

January 24, 2019

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Thursday, January 24, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Joseph Frank Walton, FSL, President*
Mia F. Mimms, FSL, JD, Vice-President
R. Thomas Slusser, Jr., FSL, Secretary-Treasurer
Muhammad Hanif, Citizen Member
Kenneth Scott Hickey, M.D., Citizen Member
Louis R. Jones, FSL
Blair H. Nelsen, FSL*
Larry T. Omps, FSL*
Connie B. Steele, FSL*

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Erin Barrett, Assistant Attorney General, Board Counsel
Barbara Allison-Bryan, Chief Deputy Director, DHP
Sarah Georgen, Licensing and Operations Manager
Lynne Helmick, Deputy Director
Angela Pearson, Discipline Operations Manager
Corie Tillman Wolf, Executive Director
Heather Wright, Program Manager
Elaine Yeatts, Sr. Policy Analyst

OTHER GUESTS PRESENT

Paul Harris, Regulatory Support Services
Barry D. Robinson, Virginia Morticians Association
Laura McHale, Keeney Group/Association of Independent Funeral Homes of Virginia
Ross Miller

**participant indicates attendance to count toward continuing education requirements*

CALL TO ORDER

Mr. Walton called the meeting to order at 10:03 a.m. and asked the Board members and staff to introduce themselves.

With nine members present at the meeting, a quorum was established.

Mr. Walton read the mission of the Board, which is also the mission of the Department of Health Professions.

Mr. Walton provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, attendance for continuing education requirements, and breaks.

Ms. Tillman Wolf then read the emergency egress instructions.

ORDERING OF THE AGENDA

Mr. Walton requested to receive public comment prior to the approval of the minutes.

Upon a **MOTION** by Ms. Steele and properly seconded by Mr. Omph, the Board voted to accept the agenda as amended. The motion passed unanimously.

PUBLIC COMMENT

The Board received public comment from Ross Miller. Mr. Miller requested the Board to revise the October 16, 2018 full Board meeting minutes regarding the Board's executive session in regards to third party casket sales. He requested the Board to clarify the statement to specify that the Board could not regulate unlicensed individuals. Mr. Miller also addressed the complaint process through the Department of Health Professions and requested a clearer process and guidance on how the Board takes action.

APPROVAL OF MINUTES

Upon a **MOTION** by Mr. Nelsen, and properly seconded by Mr. Slusser, the Board voted to accept the October 16, 2018 Board meeting minutes, the October 16, 2018 Formal Hearing meeting minutes, the November 1, 2018 Regulatory Advisory Panel on Preneed Funeral Planning meeting minutes, and the December 6, 2018 Ad Hoc Committee on Internships meeting minutes as written. The motion passed unanimously.

AGENCY REPORT

Dr. Brown and Dr. Allison-Bryan were not present at the time of the Agency Report as they were attending the General Assembly. Ms. Yeatts stated that there was no new information to provide.

STAFF REPORTS

Executive Director's Report – Corie E. Tillman Wolf

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of December 31, 2018.

□

Cash Balance as of June 30, 2018	\$526,645
YTD FY19 Revenue	\$46,475
<u>Less YTD Direct & In-Direct Expenditures</u>	<u>\$283,335</u>
Cash Balance as of December 31, 2018	\$289,785

Ms. Tillman Wolf reported that The Conference is holding their 115th Annual Meeting in San Diego, CA from February 27-28, 2019. She also reported that the 2018 Continuing Education Review was included in the agenda packet for review.

Ms. Tillman Wolf provided an overview of items that staff will be working on in 2019 to include developing online applications, implementing a streamlined electronic process for inspections, providing support for the periodic review of regulations, updating Board guidance documents and MOUs, reviewing and updating examination content, facilitating communication to licensees about the EDRS, and increasing overall licensee communications.

