

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Department of Health Professions

Perimeter Center

9960 Mayland Drive, Henrico VA 23233-1463

Board Room #2, Second Floor

October 16, 2012 at 10:00 a.m.

BOARD MEETING AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES - Tab 1

- Board Meeting - July 16, 2012
- Formal Hearing - July 16, 2012
- Formal Hearing - July 17, 2012
- Formal Hearing - July 17, 2012

INFORMAL CONFERENCES HELD

- (2) - held on July 17, 2012
- (2) - held on September 19, 2012

PUBLIC COMMENT PERIOD

AGENCY DIRECTORS REPORT - Dr. Reynolds-Cane

EXECUTIVE DIRECTOR'S REPORT - Lisa R. Hahn - Tab 2

NEW BUSINESS

- Legislative/Regulatory Reports- Elaine Yeatts - Tab 3
- Conflict with FTC Rule and Appendix I- Lynne Helmick - Tab 4
- New Maryland Statutes - Tab 5
- Transferability of Mortuary Affairs MOS into Civilian Sector -Lisa R. Hahn - Tab 6
- Report on meeting with the Department of Veteran Services - Blair Nelsen - Tab 7
- Facility Inspection Plan - Lisa R. Hahn - Tab 8

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Tab 1

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
BOARD MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Monday, July 16, 2012 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT

Blair Nelsen, FSP, President
Junius Williams, Citizen Member, Vice-President
Christopher P. Vincent, FSP, Secretary-Treasurer
Robert B. Burger, Jr., FSP
Randolph T. Minter, FSP
Michael J. Leonard, FSP
Walter Ball, Citizen Member
Eric V. Wray, II, FSP

BOARD MEMBERS PRESENT FOR ALL OR PART OF THE MEETING

Robert Oman, FSP

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Dr. Reynolds-Cane, Agency Director
Missy Currier, Board Operations Manager

BOARD COUNSEL

Erin Barrett, Assistant Attorney General

QUORUM

With 8 members present a quorum was established.

GUESTS PRESENT

Barry D. Robinson, Virginia Morticians Association
Karen McPherson, Virginia Morticians Association
Meredyth Partridge, Regulatory Support Services, Inc.
Bo Keeney, Independent Funeral Homes of Virginia
Bruce Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association
Tripp Perrin, SCI

CALL TO ORDER

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

ORDERING OF AGENDA

The agenda was accepted as ordered.

ACCEPTANCE OF MINUTES

Upon a motion by Mr. Minter and properly seconded by Mr. Ball, the Board voted to accept the following Meeting Minutes:

- Board Meeting – April 24, 2012
- Legislative/Regulatory Meeting – April 12, 2012

The motion carried unanimously.

INFORMAL CONFERENCES HELD

Mr. Nelsen shared that informal conferences were held on the following days and that the minutes are located on the board's website and on regulatory Townhall.

- (4) – held on April 24, 2012
- (2) - held on June 6, 2012

PUBLIC COMMENT PERIOD

There was no public comment.

AGENCY DIRECTORS REPORT – Dr. Reynolds-Cane

Dr. Reynolds-Cane addressed the board with brief comments regarding the status of Regulatory and Legislative issues and other events related to DHP.

Dr. Reynolds-Cane also announced that the Annual Board Member Orientation was scheduled for September 28th.

EXECUTIVE DIRECTOR'S REPORT

Ms. Hahn began her report by stating that the agenda was on the lighter side for the meeting but the members would be very busy with 2 days of formal hearings and informal conferences.

Expenditure and Revenue Summary

Ms. Hahn stated that the beginning cash balance as of June 30, 2011 was \$26,516, revenue received for FY 12 was \$528,200 less the direct and allocated expenditures of \$600,484 leaving a cash balance as of May 31, 2012 of \$(45,768). Ms. Hahn anticipated the FY 12 year end budget to be approximately (116,000) and reminded the board that the regulations for a fee increase remain at the Secretary's office for approval.

Discipline Statistics

Ms. Hahn stated the board has 39 open cases; 15 of the 38 cases are in the Enforcement Division at the Investigative stage; 9 cases are in the Probable Cause stage, 4 cases at the APD level; 8 cases are in the informal stage; and 3 cases were in the formal stage. Ms. Hahn added 16 funeral board Orders are being monitored for compliance.

Licensee Statistics

Ms. Hahn reported that there are 1,470 Funeral Service Providers, 158 Funeral Interns, 448 Funeral Establishments, 5 Embalmers, 65 Funeral Directors, 325 Funeral Service Supervisors, 60 Branch Establishments, 94 Crematories, 26 Continuing Education Providers, 67 Courtesy Card Holders and 48 Surface Transportation and Removal Services.

Virginia Performs – 4th Quarter ending June 30, 2012

Ms. Hahn gave the following Virginia Performs results: 100% rating for issuing licenses in less than 30 days; a 100% rating for patient care cases closed within 250 days; customer satisfaction was at 100%; the clearance rate was at 50% vs. 700% during 3rd Qtr., the percent of cases closed within 250 days was at 100% and the pending caseload older than 250 days was 25%.

Presentations

Ms. Hahn reported that the following presentations had been given since the April Meeting:

- VFDA 124th Annual Convention
 - Bob Burger gave a report on Board Business
 - Lynne Helmick presented 1 hour on Laws & Regulations
- IFHV 2012 Annual Convention
 - Lynne Helmick will present 1 hour on Laws & Regulations

Pending Projects

- Virtual Funeral Homes - Ms. Hahn shared that staff are working on collecting information from the Conference on what other states are doing. She hopes to have information to share at the next meeting.
- Examination Review and Process Audit - Ms. Hahn stated that it is time again to perform a thorough examination audit to ensure that the questions include current information. She will notify the committee members once a date is scheduled to begin the process.

- FTC Possible Conflict – Ms. Hahn stated that it does appear that we are in conflict with FTC regarding direct cremation and alternative containers. She will place the matter for discussion on the agenda for the next meeting.
- Scanning Establishment Files - Ms. Hahn shared that Vicki Saxby and Annie Artis have been working on scanning all the funeral establishment files online.

2012/2013 Committee's

Ms. Hahn stated that Blair Nelsen asked the members for their committee requests but that he was going to defer making final decisions until new board member appointments were made. She added that the only changes Mr. Nelsen made were to replace his own position on the informal conference committee with Mr. Burger, and to have Mr. Vincent fill the alternate position.

Status on Carlos Howard

Ms. Hahn shared that Mr. Howard filed an appeal against the Board's decision made during the March 8, 2012 formal hearing and that the matter was now be handled by the Office of the Attorney General. Erin Barrett, Assistant Attorney General and Board Counsel confirmed that we had filed the record, including the transcript and a tentative court date was set for late August.

Legislative/Regulatory News

Ms. Hahn briefed the board with the following:

- H 378 was approved on April 4, 2012 which requires licensees to complete 5 hours per year, rather than 10 hours every two years. It also changes the one hour requirement per year in state laws and regulations to federal or state laws and regulations.
- The law became effective on July 2, 2012. The board will be asked to promulgate regulations for the new law during today's meeting.
- What was not included in the approved legislation was the CE exemption for first renewal year following license by exam.

Fee Increase

Ms. Hahn stated Ms. Yeatts would address the status of the fee increase during her report.

Calendar

Ms. Hahn announced the scheduled date for the next meeting in 2012 was October 16th and that she and Ms. Currier would try to avoid scheduling conflicts with other meetings or conferences when coordinating the 2013 calendar.

Report on Status of Regulations

Ms. Yeatts referred the members to the Chart of Regulatory Actions included in the agenda package:

18VAC65-20

- Identification of human remains – remain at the Governor’s Office (599 days)
- NOIRA regarding fee increases – re-proposed remain at the Secretary’s Office

18VAC65-30

- Fast-Track regarding termination of irrevocable trusts – remain at Governor’s Office (599 days)

Ms. Yeatts commented that the longer the delay for approval of the re-proposed fee increase, the larger the shortfall will be to make up the difference.

Requirements for Continuing Education – Exempt Action

Upon a motion by Mr. Burger and properly seconded by Mr. Vincent, the board voted to adopt the following amendments as an Exempt Action in order to conform with the Code of Virginia:

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 ~~10~~ 5 hours per year of continuing education offered by a board-approved sponsor for licensure renewal ~~in even years~~ 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 ~~in Virginia~~. 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.

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.

The motion passed unanimously.

Mr. Oman arrived at 11:00 a.m.

Notification to the Department of Veterans Services (§ 54.1-2808.1 & § 54.1-2808.2)

Discussion was made regarding the new requirement placed on funeral directors to notify the Virginia Department of Veterans Services of unclaimed cremains. The board agreed that it was important to inform the funeral licensee community about the new requirement since many may not be aware of it. Ms. Hahn stated that we would post the information on the website and include it in our presentations. She suggested that the associations also post the information on their websites and include it in their presentations.

Mr. Nelsen concluded that any questions regarding the new law be directed to Ms. Hahn or her staff.

§ 54.1-2808.1. Disposition of cremains.

Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains of an individual by interment, entombment, inurnment, or by scattering of the cremains, if after 120 days from the date of cremation, the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains shall be borne by the contracting agent. Upon the disposition of the cremains, the funeral director shall not be liable for the cremains or for the method of final disposition. Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains prior to July 1, 1993, may dispose of such cremains in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains in a manner or a location in which the cremains of the deceased are commingled, except in the scattering of cremains at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains of persons in the same container or urn.

For the purposes of this section, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.

§ 54.1-2808.2. Identification of unclaimed cremains of veterans.

A. If the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition within 90 days from the date of cremation, the funeral director shall provide names and any other identifying information of the unclaimed cremains to the Department of Veterans Services in order for the Department to determine if the unclaimed cremains are those of a veteran. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Commencing July 1, 2014, the Department of Veterans Services shall notify the funeral director within 30 days of receipt of the information required by subsection A if the cremains are those of a veteran and, if so, whether such veteran is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains to a veterans cemetery.

C. No disposal of the unclaimed cremains of an eligible veteran shall be made until the funeral director has notified the Virginia Department of Veterans Services and has received a determination as to whether the cremains are those of an eligible veteran. Absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran to the Virginia Department of Veterans Services for purposes of disposition as provided in this section shall be liable for civil negligence.

Draft Legislation #1 (attachment #1)

Ms. Yeatts reviewed draft legislation for the 2013 general assembly. Upon a motion by Mr. Wray and properly seconded by Mr. Minter, the board voted to approve draft legislation #1 as proposed. The motion carried unanimously.

Draft Legislation #2

Following discussion, a motion was made by Mr. Minter and properly seconded by Mr. Wray to re-approve as amended, a bill to enact § 54.1-2810.1 of the Code of Virginia relating to the operation of a funeral establishment in an emergency situation:

1. That § 54.1-2810.1 of the Code of Virginia is enacted as follows:

§ 54.1-2810.1. Temporary operation of a funeral establishment.

If an emergency event prevents a licensed funeral establishment from conducting normal business operations, the establishment may request permission from the Board to operate temporarily out of another licensed funeral establishment. The request must be submitted electronically or in writing to the Board prior to temporary operation of the establishment and must include the circumstances of the emergency, a projected completion date for the repair, and the arrangements that have been agreed upon by both establishments involved.

The motion carried unanimously.

Ms. Yeatts concluded that the two proposed bills would be sent to interested parties for comment.

Guidance Document 65-2

DISPOSITION OF DISCIPLINARY CASES FOR PRACTICING ON EXPIRED LICENSES

The Board of Funeral Directors and Embalmers delegates to the Executive Director for the Board the authority to offer a prehearing consent order to resolve disciplinary cases in which a Funeral

Service Licensee or Funeral Service Establishment has been found to be practicing with an expired license.

Disciplinary Action for Practicing with an Expired License

The Board adopted the following guidelines for resolution of cases of a Funeral Service Licensee or Funeral Director or Embalmer only practicing with an expired license:

Cause	Possible Action
First offense; 90 days or less	Confidential Consent Agreement
First offense; 91 days to one year 180 days	Consent Order; Monetary Penalty of \$1,000

Disciplinary Action for Practicing with an Expired License

The Board adopted the following guidelines for resolution of cases of a Funeral Establishment practicing with an expired license:

Cause	Possible Action
<u>First offense; 90 days or less</u>	<u>Confidential Consent Agreement</u>
<u>First offense; 91 days to 180 days</u>	<u>Consent Order; Monetary Penalty of \$1,500</u>

Upon a motion by Mr. Oman and properly seconded by Mr. Vincent, the board voted to approve Guidance Document 65-2 regarding practicing on an expired license as amended.

