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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Funeral Directors and Embalmers, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC65-20
<b>Regulation title(s)</b>	Regulations of the Board of Funeral Directors and Embalmers
<b>Action title</b>	CE credit for attendance at board meetings
<b>Date this document prepared</b>	4/24/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Subject matter and intent

*Please describe briefly the subject matter, intent, and goals of the planned regulatory action.*

The Board intends to amend 18VAC65-20-151, which provides requirements for continued competency for renewal of an active license. The Board intends to amend the section by offering one hour of CE credit every other year for attendance at a board meeting or at an informal conference or formal hearing. In the year the one hour of credit was granted, it could meet the statutory requirement for “*one hour per year covering compliance with federal or state laws and regulations governing the profession (§ 54.1-2816.1).*”

**Legal basis**

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

**18VAC65-20-10 et seq. 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. Section 54.1-2400 (6) provides the Board with authority to promulgate regulations to administer the regulatory system:

**§ 54.1-2400 -General powers and duties of health regulatory boards**  
*The general powers and duties of health regulatory boards shall be:*

...  
6. *To 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.*

Specific regulations for continuing education requirements are found in:

**§ 54.1-2816.1. Continuing education requirements; promulgation of regulations.**

*A. The Board shall promulgate regulations governing continuing education requirements for funeral services licensees, funeral directors and embalmers licensed by the Board.*

*B. The Board shall approve criteria for continuing education courses, requiring no more than five hours per year, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors and embalmers. Approved continuing education courses shall include, but not be limited to, at least one hour per year covering compliance with federal or state laws and regulations governing the profession, and at least one hour per year covering preneed funeral arrangements. Course providers may be required to register continuing education courses with the Board pursuant to Board regulations. The Board shall not allow continuing education credit for courses where the principal purpose of the course is to promote, sell or offer goods, products or services to funeral homes.*

*C. All course providers shall furnish written certification to licensees of the Board attending and completing respective courses, indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of two years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of two years the written certification issued by any Board-approved provider of continuing education courses. The Board may require course providers or*

*licensees to submit copies of such records or certification, as it deems necessary, to ensure compliance with continuing education requirements.*

*D. The Board shall have the authority to grant exemptions or waivers in cases of certified illness or undue hardship.*

*E. The Board may provide for an inactive status for those licensees who do not practice in Virginia. The Board may adopt regulations reducing or waiving continuing education requirements for any licensee granted such inactive status. However, no licensee granted inactive status may have their license changed to active status without first obtaining additional continuing education hours as may be determined by the Board. No person or registrant shall practice in Virginia as an embalmer, funeral director, or funeral service licensee unless he holds a current, active license.*

### Purpose

*Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

At a recent meeting of the International Conference of Funeral Service Examining Boards, it was reported that other states have adopted such a regulation and found it to be beneficial to practice. Attendance at board meetings or disciplinary hearings gives a licensee the perspective of issues facing funeral service and actions that may be deemed unethical or unprofessional. Ultimately, the additional education has the benefit of protecting the public health, safety, and welfare by encouraging practice in accordance with law and regulation.

### Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

18VAC65-20-151 provides requirements for continued competency for renewal of an active license. The Board intends to amend the section by offering one hour of CE credit every other year for attendance at a board meeting or at an informal conference or formal hearing. In the year the one hour of credit was granted, it could meet the statutory requirement for “one hour per year covering compliance with federal or state laws and regulations governing the profession (§ 54.1-2816.1).”

### Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

*Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

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The intent of the Board is to further their knowledge of its licensees in the work of the Board and laws and regulations governing the practice of funeral services. The least intrusive method is to offer an incentive for participation in the regulatory and disciplinary work of the Board by offering continuing education credit to licensees.

### Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

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The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

A Regulatory Advisory Panel will not be convened.