Ms. Tillman Wolf presented the Inspections Report from 2018. She stated that 149 inspections were conducted for main establishments, branch establishments and crematories. She noted the following deficiency rates:

- Crematories – 96.4% with no deficiencies
- Branches – 61% with no deficiencies
- Main Establishments – 38.7% with no deficiencies

Ms. Tillman Wolf noted the most common deficiencies for 2018 as follows:

Incorrect prices or price ranges on GPL, CPL, OBCL*	Missing or Incomplete information on GPL, CPL (e.g. address, phone # of establishment)
Required disclosures not included/incorrect on GPL*	No preneed Q&A available
Prep room deficiencies – cracks in floor, separated seams, no eye wash station, waste container issues*	Posting of licenses (e.g. expired licenses, or no posting for some licensees)
Incomplete or missing info on embalming reports*	No waste removal contract
Missing or incomplete information on preneed listing*	

As comparison, Ms. Tillman Wolf noted the most common deficiencies for 2017 as follows:

Incorrect prices or price ranges on GPL*	Incomplete information on preneed listing*
Required disclosures not included on/incorrect on GPL*	Itemized Statement – no casket warranty, disclosures
Charges not on GPL (e.g. charge for receiving remains)*	Incomplete Embalming Reports (e.g. missing dates, full names, embalmer name/lic. #, signature of supervisor)
No price lists for caskets or outer burial containers*	Prep room deficiencies – e.g. cracks in floor, separated seams in wall paneling, lack of eye wash station
Lack of chronological/alphabetical listing of preneeds*	

Ms. Tillman Wolf presented licensure statistics that included the following information:

Licensure Statistics – All Licenses

License	January 14, 2019	October 15, 2018	Change (+/-)
Funeral Service Licensees	1,565	1,540	25
Funeral Director	37	36	1
Embalmer Only	3	2	1
Supervisors	558	553	5
Interns	204	200	4
Establishments	433	432	1
Branch Establishments	82	79	3
Crematories	118	116	2
CE Providers	14	13	1
Courtesy Card Holders	114	109	5
Surface Transport & Removal Svc.	44	40	4
Total (*not incl. supervisors)	3,172	3,120	33

Ms. Tillman Wolf provided the following statistics regarding the Virginia Performs – Customer Satisfaction Survey Results:

- Q1 2018 – 100%
- Q2 2018 – N/A
- Q3 2018 – N/A
- Q4 2018 – 100%
- Q1 2019 – 100%

Ms. Tillman Wolf provided reminders to the Board members regarding continuing education credit, security badges, requests for presentations, and changes in contact information.

The Board meeting dates for 2019 are:

- April 16, 2019 at 10:00 a.m.
- July 11, 2019 at 10:00 a.m.
- October 10, 2019 at 10:00 a.m.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Lynne Helmick, Deputy Executive Director

As of January 4, 2019, Ms. Helmick reported the following disciplinary statistics:

- 52 total cases
 - 1 in Informal
 - 34 in Investigation
 - 17 in Probable Cause
 - 8 in Compliance Monitoring

Ms. Helmick reported the following Virginia Performs statistics for Q1 2019:

- Clearance Rate – 60% Received (Goal is 100%) – 5 cases, 3 cases closed
- Pending Caseload over 250 days was at 0% (Goal is under 20%)
- Cases closed within 250 days is 33% (Goal is over 90%) – 2 of the 3 cases closed were over 250 days old

Ms. Helmick reported the following Total Cases Received and Closed:

- Q1 2017 – 8/10
- Q2 2017 – 12/17
- Q3 2017 – 9/15
- Q4 2017 – 22/20
- Q1 2018 – 12/14
- Q2 2018 – 8/7
- Q3 2018 – 12/18
- Q4 2018 – 13/24
- Q1 2019 – 26/13

Ms. Helmick provided the following information of All Case Information:

- Percentage of all cases closed in 250 days

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 – 2018	Q1 – 2019
FDE	70%	78.6%	85.7%	61.1%	87%	69.2%
Agency	86.7%	82.2%	86.7%	87.6%	80.6%	85.5%

- Average days to close a case

	Q4 – 2017	Q1 – 2018	Q2 – 2018	Q3 – 2018	Q4 – 2018	Q1 – 2019
FDE	223.3	229.3	169.1	383.3	211.8	225.7
Agency	194.1	255.7	186.5	196.4	201.1	173.8

With no further questions, Ms. Helmick concluded her report.

BOARD COUNSEL REPORT – Erin Barrett, Assistant Attorney General

Ms. Barrett stated that she did not have a report to provide.