The motion carried unanimously.

OTHER BUSINESS

Mr. Burger mentioned that while attending the VFDA Conference in Virginia Beach, he was approached by a Surface Transportation licensee who asked how he should handle questions from families about prices. After discussion, the board recommended that these individuals should not be discussing prices at all. It was also mentioned that obtaining permission for embalming does not require a price list and to refer any questions regarding prices to the Funeral Home.

Mr. Leonard asked if anyone would be attending the meeting on August 21st regarding the insurance bill. Ms. Hahn and Mr. Nelsen reminded the board members who plan on attending to be clear that their opinions are personal and do not in any way reflect the opinion of the Board.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 11:14 a.m.

Blair Nelsen, President

Lisa R. Hahn, Executive Director

Date

Date

Virginia Board of Funeral Directors and Embalmers
2013 Session of the General Assembly
Draft Legislation #1

A bill to amend and reenact §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia, relating to the Board of Funeral Directors and Embalmers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2802, 54.1-2806, 54.1-2814, and 54.1-2815 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. ~~No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.~~

§ 54.1-2806. Refusal, suspension or revocation of license.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;

5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;
18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;

19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;
20. Violating or cooperating with others to violate any provision of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;
21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns as required by regulations of the Board;
23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased;
24. Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers;
25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; ~~and~~
26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order; and
27. Incompetence to practice his profession with safety to his clients and the public.

§ 54.1-2814. Examination.

Each applicant for license for the practice of funeral service shall be examined in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;
2. Funeral service arts and sciences including embalming and restorative art;
3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

~~The Board may recognize other examinations that it considers equivalent to its examination.~~

§ 54.1-2815. Application for license; ~~how license signed~~; duration.

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

~~All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.~~

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
JULY 16, 2012

The Virginia Board of Funeral Directors and Embalmers convened on July 16, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT: Blair Nelsen, President
Junius H. Williams, Jr.
Christopher Vincent, FSP
Eric Wray, FSP
Robert B. Burger, Jr., FSP
Randy Minter, FSP
Walter S. Ball, Citizen Member

DHP STAFF PRESENT: Lisa R. Hahn, Executive Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Mykl Egan, Adjudication Specialist
Kim Hood, Case Intake Investigator
Stanley Jackson, Fiscal Specialist

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT: Erin Barrett, Assistant Attorney General, Board Counsel

RESPONDENT'S COUNSEL : Michael T. Soberick, Esq.

OTHERS PRESENT: Father Vincent S. Hodge
Denise Bonapart
Roselyn Trent, via telephone

COURT REPORTER: Farnsworth & Taylor Reporting

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 1:05 p.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: **Randolph Lane, FSP**
License Number: 0503-000250
Case Number: 139514 & 138338

DISCUSSION: Mr. Lane appeared before the Board in accordance with the Notice and Statement of Particulars dated June 15, 2012. Mr. Lane was represented by Michael T. Soberick, Esq. of Dusewicz & Soberick, P.C.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Williams, and duly seconded by Mr. Wray, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Randolph Lane, FD. Additionally, Mr. Williams moved that Ms. Hahn, Ms. Currier, and Ms. Barrett attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 3:34 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2.-3712 of the *Code of Virginia*, the Board re-convened open session at 4:20 p.m.

ACTION: Upon a motion by Mr. Wray, and duly seconded by Mr. Williams, the Board voted to place the funeral director license of Mr. Lane on PROBATION for a period of not less than 18 months with certain terms and conditions. The motion was carried.

VOTE: The vote was unanimous, with seven (7) affirmative votes.

ADJOURNMENT: The Board adjourned at 4:30 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Blair Nelsen, FSP, President

Lisa R. Hahn, Executive Director

Date

Date

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
JULY 17, 2012

The Virginia Board of Funeral Directors and Embalmers convened on July 17, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT: Blair Nelsen, President
Junius H. Williams, Jr.
Christopher Vincent, FSP
Eric Wray, FSP
Robert B. Burger, Jr., FSP
Randy Minter, FSP
Walter S. Ball, Citizen Member

DHP STAFF PRESENT: Lisa R. Hahn, Executive Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Mykl Egan, Adjudication Specialist
Karen Schaller, Senior Inspector

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT: Erin Barrett, Assistant Attorney General, Board Counsel
Maggie Burris, Intern Office of the Attorney General

COURT REPORTER: Farnsworth & Taylor Reporting

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 10:15 a.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: **Matthew L. Cornish, Sr., FSP**
License Number: 0502-750023
Case Number: 143720

DISCUSSION: Mr. Cornish appeared before the Board in accordance with the Amended Notice and Statement of Particulars dated July 2, 2012. Mr. Cornish was not represented counsel.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Williams, and duly seconded by Mr. Ball, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Matthew L. Cornish, Sr., FSP. Additionally, Mr. Williams moved that Ms. Hahn, Ms. Currier, Ms. Barrett and Ms. Burris attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 10:45 a.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2.-3712 of the *Code of Virginia*, the Board re-convened open session at 11:50 a.m.

ACTION: Upon a motion by Mr. Williams, and duly seconded by Mr. Burger, the Board voted to place the funeral service provider license of Mr. Cornish on INDEFINITE SUSPENSION. The motion was carried.

The vote was unanimous, with seven (7) affirmative votes.

VOTE:

ADJOURNMENT: The Board adjourned at 11:55 a.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Blair Nelsen, FSP, President

Lisa R. Hahn, Executive Director

Date

Date

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINISTRATIVE HEARING
JULY 17, 2012

The Virginia Board of Funeral Directors and Embalmers convened on July 17, 2012, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT: Mike Leonard, FSP, Presiding
Bob Oman, FSP
Junius H. Williams, Jr., Citizen Member
Christopher Vincent, FSP
Eric Wray, FSP
Robert B. Burger, Jr., FSP
Walter S. Ball, Citizen Member

DHP STAFF PRESENT: Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Kathy Petersen, Discipline Operations Manager
Missy Currier, Board Operations Manager
Mykl Egan, Adjudication Specialist

MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT: Erin Barrett, Assistant Attorney General, Board Counsel
Maggie Burris, Intern Office of the Attorney General

COURT REPORTER: Farnsworth & Taylor Reporting

CALL TO ORDER The Formal Administrative Hearing of the Board was called to order at 1:08 p.m.

ESTABLISHMENT OF A QUORUM: With seven (7) members of the Board present, a quorum was established.

MATTER SCHEDULED: **Robert K. Wickline, FSP**
License Number: 0502-100847
Case Number: 138341

DISCUSSION: Mr. Wickline did not appear before the Board in accordance with the Notice and Statement of Particulars dated June 15, 2012. Mr. Wickline was not represented counsel.

Mr. Leonard made a formal statement that Mr. Wickline was served with Notice of the Formal Administrative Hearing by certified mail on June 19, 2012.

The Board received evidence and sworn testimony regarding the matters as set forth in the Statement of Particulars.

CLOSED SESSION: Upon a motion by Mr. Williams, and duly seconded by Mr. Oman, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Robert Wickline, FSP. Additionally, Mr. Williams moved that Ms. Hahn, Ms. Currier, Ms. Barrett and Ms. Burris attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 1:21 p.m.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2.-3712 of the *Code of Virginia*, the Board re-convened open session at 1:50 p.m.

ACTION: Upon a motion by Mr. Wray, and duly seconded by Mr. Oman, the Board voted to REVOKE the funeral service provider license of Mr. Wickline. The motion was carried.

The vote was unanimous, with seven (7) affirmative votes.

VOTE:

ADJOURNMENT: The Board adjourned at 1:55 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

Blair Nelsen, FSP, President

Lisa R. Hahn, Executive Director

Date

Date

Tab 2

Virginia Department of Health Professions
Cash Balance
As of June 30, 2012

	<u>104- Funeral Directors and Emba</u>
Cash Balance as of June 30, 2011	\$ 26,516
YTD FY12 Revenue	537,780
Prior Period Reimbursement for Healthcare Workforce Expenditures	51
Less: YTD FY12 Direct and In-Direct Expenditures	<u>628,668</u>
Board Cash Balance as of June 30, 2012	<u><u>\$ (64,321)</u></u>

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2011 through June 30, 2012

104- Funeral Directors and Emba

	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	39,525.00	34,225.00	5,300.00	115.49%
2402 · Examination Fee	0.00			
2406 · License & Renewal Fee	476,770.00	488,660.00	-11,890.00	97.57%
2407 · Dup. License Certificate Fee	270.00	480.00	-210.00	56.25%
2408 · Board Endorsement - In	0.00			
2409 · Board Endorsement - Out	2,750.00	2,600.00	150.00	105.77%
2421 · Monetary Penalty & Late Fees	6,505.00	5,395.00	1,110.00	120.58%
2430 · Board Changes Fee	5,125.00	5,075.00	50.00	100.99%
2432 · Misc. Fee (Bad Check Fee)	35.00	35.00	0.00	100.0%
Total 2400 · Fee Revenue	530,980.00	536,470.00	-5,490.00	98.98%
3000 · Sales of Prop. & Commodities				
3002 · Overpayments	0.00			
3007 · Sales of Goods/Svces to State	0.00			
3020 · Misc. Sales-Dishonored Payments	-400.00			
Total 3000 · Sales of Prop. & Commodities	-400.00			
4000 · Private Donations, Gifts and Gr				
4206 · Reimbursmnt for Other Services	0.00			
Total 4000 · Private Donations, Gifts and Gr	0.00			
7000 · Interest, Divdends and Rents				
7108 · Interest From Other Sources	0.00			
Total 7000 · Interest, Divdends and Rents	0.00			
9000 · Other Revenue				
9060 · Miscellaneous Revenue	7,200.00	5,700.00	1,500.00	126.32%
9084 · Refund- Prior Yr Disb	0.00			
982204 · Cash Trnsfr In- Non-Genl Funds	0.00			
Total 9000 · Other Revenue	7,200.00	5,700.00	1,500.00	126.32%
Total Revenue	537,780.00	542,170.00	-4,390.00	99.19%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	5,209.50	4,909.03	300.47	106.12%
1112 · Fed Old-Age Ins- Sai St Emp	5,319.40	5,707.30	-387.90	93.2%
1113 · Fed Old-Age Ins- Wage Earners	0.00	783.00	-783.00	0.0%
1114 · Group Insurance	760.29	760.97	-0.68	99.91%
1115 · Medical/Hospitalization Ins.	16,648.80	20,440.80	-3,792.00	81.45%
1116 · Retiree Medical/Hospitalizatn	737.53	738.59	-1.06	99.86%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2011 through June 30, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1117 · Long term Disability Ins	491.77	492.39	-0.62	99.87%
Total 1110 · Employee Benefits	29,167.29	33,832.08	-4,664.79	86.21%
1120 · Salaries				
1122 · Salaries, Appointed Officials	0.00			
1123 · Salaries, Classified	74,251.29	74,605.27	-353.98	99.53%
1125 · Salaries, Overtime	0.00	200.00	-200.00	0.0%
1128 · Salaries, Inf Tchnlgy Employees	0.00			
Total 1120 · Salaries	74,251.29	74,805.27	-553.98	99.26%
1130 · Special Payments				
1131 · Bonuses and Incentives	0.00	0.00	0.00	0.0%
1138 · Deferred Compnstrn Match Pmts	552.00	816.00	-264.00	67.65%
Total 1130 · Special Payments	552.00	816.00	-264.00	67.65%
1140 · Wages				
1141 · Wages, General	0.00	10,026.00	-10,026.00	0.0%
1143 · Wages, Overtime	0.00			
1149 · Wages, Info Tech Employees	0.00			
Total 1140 · Wages	0.00	10,026.00	-10,026.00	0.0%
1150 · Disability Benefits				
1153 · Short-trm Disability Benefits	0.00			
Total 1150 · Disability Benefits	0.00			
1160 · Terminatn Personal Svce Costs				
1162 · Salaries, Annual Leave Balanc	0.00			
1163 · Salaries, Sick Leave Balances	0.00			
1165 · Employee Retirement Contributio	438.72	439.00	-0.28	99.94%
Total 1160 · Terminatn Personal Svce Costs	438.72	439.00	-0.28	99.94%
Total 1100 · Personal Services	104,409.30	119,918.35	-15,509.05	87.07%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	111.17	500.00	-388.83	22.23%
1212 · Outbound Freight Services	0.00			
1213 · Messenger Services	0.00			
1214 · Postal Services	3,845.80	4,500.00	-654.20	85.46%
1215 · Printing Services	0.00	400.00	-400.00	0.0%
1216 · Telecommunications Svcs (DIT)	740.86	800.00	-59.14	92.61%
1217 · Telecomm. Svcs (Non-State)	0.00			
1219 · Inbound Freight Services	0.00			
Total 1210 · Communication Services	4,697.83	6,200.00	-1,502.17	75.77%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary

