

PROPOSED REGULATIONS

PART I. GENERAL PROVISIONS.

18 VAC 65-20-70. Required fees.

A. The following fees shall apply for initial licensure or registration and for renewal of licensure or registration:

1. License to practice funeral services or as a funeral director or an embalmer	\$ 150
2. Funeral service establishment license	\$ 225
3. Surface transportation and removal service registration	\$ 250
4. Courtesy card	\$ 100
5. Crematory	\$ 100

B. Other fees:

1. Reinstatement fee per year for each year of licensure or registration expiration	\$ 50
2. Change of manager or establishment name	\$ 50
3. Verification of license or registration to another state	\$ 50
4. Duplicate license, registration, courtesy card	\$ 25
5. Duplicate wall certificates	\$ 50
6. Change of ownership	\$ 100
7. Reinspection for change of location or ownership	\$ 100
8. <u>Application or renewal for continuing education provider</u>	<u>\$ 200</u>

PART II. RENEWALS AND REINSTATEMENT.

18 VAC 65-20-130. Renewal of license; registration.

A. A person, establishment, crematory, courtesy care holder or surface transportation and removal service who desires to renew his license or registration for the next year shall, not later than the expiration date as provided in 18 VAC 65-20-120, submit the renewal application and applicable fee. In order to renew an active funeral service, director or embalmer license, a licensee shall be required to comply with continuing competency requirements set forth in 18 VAC 65-20-151.

B. A person who or entity which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in 18 VAC 65-20-120 shall be deemed to have an invalid license, registration, or courtesy card and continued practice may subject the licensee to disciplinary action by the board.

18 VAC 65-20-140. Reinstatement of expired license or registration.

A. The board may consider reinstatement of an expired license or registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable delinquent renewal fees and the additional reinstatement fee prescribed in 18 VAC 65-20-70.

B. If the Virginia license of a funeral service provider, funeral director and embalmer is lapsed three years or less and the applicant is seeking reinstatement, he shall provide evidence of having completing the number of continuing competency hours required for the period in which the license has been lapsed.

C. When a license is not reinstated within three years of its expiration date, an applicant shall reapply for licensure and pass the state examination.

18 VAC 65-20-150. Reapplication of license [Repealed].

~~When a license is not reinstated within three years of its expiration date, an applicant shall reapply for licensure and pass the state examination.~~

18 VAC 65-20-151. Continued competency requirements for renewal of an active license.

A. After March 31, 2004, funeral service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of five hours of continuing education offered by a board-approved sponsor for each annual licensure renewal in courses that emphasize the ethics, standards of practice, pre-need contracts and funding, or laws and regulations governing the profession of funeral service in Virginia.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell or offer goods, products or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

18 VAC 65-20-152. Continuing education providers.

A. Unless disqualified by action of the board, courses offered by the following providers are approved for continuing education credit:

1. Local, state or federal government agencies;
2. Regionally accredited colleges and universities; or
3. Board-recognized national, regional, state and local associations or organizations as follows:

- a. National Funeral Directors Association and state chapters;
- b. National Funeral Directors and Morticians Association and state chapters;
- c. Independent Funeral Homes Association of Virginia;
- d. Cremation Association of North America;
- e. American Board of Funeral Service Education;
- f. International Conference of Funeral Service Examining Boards; and
- g. Other similar associations or organizations as approved by action of the board.

B. Course providers not listed in subsection A may apply for approval by the board as continuing education providers.

1. To be considered for board approval, a continuing education provider shall submit 60 days prior offering a continuing education course:

- a. Documentation of an instructional plan and course objectives for continuing education courses that meet the criteria set forth in 18 VAC 65-20-151 B;
- b. A syllabus of the course or courses to be offered with the credentials of the course instructors, a description of each session, including number of continuing education hours; and
- c. The continuing education provider fee set forth under 18 VAC 65-20-70.

2. Board approval of continuing education providers under this subsection shall expire on July 1 of each year and may be renewed upon resubmission of documentation on courses and instructors and the provider fee as required by the board.

3. Continued approval of a continuing education provider may be granted without submission of the provider fee if the provider submits a statement that courses and instructors offered for the coming year will not change from the previous year. If there will be additions or alterations to the continuing education offerings of a provider, resubmission of documentation and a provider fee is required.

C. Continuing education providers approved under subsections A or B or this section shall:

1. Maintain and provide to the board upon request documentation of the course titles and objectives and of licensee attendance and completion of courses for a period of three years;
2. Monitor attendance at classroom or similar educational experiences for compliance with law and regulations; and
3. Provide a certificate of completion for licensees who successfully complete a course.

18 VAC 65-20-153. Documenting compliance with continuing education requirements.

A. All licensees with active status are required to maintain original documentation for a period of two years after renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation within 14 days as follows:

1. Official transcripts showing credit hours earned from an accredited institution; or
2. Certificates of completion from approved providers.

D. Compliance with continuing education requirements, including the maintenance of records and the relevance of the courses to the category of licensure is the responsibility of the licensee. The board may request additional information if such compliance is not clear from the transcripts or certificates.

E. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.

18 VAC 65-20-154. Inactive license.

A. A funeral service licensee, funeral director or embalmer who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee of \$75, be issued an inactive license.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice funeral service in Virginia.
2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A funeral service licensee, funeral director or embalmer who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and
2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

**PART VI.
REFUSAL, SUSPENSION, REVOCATION AND DISCIPLINARY ACTION**

18 VAC 65-20-500. Disciplinary action.

In accordance with the provisions of § 54.1-2806 of the Code of Virginia, the following practices are considered unprofessional conduct and may subject the licensee to disciplinary action by the board:

1. Breach of confidence. The unnecessary or unwarranted disclosure of confidences by the funeral licensee.
2. Unfair competition.
 - a. Interference by a funeral service licensee, funeral director, or registered surface transportation and removal service when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.
 - b. Consent by a funeral service licensee or funeral director to take charge of a body unless authorized by the person or his agent having the legal right to disposition.
3. False Advertising.
 - a. No licensee or registrant shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.
 - b. The following practices, both written and verbal, shall constitute false, deceptive, or misleading advertisement within the meaning of subdivision 4 of § 54.1-2806 of the Code of Virginia:
 - (1) Advertising containing inaccurate statements;
 - (2) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.
 - c. The following practices are among those which shall constitute an untrue, deceptive, and misleading representation or statement of fact:
 - (1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long-term or indefinite time; and
 - (2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.
4. Inappropriate handling of dead human bodies.

Transportation and removal vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation. During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.

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5. Failure to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.
6. 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.
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.
8. Failure to register as a supervisor for a resident trainee or failure to provide reports to the board as required by the Code of Virginia and 18 VAC 65-40-10 et seq.
9. Failure to comply with applicable federal and state laws and regulations, including requirements for continuing education.