



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 65-20 – Regulations of the Board of Funeral Directors and Embalmers
Department of Health Professions
January 18, 2007

Summary of the Proposed Amendments to Regulation

The Board of Funeral Directors and Embalmers (board) proposes to: 1) change the title “establishment manager” to “manager of record,” 2) more clearly delineate the responsibilities of the manager of record, 3) allow itself the discretion to delegate any category of informal fact-finding proceedings to an agency subordinate, 4) add “felony conviction by an applicant” to the list of categories by which agency staff must check with the board on a case-by-case basis for authority to conduct informal fact-finding proceedings, 5) reduce the time within which establishments must report changes in ownership or manager of record from 30 days to 14 days, 6), change the expiration date for funeral establishment licenses, crematory registrations, and surface transportation and removal service registrations from January 31 to March 31 and the expiration date for courtesy cards from December 31 to March 31, 7) change the deadline for submitting an application package for funeral service licensure to 30 days prior to the examination date rather than 45 days, 8) reduce the amount of information required to be recorded for each embalming procedure conducted, 9) increase the length of time that records must be retained from one year to three years, and 10) add other clarifying language.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The current regulations require that “every funeral service establishment and every branch or chapel of such establishment, regardless of how owned, shall have a separate establishment manager who is employed full time by the establishment for at least 40 hours a

week.” The board proposes to change the title “establishment manager” to “manager of record” and to delineate more specifically that the manager of record is accountable for the operation of the establishment to include but not be limited to the maintenance of the facility, retention of required records, and reporting of changes in relevant information to the board. This more specific language helps enable the board to more easily hold those individuals responsible for non-compliance in an establishment for which they are the manager of record.

The current regulations permit the board to delegate informal fact-finding proceedings to Department of Health Professions (department) staff upon determination that probable cause exists that a practitioner may be subject to a disciplinary action, except for cases that involve any of the following: 1) intentional or negligent conduct that causes or is likely to cause injury, 2) conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public, 3) impairment with an inability to practice with skill and safety, 4) inappropriate handling of dead human bodies, 5) sexual misconduct, 6) misappropriation of funds, or 7) aiding or abetting unauthorized practice. The board proposes to permit itself to delegate informal fact-finding proceedings to department staff for any category of case, but also proposes to retain the above list of categories for the following purpose; department staff will only be required to check with the board on a case-by-case basis for authority to conduct informal fact-finding proceedings that involve any of the categories on the list. This proposed change allows the board the benefit of more flexibility and is unlikely to produce any costs for the Commonwealth. Thus, it will likely produce a net benefit.

The board also proposes to add “felony conviction by an applicant” to the list of categories by which agency staff must check with the board on a case-by-case basis for authority to conduct informal fact-finding proceedings. This may produce a small delay in the start of informal fact-finding proceedings that involve “felony conviction by an applicant,” but the delays will likely usually be small and the board believes the costs of its non-involvement are potentially significant for this category.

Under the current regulations funeral establishments must report changes in ownership or manager of record (establishment manager) within 30 days of the change. The board proposes to reduce the time to 14 days. Given the existence of modern communication technology such as email, it is not difficult for firms to quickly report one sentence of information. Thus the cost of

this proposed amendment is minimal. The change brings some potential for public benefit in that the department and board may be able to more quickly ascertain potential risks for the public.

Also under the current regulations, the expiration date for funeral service licenses, funeral director license, and embalmer licenses is March 31; while the expiration dates for funeral service establishment licenses, crematory registrations, and surface transportation and removal service registrations is January 31; and the expiration date for courtesy cards for out-of-state practitioners is December 31. The board proposes to make all expiration dates March 31. This proposed amendment will be beneficial in that it will reduce confusion for affected entities, reduce department staff time in alleviating that confusion, and will allow staff to focus renewal activity into one specific time.

The board proposes to amend the deadline for submitting an application package for funeral service licensure to 30 days prior to the examination date rather than 45 days. This will be beneficial for applicants who will be able to take the exam sooner and potentially start working sooner.

Additionally, the board proposes to reduce the amount of information required to be recorded for each embalming procedure conducted. This will moderately reduce the amount of time spent in producing such records. Given that the board and department believe that the reduced information is sufficient, the proposal will clearly create a net benefit.

Finally, the board wishes to increase the length of time that records must be retained from one year to three years. According to the department funeral establishments are inspected approximately once every three years; and investigations of unprofessional conduct may not be initiated and completed within one year of an event for which the record must be reviewed. Thus, there are clear benefits in terms of assuring that funeral establishments are meeting requirements for extending the required record retention time. The costs of retaining the amount of data required by the board are small, particularly if the data is kept electronically. Thus this proposal will likely produce a net benefit.

Businesses and Entities Affected

The proposed regulations affect Virginia licensed funeral establishments, their owners and employees, and their clients. According to the department there are currently 507 licensed funeral establishments; of that number approximately 350 would be considered small businesses. The rest are establishments that are owned by large, national or international corporations. There are 1,434 licensed funeral service providers, 6 embalmers, and 112 funeral directors who are employees of those establishments.

Localities Particularly Affected

The proposed regulatory amendments do not disproportionately affect specific localities.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect the amount of employment in the Commonwealth.

Effects on the Use and Value of Private Property

None of the proposed amendments are likely to have large effects on the use and value of private property. As stated earlier, the proposal to amend the deadline for submitting an application package for funeral service licensure to 30 days prior to the examination date rather than 45 days will be beneficial for applicants who will be able to take the exam sooner and potentially start working sooner. Thus these individuals may start earning salaries earlier, and firms may become fully staffed earlier.

The proposed reduction in the amount of information required to be recorded for each embalming procedure will moderately reduce the amount of time spent by funeral establishment staff in producing such records. The positive value of this moderate reduction in required labored time will most likely exceed the very small increase in costs associated with the proposed requirement for establishments to retain records for three years rather than one. Thus in net the proposed amendments will likely moderately reduce costs for most affected firms.

Small Businesses: Costs and Other Effects

The proposed reduction in the amount of information required to be recorded for each embalming procedure will moderately reduce the amount of time spent by small funeral establishment staff in producing such records. The positive value of this moderate reduction in required labored time will most likely exceed the very small increase in costs associated with the proposed requirement for small establishments to retain records for three years rather than one. Thus in net the proposed amendments will likely moderately reduce costs for most affected small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not produce a net adverse impact for small businesses.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.