July 1, 2011 through June 30, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1220 · Employee Development Services				
1221 · Organization Memberships	0.00	500.00	-500.00	0.0%
1222 · Publication Subscriptions	0.00	0.00	0.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	253.13	500.00	-246.87	50.63%
1225 · Employee Tuition Reimbursement	315.00	900.00	-585.00	35.0%
1226 · Personnel Develpmnt Services	0.00			
1227 · Emp Trning- Trns, Ldngg & Meals	0.00	0.00	0.00	0.0%
1228 · Emp IT Training Courses, etc	0.00			
Total 1220 · Employee Development Services	<u>568.13</u>	<u>1,900.00</u>	<u>-1,331.87</u>	<u>29.9%</u>
1230 · Health Services				
1236 · X-ray and Laboratory Services	0.00			
Total 1230 · Health Services	<u>0.00</u>			
1240 · Mgmnt and Informational Svcs				
1242 · Fiscal Services	5,687.53	9,520.00	-3,832.47	59.74%
1243 · Attorney Services	0.00			
1244 · Management Services	71.57	0.00	71.57	100.0%
1245 · Personnel Develpmnt Services	0.00			
1246 · Public Infrmtnl & Relation Svcs	0.00			
1247 · Legal Services	1,235.00	550.00	685.00	224.55%
1248 · Media Services	0.00			
1249 · Recruitment Services	0.00			
Total 1240 · Mgmnt and Informational Svcs	<u>6,994.10</u>	<u>10,070.00</u>	<u>-3,075.90</u>	<u>69.46%</u>
1250 · Repair and Maintenance Svcs				
1251 · Custodial Services	0.14			
1252 · Electrical Rep & Maintenance	0.00			
1253 · Equip Repair & Maintenance	19.85	0.00	19.85	100.0%
1256 · Mechanical Rep & Maint Svcs	0.00			
1257 · Plant Rep & Maintenance Svcs	0.00			
1259 · Vehicle Repair & Maintenance	0.00			
Total 1250 · Repair and Maintenance Svcs	<u>19.99</u>	<u>0.00</u>	<u>19.99</u>	<u>100.0%</u>
1260 · Support Services				
1263 · Clerical Services	0.00	0.00	0.00	0.0%
1264 · Food & Dietary Services	1,156.92	2,000.00	-843.08	57.85%
1266 · Manual Labor Services	236.32	700.00	-463.68	33.76%
1267 · Production Services	1,528.24	1,200.00	328.24	127.35%
1268 · Skilled Services	343.13	1,241.00	-897.87	27.65%
Total 1260 · Support Services	<u>3,264.61</u>	<u>5,141.00</u>	<u>-1,876.39</u>	<u>63.5%</u>
1270 · Technical Services				
1271 · Inf Mgt Dsgn & Dvp Svcs (VITA)	0.00			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2011 through June 30, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1272 · VITA Infor Tech Intg Costs PSC	0.00			
1274 · Computer Hardware Maint Svs	0.00			
1275 · Computer Software Maint Svs	0.00			
1276 · C.Operating Svs (By VITA)	0.00			
1277 · C. Operating Svs (S. Agency)	0.00			
1278 · VITA InT Int Cost Goods&Svs	0.00			
1279 · Computer Software Dvp Svs	0.00			
Total 1270 · Technical Services	0.00			
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	4,808.89	4,000.00	808.89	120.22%
1283 · Travel, Public Carriers	36.65	700.00	-663.35	5.24%
1284 · Travel, State Vehicles	0.00			
1285 · Travel, Subsistence & Lodging	1,313.06	1,500.00	-186.94	87.54%
1286 · Travel, Supplements and Aid	0.00			
1288 · Trvl, Meal Reimb- Not Rprtble	369.50	780.00	-410.50	47.37%
Total 1280 · Transportation Services	6,528.10	6,980.00	-451.90	93.53%
Total 1200 · Contractual Services	22,072.76	30,291.00	-8,218.24	72.87%
1300 · Supplies And Materials				
1309 · Charge Card Purchases	0.00			
1310 · Administrative Supplies				
1311 · Apparel Supplies	5.28			
1312 · Office Supplies	488.32	700.00	-211.68	69.76%
1313 · Stationery and Forms	239.91	-15.00	254.91	-1,599.4%
Total 1310 · Administrative Supplies	733.51	685.00	48.51	107.08%
1320 · Energy Supplies				
1323 · Gasoline	54.91			
Total 1320 · Energy Supplies	54.91			
1330 · Manufctrng and Merch Supplies				
1335 · Packaging and Shipping Suppl	0.00	0.00	0.00	0.0%
Total 1330 · Manufctrng and Merch Supplies	0.00	0.00	0.00	0.0%
1350 · Repair and Maint. Supplies				
1352 · Custodial Rep & Maint Mat'ls	2.42			
1353 · Electrical Repair and Maint	0.00			
Total 1350 · Repair and Maint. Supplies	2.42			
1360 · Residential Supplies				
1361 · Clothing Supplies	0.00			
1362 · Food and Dietary Supplies	0.00	50.00	-50.00	0.0%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2011 through June 30, 2012

104- Funeral Directors and Emba				
	Jul '11 - Jun 12	Budget	\$ Over Budget	% of Budget
1363 · Food Service Supplies	3.11	50.00	-46.89	6.22%
1364 · Laundry and Linen Supplies	0.00			
Total 1360 · Residential Supplies	3.11	100.00	-96.89	3.11%
1370 · Specific Use Supplies				
1371 · Agricultural Supplies	0.00			
1373 · Computer Operating Supplies	8.89	0.00	8.89	100.0%
1374 · Educational Supplies	0.00			
1377 · Photographic Supplies	0.00			
Total 1370 · Specific Use Supplies	8.89	0.00	8.89	100.0%
Total 1300 · Supplies And Materials	802.84	785.00	17.84	102.27%
1400 · Transfer Payments				
1410 · Awards, Contrib., and Claims				
1413 · Premiums	180.00			
1415 · Unemployment Compnsatn Reimb	0.00			
1418 · Incentives	0.00			
Total 1410 · Awards, Contrib., and Claims	180.00			
1420 · Eductnl & Training Assistance				
1421 · Grad Scholrships & Fellowshps	0.00			
1425 · Undergraduate Scholarships	0.00			
1420 · Eductnl & Training Assistance - Other	0.00			
Total 1420 · Eductnl & Training Assistance	0.00			
Total 1400 · Transfer Payments	180.00			
1500 · Continuous Charges				
1510 · Insurance-Fixed Assets				
1512 · Automobile Liability	0.00			
1516 · Property Insurance	35.74	51.00	-15.26	70.08%
1510 · Insurance-Fixed Assets - Other	0.00	0.00	0.00	0.0%
Total 1510 · Insurance-Fixed Assets	35.74	51.00	-15.26	70.08%
1530 · Operating Lease Payments				
1534 · Equipment Rentals	0.00	0.00	0.00	0.0%
1535 · Building Rentals	9.72	0.00	9.72	100.0%
1539 · Building Rentals - Non State	8,312.44	8,288.00	24.44	100.3%
Total 1530 · Operating Lease Payments	8,322.16	8,288.00	34.16	100.41%
1540 · Service Charges				
1541 · Agency Service Charges	0.00			
Total 1540 · Service Charges	0.00			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2011 through June 30, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
1550 · Insurance-Operations				
1551 · General Liability Insurance	128.27	183.00	-54.73	70.09%
1554 · Surety Bonds	7.57	11.00	-3.43	68.82%
1555 · Workers Compensation	0.00			
Total 1550 · Insurance-Operations	<u>135.84</u>	<u>194.00</u>	<u>-58.16</u>	<u>70.02%</u>
Total 1500 · Continuous Charges	8,493.74	8,533.00	-39.26	99.54%
2200 · Equipment Expenditures				
2209 · Charge Card Purchases	0.00			
2210 · Computer Equipment				
2216 · Network Components	0.00			
2217 · Other Computer Equipment	7.51			
2218 · Computer Software Purchases	184.00			
Total 2210 · Computer Equipment	<u>191.51</u>			
2220 · Educational & Cultural Equip				
2223 · Exhibit Equipment	0.00			
2224 · Reference Equipment	0.00	300.00	-300.00	0.0%
Total 2220 · Educational & Cultural Equip	<u>0.00</u>	<u>300.00</u>	<u>-300.00</u>	<u>0.0%</u>
2230 · Electronic & Photographic Equip				
2231 · Electronic Equipment	0.00			
2232 · Photographic Equipment	0.00			
2233 · Voice & Data Transmissn Equip	0.00			
2238 · Electronic & Phtgrphc Equip Imprv	0.69			
Total 2230 · Electronic & Photographic Equip	<u>0.69</u>			
2240 · Medical and Laboratory Equip				
2241 · Medical Laboratory Equipment	0.00			
Total 2240 · Medical and Laboratory Equip	<u>0.00</u>			
2260 · Office Equipment				
2261 · Office Appurtenances	0.00	0.00	0.00	0.0%
2262 · Office Furniture	25.00	200.00	-175.00	12.5%
2263 · Office Incidentals	86.49			
2264 · Office Machines	0.00			
2268 · Office Equipment Improvements	0.00			
Total 2260 · Office Equipment	<u>111.49</u>	<u>200.00</u>	<u>-88.51</u>	<u>55.75%</u>
2270 · Specific Use Equipment				
2271 · Household Equipment	0.00			
Total 2270 · Specific Use Equipment	<u>0.00</u>			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2011 through June 30, 2012

	104- Funeral Directors and Emba			
	<u>Jul '11 - Jun 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Total 2200 · Equipment Expenditures	303.69	500.00	-196.31	60.74%
Total Expenditures	136,262.33	160,027.35	-23,765.02	85.15%
9001 · Allocated Expenditures				
9201 · Behavioral Science Exec	0.00			
9202 · OptVMASLP Exec Dir	0.00			
9204 · Nursing / Nurse Aid	0.00			
9206 · Funeral\LTCA\PT	88,247.72	89,715.46	-1,467.74	98.36%
9301 · DP Operations & Equipment	94,769.21	138,158.88	-43,389.67	68.59%
9302 · Human Resources	11,562.55	12,462.60	-900.05	92.78%
9303 · Finance	20,206.03	22,249.56	-2,043.53	90.82%
9304 · Director's Office	11,055.05	12,263.52	-1,208.47	90.15%
9305 · Enforcement	178,266.77	164,598.84	13,667.93	108.3%
9306 · Administrative Proceedings	45,902.69	16,468.20	29,434.49	278.74%
9307 · Impaired Practitioners	0.00	12.96	-12.96	0.0%
9308 · Attorney General	25,079.33	25,290.72	-211.39	99.16%
9309 · Board of Health Professions	7,315.93	8,871.96	-1,556.03	82.46%
9310 · SRTA	0.00			
9311 · Moving Costs	0.00	801.36	-801.36	0.0%
9313 · Emp. Recognition Program	168.26	419.04	-250.78	40.15%
9314 · Conference Center	173.29	626.04	-452.75	27.68%
9315 · Pgm Devlpmt & Implmentn	4,851.79	5,402.99	-551.20	89.8%
987900 · Cash Trsfr Out- Appr Act Pt. 3	4,807.22	1,530.36	3,276.86	314.12%
Total 9001 · Allocated Expenditures	492,405.84	498,872.49	-6,466.65	98.7%
Total Direct and Allocated Expenditures	628,668.17	658,899.84	-30,231.67	95.41%
Net Cash Surplus\Shortfall	-90,888.17	-116,729.84	25,841.67	77.86%

Virginia Department of Health Professions
Cash Balance
As of August 31, 2012

	104- Funeral Directors and Emba
Board Cash Balance as of June 30, 2012	\$ (64,321)
YTD FY13 Revenue	12,010
Less: YTD FY13 Direct and In-Direct Expenditures	<u>117,987</u>
Cash Balance as of August 31, 2012	<u><u>(170,298)</u></u>

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2012 through August 31, 2012

