

18 VAC 47-20-10. Definitions.

The following words and terms when used in this chapter shall have the definitions ascribed to them in § 54.1-2310 of the Code of Virginia or shall have the following meanings, unless the context clearly indicates otherwise:

“Administration” means the cost to administer and maintain records required by Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia or any regulation of the board, including a percentage of compensation of employees, payment of insurance premiums, reasonable payments for employees’ pension and other benefit plans, and costs of maintaining cemetery company and sales personnel compliance with the board’s licensure and registration requirements.

“Approved training program” means a training program that has been approved by the board to provide training for individuals to act as a compliance agent or compliance agent designee.

“Change in ownership” means a change in 50% or more of the stockholders or partnership interest, or both, of a cemetery company.

“Compliance agent designee” means an individual who shall be designated by the cemetery company to assure the compliance of the cemetery company with the provisions of

Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia and this chapter when the compliance agent is not available to supervise the activities of any of its affiliated cemeteries.

“Experience” means supervisory experience with a cemetery company as defined in § 54.1-2310 of the *Code of Virginia*.

“Licensee” means any person licensed by the board as a cemetery company.

“Moral turpitude” means, but is not limited to, lying, cheating or stealing.

“Outer burial container” means any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults or grave boxes and grave liners.

“Perpetual care” means continuing care, maintenance, administration and embellishment of the cemetery.

“Preneed Trust Fund” means those moneys held in accordance with § 54.1-2325 of the Code of Virginia.

“Principal” means the following individuals:

1. The sole proprietor of a sole proprietorship.

2. The partners of a general partnership.
3. The managing partners of a limited partnership.
4. The officers of a corporation as registered with the State Corporation Commission.
5. The managers of a limited liability company.
6. The officers or directors of an association.

“Registrant” means any natural person registered with the board as sales personnel.

“Sales personnel” means any natural person employed by or affiliated as an independent contractor with a licensed cemetery company who deals with the public in the sale or offering for sale of any property or services enumerated in the definition of “cemetery company” contained in § 54.1-2310 of the Code of Virginia.

“Services” means any act or activity by the cemetery company in relation to arranging, supervising, interring or disposing of the remains or commemorating the memory of deceased human beings.

18 VAC 47-20-35. Qualifications for compliance agents and designees.

Every applicant for compliance agent or designee shall have the following qualifications:

1. Be at least 18 years old;

2. Have two years experience in the cemetery business and have successfully completed a board approved training course; and
3. Be a full time employee of the cemetery company or is a principal.
4. The applicant shall disclose any current or previous licenses/registrations from Virginia or in any other jurisdictions, and any disciplinary actions taken against those licenses/registrations. This includes, but is not limited to, any monetary penalties, fines or disciplinary actions taken by any federal, state or local regulatory agencies. The board, at its discretion, may deny approval of the compliance agent or designee based upon disciplinary actions by any jurisdiction.
5. The applicant shall disclose any conviction or finding of guilt, regardless of adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of conviction, finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt. The board, at its discretion, may deny approval of the compliance agent or designee in accordance with § 54.1-204 of the *Code of Virginia*.
6. The applicant shall certify that he understands and will comply with all the laws of Virginia related to cemetery company licensure under the provisions of Title 54, Chapter 23.1 of the *Code of Virginia* and this chapter.

~~18 VAC 47-20-240. Execution of contracts for licensees whose licenses have been suspended or revoked.~~

~~In the event a license has been suspended or revoked and the licensee is a party to a preneed burial contract which must be executed at need, the board may file a petition for appointment of a receiver with any court of record having equity jurisdiction over the licensee. The petition shall be necessary to ensure execution of the contract including the appointment of a receiver. If a receiver is appointed, the licensee, as determined by the court, shall pay his expenses and a reasonable fee.~~

18 VAC 47-20-250. Compliance agent or designee conduct.

Each cemetery company and cemetery affiliated with a cemetery company shall be supervised by a compliance agent or designee. The compliance agent or designee shall exercise reasonable and adequate supervision of the provision of services by employees of the cemetery company. Factors to be considered in determining whether the supervision is reasonable and adequate include, but are not limited to, the following:

1. The availability of the compliance agent or designee to all cemetery company employees and to the public to answer questions within a reasonable time pertaining to the operation of the cemetery company.
2. The availability of training and written procedures and policies which provide, without limitation, clear guidance in the following areas:
 - a. Required deposits for the perpetual care trust fund;

- b. Required deposits for the preneed trust fund;
- c. Proper handling of preneed burial contracts;
- d. Proper handling of deposits to the perpetual care trust fund;
- e. Proper handling of deposits to the preneed trust fund;
- f. Interment records;
- g. Itemized statement of goods and services provided;
- h. General price list;
- i. Advertising;
- j. Solicitation;
- k. Proper care, maintenance, administration and embellishment of the cemetery.
- l. Such other matters as necessary to assure the competence of licensees and registrants to comply with this chapter and Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia.

18 VAC 47-20-260. Protection of perpetual care and preneed trust funds.

In the event that preneed or perpetual care funds are held in trust and the Board or any of its agents have reason to believe that (i) the licensee or any agent of the licensee has diverted or misused any funds held in trust or (ii) the licensee is not able to adequately protect the interest of the person involved or (iii) the licensee's conduct or the operation of the cemetery company threatens the interests of the public or (iv) the licensee has had its license suspended, revoked or surrendered, the Board may initiate legal proceedings in accordance with § 54.1-2313.1 of the Code of Virginia.

18 VAC 47-20-270. Standards of approval of training course.

All training courses shall be approved by the board. The training course shall be at least eight hours and include appropriate testing procedures to demonstrate an understanding of the topics. The training program shall include, but is not limited to the following topics:

1. Cemetery Board statute and regulations;
2. Perpetual care trust fund requirements;
3. Preneed trust fund requirements;
4. Preneed burial contracts;
5. Interment records;
6. General price list;
7. Itemized statement of goods and services provided;
8. Advertising;
9. Solicitation;
10. Funeral Rule; and
11. Proper care, maintenance, administration and embellishment of the cemetery