

APPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Tuesday, October 18, 2016 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 4, Henrico, Virginia.

BOARD MEMBERS PRESENT

Connie B. Steele, FSL, President
R. Thomas Slusser, Jr., FSL, Vice-President
Louis R. Jones, FSL
Blair Nelsen, FSL
Frank Walton, FSL
Larry T. Omph, FSL
Mia F. Mimms, FSL
Junius H. Williams, Jr., Citizen Member

BOARD MEMBER ABSENT

Ibrahim A. Moiz, Esq., Citizen Member

DHP STAFF PRESENT

Corie Tillman Wolf, Executive Director
Lynne Helmick, Deputy Executive Director, Discipline
Missy Currier, Deputy Executive Director, Licensing
David Brown, Agency Director

BOARD COUNSEL

Erin Barrett, Assistant Attorney General

QUORUM

With 8 members present a quorum was established.

GUESTS PRESENT

Paul Harris, Regulatory Support Services, Inc.
Bo Keeney, IFHV
Bruce Keeney, IFHV
Scott Johnson, First Choice Consulting, LLC
Lacy Whittaker, VFDA
Wesley Gregory, DHP-Finance

CALL TO ORDER

Connie Steele, President called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:05 a.m.

Ms. Steele stated the following before the first order of business:

- 1) She welcomed Corie Tillman Wolf as the new Executive Director of the Board.
- 2) Laptops were provided to the board members for the purpose of the meeting only and have no connection to the internet. The material that they are able to review on the computer is the same material that has been made available to the public.
- 3) Please be sure to speak directly into the microphone so that everyone can hear you.
- 4) She welcomed Mia Mimms as the newly appointed member to the Board.
- 5) She thanked outgoing board member Paul Welch for his 4 years of service to the Board.

Ms. Tillman Wolf then read the Emergency Egress Procedures.

ORDERING OF AGENDA

The agenda was accepted as presented.

PUBLIC COMMENT PERIOD

No public comment was provided.

ACCEPTANCE OF MINUTES

Upon a motion by Junius Williams, and properly seconded by Tommy Slusser, the board voted to accept the following Meeting Minutes:

- Board Meeting - April 19, 2016
- Formal Hearings (2) – May 2, 2016
- Formal Hearing – June 3, 2016

The motion passed unanimously.

INFORMAL CONFERENCES

The board acknowledged that seven informal conferences were held since the last board meeting for which the minutes do not require board approval.

DIRECTOR'S REPORT – Dr. David Brown, D.C.

Dr. Brown provided the following Agency news:

- Dr. Brown welcomed Mia Mimms to the board and shared his appreciation for the work that the members contribute to the health, welfare and safety of the public.
- Dr. Brown welcomed Corie Tillman Wolf as the new Executive Director

- The Board Member Training is scheduled for October 24, 2016 from 9:30 – 3:30. This year’s training will benefit not only new members but seasoned members as well with topics including; FOIA, Investigative Procedures & Experiences, and the agency and its responsibilities.

EXECUTIVE DIRECTOR’S REPORT – Corie Tillman Wolf, JD

Ms. Tillman Wolf expressed how pleased she was to serve as Executive Director for the board and her eagerness to work with the board members. She encouraged them to contact her if they had any issues or concerns and to direct any media requests for comment to her attention. She then provided the following brief bio:

- She began in her position as Executive Director on August 25, 2016
 - She previously served 8 ½ years at Office of the Attorney General prosecuting cases for the Health Professions Unit
 - Additionally, she was the Assistant Attorney General for Domestic Violence issues; and the Statewide Facilitator for Victims of Domestic Violence
- She also has prior experience in private and public sectors

Ms. Tillman Wolf also welcomed Mia Mimms as the newest member on the board and shared that she and Lisa Hahn had the opportunity to meet with her in September in order to orient her with board business and procedures.

Expenditure and Revenue Summary

FY16 Budget

• Cash Balance as of June 30, 2015	\$ (40,742)
• YTD FY16 Revenue	801,855
• Less direct & In-Direct expenditure	<u>518,118</u>
• Cash Balance on June 30, 2016	\$ 242,995

Board Business

Electronic Death Reporting System

Ms. Tillman Wolf reported that there have been discussions about reaching out to physicians to encourage more participation; Lisa Hahn had worked on this earlier in the year in an effort to facilitate the process. Additional information shared was:

- Corie and Lynne Helmick attended an Electronic Death Reporting System (EDRS) stakeholder meeting October 11, 2016
 - Updates to the system are anticipated in late October
 - Local health departments/registrars have been trained

- VDH has a plan for statewide dissemination of information to other health care providers
- There are a number of ongoing areas of discussion:
 - Workflow – final filer of certificate
 - Changes to the certificate prior to filing
 - Physician participation

Bifurcation Issue

The Workforce Data Center sent out a survey during the spring of 2016 and Dr. Elizabeth Carter will discuss some of the findings of that survey during her presentation.