	104- Funeral Directors and Emba			
	Jul '12 - Aug 12	Budget	\$ Over Budget	% of Budget
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	5,425.00	25,425.00	-20,000.00	21.34%
2406 · License & Renewal Fee	3,210.00	489,470.00	-486,260.00	0.66%
2407 · Dup. License Certificate Fee	0.00	240.00	-240.00	0.0%
2409 · Board Endorsement - Out	250.00	3,850.00	-3,600.00	6.49%
2421 · Monetary Penalty & Late Fees	490.00	3,270.00	-2,780.00	14.99%
2430 · Board Changes Fee	1,200.00	3,875.00	-2,675.00	30.97%
2432 · Misc. Fee (Bad Check Fee)	35.00	35.00	0.00	100.0%
Total 2400 · Fee Revenue	10,610.00	526,165.00	-515,555.00	2.02%
3000 · Sales of Prop. & Commodities				
3020 · Misc. Sales-Dishonored Payments	400.00			
Total 3000 · Sales of Prop. & Commodities	400.00			
9000 · Other Revenue				
9060 · Miscellaneous Revenue	1,000.00	3,900.00	-2,900.00	25.64%
Total 9000 · Other Revenue	1,000.00	3,900.00	-2,900.00	25.64%
Total Revenue	12,010.00	530,065.00	-518,055.00	2.27%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	1,019.65	6,536.00	-5,516.35	15.6%
1112 · Fed Old-Age Ins- Sal St Emp	864.31	5,880.00	-5,015.69	14.7%
1113 · Fed Old-Age Ins- Wage Earners	0.00	0.00	0.00	0.0%
1114 · Group Insurance	142.43	888.00	-745.57	16.04%
1115 · Medical/Hospitalization Ins.	3,013.90	22,971.00	-19,957.10	13.12%
1116 · Retiree Medical/Hospitalizatn	123.80	747.00	-623.20	16.57%
1117 · Long term Disability Ins	64.23	351.00	-286.77	18.3%
Total 1110 · Employee Benefits	5,228.32	37,373.00	-32,144.68	13.99%
1120 · Salaries				
1123 · Salaries, Classified	12,413.60	74,606.00	-62,192.40	16.64%
1125 · Salaries, Overtime	0.00	0.00	0.00	0.0%
Total 1120 · Salaries	12,413.60	74,606.00	-62,192.40	16.64%
1130 · Special Payments				
1131 · Bonuses and Incentives	0.00	2,239.00	-2,239.00	0.0%
1138 · Deferred Compnstn Match Pmts	87.00	816.00	-729.00	10.66%
Total 1130 · Special Payments	87.00	3,055.00	-2,968.00	2.85%
1140 · Wages				
1141 · Wages, General	0.00	0.00	0.00	0.0%
Total 1140 · Wages	0.00	0.00	0.00	0.0%
1160 · Terminatn Personal Svce Costs				
1165 · Employee Retirement Contributio	0.00	0.00	0.00	0.0%

**Virginia Dept. of Health Professions
Revenue and Expenditures Summary**

July 1, 2012 through August 31, 2012

	104- Funeral Directors and Emba			
	Jul '12 - Aug 12	Budget	\$ Over Budget	% of Budget
Total 1160 · Terminatn Personal Svce Costs	0.00	0.00	0.00	0.0%
Total 1100 · Personal Services	17,728.92	115,034.00	-97,305.08	15.41%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	0.00	200.00	-200.00	0.0%
1214 · Postal Services	757.81	3,500.00	-2,742.19	21.65%
1215 · Printing Services	0.00	1,500.00	-1,500.00	0.0%
1216 · Telecommunications Svcs (DIT)	50.14	600.00	-549.86	8.36%
Total 1210 · Communication Services	807.95	5,800.00	-4,992.05	13.93%
1220 · Employee Development Services				
1221 · Organization Memberships	0.00	1,200.00	-1,200.00	0.0%
1222 · Publication Subscriptions	0.00	600.00	-600.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	0.00	1,000.00	-1,000.00	0.0%
1225 · Employee Tuition Reimbursement	0.00	1,000.00	-1,000.00	0.0%
1227 · Emp Trning- Trns, Ldgng & Meals	0.00	800.00	-800.00	0.0%
Total 1220 · Employee Development Services	0.00	4,600.00	-4,600.00	0.0%
1240 · Mgmnt and Informational Svcs				
1242 · Fiscal Services	10.96	9,520.00	-9,509.04	0.12%
1244 · Management Services	0.85	120.00	-119.15	0.71%
1246 · Public Infrmtnl & Relation Svcs	8.02			
1247 · Legal Services	370.00	150.00	220.00	246.67%
Total 1240 · Mgmnt and Informational Svcs	389.83	9,790.00	-9,400.17	3.98%
1250 · Repair and Maintenance Svcs				
1253 · Equip Repair & Maintenance	0.00	40.00	-40.00	0.0%
Total 1250 · Repair and Maintenance Svcs	0.00	40.00	-40.00	0.0%
1260 · Support Services				
1263 · Clerical Services	0.00	5,500.00	-5,500.00	0.0%
1264 · Food & Dietary Services	441.72	2,100.00	-1,658.28	21.03%
1266 · Manual Labor Services	104.85	1,200.00	-1,095.15	8.74%
1267 · Production Services	533.43	1,120.00	-586.57	47.63%
1268 · Skilled Services	0.00	3,910.00	-3,910.00	0.0%
Total 1260 · Support Services	1,080.00	13,830.00	-12,750.00	7.81%
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	1,104.45	5,100.00	-3,995.55	21.66%
1283 · Travel, Public Carriers	0.00	700.00	-700.00	0.0%
1285 · Travel, Subsistence & Lodging	656.53	1,600.00	-943.47	41.03%
1288 · Trvl, Meal Reimb- Not Rprtble	220.00	750.00	-530.00	29.33%
Total 1280 · Transportation Services	1,980.98	8,150.00	-6,169.02	24.31%
Total 1200 · Contractual Services	4,258.76	42,210.00	-37,951.24	10.09%
1300 · Supplies And Materials				
1310 · Administrative Supplies				

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
 July 1, 2012 through August 31, 2012

	104- Funeral Directors and Emba			
	Jul '12 - Aug 12	Budget	\$ Over Budget	% of Budget
1311 · Apparel Supplies	6.03			
1312 · Office Supplies	34.61	1,500.00	-1,465.39	2.31%
1313 · Stationery and Forms	0.00	675.00	-675.00	0.0%
Total 1310 · Administrative Supplies	40.64	2,175.00	-2,134.36	1.87%
1330 · Manufctrng and Merch Supplies				
1335 · Packaging and Shipping Suppl	0.00	85.00	-85.00	0.0%
Total 1330 · Manufctrng and Merch Supplies	0.00	85.00	-85.00	0.0%
1360 · Residential Supplies				
1362 · Food and Dietary Supplies	0.00	30.00	-30.00	0.0%
1363 · Food Service Supplies	0.00	90.00	-90.00	0.0%
Total 1360 · Residential Supplies	0.00	120.00	-120.00	0.0%
1370 · Specific Use Supplies				
1373 · Computer Operating Supplies	0.00	15.00	-15.00	0.0%
Total 1370 · Specific Use Supplies	0.00	15.00	-15.00	0.0%
Total 1300 · Supplies And Materials	40.64	2,395.00	-2,354.36	1.7%
1500 · Continuous Charges				
1510 · Insurance-Fixed Assets				
1516 · Property Insurance	35.74	0.00	35.74	100.0%
Total 1510 · Insurance-Fixed Assets	35.74	0.00	35.74	100.0%
1530 · Operating Lease Payments				
1535 · Building Rentals	2.43	7,568.00	-7,565.57	0.03%
1539 · Building Rentals - Non State	768.55	0.00	768.55	100.0%
Total 1530 · Operating Lease Payments	770.98	7,568.00	-6,797.02	10.19%
1550 · Insurance-Operations				
1551 · General Liability Insurance	128.27	0.00	128.27	100.0%
1554 · Surety Bonds	7.57	0.00	7.57	100.0%
Total 1550 · Insurance-Operations	135.84	0.00	135.84	100.0%
Total 1500 · Continuous Charges	942.56	7,568.00	-6,625.44	12.46%
2200 · Equipment Expenditures				
2220 · Educational & Cultural Equip				
2224 · Reference Equipment	0.00	0.00	0.00	0.0%
Total 2220 · Educational & Cultural Equip	0.00	0.00	0.00	0.0%
2260 · Office Equipment				
2261 · Office Appurtenances	0.00	132.00	-132.00	0.0%
2262 · Office Furniture	0.00	0.00	0.00	0.0%
Total 2260 · Office Equipment	0.00	132.00	-132.00	0.0%
Total 2200 · Equipment Expenditures	0.00	132.00	-132.00	0.0%
Total Direct Expenditures	22,970.88	167,339.00	-144,368.12	13.73%

**Virginia Dept. of Health Professions
Revenue and Expenditures Summary**

July 1, 2012 through August 31, 2012

	104- Funeral Directors and Emba			
	<u>Jul '12 - Aug 12</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
9001 · Allocated Expenditures				
9206 · Funeral\LTCA\PT	17,405.60	91,801.18	-74,395.58	18.96%
9301 · DP Operations & Equipment	14,740.73	134,022.00	-119,281.27	11.0%
9302 · Human Resources	2,516.96	12,906.72	-10,389.76	19.5%
9303 · Finance	3,631.34	22,531.80	-18,900.46	16.12%
9304 · Director's Office	2,112.65	13,005.84	-10,893.19	16.24%
9305 · Enforcement	32,178.56	131,535.48	-99,356.92	24.46%
9306 · Administrative Proceedings	10,220.05	22,816.44	-12,596.39	44.79%
9307 · Impaired Practitioners	0.00	38.16	-38.16	0.0%
9308 · Attorney General	9,994.73	40,622.16	-30,627.43	24.6%
9309 · Board of Health Professions	1,293.96	9,246.36	-7,952.40	13.99%
9311 · Moving Costs	0.00	442.20	-442.20	0.0%
9313 · Emp. Recognition Program	1.44	374.88	-373.44	0.38%
9314 · Conference Center	29.48	286.44	-256.96	10.29%
9315 · Pgm Devlpmnt & Impimentn	890.92	5,167.20	-4,276.28	17.24%
987900 · Cash Trsfr Out- Appr Act Pt. 3	0.00	1,580.16	-1,580.16	0.0%
Total 9001 · Allocated Expenditures	<u>95,016.42</u>	<u>486,377.02</u>	<u>-391,360.60</u>	<u>19.54%</u>
Total Direct and Allocated Expenditures	<u>117,987.30</u>	<u>653,716.02</u>	<u>-535,728.72</u>	<u>18.05%</u>
Net Cash Surplus\Shortfall	<u><u>-105,977.30</u></u>	<u><u>-123,651.02</u></u>	<u><u>17,673.72</u></u>	<u><u>85.71%</u></u>

Disciplinary Case Report for Funeral Directors

October 16, 2012

Investigations	25
Probable Cause	10
APD	3
Informal Stage	3
Formal Stage	0
Total	41

FDE Orders currently being Monitored by Compliance Manager 22

Data as of 09/24/2012

License Count Report for Funeral Directors

October 16, 2012

Branch Establishment	60
Continuing Education Provider	25
Courtesy Card	68
Crematories	95
Funeral Establishments	446
Funeral Service Interns	163
Embalmer	5
Funeral Service Director	65
Funeral Service Providers	1,487
Funeral Service Supervisors	333
Surface Transportation & Removal Services	50
Total	2,797

**Board of Funeral Directors & Embalmers
2013 Board Meeting Dates**

January 15th	Board Room #2	10:00 a.m.
April 23rd	Board Room #2	10:00 a.m.
July 23rd	Board Room #2	10:00 a.m.
October 22nd	Board Room #2	10:00 a.m.

2013 Funeral Conferences/Meetings:

March 19th – IFHV One Day Conference – Richmond, VA

June 30-July 3rd – VMA Conference – Hilton Hotel, Short Pump, VA

July 7-10th – VFDA Conference – possibly Virginia Beach

July 18-21st – IFHV Conference – Greenbrier Resort

Minutes of Meeting
Department of Health Professions
3rd Floor Meeting Room
August 14, 2012
10:00 a.m.