COMMITTEE AND BOARD MEMBER REPORTS

Report from the Board of Health Professions – Louis R. Jones, FSL

Mr. Jones reported that the meeting minutes from the Board of Health Professions were included in the agenda packet for review.

Report from the Regulatory Advisory Panel – Blair Nelsen, FSL

Mr. Nelsen reported that the meeting minutes from the Regulatory Advisory Panel were included in the agenda packet for review. He noted that meeting representatives included Board members and staff, insurance companies, State Corporation Commission, and professional associations. Mr. Nelsen reviewed the recommendations from the Regulatory Advisory Panel for the Board's consideration.

Report from the Ad Hoc Committee on Internships – Blair Nelsen, FSL

Mr. Nelsen reported that the meeting minutes from the Ad Hoc Committee on Internships were included in the agenda packet for review. Mr. Nelsen reviewed the recommendations from the Ad Hoc Committee on Internships for the Board's consideration. Mr. Nelsen requested additional discussion from the Board on the number of internship hours at the April 2019 Board meeting pending additional research of other jurisdictions.

Mr. Jones requested clarification on the issue of identification of interns.

Dr. Allison-Bryan arrived at 10:43 a.m.

AGENCY REPORT

Mr. Walton asked if Dr. Allison-Bryan if she would like to provide an agency report. Dr. Allison-Bryan reported that she and Dr. Brown had been participating in the General Assembly and reported that she was impressed with the spirit of the cooperation of everyone involved to ensure the health and safety of the public.

LEGISLATION AND REGULATORY ACTIONS

Report on Regulatory Actions

Ms. Yeatts provided a brief overview of regulatory actions pending by the Board.

Legislative Report

Ms. Yeatts provided an overview of the bills that could possibly impact the Board at the 2019 General Assembly.

Mr. Omph and Mr. Nelsen requested additional information in regards to House Bill 1828: Legislation Regarding Casket Sales. Ms. Barrett stated that the General Assembly was responsible for drafting and

passing bills and the Board would have more information following the conclusion of the General Assembly. Ms. Yeatts stated that DHP did not have a position on the bill at that time.

Ms. Yeatts provided a review of Senate Bill 1300: Funeral Establishments; Full Time Manager Required. Board members discussed concerns regarding the operation of two establishments by a single full-time funeral service licensee or funeral director if the combined average number of funeral calls at the two establishments is up to an average of 135 calls per year and the distance between the two establishments is up to 50 miles.

BREAK

The Board took a 10-minute break at 11:25 a.m. The Board reconvened at 11:39 a.m.

Upon a ***MOTION*** by Mr. Nelsen, which was properly seconded by Mr. Omph, the Board requested communication to the Governor's Office that the Board have the opportunity to study the effects of Senate Bill 1300 and to report back to the General Assembly for the 2020 Session, or in the alternative, that an amendment be sought to require a fourth component to the hardship waiver – that the Manager of Record and facilities have current, unrestricted licenses at the time of the application for waiver. The motion passed unanimously.

Discussion of Recommendations from the Regulatory Advisory Panel – Preneed Funeral Planning

Ms. Yeatts reviewed the recommendations from the Regulatory Advisory Panel and requested the Board to discuss the recommendations for consideration.

Upon a ***MOTION*** by Mr. Nelsen, which was properly seconded by Ms. Mimms, the Board moved to adopt the NOIRA for the Regulations for Preneed Funeral Planning (18VAC65-30-10 et seq.). The motion passed unanimously.

Discussion of Recommendations from the Ad Hoc Committee on Internships

Ms. Yeatts reviewed the recommendations from the Ad Hoc Committee on Internships and requested the Board to discuss the recommendations for consideration.

Upon a ***MOTION*** by Mr. Slusser, which was properly seconded by Mr. Omph, the Board moved to adopt the NOIRA for the Regulations for the Funeral Service Internship Program (18VAC65-40-10 et seq.) and to withdraw the current notice and incorporate the issues into the new NOIRA. The motion passed unanimously.

Review of Guidance Documents for Re-adoption

Ms. Yeatts reviewed Guidance Documents 65-4 and 65-15 with the Board and the need for Guidance Documents to be reviewed every four years.

Board members discussed a revision to Guidance Document 65-15 to clarify that the Board will grant no more than two one-year extensions to an intern.