Virginia Board Examination

- Request for Proposal (RFP) was issued for our state examination – September 16, 2016
- RFP closes October 21, 2016
- Review process –board staff will conduct a review of the RFP & make recommendations
- Award around December 1, 2016
- Examination services beginning January 1, 2017

The Conference – Exam Updates

The International Conference of Funeral Service Examining Boards (The Conference) Board of Directors met on September 19, 2016 and approved updates to the examination program. While staff will continue to provide the specific details to candidates, member boards, and accredited programs, the following changes are listed for informational purposes.

- Press Release on October 5, 2016
- Candidates may submit an official sealed transcript in addition to the faculty “Verification of Graduation” form as a means of eligibility to sit for the NBE
- NBE Scholarship – Conference Board will draw five names twice per year
- Score verification process – Candidates may request a “verification of results” with their pass/fail status at any time; Certified exam scores are sent only to member boards

Staff Notes

- If you have a change of address, e-mail address, cell phone number, please remember to contact us so that we have the most current information.
- Please try to respond to email requests within a timely manner especially when the email requests a reply for availability or a response to a licensure or disciplinary question.
- Never “Reply All”
- Thank you for all your hard work & dedication!

LICENSURE REPORT – Missy Currier, Deputy Executive Director

	Oct. 2016	Oct. 2015	Change
FSL's	1,535	1,505	+30
Funeral Director	43	46	-3
Embalmer Only	2	4	-2
Supervisors	485	447	+38
Interns	187	197	-10
Establishments	438	439	-1
Branch Establishments	69	68	+1
Crematories	110	105	+5
CE Providers	15	27	-12
Courtesy Card Holders	87	71	+16
Surface Transport & Removal Svc.	45	45	0
Total	3,016	2,954	+62

Fees Processed (January 1 – Oct 18, 2016)

Applications	488
Renewals	2,331
Miscellaneous	18
Total Fees	2,837

* Since our January we have issued 144 licenses (all types).

Current Projects

Staff is updating the board's webpage information. Please let us know if you have any information that should be posted on our website.

Staff is also collaborating with the IT Department in order to initiate online applications. We hope to implement during 2017.

Customer Satisfaction

The customer satisfaction survey result for the report ending first quarter of FY17 is 100%. A special appreciation goes to Vicki Saxby, Program Manager and licensure specialist for the board, as well as Heather Wright and Laura Mueller, who always take the extra step to ensure that our licensee questions are answered with professionalism.

Discipline Report – Lynne Helmick, Deputy Executive Director

Ms. Helmick reviewed the following statistics and Key Performance Measure slides with the board:

10/13/16

4/15/16

39 total open cases

46 total open cases

13 - Investigations

23 – Investigations

18 - Probable Cause

10 – Probable Cause

8 - Administrative Proceedings Division (APD)