Present:

Lisa R. Hahn, Executive Director, Board of Funeral Directors & Embalmers
Blair Nelsen, President, Board of Funeral Directors & Embalmers
Dr. Reynolds-Cane, Agency Director
Dr. William Harp, Director, Board of Medicine
Dr. Leah Bush, Chief Medical Examiner
Missy Currier, Board Operations Manager

Death Certificate Issues:

- Dr. Bush brought the following issue to the Department of Health Professions and the Board's attention. The case was one in which the decedent passed on 6/20/2012 but the funeral director did not approach the local Health Director for assistance getting the death certificate signed until 7/19/2012, several weeks after the body was buried. The decedent became a medical examiner case because the doctor had not interacted with the patient in 3 years nor prescribed medicine in well over a year but the Office of the Chief Medical Examiner had no body to examine as part of our investigation because it was buried for weeks before the case was reported. Dr. Bush sent an email to some of the funeral associations expressing that she intends to report funeral directors who do not follow the law.
- The funeral directors reacted to the email sent by Dr. Bush which precipitated the meeting. The meeting attendees agreed that case referenced above is an egregious error and should be reported to the board but they explained that the real and underlying issue is that doctors are still not signing the death certificate in a timely manner. The law mandates that the doctors will sign within 24 hours of death and the death certificate shall be filed with the registrar within three days after such death and prior to final disposition or removal of the body from the Commonwealth.

Possible Resolutions:

- 1) **Dr. Leah Bush** – Pursue with VDH to consider allowing an electronic copy of a signed death certificate as meeting their requirements, provided the original signed DC is submitted within a 10 day time frame following the electronic version. (Similar to when the out of state transit permits can be issued without the completion of the medical certification 12VAC5-550-390)

- 2) **Dr. Leah Bush** - Contact Virginia Department of Health (VDH) to determine if they would consider offering a uniform death certificate template that is in a pdf format so that the funeral directors and medical examiners can easily use and electronically transmit the form.
- 3) **Dr. Leah Bush** will discuss with **VDH** that they have the authority to discipline doctors who do not sign death certificates in a timely manner pursuant to Section 32.1-263 to utilize either a civil penalty route or a criminal approach.
- 4) **Blair Nelsen** – discuss with physician advocates possible amendments to 54.1-2915 (unprofessional conduct) to hold doctors accountable for the timely signing of death certificates.
- 5) Monitor the changes once implemented and if no improvements are seen, pursue legislative change to expand the required time for signing a death certificate from 24 hours to at least 48 hours.
- 6) **Lisa Hahn** - DHP should send a letter to LTCA's and affiliated associations reminding medical directors of nursing facilities the importance and the law of signing death certificates in a timely manner.
- 7) **Dr. Reynolds-Cane** – discuss these issues with Dr. Karen Remley, State Health Commissioner.

Ms. Hahn thanked the attendees for their time and assistance. The meeting was adjourned at 11:25 a.m.

Tab3

**Report of Regulatory Actions
(as of October 1, 2012)**

Board of Funeral Directors and Embalmers

Chapter	Action / Stage Information
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u> Identification of human remains <u>Stage:</u> Emergency/NOIRA - Register <i>Effective Date: 10/8/12</i> <i>Expiration Date: 10/7/13</i> <i>Close of comment on NOIRA: 11/7/12</i>
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u> Fee increase <u>Stage:</u> RE- Proposed - At Secretary's Office for 67 days
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	<u>Action:</u>  Continuing education hours <u>Stage:</u> Final - Register Date: 8/27/12 <i>Effective Date: 9/26/12</i>
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]	<u>Action:</u> Termination of irrevocable trusts <u>Stage:</u> Fast-Track - Register Date: 10/8/12 <i>Effective Date: 11/23/12</i>

TAB 4

We discovered a funeral reg that is in conflict with FTC. FTC requires that on the GPL, under direct cremation, that the FH list a separate price for each direct cremation offered where an alternative container is provided. If you offer two alternative containers for direct cremation than there should be two separate prices listed. (Attached is the description in the funeral rule and an GPL example that shows this.) Appendix I of our regulations indicates that the funeral home only has to list "direct cremation with lowest priced alternative container" (see attached part of Appendix 1).

Last year, FTC did a sweep of inspections of FH in the Richmond area. Several FH were found deficient because they only listed one alternative container fee under direct cremation when they actually offered more.

Rev. _____

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Perimeter Center

9960 Mayland Drive, Suite 300 – Henrico, Virginia 23233-1463

E-Mail: FanBd@dhp.virginia.gov Website: www.dhp.virginia.gov Phone: 804-367-4479

APPENDIX I

GENERAL PRICE LIST

Note to Establishments: The following General Price List has been prepared as a guideline. All General Price Lists must contain at least the following content if you offer the goods and services for sale at your establishment. You may use any format arrangement you choose and may add to this information to fit your establishment's services.

This sample form has notes throughout that are for your information only and are not intended to be included on the form when you prepare the form for use at your establishment. The board has marked these notes with asterisks (*).

The statements in italics are required by the Federal Trade Commission and the Board. The FTC disclosure requirements must be placed under the appropriate category as indicated on this sample form.

APPENDIX I

Any Funeral Home

Main Street

Anytown, Virginia

Telephone Number

GENERAL PRICE LIST

These prices are effective as of

(Date)

(Prices are subject to change without prior notice)

I. General Information:

Required Disclosure: *"The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic services and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected."*

"Certain funeral services may be provided off-premises by other funeral service providers."

Optional Disclosure: "This list does not include prices for certain items that you may ask us to buy for you such as cemetery or crematory services, flowers, and newspaper notices. The prices for these items will be shown on your bill or the statement describing the funeral goods and services you selected."

II. Professional Services of Funeral Director and Staff

A. Basic Services of Funeral Director and Staff \$ _____

"This fee for our basic services and overhead will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)" OR Please note that a fee of \$ _____ for the use of our basic services and overhead is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket."

Our services include: (*Note: List what charge for basic services includes)

III. Funeral Home Facilities

A. Facilities and staff for visitation and viewing \$

Our charge includes:

B. Facilities and staff for funeral ceremony \$

Our charge includes:

C. Facilities and staff for memorial service \$

Our charge includes:

D. Equipment and staff for graveside service \$

Our charge includes:

(*Note: If you have additional charges such as facilities and staff for home/church viewing, of a charge for additional staff per person or through calculation of manhours, etc., add here as extra items. If you have a charge for interment, add here. Describe what charges include.)

IV. Embalming

"Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial."

A. Normal remains. \$

B. Autopsy remains. \$

(*Note: If the cost for embalming is the same for normal and autopsied remains, only one price may be listed)

V. Other Preparation of the Deceased

(*Note: List below each preparation service that you offer and the price. If you do not charge for other preparation, remove this section.)

A. \$

B. \$

C. \$

VI. Immediate Burial (*List price range) \$

(*Note: A price range must be given for this service. Your prices should range from your immediate burial package with container provided by purchaser to your immediate burial package plus your highest priced casket.)

OLD VERSION

Our charges include: (*Note: List under each category what the charge includes)

A. Immediate burial with container provided by purchaser \$ _____

B. Immediate burial with lowest priced alternative container \$ _____

(*Note: If an alternative container is not offered, this line item may be omitted; if an alternative container is offered, include a brief description.)

C. Immediate burial with highest priced casket \$ _____

VII. Direct Cremation (*List price range) \$ _____ to \$ _____

"State and local laws do not require a casket for direct cremation. If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are [specify containers]."

(*Note: A price range must be given for a direct cremation. Your prices should range from direct cremation with a container provided by the purchaser to the price for direct cremation plus the highest priced wooden casket acceptable for cremation or highest priced cremation casket. Describe the services included for each category listed below.)

A. Direct cremation with container provided by the purchaser \$ _____

 B. Direct cremation with lowest priced alternative container \$ _____
(*A price and description for alternative container should be provided)

C. Direct cremation with highest priced wooden casket acceptable for cremation or highest priced cremation casket \$ _____

VIII. Transfer of Remains to Funeral Establishment \$ _____

(*Note: This is added only when it is not included under professional services. You must explain what this charge includes if listed separately.)

IX. Forwarding Remains to Another Funeral Establishment \$ _____

Our charge includes:

X. Receiving Remains from Another Funeral Establishment \$ _____

Our charge includes:

XI. Automotive Equipment and Services

(*Note: Specify a range of miles for local service. If a fee is charged beyond local miles, please specify the fee per mile. The cost of any vehicle that you must rent should be included on the itemized statement as a cash advance item.)

A. Use of hearse \$ _____

new version

Our charges include: (*Note: List under each category what the charge includes)

A. Immediate burial with container provided by purchaser \$

B. Immediate burial with lowest priced alternative container \$

(*Note: If an alternative container is not offered, this line item may be omitted; if an alternative container is offered, include a brief description.)

C. Immediate burial with highest priced casket \$

VII. Direct Cremation (*List price range) \$ _____ to \$

"State and local laws do not require a casket for direct cremation. If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are [specify containers]."

(*Note: A price range must be given for a direct cremation. Your prices should range from direct cremation with a container provided by the purchaser to the price for direct cremation plus the highest priced wooden casket acceptable for cremation or highest priced cremation casket. Describe the services included for each category listed below.)

A. Direct cremation with container provided by the purchaser. \$

ADD → B. Direct cremation with (list each alternative container specified in the above disclosure) \$ _____

C. Direct cremation with highest priced wooden casket acceptable for cremation or highest priced cremation casket \$ _____

VIII. Transfer of Remains to Funeral Establishment \$

(*Note: This is added only when it is not included under professional services. You must explain what this charge includes if listed separately.)

IX. Forwarding Remains to Another Funeral Establishment \$

Our charge includes:

X. Receiving Remains from Another Funeral Establishment

Our charge includes: \$

XI. Automotive Equipment and Services

(*Note: Specify a range of miles for local service. If a fee is charged beyond local miles, please specify the fee per mile. The cost of any vehicle that you must rent should be included on the itemized statement as a cash advance item.)

A. Use of hearse \$

- B. Use of limousine \$
- C. Other automotive equipment and services \$

(*Note: You should provide a description and price for each automotive equipment and service listed.)

XII. Funeral Merchandise

- A. Caskets \$ _____ to \$
"A complete price list will be provided at the funeral establishment."

- B. Outer Burial Container \$ _____ to \$
"A complete price list will be provided at the funeral establishment."
"In most areas of the country, state or local law does not require you to buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements."

- C. Other funeral merchandise
(*Note: List all other merchandise that you offer including acknowledgment cards, register book, memorial folders, etc. and include the price.)



Part 453 — Funeral Industry Practices Revised Rule

Section:

453.1 Definitions.

453.2 Price disclosures.

453.3 Misrepresentations.

453.4 Required purchase of funeral goods or funeral services.

453.5 Services provided without prior approval.

453.6 Retention of documents.

453.7 Comprehension of disclosures.

453.8 Declaration of intent.

453.9 State exemptions.

Authority: 15 U.S.C. 57a(a); 15 U.S.C. 46(g); 5 U.S.C. 552.

§ 453.1 Definitions

(a) **Alternative container** An "alternative container" is an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed-wood, composition materials (with or without an outside covering) or like materials.

(b) **Cash advance item** A "cash advance item" is any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(c) **Casket** A "casket" is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

(d) **Commission** "Commission" refers to the Federal Trade Commission.

(e) **Cremation** "Cremation" is a heating process which incinerates human remains.

(f) **Crematory** A "crematory" is any person, partnership or corporation that performs cremation and sells funeral goods.

(g) **Direct cremation** A "direct cremation" is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(h) **Funeral goods** "Funeral goods" are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(i) **Funeral provider** A "funeral provider" is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(j) **Funeral services** "Funeral services" are any services which may be used to: (1) care for and prepare deceased human bodies for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(k) **Immediate burial** An "immediate burial" is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(l) **Memorial service** A "memorial service" is a ceremony commemorating the deceased without the body present.

(m) **Funeral ceremony** A "funeral ceremony" is a service commemorating the deceased with the body present.

(n) **Outer burial container** An "outer burial container" is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(o) **Person** A "person" is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(p) **Services of funeral director and staff** The "services of funeral director and staff" are the basic services, not to be included in prices of other categories in § 453.2(b)(4), that are furnished by a funeral provider in arranging

any funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits, and placing obituary notices.

§ 453.2 Price Disclosures

(a) Unfair or Deceptive Acts or Practices

In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(b) Preventive Requirements

To prevent these unfair or deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(b)(1), funeral providers must:

(1) Telephone Price Disclosure

Tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists described in paragraphs (b)(2) through (4) of this section and any other readily available information that reasonably answers the question.

(2) Casket Price List

(i) Give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider must offer the list upon beginning discussion of, but in any event before showing caskets. The list must contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list. In lieu of a written list, other formats, such as notebooks, brochures, or charts



may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as a "casket price list."

