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Proposed Regulation
Agency Background Document

Agency name	Board of Funeral Directors and Embalmers, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC65-30
VAC Chapter title(s)	Regulations for Preneed Funeral Planning
Action title	Declinable preneed funeral guarantee fee amendments
Date this document prepared	10/20/2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 17 (2026) (EO 17), any instructions or procedures issued by the Department of Planning and Budget (DPB) pursuant to EO 17, the *Regulations for Filing and Publishing Agency Regulations* (1 VAC 7-10), and the *Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Ch. 247 of the 2024 Acts of Assembly (SB521) created the ability for a funeral home to offer a declinable preneed funeral guarantee fee as part of preneed funeral arrangements. The legislation required the Board to enact emergency regulations to allow use of declinable preneed funeral guarantee fees. Chapter 511 of the 2025 Acts of Assembly made changes to the Code section governing this new process, so the regulations have been updated to reflect that change.

Acronyms and Definitions

Define all acronyms and technical terms used in this form that are not defined in the "Definitions" section of the regulation.

N/A

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in EO 17, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part." For changes in response to federal mandates, indicate the extent of discretion related to the proposed regulatory changes, the rationale for the changes, and briefly indicate how the federal mandate aligns with the best interest of public welfare.

The mandate for this action is Chapters 247 of the 2024 Acts of Assembly and 511 of the 2025 Acts of Assembly.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations of the Board of Funeral Directors and Embalmers are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system."

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The rationale for this action is to fulfill the legislative mandate to create a declinable preneed funeral guarantee fee. This regulatory change is essential to protect the health, safety, and welfare of citizens because the General Assembly has directed the Board to promulgate regulations to implement this regulatory change. The goals of this regulatory change are to implement a legislative mandate to create a preneed funeral guarantee fee and the problems the change is intended to solve are concerns relating to the preneed contract and guaranteeing services from the contract.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

In this action, definitions are amended to incorporate a declinable preneed funeral guarantee fee into regulations, with other references to the fee and to § 54.1-2800, which governs the practice of funeral services. Information relating to the preneed guarantee fee is inserted into required content of preneed contracts.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

1) The primary advantages to the public are increased clarity regarding the declinable preneed guarantee fee and clear requirements for informing clients of the optional fee. There are no disadvantages to the public.
2) There are no primary advantages or disadvantages to the agency or the Commonwealth.
3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system . . . Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title." The promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Identification of Affected Parties

Use the tables below to indicate all Individuals and Entities affected by this regulatory change, either directly or indirectly. The effect could be positive (benefit) or negative (cost). Complete each row:

- *If available information indicates that a party is not affected, report "**none**" in the appropriate row.*
- *If no information exists, report "**unknown**" in the appropriate row.*

For Table 3: Per § 2.2-4007.04, "particularly affected" means any party that bears an "identified disproportionate material impact" that would not be experienced by similar parties. For example, this could be an affected entity that is likely to have a substantially different impact than other affected entities.

Table 1: Directly Affected Parties	
Affected Parties	*Number and Description (Type or Name)*
Individuals	Funeral service licensees (approximately 1600), funeral service preneed clients (number unknown)
Other State Agencies	None
Entities:	
• Localities	None
• Small Businesses	Funeral establishments (approximately 400)
• Other Businesses	None
• Other Entities	None

Table 2: Indirectly Affected Parties	
Affected Parties	*Number and Description (Type or Name)*
Individuals	None
Other State Agencies	None
Entities:	
• Localities	None
• Small Businesses	None
• Other Businesses	None
• Other Entities	None

Table 3: Particularly Affected Parties
Are any of the parties listed in Tables 1 or 2 "particularly affected" - **YES**. Funeral service licensees will be particularly affected as this would alter the required language they must use in their preneed contracts, and failure to do so could lead to complications during inspections.

Benefits and Costs

For Tables 4 and 5, complete each row:

- *If available information indicates that no benefits or costs are anticipated for a party, report "**none**" in the appropriate row.*
- *If no information exists, report "**unknown**" in the appropriate row.*

Benefits Resulting from Changes

Consistent with § 2.2-4007.04 of the Code of Virginia, use Table 4 to describe all regulatory changes that are anticipated to have benefits. Include benefits that apply to directly and indirectly affected parties, as reported in Tables 1 and 2.

