

April 16, 2019

The Virginia Board of Funeral Directors and Embalmers convened for a full board meeting on Thursday, April 16, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room #4, 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  
Blair H. Nelsen, FSL  
Connie B. Steele, FSL

**BOARD MEMBERS ABSENT:**

Kenneth Scott Hickey, M.D., Citizen Member  
Louis R. Jones, FSL  
Larry T. Omps, FSL

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:**

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

**OTHER GUESTS PRESENT**

Jerry J. Gentile, Department of Planning and Budget  
William M. Bunnell, Virginia Morticians Association\*  
Ross Miller  
J. Michael Williams, Bliley Funeral Home\*  
Curtis L. Cunningham, Virginia Morticians Association\*  
Twila Dickerson, Regulatory Support Services  
Barry D. Robinson, Virginia Morticians Association\*  
Kathy Martin, FCC  
Lacy Whittaker, Virginia Funeral Directors Association\*

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

## **CALL TO ORDER**

Mr. Walton called the meeting to order at 10:00 a.m. and asked the Board members and staff to introduce themselves.

With six 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.

## **APPROVAL OF MINTUES**

Upon a *MOTION* by Ms. Steele, and properly seconded by Mr. Slusser, the Board voted to accept the January 24, 2019 Board meeting minutes. The motion passed unanimously.

## **ORDERING OF THE AGENDA**

Upon a *MOTION* by Mr. Nelsen and properly seconded by Mr. Slusser, the Board voted to accept the agenda as written. The motion passed unanimously.

## **PUBLIC COMMENT**

Barry Robinson, VMA, thanked the Board for their support of the Annual Convention scheduled for June 2019 in Portsmouth, Virginia, and for Ms. Mimms volunteering to present at the training. Mr. Robinson thanked Ms. Helmick for her assistance over the years and wished her well in her retirement.

## **AGENCY REPORT**

Dr. Allison-Bryan provided an update on the 2019 General Assembly, and briefly spoke about telemedicine. Dr. Allison-Bryan briefly spoke about the possible current barriers of foreign applicants obtaining medical licensure in Virginia and stated that DHP was reviewing ways to equalize regulations.

Dr. Allison-Bryan reported that the Board of Health Professions was reviewing criteria for a study in regards to music therapists and stated that the Board would provide a recommendation to the General Assembly in 2020 regarding possible licensure.

Dr. Allison-Bryan provided a brief overview of the Board of Pharmacy's approval of five vertical processors for CBD Oil and THC-A Oil, as well as new legislation related to designation of a registered agent to receive the CBD oil on behalf of a patient.

With no further questions, Dr. Allison-Bryan concluded her report.

**STAFF REPORTS**

*Executive Director’s Report –Corie E. Tillman Wolf*

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of February 28, 2019.

Cash Balance as of June 30, 2018	\$526,645
YTD FY19 Revenue	\$227,495
Less YTD Direct & In-Direct Expenditures	\$37,394
<b>Cash Balance as of February 28, 2019</b>	<b>\$376,747</b>

Ms. Tillman Wolf reported that The Conference held their 115<sup>th</sup> Annual Meeting in San Diego, CA from February 27-28, 2019, which Mr. Nelsen, Mr. Walton, and Ms. Helmick attended.

Ms. Tillman Wolf announced that the Conference has an upcoming Item Writing/Review Workshop in June for the National Board Exam (NBE) and is looking for participants. She said that an email was sent to Board members with an application due date of April 15, 2019.

Ms. Tillman Wolf reported that the Board’s reciprocity agreement with the DC Board of Funeral Directors was updated. She said that the draft was slated for review by the DC Board at their April 4, 2019 meeting, but the minutes of that Board do not indicate any action taken by the DC Board at this time.

Ms. Tillman Wolf reported that an email from the Cremation Association of North America (CANA) was included in the agenda packet in regards to radiation protection guidelines for safe handling of decedents. She encouraged the Board members to review that information.

Ms. Tillman Wolf requested the Board to review a letter sent to David Brown, DC, Director of DHP, from Scott Johnson in regards to funeral service licensees and a study performed in 2015 by the Board of Health Professions regarding options for multi-level licensure. Ms. Tillman Wolf stated that the Board of Health Professions would review and update the study, but that no action was required from this Board at this time. She reported that this would likely be an agenda item in the future.

Ms. Tillman Wolf announced Ms. Helmick’s retirement effective June 1, 2019. She thanked Ms. Helmick for her years of dedication and support.