Upon a **MOTION** by Mr. Nelsen, and properly seconded by Mr. Omph, the Board voted to readopt Guidance Documents 65-4 and to revise Guidance Document 65-15. The motion passed unanimously.

Repeal of Guidance Documents for Embalming and Refrigeration

Ms. Yeatts explained that Guidance Documents 65-8 and 65-18 regarding permission to embalm and refrigeration of dead human bodies were no longer needed due to recent finalization of Board regulations on these issues.

Upon a **MOTION** by Mr. Slusser, and properly seconded by Mr. Jones, the Board voted to repeal Guidance Documents 65-8 and 65-18. The motion passed unanimously.

REVISIONS TO INSPECTION REPORTS AND APPENDIX I

Ms. Helmick discussed the revisions to the inspection reports for establishments and crematories and Appendix I of the Board's Regulations. She noted that the proposed changes to the Appendix correct the wording in two areas where the term "funeral establishment" should read as "funeral home" to ensure compliance with the relevant disclosure wording of the FTC regulations.

Upon a **MOTION** by Ms. Steele, which was properly seconded by Ms. Mimms, the Board voted to approve Appendix I as presented. The motion passed unanimously.

BOARD TRAINING

Mr. Walton approved Ms. Tillman Wolf's proposal to defer the presentation on Probable Cause to the next scheduled Board meeting due to time constraints.

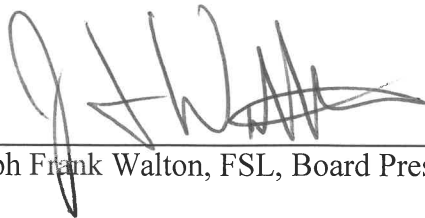
Ms. Barrett provided a presentation on the Disciplinary Process.

NEXT MEETING

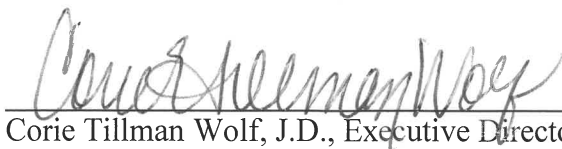
The next meeting date is April 16, 2019.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:44 p.m.



Joseph Frank Walton, FSL, Board President



Corie Tillman Wolf, J.D., Executive Director

7-11-19

Date

7/12/19

Date

Virginia Board of Funeral Directors and Embalmers

Aiding and Abetting Unlicensed Practice

Virginia Code § 54.1-2806(10) prohibits licensees of the Board of Funeral Directors and Embalmers (“Board”) from “[a]iding or abetting an unlicensed person to practice within the funeral service profession[.]” All licensees of the Board are responsible for adhering to the laws and regulations governing the funeral service profession in Virginia.

If a licensee of the Board contracts to provide funeral services of any kind with another funeral director, funeral home, or entity providing funeral services, where the other contracting party is not licensed to practice within the funeral service profession, the licensee of the Board is in violation of Virginia Code § 54.1-2806(10) and may face disciplinary action. Specifically, the contracting party must be licensed in the state in which arrangements are or will be made.

Before entering into a business arrangement with another funeral director, funeral home, or entity providing funeral services, the Board recommends that Virginia licensed funeral service professionals verify the licensure status of the other party in the state in which arrangements are or will be made. Virginia licenses can be verified through the Department of Health Professions’ license look-up feature, available at www.dhp.virginia.gov. Many other states have online license verification for funeral service professionals as well. As an alternative, a licensee may request that a potential contracting party provide the licensee with a copy of the contracting party’s valid license.

The burden of ensuring that a licensee is compliant with the laws and regulations governing the practice of funeral services in Virginia rests solely with the licensee. Therefore, the Board recommends that licensees verify the licensure status of all parties with which they contract to provide funeral services.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Guidance for Granting Internship Extensions

In accordance with **18VAC65-40-130**, the board, for good cause shown, may grant an extension of time for completion of an internship.

The board policy on granting an extension is as follows:

- The intern has to provide the board with a letter explaining the circumstances that have prevented the completion of the program within the specified time. The letter should include the length of time the intern is requesting for the extension. Additionally, the board will require a copy of the intern's current college transcript to review the courses already completed toward the mortuary educational requirement.
- The Board will grant no more than two one-year extensions to an intern.