When describing a particular benefit, specify which new or changed requirement creates the benefit. Keep in mind that this is a benefit from the proposed change versus the status quo. Exclude changes that merely improve clarity, formatting, or terminology.

Table 4: Benefits Resulting from Changes	
Affected Parties	*Description of Regulatory Change(s) and Resulting Additional Benefit(s)*
Individuals	None

Other State Agencies	None
Entities:	
• Localities	None
• Small Businesses	None
• Other Businesses	None
• Other Entities	None

Costs Resulting from Changes

Consistent with § 2.2-4007.04 of the Code of Virginia, use Table 5 to describe all regulatory changes that are anticipated to have costs. Include costs that apply to directly and indirectly affected parties, as reported in Tables 1 and 2.

When describing a particular cost, specify which new or changed requirement creates the cost. Keep in mind that this is a cost from the proposed change versus the status quo. Exclude changes that merely improve clarity, formatting, or terminology.

Table 5: Costs Resulting from Changes	
Affected Parties	*Description of Regulatory Change(s) and Resulting Additional Costs(s)*
Individuals	None
Other State Agencies	None
Entities:	
• Localities	None
• Small Businesses	None
• Other Businesses	None
• Other Entities	None

Impact on Your Agency

In Table 6, indicate the overall benefits and costs to your agency resulting from this regulatory action, compared to the status quo. Complete each row.

Table 6: Benefits and Costs for Your Agency
Projected benefits
Are changes expected in any savings or revenues (either one-time or on-going)? **No**
Are changes expected in other (non-monetary) benefits? **No**
Projected costs
Are changes expected in any expenditures (either one-time or on-going)? **No**
Can any costs or revenue loss be absorbed by existing resources? **N/A**

Other Impacts per § 2.2-4007.04

In Table 7, report the specific benefits and costs expected to result from this regulatory change compared to the status quo. Complete each row.

Table 7: Other Impacts Addressed by § 2.2-4007.04
Are changes in the use and value of private property expected? **No**
Are changes in the development of real estate for commercial or residential purposes expected? **No**
Are changes in employment expected? **No**
For changes affecting Localities only: for any affected Locality, are there sources of potential funds to comply with the changes? **N/A**
For changes affecting Small Businesses only: for any affected Small Business, are there projected reporting, recordkeeping, and other administrative costs, including any necessary professional skills to prepare documents? **No – while there will be a requirement to change the preneed contract details, these forms are available for free on the Board's website and take minimal effort to incorporate, therefore this is not a cost.**

Alternatives to Regulation

Consistent with §§ 2.2-4007.04 and 2.2-4007.1 B of the Code of Virginia: for any regulatory change that affects small businesses, describe:

1. *Any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change; and*
2. *Any less intrusive or less costly alternative methods of achieving the purpose of the regulatory change.*

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1) There are no alternatives to regulation. The Board has been mandated by the General Assembly to craft regulations to implement legislation.

2) There is no less intrusive or costly method to regulation.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the

proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

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(1) There are no deadline or reporting requirements. (2) No schedules or compliance requirements exist. (3) No schedules or compliance requirements exist. (4) No design or operational standards exist. (5) The agency cannot exempt small businesses from public safety requirements without severe detriment to the public, nor can it fail to comply with a legislative mandate.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 17, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

N/A

Public Comment

For all comments submitted, including those received on the Town Hall, in a public hearing, or directly to the agency:

1) *Summarize all comments received during the public comment period following publication of the previous stage, and provide the agency's response.*
2) *If no comments were received, enter "**none**."*

None.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held by completing the text below.

The Board of Funeral Directors and Embalmers is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of the background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at https://www.townhall.virginia.gov. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Matt Novak, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or matthew.novak@dhp.virginia.gov or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (https://townhall.virginia.gov) and on the Commonwealth Calendar website (https://commonwealthcalendar.virginia.gov/). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. For any applicable table:

1) *Enter the current Chapter and Section number. If the existing VAC Chapter(s) or sections are being repealed and replaced, include both the current and the new number for each current and replacement section.*
2) *Provide a summary explanation of the current requirements and what they mean. **DO NOT** quote the text of the current regulation.*
3) *Provide a summary explanation of the new requirements and what they mean. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. **DO NOT** quote the text of the new regulation.*

*Use all tables that apply **but delete tables that are not used.***

Table 9: Amending or Repealing Existing VAC Chapter(s)
If an existing VAC Chapter(s) is being amended or repealed, use Table 9 to describe the changes between the existing VAC Chapter(s) and the proposed regulation.