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

Licensure Statistics – All Licenses

License	April 11, 2019
Funeral Service Licensees	1,487
Funeral Director	33
Embalmer Only	2

Supervisors	561
Interns	165
Establishments	404
Branch Establishments	66
Crematories	112
CE Providers	14
Courtesy Card Holders	93
Surface Transport & Removal Svc.	39
<b>Total (*not incl. supervisors)</b>	<b>2,415</b>

Ms. Tillman Wolf provided the following examination statistics:

National Exam – January 1 – October 31, 2018

	Arts – Pass	Arts – Fail	Sciences – Pass	Sciences - Fail
National Average	1,051 (71%)	430 (29%)	945 (62%)	581 (38%)

Virginia National Exam – CY 2018

	Arts – Pass	Arts – Fail	Sciences – Pass	Sciences - Fail
Virginia Average	27 (64.3%)	15 (35.7%)	28 (54.9%)	23 (45.1%)

Ms. Tillman Wolf reported on the examination statistics for the Virginia exam and noted the following:

- Laws, Rules and Regulations Exam – CY 2018
  - 74 exams (79.7% pass; 20.3% fail)
  - 17 repeats (23.0%)

Ms. Tillman Wolf reported on the internship statistics as follows:

- As of February 3, 2019:
  - 210 active interns
  - 561 active supervisors; 163 actively supervising interns (29.1%)
- As of April 12, 2019:
  - 166 current active interns (post-renewal)
- Between January 2010 and April 2019:
  - 612 internship registrations issued
    - 33.8% (207) became licensed in Virginia (FSL)
    - 39.9% (244) allowed registration to expire\*
      - 360 FSL’s licensed from June 2011 to April 2019
    - 25.6% (157) current active

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, requests for presentations, and changes in contact information.

The Board meeting dates for 2019 are:

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

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

*Discipline Report – Lynne Helmick, Deputy Executive Director*

As of April 9, 2019, Ms. Helmick reported the following disciplinary statistics:

- 49 total cases
  - 2 in Formal
  - 2 in Informal
  - 32 in Investigation
  - 13 in Probable Cause (5 are ready for Board member review)
  - 5 in Compliance Monitoring

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

- |                   |                                |
|-------------------|--------------------------------|
| • Q2 2017 – 12/17 | • Q3 2018 – 12/18              |
| • Q3 2017 – 9/15  | • Q4 2018 – 13/24              |
| • Q4 2017 – 22/20 | • Q1 2019 – 26/13              |
| • Q1 2018 – 12/14 | • Q2 2019 – 23/6 (unofficial)  |
| • Q2 2018 – 8/7   | • Q3 2019 – 21/25 (unofficial) |

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. Walton stated that Mr. Jones was not in attendance, but the minutes from the Board of Health Professions' last meeting were included in the agenda packet.

*Report from the Conference Annual Meeting – Frank Walton, FSL, Blair Nelsen, FSL, Lynne Helmick, Deputy Executive Director*

Mr. Nelsen said that the Conference provided information on a case study related to the exposure of radiation from decedents who were cremated after receiving radiation treatments. He encouraged Board members to read the report with the outcome of the study.

Mr. Nelsen also reported on body donation as opposed to organ donation, and stated that the state of Nevada passed a law stating that limits prosecution or litigation surrounding body donation. He reported that a bill was introduced in the U.S. Congress to address the issue.

Mr. Walton reported that the Conference is seeking exam writers and noted the limited participation. He encouraged Board members to join the committee. Mr. Nelsen added that most meetings were held by teleconference, with one-two in-person conferences per year.

Ms. Helmick reported on the Administrators' Forum and the discussion of an internet company that raised concerns among various states. She stated that forum participants also discussed advertising and that some states require that an individual be licensed to advertise funeral services and others require certain information be included in advertisements to the public.

Ms. Yeatts arrived at 10:53 a.m.

## **BREAK**

The Board took a break at 10:55 a.m. The Board reconvened at 11:07 a.m.

## **LEGISLATION AND REGULATORY ACTIONS**

*Report on Status of Regulatory Actions*

Ms. Yeatts reported on the three periodic reviews initiated by the Board. She reported that two of the three reviews have moved recently to the Governor's office.

*Legislative Report*

Ms. Yeatts provided an overview of bills passed in the 2019 Session of the General Assembly. She reported on HB 2445: *Death certificates; medical certification, electronic filing*. Ms. Tillman Wolf added that more information will be sent to licensees regarding the impact of this legislation for practitioners.

Ms. Yeatts reported on SB 1300: *Funeral establishments; full time manager requirement, exception, number of calls*. She stated that more information would be provided at the July meeting regarding the passing of that bill.

*Response to Petition for Rulemaking (Miller)*

Ms. Yeatts presented a Petitioner's Request for the Board to establish clear processes and guidance for compelling the disclosure of information when a Board investigation identifies potential class 1 misdemeanors. She provided the Board with the summary of HB 2556: *Health Professions, Dept. of & health regulatory boards; information obtained in an investigation*, which was recently passed by the General Assembly. She stated that it appears that the Petitioner's request was addressed with this legislation, but requested the Board discuss the petition further.

