

**March 20, 2023**

The Virginia Board of Funeral Directors and Embalmers' Legislative/Regulatory Committee convened on Monday, March 20, 2023, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room #1, Henrico, Virginia.

### **BOARD MEMBERS PRESENT**

J. Frank Walton, FSL, Committee Chair  
Jason Graves, FSL, Board Chair  
Muhammad Hanif, Citizen Member

### **STAFF PRESENT FOR ALL OR PART OF THE MEETING**

Erin Barrett, Director of Legislative and Regulatory Affairs  
Alesia Baskin, Senior Licensing Program Coordinator  
Sarah Georgen, Licensing and Operations Supervisor  
Matt Novak, Policy Analyst  
Brent Saunders, Senior Assistant Attorney General, Board Staff  
Corie Tillman Wolf, Executive Director

### **OTHER GUESTS PRESENT**

Barry Robinson, Virginia Morticians' Association  
Ben Traynham, Hancock, Daniel, & Johnson, P.C.

### **CALL TO ORDER**

Mr. Walton called the meeting to order at 1:12 p.m. and asked the Board members and staff to introduce themselves.

With three Committee 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.

Ms. Tillman Wolf read the emergency egress instructions.

### **ORDERING OF THE AGENDA**

Mr. Walton requested any changes to the ordering of the agenda. Upon a **MOTION** by Mr. Graves, properly seconded by Mr. Hanif, the agenda was approved as presented. The motion passed unanimously (3-0).

### **PUBLIC COMMENT**

Mr. Robinson provided public comment and asked the Committee to consider clarifying regulations pertaining to the requirement for preneed contracts when the owner and manager of a Funeral Home dies.

## DISCUSSION

Ms. Barrett provided an overview of the Governor's recent directive regarding the reduction of regulations and the role of the Committee in making recommendations to the full Board for consideration. Ms. Barrett stated that the Board recently completed a periodic review in 2021.

Mr. Walton and Committee members reviewed the Board's Regulations Governing the Practice of Funeral Service (18VAC65-20-10 et seq.), Regulations for Preneed Funeral Planning (18VAC65-30-10 et seq.), and Regulations for the Funeral Service Internship Program (18VAC65-40-10 et seq.) for possible areas of reduction.

### *Regulations Governing the Practice of Funeral Service (18 VAC 65-20-10 et seq.)*

18VAC65-20-140 – Committee members discussed the deletion of “for up to three years following expiration” in (A) to allow reinstatement of a license following the late renewal period and beyond three years.

The Committee discussed deleting language in -140(B), that references a lapsed license of three years or less.

The Committee discussed a change in (C) to change the language from “not reinstated” to “lapsed”, clarify that the licensee would “apply” for reinstatement, not “reapply,” and further clarify that the request would be for reinstatement rather than a new license.

18VAC65-20-152 – Committee members discussed the insertion of language in -152(B)(1)(b), specifying that a course outline of the continuing education course would be accepted for consideration.

18VAC65-20-153 – The Committee discussed the deletion of language in -153(E), which specifies that continuing education shall not be used to satisfy renewal requirements, as this language is customarily included in disciplinary Board Orders.

18VAC65-20-170 – The Committee discussed the deletion of language in -170(C) pertaining to “at least 30 days prior to the opening an establishment” as unnecessary since the timeline for approval of an establishment application is based upon the completion of an inspection.

18VAC65-20-231 – The Committee discussed clarifying references to the “State Board Exam” vs. the Board's state examination on laws, rules, and regulations, where appropriate in this and other sections.

18VAC65-20-350 – The Committee discussed the requirements for licensure by endorsement and recommended that the Board consider adopting amendments to grant licensure by endorsement to Funeral Directors with at least five (5) years of active licensure and practice in another jurisdiction.

Ms. Barrett requested the Committee to consider experience obtained from licensees in Canadian Provinces. Ms. Barrett and Ms. Tillman Wolf suggested that more research should be conducted to determine the equivalency of licensure requirements.

18VAC65-20-435 – The Committee discussed deleting language in -435(A) pertaining to “at least 30 days prior to opening a crematory.”

The Committee also discussed moving language from -435(F) to -435(A) for clarification: “Once the crematory equipment is deemed functional and an initial crematory inspection is completed, the board may issue the crematory a registration to operate.”

18VAC65-20-581 – The Committee discussed revising -581(A) to remove “or crematory” from two portions of this section for internal consistency of the regulations, as section -436 contains a 24 hour refrigeration requirement for crematories.

## **BREAK**

The Committee took a break at 2:01 p.m. and returned at 2:06 p.m.

### *Regulations for Preneed Funeral Planning (18 VAC 65-30-10 et seq.)*

Ms. Barrett suggested that the Committee consider repealing and moving the content of sections -220 (content of preneed contracts) and -230 (preneed disclosures) to appendixes of the Regulations. It would allow the Board to revise the language of the contracts and disclosures as necessary without initiating the regulatory process each time.