Current (and New) Chapter - Section number	SUMMARIZE (do not quote) current requirements in the VAC	Change, intent, rationale, and likely impact of new requirements
30-10	Definitions	Definition of “guaranteed contract price” is amended to include references to declinable preneed funeral guarantee fees, which would be included in the defined term if used by the funeral home and opted to be used by the client. “Its” is replaced with “any” and “on the policy or annuity” is included to clarify what funds are included in the defined term.
30-80	Dictates content and format of preneed funeral contracts	Subsection B 2 is amended to add to required contract disclosures whether guaranteed supplies and services have been secured by a declinable preneed funeral guarantee fee. This is included to ensure transparency for purchasers of preneed funeral services.
30-90	Provides requirements for disclosures to consumers	Subsection A is amended to include declinable preneed funeral guarantee fees, if offered by the funeral home, to the information that must be

		furnished by licensees to persons inquiring about preneed funeral arrangements. This is included to ensure transparency for purchasers of preneed funeral services. C is amended to include a requirement to provide a copy of the general price list to consumers at the time of need for funeral services, even if the arrangements were made through a preneed contract. This is included to ensure transparency for purchasers of preneed funeral services.
30-100	Prohibition on finance charges	New language is added to state that a declinable preneed funeral guarantee fee is not a finance fee, consistent with SB521.
30-110	Governs cancellation or transfer of the preneed funeral contract	Subsection A is amended to replace "this" with "a preneed." The use of the word "this" in context of the subsection was confusing. The language is intended to address payment under a preneed contract. Subsection B is amended to include declinable preneed funeral guarantee fees in refunds provided to the contract buyer for termination as described under subsection B. Subsection C 2 is amended to include declinable preneed funeral guarantee fees in description of funds returned for cancellation of preneed funeral contracts funded by revocable trusts. These amendments in B and C ensure transparency for consumers upon cancellation of a preneed funeral contract in the situations described in the subsections. Subsection E is amended to state that any declinable preneed funeral guarantee fee remains with the contract should the contract buyer change contract providers prior to the provision of services under the contract. This is consistent with statements from members of the RAP (which met July 10, 2024), who agreed that any declinable preneed funeral guarantee fee is treated as part of the contract and not severable.
30-120	Governs use of escrow accounts	This section is amended to state that declinable preneed funeral guarantee fees paid by the buyer are included in the funds that must be deposited into an escrow account under the circumstances described in the section.
30-170	Governs the use of trust accounts	Subsection 1 is amended to include payments made by a contract buyer as a declinable preneed funeral guarantee fee in information that must be disclosed in writing to the contract buyer. Additionally, the word "total" is added to make clear that the entire amount, including the declinable fee, if used, must be disclosed in writing.
30-220	Provides required content of contracts and disclosures	Prior to the subtotal portion of the provided contract language, the Board has included a line for calculating the subtotal costs of guaranteed services purchased. Additionally, the Board has included a

		listing for a declinable preneed funeral guarantee fee. The description of the fee states that it may be declined by the purchaser, and states that the fee must not exceed 25% of the guaranteed preneed supplies and services included in the contract price. A listing is included for the funeral home to insert the percentage of the guaranteed supplies and services which is used as the declinable fee or a flat fee amount. The option of a flat fee amount was suggested by the participants in the RAP. The Board has also included a line, following the nonguaranteed portion of the contract, which includes the declinable preneed funeral guarantee fee. This will be followed by the existing line for grand total. Because the declinable preneed guarantee fee is limited to 25% of the guaranteed preneed supplies and services, the RAP members and Board felt that a line for subtotal was now required to be placed above the line for declinable fee to ensure that the correct preneed services and supplies were used to determine the 25% ceiling. Under consumer information, the Board has amended the listed fax number for the Board. The current number included in the regulations is incorrect. Under disclosures, the first paragraph is amended to state that disclosure statements and the General Price List shall be furnished to the consumer by the contract seller. The current language appears to allow a contract seller to show a consumer disclosure statements but not allow the consumer to leave the premises with those disclosures, which is not the intent of the disclosure requirements. Given the addition of a potentially confusing new fee, the Board believes this provision should be adjusted as part of this action. Similarly, the statement "[b]y signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents" is amended to read "buyer acknowledges <u>receipt</u> of and opportunity to read . . ." Under the termination of contract provisions, declinable preneed funeral guarantee fees are referenced for terminations within 30 days, consistent with the amendments in 30-110, above. Under the statement of guarantee provisions, a space is added to indicate payment of a declinable preneed funeral guarantee fee. This is a portion filled out by the contract seller.
30-230	Provides required content of disclosure statements	Section 230 provides detailed disclosure statements that must be provided by the contract seller to