8 - APD

10 - Orders are being monitored for Compliance

2 – Informal Conference

3 - Formal Conference

9 – Monitored for Compliance

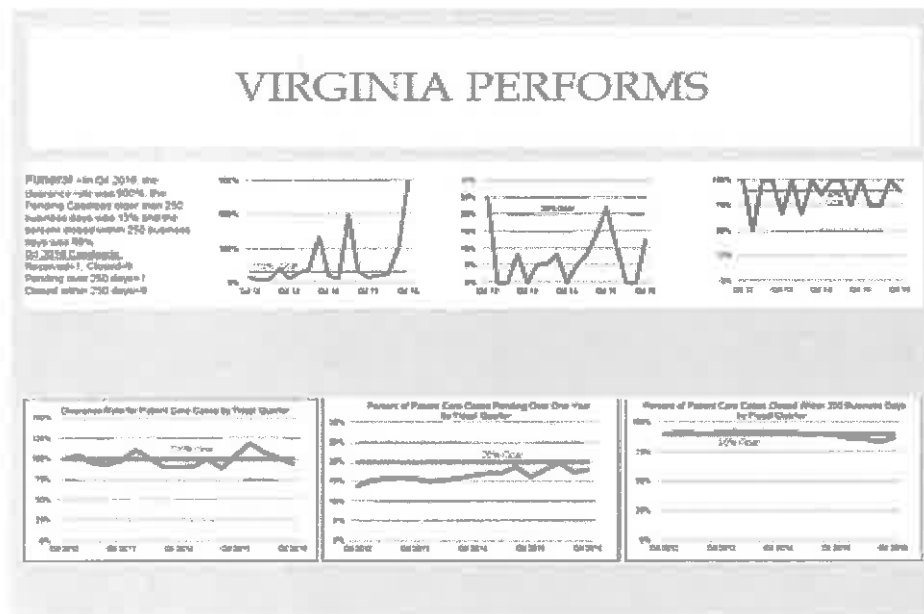
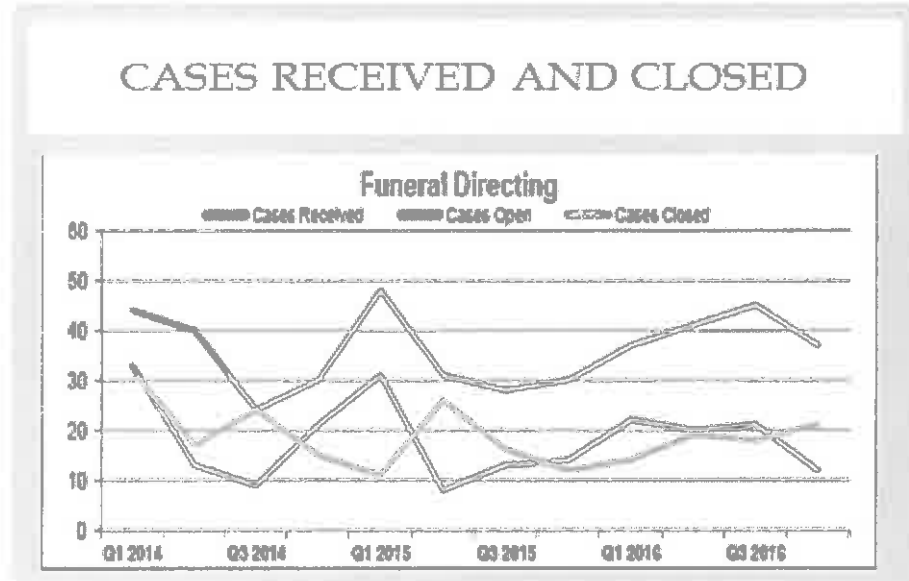
All Case Information (Patient and Non-Patient Care) - 4th quarter FY2014 - 2016

- **% of all cases closed in 250 days**

	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>
• Funeral	86.7%	100%	81%
• Agency	97.4%	88.3%	85.6%

• Average days to close a case

• Funeral	175.5	140.4	240.6
• Agency	170.1	186.7	188.5



Case Categories (cases in which disciplinary action was taken)

FY2015

FY2016

16 cases total

10 cases total

- 1 Correction to inspection deficiencies
- 1 Preneed
- 1 Out of state Order
- 1 Unlicensed activity
- 1 Aiding & Abetting unlicensed activity
- 8 Continuing Education
- 3 “Standard of Care

- 1 Correction to inspection deficiencies
- 1 Preneed
- 2 Unlicensed Activity
- 1 Untimely filing of a death certificate
- 1 Failure to have records available
- 1 Substance Abuse
- 3 Fraud/Misrepresentation

Hearings held since last meeting:

- 7 IFCs held
- 3 Formal hearings held
- Nothing scheduled at this time

Board Counsel Report – Erin Barrett, Assistant Attorney General

Ms. Barrett provided an update of current cases against the board. She then requested that the board convene in closed session.

CLOSED SESSION:

Upon a motion by Junius Williams, and properly seconded by Louis Jones, the Board voted to convene a closed meeting pursuant to §2.2-3711.A (7) of the Code of Virginia, for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Additionally, she moved that Ms. Hahn, and Ms. Helmick, Ms. Currier and Ms. Yeatts attend the closed meeting because their presence in the closed meeting is deemed necessary and will aid the Board in its discussions and considerations.

The Committee entered into closed session at 10:38 a.m.

RECONVENE:

Upon a motion by Frank Walton, and properly seconded by Mia Mimms, the Board voted to reconvene into open session at 10:54 a.m. The motion carried unanimously.

CERTIFICATION:

Junius Williams certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code. All members certified unanimously.

BREAK

The Board took a recess from 11:16 a.m. until 11:25 a.m.

HEALTHCARE WORKFORCE DATA REPORT – Dr. Elizabeth Carter

Dr. Carter provided informative statistical information regarding the Funeral Directors and Embalmers survey results conducted by the Healthcare Workforce Data Center. She stated that because the survey was not conducted during the renewal cycle, that they received a lower response rate of only 38%. Dr. Carter anticipates a much greater response during the 2017 renewals.

Dr. Carter mentioned that following Senator Alexander's request for a study on Bifurcation of licensure, the Board of Health Professions held a public meeting in which it appeared to be ½ present were for and ½ were against.

Dr. Carter concluded her report and thanked everyone for filling out the surveys.

Upon a motion by Louis Jones and properly seconded by Larry Omps, the board voted to approve the June 2016 Board of Funeral Directors and Embalmers Healthcare Workforce Data Report. The motion carried unanimously.