(3) Outer Burial Container Price List

(i) Give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider must offer the list upon beginning discussion of, but in any event before showing the containers. The list must contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the prices listed. In lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

(4) General Price List

(i)(A) Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

(1) the prices of funeral goods or funeral services;

(2) the overall type of funeral service or disposition; or

(3) specific funeral goods or funeral services offered by the funeral provider.

(B) The requirement in paragraph (b)(4)(i)(A) of this section applies whether the discussion takes place in the funeral home or elsewhere. Provided, however, that when the deceased is removed for transportation to the funeral home, an in-person request at that time for authorization to embalm, required by § 453.5(a)(2), does not, by itself, trigger the requirement to offer the general price list if the provider in seeking prior embalming approval discloses that embalming is not required by law except in certain special cases, if any. Any other discussion during that time about prices or the selection of funeral goods or services triggers the requirement under paragraph (b)(4)(i)(A) of this section to give consumers a general price list.

(C) The list required by paragraph (b)(4)(i)(A) of this section must contain at least the following information:

(1) The name, address, and telephone number of the funeral provider's place of business;

(2) A caption describing the list as a "general price list"; and

(3) The effective date for the price list;

(ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

(A) Forwarding of remains to another funeral home, together with a list of the services provided for any quoted price;

(B) Receiving remains from another funeral home, together with a list of the services provided for any quoted price;

(C) The price range for the direct cremations offered by the funeral provider, together with:

(1) a separate price for a direct cremation where the purchaser provides the container;

(2) separate prices for each direct cremation offered including an alternative container; and

(3) a description of the services and container (where applicable), included in each price;

(D) The price range for the immediate burials offered by the funeral provider, together with:

(1) a separate price for an immediate burial where the purchaser provides the casket;

(2) separate prices for each immediate burial offered including a casket or alternative container; and

(3) a description of the services and container (where applicable) included in that price;

(E) Transfer of remains to funeral home;

(F) Embalming;

(G) Other preparation of the body;

(H) Use of facilities and staff for viewing;

(I) Use of facilities and staff for funeral ceremony;

(J) Use of facilities and staff for memorial service;

(K) Use of equipment and staff for graveside service;

(L) Hearse; and

(M) Limousine.

(iii) Include on the price list, in any order, the following information:

(A) Either of the following:

(1) The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual caskets, disclosed in the manner specified by paragraph (b)(2)(i) of this section; and

(B) Either of the following:

(1) The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual outer burial containers, disclosed in the manner specified by paragraph (b)(3)(i) of this section; and

(C) Either of the following:

(1) The price for the basic services of funeral director and staff, together with a list of the principal basic services



13. Hearse;
14. Limousine;
15. Either individual casket prices or the range of casket prices that appear on the Casket Price List; and
16. Either individual outer burial container prices or the range of outer burial container prices that appear on the Outer Burial Container Price List.

You can list these items in any order you want. You only have to list the items that you actually offer. If you do not offer one or more of the 16 items, you need not list those items on the General Price List. In addition to these 16 items, you also may list other items that you offer, such as acknowledgement cards and cremation urns. You also may provide prices for package funerals on your GPL. However, you must offer any package funerals *in addition to and not in place of* the required itemized prices.⁶⁹

The itemized prices on your General Price List, as well as your Casket Price List and Outer Burial Container Price List, should be accurate and up-to-date. These prices should reflect the prices that you actually charge your customers.

Of course, you can offer a discount when there are special circumstances, such as arrangements for a friend or relative or a family that otherwise could not afford your services. The Rule does not prevent you from doing this. However, you should not inflate the prices on any of your price lists in order to offer all or most of your customers a discount. In that case, the "discounted" prices would be the *accurate* prices and should be reflected on the price lists.

Items 1-4: Minimal Services

Four items that the Rule requires you to list are: (1) forwarding of remains; (2) receiving remains; (3) direct cremation; and (4) immediate burial. Unlike the rest of the goods and services that you must list on the GPL, the prices for

these four items *must include* any fee that you will charge consumers for the basic professional services of the funeral director and staff.

Example: Ms. James wants to arrange an immediate burial for her father. In addition, she chooses acknowledgement cards, use of a limousine, and a graveside service. You should charge her the fee for an immediate burial plus the fees for the other items that she wants. But, you should not charge her an additional non-declinable basic services fee. A charge for your basic services is already included in the price for the immediate burial. The required disclosure about the basic services fee (see pages 10-11) informs the consumer of this fact.

For *forwarding of remains* and *receiving remains*, the GPL should list one price for each of these items and describe all services you will provide for the quoted price. The prices for these items should include all charges relating to each service, including any basic services fee and any facilities or equipment fees.

For *direct cremations*, your GPL must state a price range, along with the required disclosure about the availability of an alternative container (see page 7), then list each of the following options within the range:

- one price where the consumer provides the casket or container; and
- ★ ● a separate price for each direct cremation offered where you provide an alternative container. The Rule requires you to offer an alternative container for use in direct cremations if you provide direct cremations. (See pages 21-22.)

You also must describe in the GPL the services and container provided for each price. If you wish, you also may list other options, such as direct cremation with a memorial service or direct cremation with scattering of ashes.



Sample 1

ABC FUNERAL HOME
100 Main Street
Yourtown, USA 12345
(123) 456-7890

GENERAL PRICE LIST

These prices are effective as of [date].

The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic services and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

Basic Services of Funeral Director and Staff and Overhead\$_____

Our services include: conducting the arrangements conference; planning the funeral; consulting with family and clergy; shelter of remains; preparing and filing of necessary notices; obtaining necessary authorizations and permits; coordinating with the cemetery, crematory, or other third parties. In addition, this fee includes a proportionate share of our basic overhead costs.

This fee for our basic services and overhead will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)

Embalming\$_____

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.

Other Preparation of the Body\$_____
[list individual services and prices]

Transfer of Remains to the Funeral Home (within ___ mile radius)\$_____
beyond this radius we charge ___ per mile

Use of Facilities and Staff For Viewing\$_____

Use of Facilities and Staff For Funeral Ceremony at the Funeral Home\$_____

Use of Facilities and Staff For Memorial Service at the Funeral Home\$_____

Use of Equipment and Staff For Graveside Service\$_____

Hearse\$_____

Limousine\$_____

Caskets\$_____ to \$_____

A complete price list will be provided at the funeral home.



Outer Burial Containers \$ _____ to \$ _____

A complete price list will be provided at the funeral home.

Forwarding of Remains to Another Funeral Home \$ _____

Our charge includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; embalming or other preparation of remains, if relevant; and local transportation.

Receiving Remains from Another Funeral Home \$ _____

Our charge includes: basic services of funeral director and staff; a proportionate share of overhead costs; care of remains; transportation of remains to funeral home and to cemetery or crematory.

Direct Cremation \$ _____ to \$ _____

Our charge for a direct cremation (without ceremony) includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; transportation to crematory; necessary authorizations; and cremation if relevant.

If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are a fiberboard container or an unfinished wood box.

- A. Direct cremation with container provided by the purchaser \$ _____
- B. Direct cremation with a fiberboard container \$ _____
- C. Direct cremation with an unfinished wood box \$ _____

Immediate Burial \$ _____ to \$ _____

Our charge for an immediate burial (without ceremony) includes: basic services of funeral director and staff; a proportionate share of overhead costs; removal of remains; and local transportation to cemetery.

- A. Immediate burial with casket provided by purchaser \$ _____
- B. Immediate burial with alternative container [if offered] \$ _____
- C. Immediate burial with cloth covered wood casket \$ _____

Tab 5



STATE OF MARYLAND

APR 23 2012

DHP

Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

Board of Morticians and Funeral Directors

FDE

APR 23 2012

April 11, 2012

James J. Doyle, Esquire
212 Duke of Gloucester Street
Annapolis, Maryland 21401

Dear Mr. Doyle:

The Board of Morticians and Funeral Directors has reviewed both your memorandum of March 8, 2012, regarding the use of Courtesy Cards by Maryland licensed morticians and funeral directors as well as the ensuing public discussion of March 14, 2012, which encompassed that matter as well as the propriety of out-of-state Maryland licensed morticians and funeral directors making funeral arrangements in this State with no attachment to a Maryland licensed funeral establishment either by way of ownership of a full service or restricted establishment, or as an employee.

In light of the concerns that you and others have raised, the Board has decided not to require out-of-state Maryland licensed morticians or funeral directors to obtain courtesy cards. Instead, the Board will simply require all Maryland licensed morticians and funeral directors who are based outside of Maryland to declare their out of state funeral home affiliation at the time of initial Maryland licensure and again at time of renewal. This will ensure that the Board will be able to track the location of human remains that have been transported out of Maryland. The Board will rely on the licensees to self report any changes in out of state affiliation between renewal periods. For the short term, the Board will be corresponding with these licensees asking for the name of the out of state funeral establishment they wish their Maryland license to be attached with. This information will be shared with the Division of Vital Records so that agency will be able to verify that the funeral facility provided by the licensee on line 22 of the death certificate corresponds to facilities on the list. The Board currently provides the Division of Vital Records with a similar list of Maryland Courtesy Card holders and their affiliation as well as lists of all Maryland licensed establishments, licensed morticians and funeral directors.

Recognizing the need to regulate the storage and transportation of human remains, the Maryland General Assembly recently voted to pass the Handling Human Remains

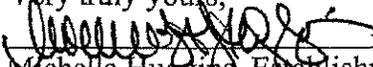
410-764-4792 • Fax 410-358-6571

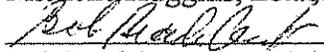
Toll Free 1-877-4MD-DHMH • TTY for Disabled – Maryland Relay Service 1-800-735-2258

Web Site: www.dhmm.state.md.us/bom

Please be aware that the opinions of the Board do not constitute a formal legal opinion.

Very truly yours,


Michelle Huggins, Establishment Chair


Bob Bradshaw, Complaint Chair


Lynn Newman, Pre-need Chair

cc: Hon. George C. Edwards
Desiree Kroeger, Division of Vital Records
Funeral Directors and Morticians Association of Maryland
Delmarva Funeral Service Association
Maryland State Funeral Directors Association
David A. Balto, Esquire
District of Columbia Board
Kia Winston, Esquire
Staci Mason
Kevin Cyrus
Virginia Board
Pennsylvania Board
Delaware Board
West Virginia Board

FDE

APR 23 2012

SENATE BILL 895

J2

(2hr0682)

ENROLLED BILL

— Education, Health, and Environmental Affairs/Health and
Government Operations —

Introduced by **Senator Conway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland State Board of Morticians and Funeral Directors - Permits and**
3 **Registration Required to Remove and Transport Human Remains**

4 FOR the purpose of requiring a mortuary transport service to hold a permit issued by
5 the Maryland State Board of Morticians and Funeral Directors before removing
6 or transporting human remains in this State: ~~authorizing the Board to restrict~~
7 ~~the operations of certain permit holders;~~ establishing certain application
8 requirements for obtaining a permit; requiring a mortuary transport service to
9 meet certain standards to qualify for a permit; requiring permit holders to use
10 vehicles that have passed an inspection by certain inspectors; requiring certain
11 permit holders to employ only certain registered transporters for certain
12 purposes; establishing the term and procedures for the renewal of a permit;
13 requiring that certain signs and advertisements display the name that appears
14 on a permit; requiring that individuals employed by certain permit holders be

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 registered with the Board before removing and transporting human remains;
 2 establishing certain requirements for obtaining registration; requiring the
 3 Board to register an individual who meets certain standards; requiring that
 4 registered transporters treat certain decedents with certain dignity and display
 5 a certain permit; authorizing the Board to deny a permit or registration to an
 6 applicant, reprimand a permit holder or registered transporter, or suspend or
 7 revoke a permit or registration under certain circumstances; providing for
 8 certain criminal and civil penalties; requiring the Board to adopt certain
 9 regulations; defining certain terms; and generally relating to the Maryland
 10 State Board of Morticians and Funeral Directors and requiring permits and
 11 registration for removing and transporting human remains.

