to the agenda.

Ms. Tillman Wolf noted that Mr. Jenkins, DHP Chief Deputy, would provide the Agency Report in Mr. Owen's absence.

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Hanif, the Board voted to accept the agenda as amended. The motion carried (5-0).

PUBLIC COMMENT

Mr. Robinson, Virginia Morticians' Association (VMA), thanked the Board for their continued support and thanked Mr. Walton for presenting during the VMA Annual Convention held on June 28 – July 1, 2023.

AGENCY REPORT

Mr. Jenkins thanked the Board and DHP staff for their continued dedication to protecting the public.

Mr. Jenkins highlighted the Virginia Health Workforce Development Authority (VHWDA) study to examine workforce issues across the Commonwealth. He stated that the VHWDA plans to release a comprehensive final report with a strategic plan for goals and objectives on recommendations to address any identified issues related to healthcare workforce shortages. He noted that data collected through DHP's Healthcare Workforce Data Center during the license renewal process was used for analysis throughout the study.

PRESENTATION

2023 Workforce Reports – Funeral Service Providers – Yetty Shobo, PhD, Director, and Barbara Hodgdon, PhD, Deputy Director, Healthcare Workforce Data Center

Dr. Shobo and Dr. Hodgdon provided the 2023 Workforce Reports for Funeral Service Providers.

Upon a **MOTION** by Mr. Hanif, properly seconded by Ms. Barton, the Board voted to accept the 2023 Workforce Reports for Funeral Service Providers as presented. The motion carried unanimously (5-0).

STAFF REPORTS

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

Ms. Tillman Wolf introduced Ella Hayes, hired as the Board's Summer Intern. She stated that Ms. Hayes had aided the Board with multiple tasks, including researching and compiling information related to Natural Organic Reduction to assist the Board with this topic in the future.

Board Updates

Ms. Tillman Wolf stated that announcements regarding Board Member appointments had yet to be released. She also announced that Mr. Clemons had stepped down from the Board due to personal reasons leaving his position vacant. She stated that this information was communicated with the Secretary of the Commonwealth's Office for an additional appointment.

She stated that Board Members continue to participate in training with provider associations, including the Virginia Morticians' Association.

Ms. Tillman Wolf announced that application questions related to military spouses and servicemembers will be updated in the near future.

She also stated that the Board's frequently asked questions would be revised soon to include additional information related to the closure of a funeral home when a licensee, who is the sole proprietor and manager of record, dies or becomes incapacitated.

Ms. Tillman Wolf shared that staff was processing the removal of inactive funeral supervisors, based on the suggestion at the last meeting from Mr. Nelsen to accurately reflect this information in licensure statistics.

Ms. Tillman Wolf stated that the Board had not received a letter to request a Natural Organic Reduction/Human Composting study. She said that more information would be provided when available.

Ms. Tillman Wolf thanked Andy Inge, Senior Inspector, and Wendy Ashworth, Senior Inspector, for the opportunity for Board staff to accompany them during their inspection process in order to receive additional in-person training.

Board Meeting Dates

Ms. Tillman Wolf announced the remaining 2023 Board meeting dates.

- October 12, 2023

Ms. Tillman Wolf announced the scheduled 2024 Board meeting dates.

- January 12, 2024
- April 16, 2024
- July 16, 2024
- October 10, 2024

Notes and Reminders

Ms. Tillman Wolf provided notes and reminders to the Board regarding travel requirements, contacts from licensees and applicants, and updates to contact information or anticipated absences.

Mr. Williams further inquired about the Natural Organic Reduction study pertaining to notification to the Board. Ms. Tillman Wolf stated that she would notify the Board of any updates when they become available.

Discipline Report

As of May 31, 2023, Ms. Pagano reported the following disciplinary statistics:

- 38 Patient Care Cases
 - 8 at Informal
 - 3 at Formal
 - 2 at Enforcement
 - 25 at Probable Cause
 - 0 at APD
- 37 Non-Patient Care Cases
 - 2 at Informal
 - 0 at Formal
 - 10 at Enforcement
 - 25 at Probable Cause
 - 0 at APD
- 20 at Compliance

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

- | | |
|-------------------|-------------------|
| • Q1 2021 – 15/18 | • Q3 2022 – 24/22 |
| • Q2 2021 – 12/12 | • Q4 2022 – 28/21 |
| • Q3 2021 – 20/22 | • Q1 2023 – 5/23 |
| • Q4 2021 – 22/10 | • Q2 2023 – 10/21 |
| • Q1 2022 – 19/18 | • Q3 2023 – 11/13 |
| • Q2 2022 – 19/12 | |

With no questions, Ms. Pagano concluded her report.