UNFINISHED BUSINESS

Guidance for Processing Applications for Licensure –Lynne Helmick

Ms. Helmick reminded the members that they had previously reviewed draft language for processing applications as a new guidance document during the April 2016 meeting. At that meeting, it was determined that the draft required a few format and citation changes and the matter was deferred until the next full meeting.

Following Ms. Helmick's review, a motion was made by Junius Williams and properly seconded by Larry Omps to adopt Guidance Document 65-3 as guidance for processing applications for licensure. The motion carried unanimously.

NEW BUSINESS

Regulatory Update – Corie Tillman Wolf

Ms. Tillman Wolf stated that there were two regulatory actions that the board needed to consider during the meeting.

1) Public Participation Guidelines (PPG) - Regulatory Change – Fast Track (Attachment A)

Ms. Tillman Wolf explained in detail the revisions in 18VAC95-11-50 the Board needed to consider for the adoption of an amendment by a Fast-track action to the regulations for the Public Participation Guidelines (PPG) regarding Public comment.

Upon a motion by Louis Jones and properly seconded by Frank Walton, the board accepted the draft language as presented in order to conform to the Code of Virginia, Title 2.2, Chapter 40 of the Administrative Process Act. The motion carried unanimously.

2) Consideration of CE Credit for Voluntary Work (Attachment B)

Ms. Tillman Wolf explained that Board would need to promulgate regulations that would allow some volunteer service time to count towards meeting CE requirements. Following discussion and review of the draft verbiage in 18VAC 95-20-175, Continuing Education Requirements, the Board agreed that 1 hour of the required 5 hours of continuing education may be fulfilled by volunteer services, and that 1 hour of credit for continuing education will be granted for 1 hour of volunteer services.

Upon a motion by Blair Nelsen and properly seconded by Junius Williams, the board accepted the draft language with suggested changes. The motion carried unanimously.

Upon a motion by Junius Williams and properly seconded by Blair Nelsen, the board voted to proceed with a Fast-track action for CE credit for voluntary work. The motion carried unanimously.

Consideration and Adoption of Amendment to By-Laws (GD65-10) - Corie E. Tillman Wolf

Ms. Tillman Wolf reviewed suggested changes to Guidance Document 65-10. Blair Nelsen requested that we avoid cancelling the last Board meeting of the organizational year.

Following discussion, a motion by Frank Walton and properly seconded by Louis Jones, the Board voted to adopt Guidance Document 65-10 with the suggested revisions. The motion passed unanimously.

Board Review of Guidance Document 65-12 regarding Board Action on Confidential Consent Agreements – Lynne Helmick

Ms. Helmick reported that the Guidance Document regarding Confidential Consent Agreements (CCA's) was outdated and suggested that the Legislative/Regulatory Committee meet to work on making appropriate revisions.

Guidance on Refrigeration & Embalming Documentation – Lynne Helmick

Ms. Helmick suggested that the Legislative/Regulatory Committee also work on guidance documents or suggested regulatory language on refrigeration and embalming requirements.

A motion was made by Blair Nelsen and properly seconded by Junius Williams for the Regulatory/Legislative Committee to work on the issues of refrigeration, embalming, and the CCA guidance document. Ms. Tillman Wolf stated that she would coordinate with the newly elected board president on appointing new committees and meeting schedules.

Election of New Officers

Connie Steele, Board President, stated that the staff did not receive written interest statements for board officers and requested for any nominations to be made, beginning with President.

A motion was made by Blair Nelsen to nominate Louis R. Jones as President. With no other nominations, the motion was properly seconded by Junius Williams to elect Louis R. Jones as President. The motion carried unanimously.

A motion was made by Blair Nelsen to nominate Larry T. Omms as Vice-President. With no other nominations, the motion was properly seconded by Junius Williams to elect Larry T. Omms as Vice-President. The motion carried unanimously.

A motion was made by Blair Nelsen to nominate Frank Walton as Secretary-Treasurer. With no other nominations, the motion was properly seconded by Tommy Slusser to elect Frank Walton as Secretary-Treasurer. The motion carried unanimously.

2017 Meeting Schedule

- January 10th
- April 18th
- July 18th
- October 10th

ADJOURNMENT:

With no further business, a motion was made by Frank Walton and properly seconded by Tommy Slusser to adjourn the meeting at 12:00 noon



Louis R. Jones, President

1/10/17

Date



Corie Tillman Wolf, Executive Director

1/10/17

Date

Attachment A

18VAC95-11-50. 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 re-proposed 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.

Attachment B

18VAC65-20-151. Continued Competency Requirements for Renewal of an Active License.

A. Funeral service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of five hours per year of continuing education offered by a board-approved sponsor for licensure renewal in courses that emphasize the ethics, standards of practice, preneed contracts and funding, or federal or state laws and regulations governing the profession of funeral service. One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements. One hour of the five hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic. For the purposes of continuing education credit for volunteer service, an approved sponsor shall be a local health department or free clinic.

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.