12 BY renumbering

13 Article – Health Occupations

14 Section 7–601 and 7–602, respectively, and the subtitle “Subtitle 6. Short Title;
 15 Termination of Title”

16 to be Section 7–701 and 7–702, respectively, and the subtitle “Subtitle 7. Short
 17 Title; Termination of Title”

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Health Occupations

22 Section 7–101(a), (d), (k), (l), and (p)

23 Annotated Code of Maryland

24 (2009 Replacement Volume and 2011 Supplement)

25 BY adding to

26 Article – Health Occupations

27 Section 7–601 through ~~7–606~~ 7–607 to be under the new subtitle “Subtitle 6.
 28 Mortuary Transport Services”

29 Annotated Code of Maryland

30 (2009 Replacement Volume and 2011 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 32 MARYLAND, That Section(s) 7–601 and 7–602, respectively, and the subtitle “Subtitle
 33 6. Short Title; Termination of Title” of Article – Health Occupations of the Annotated
 34 Code of Maryland be renumbered to be Section(s) 7–701 and 7–702, respectively, and
 35 the subtitle “Subtitle 7. Short Title; Termination of Title”.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 37 read as follows:

38 **Article – Health Occupations**

39 7–101.

1 (a) In this title the following words have the meanings indicated.

2 (d) "Board" means the Maryland State Board of Morticians and Funeral
3 Directors.

4 (k) "Funeral establishment" means any building, structure, or premises from
5 which the business of practicing mortuary science is conducted.

6 (l) (1) "Human remains" means:

7 (i) The body of a deceased person; or

8 (ii) A part of a body or limb that has been removed from a living
9 person.

10 (2) "Human remains" includes the body or part of a body or limb in
11 any state of decomposition.

12 (p) "Licensed funeral establishment" means, unless the context requires
13 otherwise, a funeral establishment that is licensed by the Board.

14 **SUBTITLE 6. MORTUARY TRANSPORT SERVICES.**

15 **7-601.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) (1) "MORTUARY TRANSPORT SERVICE" MEANS AN INDIVIDUAL
19 OR A BUSINESS ENTITY THAT, FOR COMPENSATION, REMOVES AND TRANSPORTS
20 HUMAN REMAINS OR EMPLOYS A TRANSPORTER TO REMOVE OR TRANSPORT
21 HUMAN REMAINS.

22 (2) "MORTUARY TRANSPORT SERVICE" DOES NOT INCLUDE A:

23 (I) A LICENSED FUNERAL ESTABLISHMENT OR AN
24 EMPLOYEE OF A LICENSED FUNERAL ESTABLISHMENT THAT REMOVES AND
25 TRANSPORTS HUMAN REMAINS; OR

26 (II) A CEMETERY OR AN EMPLOYEE OF A CEMETERY THAT
27 REMOVES OR TRANSPORTS HUMAN REMAINS WITHIN THE BOUNDARIES OF THE
28 CEMETERY.

29 (C) "PERMIT" MEANS A PERMIT ISSUED BY THE BOARD TO THE OWNER
30 OF A MORTUARY TRANSPORT SERVICE TO OPERATE IN THE STATE.

1 (D) "PERMIT HOLDER" MEANS A MORTUARY TRANSPORT SERVICE THAT
2 HOLDS A PERMIT ISSUED BY THE BOARD.

3 (E) "REGISTERED TRANSPORTER" MEANS AN INDIVIDUAL EMPLOYEE
4 OF A MORTUARY TRANSPORT SERVICE WHO HAS REGISTERED WITH THE BOARD
5 TO REMOVE AND TRANSPORT HUMAN REMAINS.

6 (F) "REMOVE AND TRANSPORT HUMAN REMAINS" MEANS TO REMOVE
7 HUMAN REMAINS FROM ONE LOCATION AND TRANSPORT THE HUMAN REMAINS
8 TO ANOTHER LOCATION.

9 (G) "TRANSPORTER" MEANS AN INDIVIDUAL WHO REMOVES AND
10 TRANSPORTS HUMAN REMAINS.

11 7-602.

12 (A) ~~(1)~~ A MORTUARY TRANSPORT SERVICE SHALL BE ISSUED A
13 PERMIT BY THE BOARD BEFORE THE MORTUARY TRANSPORT SERVICE MAY
14 REMOVE AND TRANSPORT HUMAN REMAINS IN THIS STATE.

15 ~~(2) A PERMIT HOLDER MAY BE RESTRICTED TO OPERATIONS TO
16 REMOVE AND TRANSPORT HUMAN REMAINS AS DETERMINED BY THE BOARD.~~

17 (B) (1) TO APPLY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE
18 SHALL SUBMIT TO THE BOARD:

19 (I) AN APPLICATION ON THE FORM THAT THE BOARD
20 REQUIRES;

21 (II) AN APPLICATION FEE SET BY THE BOARD; AND

22 (III) EVIDENCE THAT THE MORTUARY TRANSPORT SERVICE
23 ~~HOLDS A BOND AT THE TIME OF APPLICATION OR HAS THE ABILITY TO SECURE A~~
24 BOND IS BONDED AND CARRIES LIABILITY INSURANCE THAT COVERS EACH
25 REGISTERED TRANSPORTER EMPLOYED BY THE MORTUARY TRANSPORT
26 SERVICE.

27 (2) AN APPLICATION FOR A PERMIT SHALL BE SIGNED BY AN
28 INDIVIDUAL WHO IS THE OWNER OR A CO-OWNER OF THE MORTUARY
29 TRANSPORT SERVICE TO BE ISSUED A PERMIT.

30 (C) TO QUALIFY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE
31 SHALL SATISFY THE BOARD THAT THE MORTUARY TRANSPORT SERVICE:

1 (1) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL
2 LAWS;

3 (2) WILL BE OWNED AND OPERATED IN ACCORDANCE WITH THIS
4 SUBTITLE; AND

5 (3) WHILE THE MORTUARY TRANSPORT SERVICE REMOVES AND
6 TRANSPORTS HUMAN REMAINS, WILL BE HELD RESPONSIBLE FOR THE
7 TREATMENT OF THE HUMAN REMAINS.

8 (D) (1) A PERMIT HOLDER SHALL USE VEHICLES THAT HAVE PASSED
9 AN INSPECTION BY AN INSPECTOR DESIGNATED BY THE BOARD WHILE THE
10 PERMIT HOLDER REMOVES AND TRANSPORTS HUMAN REMAINS.

11 (2) A PERMIT HOLDER SHALL EMPLOY ONLY REGISTERED
12 TRANSPORTERS TO REMOVE AND TRANSPORT HUMAN REMAINS.

13 (E) (1) (i) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL EXPIRE
14 ON THE DATE SET BY THE BOARD.

15 (ii) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER
16 THAN 2 YEARS.

17 (2) A PERMIT HOLDER MAY RENEW A PERMIT FOR ADDITIONAL
18 TERMS, IF THE PERMIT HOLDER:

19 (i) SUBMITS TO THE BOARD:

20 1. AN APPLICATION ON THE FORM THAT THE BOARD
21 REQUIRES; AND

22 2. AN APPLICATION FEE SET BY THE BOARD; AND

23 (ii) COMPLIES WITH ANY OTHER RENEWAL REQUIREMENTS
24 ESTABLISHED BY THE BOARD.

25 (F) SIGNS AND ADVERTISEMENTS FOR A MORTUARY TRANSPORT
26 SERVICE SHALL DISPLAY THE NAME OF THE MORTUARY TRANSPORT SERVICE AS
27 IT APPEARS ON THE PERMIT.

28 7-603.

1 (A) AN INDIVIDUAL EMPLOYED BY A PERMIT HOLDER SHALL BE
 2 REGISTERED WITH THE BOARD AS A TRANSPORTER BEFORE THE INDIVIDUAL
 3 MAY REMOVE AND TRANSPORT HUMAN REMAINS.

4 (B) TO REGISTER AS A TRANSPORTER, AN INDIVIDUAL SHALL SUBMIT
 5 TO THE BOARD:

6 (1) A SIGNED APPLICATION ON THE FORM THAT THE BOARD
 7 REQUIRES; ~~AND~~

8 ~~(2) A REGISTRATION FEE SET BY THE BOARD;~~

9 ~~(2) A CRIMINAL HISTORY RECORDS CHECK; AND~~

10 ~~(3) ~~(2)~~ (3) EVIDENCE OF THE COMPLETION OF COURSEWORK~~
 11 ~~RECOMMENDED BY THE BOARD; AND~~

12 ~~(4) EVIDENCE THAT THE INDIVIDUAL IS BONDED AND CARRIES~~
 13 ~~LIABILITY INSURANCE.~~

14 (C) THE BOARD SHALL REGISTER AN INDIVIDUAL WHO:

15 (1) HOLDS A VALID ~~MARYLAND~~ DRIVER'S LICENSE; AND

16 (2) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL
 17 LAWS.

18 (D) WHILE A REGISTERED TRANSPORTER REMOVES AND TRANSPORTS
 19 HUMAN REMAINS OR OTHERWISE ACTS IN THE CAPACITY OF A REGISTERED
 20 TRANSPORTER, THE REGISTERED TRANSPORTER SHALL:

21 (1) TREAT EVERY DECEDENT WITH THE UTMOST DIGNITY; AND

22 (2) PROMINENTLY DISPLAY ON THEIR PERSON THE PERMIT FOR
 23 THE MORTUARY TRANSPORT SERVICE FOR WHICH THE TRANSPORTER IS
 24 EMPLOYED.

25 7-604.

26 SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS TITLE, THE
 27 BOARD MAY DENY A PERMIT OR REGISTRATION TO ANY APPLICANT,
 28 REPRIMAND ANY PERMIT HOLDER OR REGISTERED TRANSPORTER, PLACE ANY
 29 PERMIT HOLDER OR REGISTERED TRANSPORTER ON PROBATION, OR SUSPEND

1 OR REVOKE ANY PERMIT OR REGISTRATION IF THE APPLICANT, PERMIT
2 HOLDER, OR REGISTERED TRANSPORTER:

3 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
4 OBTAIN A PERMIT OR REGISTRATION FOR THE APPLICANT, PERMIT HOLDER,
5 REGISTERED TRANSPORTER, OR ANOTHER;

6 (2) FRAUDULENTLY OR DECEPTIVELY USES A PERMIT OR
7 REGISTRATION;

8 (3) COMMITS FRAUD OR MISREPRESENTATION WHILE THE
9 APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER REMOVES AND
10 TRANSPORTS HUMAN REMAINS;

11 (4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE
12 TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT
13 ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR
14 PLEA SET ASIDE;

15 (5) AIDS OR ABETS AN UNAUTHORIZED PERSON TO REMOVE AND
16 TRANSPORT HUMAN REMAINS;

17 (6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;

18 (7) SOLICITS TO REMOVE AND TRANSPORT HUMAN REMAINS,
19 EITHER PERSONALLY OR BY AN AGENT, FROM A DYING INDIVIDUAL OR THE
20 RELATIVES OF A DEAD OR DYING INDIVIDUAL, OTHER THAN THROUGH GENERAL
21 ADVERTISING;

22 (8) EMPLOYS, PAYS, OR OFFERS TO PAY A "CAPPER", "STEERER",
23 "SOLICITOR", OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN
24 GENERAL OR FOR A PERMIT HOLDER OR REGISTERED TRANSPORTER;

25 (9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO
26 OBTAIN BUSINESS TO REMOVE AND TRANSPORT HUMAN REMAINS;

27 (10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR
28 RECOMMENDING ANY CREMATORY, MAUSOLEUM, OR CEMETERY OR CAUSING
29 HUMAN REMAINS TO BE DISPOSED OF THERE;

30 (11) REFUSES TO SURRENDER CUSTODY OF HUMAN REMAINS ON
31 THE DEMAND OF A PERSON WHO IS ENTITLED TO THEIR CUSTODY;

1 (12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR
2 INTEREST IN A MORTUARY TRANSPORT SERVICE WITH A PROMISE OR OFFER TO
3 PERFORM SERVICES TO THE BUYER AT A COST LESS THAN THAT OFFERED TO
4 THE GENERAL PUBLIC;

5 (13) VIOLATES ANY STATE, MUNICIPAL, OR COUNTY LAW, RULE,
6 OR REGULATION ON THE HANDLING, CUSTODY, CARE, OR TRANSPORTATION OF
7 HUMAN REMAINS OR THE DISPOSAL OF INSTRUMENTS, MATERIALS, AND WASTES
8 RELEVANT TO PREPARATION OF HUMAN REMAINS FOR FINAL DISPOSITION;

9 (14) REMOVES AND TRANSPORTS HUMAN REMAINS UNDER A NAME
10 OTHER THAN THE NAME THAT APPEARS ON THE PERMIT OR REGISTRATION OF
11 THE PERMIT HOLDER OR REGISTERED TRANSPORTER;