		contract buyers. Portions of this are in question and answer format. Under the cancellation provisions, references to refunds of declinable preneed funeral guarantee fees is included, consistent with 30-110. Under general funding information disclosures, a reference to a declinable preneed funeral guarantee fee is included in the disclosure regarding when additional funds may need to be provided by family or an estate. Under the portion of the disclosures related to questions of transferring a contract from one home to another, the existing regulations simply contain a statement that "(Funeral home shall place answer here)." Due to failure of some funeral homes to add this language, which is noted in inspections performed by the Board, and given the addition of this new fee, the Board has amended this section to state what should be included. Under the question about what happens to a preneed contract if the beneficiary of the funding is changed or proceeds from funding are used, the word "and" is replaced with "about." "And" appears to have been a mistake and does not make sense in the context of the answer. The Board amended this provision for clarity. Similar to a previous change, the Board has amended the answer related to failure to make premium payments to provide specific wording for funeral homes to use. Current regulations contain a parenthetical statement that funeral homes should furnish information, yet some funeral homes have failed to change this parenthetical on the documents provided to consumers. The same type of amendment has been adopted for the next question, related to getting money back for surrendering or cancelling funding arrangements. The reason for the amendment is the same as described just above – some funeral homes were not including any information in this section. In the final change of this nature, in response to the question of what happens if the contract buyer dies before the grand total of the funeral has been placed in trust, the Board is providing specific information to funeral homes to include in contract disclosures. This specific language explains what occurs if a contract buyer has not paid the trust in full.

		Under pricing provisions, an amendment is made to state that the contract seller will give the general price list and casket and outer burial container price list in writing. The current language simply states that the contract seller "will give this to [the buyer] before . . . talking about arrangements." The funeral home is required to provide this information in writing, so the Board felt this provision should be clarified. In the same section, the description of what the family or estate of a contract buyer will be provided at time of death is amended to include price lists. Under a pricing disclosure regarding guaranteed and nonguaranteed prices, an amendment is made to reference the declinable preneed funeral guarantee fee that may be charged for certain goods and services. Finally, the last fax number listed at the end of this section for the Board is amended to include the correct fax number.

Table 11: Changes that Are Not in the Emergency Regulation

*If the regulatory change is replacing an **emergency regulation:***

- *If the proposed regulation is identical to the emergency regulation, complete Table 9 and/or Table 10, as applicable, but do not complete Table 11.*
- *If the proposed regulation is not identical to the emergency regulation, also complete Table 11 to describe the changes that are not in the emergency regulation.*

Current (and New) Chapter -Section number	**SUMMARIZE (do not quote) current emergency requirements**	**Change, intent, rationale, and likely impact of new or changed requirements since emergency stage**
30-10	Definitions	Amended the definition of "Guaranteed contract price" to specify that the declinable preneed funeral guarantee fee is assessed upon guaranteed goods and services. This is in line with the legislative changes.
30-220	Insertion of declinable preneed funeral guarantee fee requirements in required preneed contract	At the end of "Guaranteed Services Purchased" section of the contract language in section 220, inserted a line reading "subtotal costs of guaranteed services purchased." This line allows clarity regarding the subtotal cost of guaranteed preneed services purchased. At the end of "Supplies Purchased" section, amended existing emergency language to clarify that the preneed fee must not exceed 25% of the guaranteed preneed supplies and services included in the contract price. This is in line with legislative changes and clarifies how the fee is calculated. After the contract subtotal line, relocated the "total declinable preneed funeral guarantee fee (if offered)"

		line to under the grand total for preneed arrangements line for clarity and ease of reading. Following intervening legislation (Chapter 511 of 2025 Acts of Assembly), changes were made to clarify that the preneed fee is based on the cost of preneed supplies and services, not the overall cost of the preneed contract. There are additional costs in the contract that are not related to preneed services, and the changes made clarify the preneed fee is based on the guaranteed preneed items and services.