Upon a **MOTION** by Mr. Slusser, which was properly seconded by Mr. Nelsen, the Board voted to deny the petition for rulemaking on the basis that the recent legislation for a change in Virginia law addressed the petitioner's concerns regarding the disclosure of investigative information related to suspected violations of state or federal law or regulations to state or federal law enforcement. The vote was unanimous.

*Proposed Guidance Document – Surface Transportation and Removal Services*

Ms. Yeatts presented a proposed guidance document on the *Guidance on Surface Transportation and Removal Services*. She requested that the Board discuss the proposed document to determine if it should be adopted. Ms. Yeatts explained the recent changes to the Guidance Document process, which now require a period of public comment before the Guidance Document becomes effective.

Upon a **MOTION** by Mr. Slusser, which was properly seconded by Ms. Mimms, the Board voted to adopt the proposed Guidance Document as presented to the Board. The vote was unanimous.

**DISCUSSION**

*Review and Recommendations Regarding Funeral Service Internship Hours*

Ms. Tillman Wolf provided the Board with information regarding a public comment received by the Board and considered by the Internship Committee and the current requirements for internship hours, and posed the following questions for discussion by the Board:

1. Should there be a reduction in the total number of required internship hours?
2. If so, what should the proposed hours be?
3. Would a proposed change in hours necessitate any additional changes (Code or regulation)?

Ms. Georgen reported on the internship hour comparison research conducted showing the requirements in other jurisdictions that had similar licensure avenues. Ms. Georgen reported that there was a lack of consistency throughout the other jurisdictions and the number of hours varied.

Upon a **MOTION** by Ms. Steele, which was properly seconded by Mr. Hanif, the Board voted to adopt a NOIRA to amend its regulations governing funeral service interns to reduce the required hours of internship from 3,000 to 2,000. The motion passed unanimously.

**PRESENTATIONS**

Ms. Tillman Wolf introduced the Probable Cause training video.

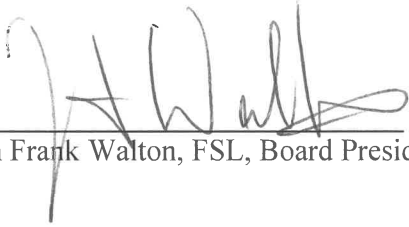
**NEXT MEETING**

The next meeting date is July 11, 2019.

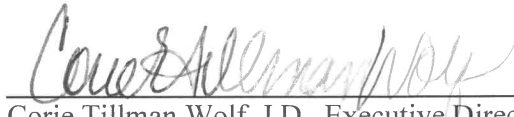
**ADJOURNMENT**

Prior to adjournment, Mr. Walton expressed his gratitude to Ms. Helmick for her service to the Board and as a resource to licensees on funeral issues, wished her well in retirement, and made a presentation to her on behalf of the Board members.

With all business concluded, the meeting adjourned at 11:50 a.m.



Joseph Frank Walton, FSL, Board President



Corie Tillman Wolf, J.D., Executive Director

Date 7-11-19

Date July 12, 2019



**Virginia Board of Funeral Directors and Embalmers**

**Guidance on Surface Transportation & Removal Services**

Virginia Code § 54.1-2819 requires the registration of persons or private businesses that engage in the business of surface transportation or removal of dead human bodies in the Commonwealth. This section further provides that:

*Surface transportation and removal services shall not arrange or conduct funerals, provide for the care or preparation, including embalming, of dead human bodies, or sell or provide funeral-related goods and services without the issuance of a funeral service establishment license.*

Where a registered surface transportation and removal service that is not otherwise licensed as a funeral service establishment contracts to provide transportation and removal services with a local governmental entity, the surface transportation and removal service may take the dead human body to a location or facility designated by the governmental entity, by a court order, or by the decedent's next of kin, guardian, or designated representative, but not to a location or facility chosen by the surface transportation and removal service. Further, the surface transportation and removal service may not store dead human bodies or arrange for storage of dead human bodies at locations or facilities not otherwise designated by the governmental entity, court order, decedent's next of kin, guardian, or designated representative.

Virginia Code § 54.1-2819 also provides that:

*No licensed funeral service establishment shall be required to receive such registration in addition to its funeral service establishment license. However, such establishment shall be subject to the regulations pertaining to transportation and removal services. ... [N]o person or private business shall engage in the business as a surface transportation and removal service without holding a valid registration.*

Where an individual or private business independently contracts with a funeral establishment to provide surface transportation and removal services, the individual or business is required to be registered with the Board as a surface transportation and removal service.