Licensure Report – Sarah Georgen, Licensing and Operations Manager

Licensure Statistics – All Licenses

Ms. Georgen presented licensure statistics that included the following information:

License	March 31, 2023 (Q3 2023)	June 30, 2023 (Q4 2023)	Difference (+/-)
Funeral Service Licensees	1,595	1,542	-53
Funeral Director	45	43	-2
Embalmer Only	3	4	+1
Supervisors	600	585	-15
Funeral Service Interns	256	208	-48
Funeral Directing Interns	33	36	+3
Embalmer Interns	2	2	0
Funeral Establishments	425	423	-2
Branch Establishments	86	84	-2
Crematories	133	132	-1
CE Providers	11	11	0
Courtesy Card Holders	136	131	-5
Surface Transport & Removal Svc.	54	45	-9
Total (*not incl. supervisors)	2,779	2,661	-23

Incomplete Renewals - 2023

Ms. Georgen stated that seventeen licensees did not complete the renewal process, in which they answered “no” to some or all of the continuing education questions required. Of those, four licensees received notifications regarding the preneed renewal requirements, eleven provided affirmative attestations of completing their renewal requirements, and two did not respond to the inquiry, which would be further processed for disciplinary review.

With no questions, Ms. Georgen concluded her report.

BOARD COUNSEL REPORT – Brent Saunders, Senior Assistant Attorney General

Mr. Saunders provided an update on two pending court cases involving the Board.

With no questions, Mr. Saunders concluded his report.

COMMITTEE AND BOARD MEMBER REPORTS

International Conference Report – Lacyn Barton, FSL

Ms. Barton provided statistics regarding the National Board Examination (NBE) testing rates for January 1, 2023, to June 30, 2023. Additionally, Ms. Barton provided information regarding initiatives from the Conference regarding training, survey, and workshop opportunities.

BREAK

The Board took a break at 10:41 a.m. and returned at 10:57 a.m.

LEGISLATION AND REGULATORY ACTIONS

Report on Status of Regulations – Matt Novak, Policy and Economic Analyst

Mr. Novak provided an update on pending regulatory actions.

With no questions or comments, Mr. Novak concluded his report.

BOARD DISCUSSION AND ACTIONS

Adoption of Revisions to Guidance Document: 65-3, Guidelines for Processing Applications for Licensure: Examination, Endorsement, and Reinstatement

Mr. Novak provided an overview of proposed updates to the Guidance Document, which were thoroughly discussed by the Board.

Upon a **MOTION** by Mr. Walton, properly seconded by Ms. Barton, the Board voted to adopt the revisions to Guidance Document 65-3, Guidelines for Processing Applications for Licensure: Examination, Endorsement, and Reinstatement, as presented by Mr. Novak. The motion passed unanimously (5-0).

Reaffirmation of Guidance Document: 65-4, Aiding and Abetting Unlicensed Practice

Mr. Saunders requested an amendment to paragraphs one and two related to the section code and specified it to read Virginia Code § 54.1-2806(B)(10).

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Hanif, the Board voted to reaffirm Guidance Document 65-4, Aiding and Abetting Unlicensed Practice, as amended. The motion passed unanimously (5-0).

Repeal of Guidance Document: 65-19, Identification of Funeral Service Interns

Mr. Novak stated that effective December 7, 2022; interns must be identifiable to the public as an intern per 18VAC65-40-130(G) of the Regulations Governing the Practice of Funeral Services. Therefore, the guidance document was no longer necessary.

Upon a **MOTION** by Mr. Hanif, properly seconded by Mr. Walton, the Board voted to repeal Guidance Document 65-19, Identification of Funeral Service Interns, as presented. The motion passed unanimously (5-0).

Adoption of Fast-Track Action Related to Requirements for Licensure by Reciprocity or Endorsement (18VAC65-20-350)

Mr. Saunders provided suggestions related to possible redundancy of information included in the language presented. The Board thoroughly discussed the fast-track action related to requirements for licensure by reciprocity or endorsement.

Upon a **MOTION** by Mr. Williams, properly seconded by Ms. Barton, the Board voted to defer discussion and action regarding the adoption of fast-track action related to requirements for licensure by reciprocity or endorsement (18VAC65-20-350) to the next meeting. The motion passed unanimously (5-0).

Adoption of Revisions to the Electronic Meeting Policy (§2.2-3708.3)

Mr. Saunders requested a revision to the Electronic Meetings Policy for procedure number two, indicating the Virginia Code as §2.2-3708.3(B)(4).

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Walton, the Board voted to accept the adoption of revisions to the Electronic Meeting Policy under §2.2-3708.3 as amended. The motion passed unanimously (5-0).

NEW BUSINESS

Process for Electronic Amendments to Death Certificates

Mr. Graves provided additional information to the Board regarding the updated Electronic Death Registration System (EDRS) process, specifically regarding amendments to death certificates, which became effective July 1, 2023. He stated that the system still needed to be updated online but would soon allow amendments to be made online rather than in person. Ms. Tillman Wolf said she would contact the Vital Records office for more information about the anticipated rollout of changes to the EDRS system.