18VAC65-30-80 – The Committee discussed adding a reference in section -80 to direct to the required content and format of a preneed contract located in an appendix to the Board’s regulations (e.g. Appendix IV). The new appendix would reflect the information currently located in section -220.

18VAC65-30-90 - The Committee discussed adding a reference in section -90 to direct to the required consumer disclosures for preneed contracts located in an appendix to the Board’s regulations (e.g. Appendix V). The new appendix would reflect the information currently located in section -230.

### *Regulations for the Funeral Service Internship Program (18 VAC 65-40-10 et seq.)*

18VAC65-40-130 – The Committee discussed deletion of the language related to identification of a funeral service intern that currently appears in (D) to avoid repetition of the provision that appears in (G).

18VAC65-40-185 – The Committee discussed combining and shortening -185(A) and (B) for simplification purposes.

18VAC65-40-250 – The Committee discussed the change in (B) of “will” to “may” as a possible reduction.

Upon a **MOTION** by Mr. Graves and properly seconded by Mr. Hanif, the Committee voted to recommend to the full Board the adoption of a NOIRA for amendments to Chapters 20, 30, and 40 of the Board’s regulations as discussed by the Committee. The motion passed unanimously (3-0).

## **REVIEW OF GUIDANCE DOCUMENTS**

### *Guidance Document 65-4, Aiding and Abetting Unlicensed Practice*

The Committee discussed Guidance Document 65-4, Aiding and Abetting Unlicensed Practice.

Upon a **MOTION** by Mr. Graves and properly seconded by Mr. Hanif, the Committee voted to recommend reaffirming Guidance Document 65-4, Aiding and Abetting Unlicensed Practice, to the full Board for consideration as discussed by the Committee. The motion passed unanimously (3-0).

### *Guidance Document 65-18, Guidance on Surface Transportation and Removal Services*

The Committee discussed Guidance Document 65-18, Guidance on Surface Transportation and Removal Services. Ms. Barrett suggested amending the Guidance Document to remove specific Code language while also reorganizing the document for comprehensibility.

Upon a **MOTION** by Mr. Graves and properly seconded by Mr. Hanif, the Committee voted to recommend reaffirming Guidance Document 65-18, Guidance on Surface Transportation and Removal Services, with reorganization and clarification as discussed by the Committee to the full Board for consideration. The motion passed unanimously (3-0).

### *Guidance Document 65-19, Identification of Funeral Service Interns*

The Committee discussed Guidance Document 65-19, Identification of Funeral Service Interns.

Upon a **MOTION** by Mr. Graves and properly seconded by Mr. Hanif, the Committee voted to recommend repealing Guidance Document 65-19, Identification of Funeral Service Interns, to the full Board for consideration as discussed by the Committee. The motion passed unanimously (3-0).

## **QUESTION RECEIVED: PRENEED CONTRACTS – ADDITIONAL CHARGES FOR GUARANTEED PRICES AND SERVICES**

Ms. Tillman Wolf reviewed a question related to preneed contracts received by the Board from the Virginia Funeral Directors Association (VFDA). The Committee discussed the question received and that it was generally within the purview of a funeral home to opt to not guarantee services to a consumer. The Committee discussed that, where a funeral home charges a separate fee or a percentage rate of the total expenses to guarantee preneed goods and services, this could conflict with the Board's regulation that prohibits finance charges and/or the Federal Trade Commission's Funeral Rule, which prohibits charging non-declinable fees to consumers other than the basic services charge. The Committee recommended sending this issue to the full Board for further consideration. Ms. Tillman Wolf will draft a response for review and discussion by the full Board.

## **QUESTION RECEIVED: SIGNATURES FOR PERMISSION TO CREMATE**

Ms. Tillman Wolf reviewed a question related to a consumer's concern with the cremation authorization form. The Committee discussed the question and the notion of whether an individual may "authorize" their

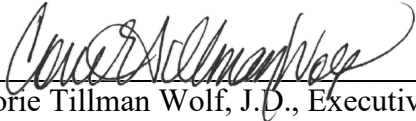
own cremation via a preneed vehicle where a designation has not been made or completed. Further statutory changes would be necessary to clarify or resolve the issue. There were no recommendations for further action by the Board at this time.

### **NEXT MEETING**

Ms. Tillman Wolf and Ms. Barrett stated that the recommendations of the Legislative/Regulatory Committee would be presented at the full business meeting of the Board scheduled for July 16, 2023, in alignment with the Fiscal Year 2024 plan.

### **ADJOURNMENT**

With all business concluded, the meeting adjourned at 3:01 p.m.

  
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Corie Tillman Wolf, J.D., Executive Director

April 28, 2023

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Date