BREAK

The Board took a break at 11:37 a.m. and returned at 11:42 a.m.

ELECTIONS

Mr. Graves stated that in accordance with the Bylaws, during the first meeting of the organizational year, the Board shall elect from its members a President, Vice-President, and Secretary-Treasurer.

Mr. Graves provided remarks regarding the process for making additional floor nominations.

Mr. Graves opened the floor for President of the Board of Funeral Directors and Embalmers nominations.

Mr. Graves nominated himself for the position of President. There were no other nominations. The nominations were closed.

Upon a **MOTION** by Ms. Barton, properly seconded by Mr. Williams, the Board voted to elect Mr. Graves as President of the Board of Funeral Directors and Embalmers. The motion passed unanimously (5-0).

Mr. Graves opened the floor for Vice-President of the Board of Funeral Directors and Embalmers nominations.

Mr. Williams nominated Ms. Barton for the position of Vice-President. There were no other nominations. The nominations were closed.

Upon a **MOTION** by Mr. Williams, properly seconded by Mr. Walton, the Board voted to elect Ms. Barton as Vice-President of the Board of Funeral Directors and Embalmers. The motion passed unanimously (5-0).

Mr. Graves opened the floor for nominations for Secretary-Treasurer of the Board of Funeral Directors and Embalmers.

Mr. Graves nominated Mr. Williams. Mr. Williams declined the nomination. Mr. Walton nominated Mr. Hines for the position of Secretary-Treasurer. There were no other nominations. The nominations were closed.

Upon a **MOTION** by Mr. Walton, properly seconded by Ms. Barton, the Board voted to elect Mr. Hines as Secretary-Treasurer of the Board of Funeral Directors and Embalmers. The motion passed unanimously (5-0).

BOARD MEMBER RECOGNITION

Mr. Graves stated that the Board received Mr. Clemons' resignation from the Board effective June 14, 2023. Mr. Clemons' first term as a Citizen Member was set to expire on June 30, 2026. Mr. Graves thanked him for his service to the Board.

NEXT MEETING

The next meeting date is October 12, 2023.

ADJOURNMENT

Mr. Graves asked that all Board Members participate in probable cause case reviews following the adjournment of the meeting.

Mr. Graves called for any objections to adjourn the meeting. Hearing no objections and with all business concluded, the meeting adjourned at 11:49 a.m.

Corie Tillman Wolf, J.D., Executive Director

Date

Legislative and Regulatory Report

Board of Funeral Directors and Embalmers
Current Regulatory Actions
As of October 2, 2023

In the Governor's Office

None.

In the Secretary's Office

VAC	Stage	Subject Matter	Date submitted for Exec. Branch Review	Office; time in office	Notes
18VAC65-20	Fast-Track	Adjustment of requirements related to documentation of continuing education pursuant to 2022 legislation	7/28/2022	Secretary 376 days	Changes the amount of time documents related to continuing education must be kept from two to three years.
18VAC65-20 18VAC65-30 18VAC65-40	NOIRA	2023 Regulatory reduction	5/8/2023	Secretary 136 days	Reduces requirements related to practice, funeral interns, and preneed funeral planning.

At DPB/OAG

None.

Recently effective or awaiting publication

VAC	Stage	Subject Matter	Publication date	Effective date
18VAC65-20	Exempt/Final	Allows agency subordinates to hear credentials cases	10/9/2023	11/8/2023

Board Discussion and Actions

Agenda Item: Initiation of periodic review of public participation guidelines contained in 18VAC65-11

Included in your agenda packet:

- 18VAC65-11

Staff Note: Agencies are required to conduct periodic reviews of regulatory chapters every 4 years. Although this particular chapter is only changed when the Department of Planning and Budget provides new model language, the Board is still required to conduct a periodic review.

Action Needed:

- Motion to initiate periodic review of 18VAC65-11.

Commonwealth of Virginia



PUBLIC PARTICIPATION GUIDELINES

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulations: 18 VAC 65-11-10 et seq.

**Statutory Authority: §§ 54.1-2400 and 2.2-4007
of the *Code of Virginia***

Revised Date: January 12, 2017

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Part I

Purpose and Definitions

18VAC65-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Funeral Directors and Embalmers. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

18VAC65-11-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Funeral Directors and Embalmers, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by §2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC65-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC65-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC65-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to §2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC65-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency; and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § [2.2-4013](#) C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § [2.2-4012](#) E of the Code of Virginia.

18VAC65-11-60. Petition for rulemaking.

A. As provided in §2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to §2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC65-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC65-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. A NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC65-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with §2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC65-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC65-11-110. Periodic review of regulations.

- A. The agency shall conduct a periodic review of its regulations consistent with:
 1. An executive order issued by the Governor pursuant to §2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
 2. The requirements in §2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.
- B. A periodic review may be conducted separately or in conjunction with other regulatory actions.
- C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.