12 (15) SIGNS AN APPLICATION FOR A PERMIT OR REGISTRATION IF
13 THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR
14 WHICH THE PERMIT OR REGISTRATION LATER WAS DENIED, SUSPENDED, OR
15 REVOKED;

16 (16) VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY
17 OTHER LAW RELATING TO REMOVING AND TRANSPORTING HUMAN REMAINS;

18 (17) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY
19 AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED
20 BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS
21 FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

22 (18) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD
23 FOR A MORTUARY TRANSPORT SERVICE;

24 (19) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS
25 REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR
26 RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR
27 RECORD THE REPORT;

28 (20) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

29 (21) PROVIDES PROFESSIONAL SERVICES WHILE;

30 (I) UNDER THE INFLUENCE OF ALCOHOL; OR

31 (II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS
32 SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR

1 OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT
2 VALID MEDICAL INDICATION;

3 (22) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE
4 BOARD;

5 (23) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY
6 INCOMPETENT;

7 (24) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT WHILE
8 REMOVING AND TRANSPORTING HUMAN REMAINS;

9 (25) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES
10 AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL
11 SERVICES FOR WHICH THE PERMIT HOLDER OR REGISTERED TRANSPORTER IS
12 QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

13 (26) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION
14 WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE
15 CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON
16 UNIVERSAL PRECAUTIONS;

17 ~~(27) TAKES HUMAN REMAINS OUT OF THE STATE TO A FUNERAL~~
18 ~~ESTABLISHMENT, MORTUARY, OR CREMATORY NOT PERMITTED TO BE~~
19 ~~INSPECTED BY THE BOARD;~~

20 ~~(28)~~ (27) REMOVES HUMAN REMAINS FROM A DEATH SCENE,
21 MORTUARY, FUNERAL ESTABLISHMENT, OR CREMATORY WITHOUT
22 AUTHORIZATION OF THE INDIVIDUAL OR ENTITY IN CUSTODY OF THE HUMAN
23 REMAINS;

24 ~~(29)~~ (28) REMOVES AND TRANSPORTS HUMAN REMAINS, EITHER
25 FREE OF CHARGE OR FOR COMPENSATION, TO AN ENTITY WHERE THE HUMAN
26 REMAINS ARE NOT AUTHORIZED TO BE HELD; OR

27 ~~(30)~~ (29) REMOVES AND TRANSPORTS HUMAN REMAINS WITHOUT
28 RESPECT FOR THE DECEDENT OR THE HEALTH AND SAFETY OF THE PUBLIC.

29 7-605.

30 (A) (1) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT
31 PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE. THE INDIVIDUAL OR
32 ENTITY MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF

1 SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL
2 OR ENTITY IS A PERMIT HOLDER.

3 (2) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT
4 PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, AN INDIVIDUAL OR
5 ENTITY MAY NOT USE THE WORDS "PERMITTED MORTUARY TRANSPORT
6 SERVICE" OR "MORTUARY TRANSPORT SERVICE" WITH THE INTENT TO
7 REPRESENT THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO OPERATE AS
8 A PERMIT HOLDER.

9 (B) (1) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD
10 UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC
11 BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR
12 OTHERWISE, THAT THE INDIVIDUAL IS A REGISTERED TRANSPORTER.

13 (2) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD
14 UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT USE THE TERMS
15 "REGISTERED TRANSPORTER" OR "TRANSPORTER" WITH THE INTENT TO
16 REPRESENT THAT THE INDIVIDUAL IS AUTHORIZED TO OPERATE AS A
17 REGISTERED TRANSPORTER.

18 (C) (1) A MORTUARY TRANSPORT SERVICE OR TRANSPORTER MAY
19 NOT OBTAIN A PERMIT OR REGISTRATION BY MAKING A FALSE STATEMENT.

20 (2) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE
21 REPRESENTATION TO THE BOARD IN ORDER TO OBTAIN A PERMIT OR
22 REGISTRATION, THE PERMIT OR REGISTRATION IS VOID.

23 ~~(D) A PERMIT HOLDER IS LIABLE FOR A VIOLATION OF ANY PROVISION~~
24 ~~OF THIS SUBTITLE COMMITTED BY A REGISTERED TRANSPORTER IF:~~

25 ~~(1) THE OWNER OR CO-OWNER OF THE MORTUARY TRANSPORT~~
26 ~~SERVICE WAS A KNOWING PARTY TO THE VIOLATION; OR~~

27 ~~(2) THE VIOLATION OCCURRED WHILE THE REGISTERED~~
28 ~~TRANSPORTER WAS EMPLOYED BY THE PERMIT HOLDER.~~

29 7-606.

30 A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
31 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
32 EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

33 7-607.

1 THE BOARD SHALL ADOPT REGULATIONS TO:

2 (1) IMPLEMENT THIS SUBTITLE; AND

3 (2) ESTABLISH REQUIREMENTS FOR REMOVING AND
4 TRANSPORTING HUMAN REMAINS.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

SENATE BILL 415

J1, J2

2lr2364
CF HB 540

By: Senators Montgomery, Benson, Colburn, Forehand, Garagiola, Madaleno, Manno, McFadden, Peters, Pugh, Ramirez, Raskin, ~~and Robey Robey,~~ and Stone

Introduced and read first time: February 1, 2012

Assigned to: Education, Health, and Environmental Affairs and Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Handling Human Remains with Dignity Act of 2012**

3 FOR the purpose of requiring a funeral establishment or crematory, on taking custody
4 of the body of a decedent in accordance with all authorizations required by law,
5 to maintain the body in a certain manner; requiring a funeral establishment or
6 crematory to maintain the body of a decedent with refrigeration and at a certain
7 temperature under certain circumstances; requiring a funeral establishment or
8 a crematory to notify the State Board of Morticians and Funeral Directors or the
9 Office of Cemetery Oversight and a certain other person if the funeral
10 establishment or crematory cannot comply with certain provisions of this Act;
11 specifying that a certain notice must be given within a certain time period and
12 include certain information; prohibiting the body of a decedent from being
13 embalmed or artificially preserved except under certain circumstances;
14 requiring a funeral establishment or crematory to store the body of a decedent
15 at a specified location; prohibiting a funeral establishment, crematory, or
16 transportation service from transporting or storing the body of a decedent
17 together with certain other remains; prohibiting the body of a decedent, while in
18 the custody of a funeral establishment or crematory, from being transported to a
19 certain facility except under certain circumstances; authorizing the ~~Board State~~
20 Board of Morticians and Funeral Directors and the Office of Cemetery
21 Oversight to take certain disciplinary action against a licensee or permit holder
22 who fails to comply with certain provisions of this Act; and generally relating to
23 the transportation and storage of bodies of decedents.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,

2 Article – Business Regulation

3 Section 5–101(a) and (g)

4 Annotated Code of Maryland

5 (2010 Replacement Volume and 2011 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article – Business Regulation

8 Section 5–310(a)(11) and (12)

9 Annotated Code of Maryland

10 (2010 Replacement Volume and 2011 Supplement)

11 BY adding to

12 Article – Business Regulation

13 Section 5–310(a)(13)

14 Annotated Code of Maryland

15 (2010 Replacement Volume and 2011 Supplement)

16 BY adding to

17 Article – Health – General

18 Section 5–513

19 Annotated Code of Maryland

20 (2009 Replacement Volume and 2011 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Health Occupations

23 Section 7–101(a) and (d)

24 Annotated Code of Maryland

25 (2009 Replacement Volume and 2011 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Health Occupations

28 Section 7–316(a)(30) and (31)

29 Annotated Code of Maryland

30 (2009 Replacement Volume and 2011 Supplement)

31 BY adding to

32 Article – Health Occupations

33 Section 7–316(a)(32)

34 Annotated Code of Maryland

35 (2009 Replacement Volume and 2011 Supplement)

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
37 MARYLAND, That the Laws of Maryland read as follows:

38 Article – Business Regulation

1 5-101.

2 (a) In this title the following words have the meanings indicated.

3 (g) "Director" means the Director of the Office of Cemetery Oversight.

4 5-310.

5 (a) Subject to the hearing provisions of § 5-312 of this subtitle, the Director
 6 may deny a registration or permit to an applicant, reprimand a person subject to the
 7 registration or permit provisions of this title, or suspend or revoke a registration or
 8 permit if an applicant, registrant, or permit holder, or an agent, employee, officer,
 9 director, or partner of the applicant, registrant, or permit holder:

10 (11) fails to comply with any terms of settlement under a binding
 11 arbitration agreement; [or]

12 (12) is found guilty by a court in this State of violating an unfair or
 13 deceptive trade practices provision under Title 13 of the Commercial Law Article; OR

14 (13) FAILS TO COMPLY WITH § 5-513 OF THE HEALTH - GENERAL
 15 ARTICLE.

16 Article - Health - General

17 5-513.

18 (A) ON TAKING CUSTODY OF THE BODY OF A DECEDENT IN
 19 ACCORDANCE WITH ALL AUTHORIZATIONS REQUIRED BY LAW, A FUNERAL
 20 ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY IN A MANNER
 21 THAT PROVIDES FOR COMPLETE COVERAGE OF THE BODY AND PREVENTS
 22 LEAKAGE OR SPILLAGE EXCEPT DURING:

23 (1) IDENTIFICATION, EMBALMING, OR PREPARATION OF AN
 24 UNEMBALMED BODY FOR FINAL DISPOSITION;

25 (2) RESTORATION AND DRESSING OF A BODY IN PREPARATION
 26 FOR FINAL DISPOSITION; AND

27 (3) VIEWING DURING A VISITATION OR FUNERAL SERVICE.

28 (B) IF THE UNEMBALMED BODY OF A DECEDENT IS TO BE STORED FOR
 29 MORE THAN ~~72~~ 48 HOURS BEFORE FINAL DISPOSITION, A FUNERAL
 30 ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY WITH

1 REFRIGERATION AND AT A TEMPERATURE ~~LOWER THAN 44 DEGREES~~
2 ~~FAHRENHEIT~~ DETERMINED BY REGULATION.

3 (C) (1) IF A FUNERAL ESTABLISHMENT OR CREMATORY CANNOT
4 SECURE THE BODY OF A DECEDENT OR CANNOT STORE THE BODY AS REQUIRED
5 IN SUBSECTION (B) OF THIS SECTION DUE TO AN UNFORESEEN CIRCUMSTANCE,
6 THE FUNERAL ESTABLISHMENT OR CREMATORY SHALL NOTIFY THE STATE
7 BOARD OF MORTICIANS AND FUNERAL DIRECTORS OR THE OFFICE OF
8 CEMETERY OVERSIGHT AND THE PERSON AUTHORIZED TO ARRANGE FOR THE
9 FINAL DISPOSITION OF THE BODY UNDER § 5-509 OF THIS SUBTITLE.

10 (2) THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF
11 THIS SUBSECTION SHALL:

12 (I) BE MADE WITHIN 24 HOURS AFTER THE OCCURRENCE
13 OF THE UNFORESEEN CIRCUMSTANCE; AND

14 (II) INCLUDE THE NAME AND LOCATION OF THE FACILITY
15 WHERE THE BODY IS BEING TRANSFERRED, THE REASON FOR THE TRANSFER,
16 AND THE METHOD OF STORAGE.

17 (D) THE BODY OF A DECEDENT MAY NOT BE EMBALMED OR
18 ARTIFICIALLY PRESERVED WITHOUT:

19 (1) THE EXPRESS PERMISSION OF THE PERSON AUTHORIZED TO
20 ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5-509 OF THIS
21 SUBTITLE; OR

22 (2) A COURT ORDER.

23 (E) A FUNERAL ESTABLISHMENT OR CREMATORY SHALL STORE THE
24 BODY OF A DECEDENT UNTIL FINAL DISPOSITION AT ~~A LOCATION APPROVED BY~~
25 ~~THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS FOR THAT~~
26 ~~FUNERAL ESTABLISHMENT OR CREMATORY;~~

27 (1) A FUNERAL ESTABLISHMENT LICENSED UNDER TITLE 7 OF
28 THE HEALTH OCCUPATIONS ARTICLE;

29 (2) A CREMATORY LICENSED UNDER TITLE 7 OF THE HEALTH
30 OCCUPATIONS ARTICLE;

31 (3) A CREMATORY PERMITTED UNDER TITLE 5 OF THE BUSINESS
32 REGULATION ARTICLE; OR

1 (4) ANOTHER FACILITY THAT HAS PASSED AN INSPECTION WITH
 2 THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS OR THE OFFICE
 3 OF CEMETERY OVERSIGHT WITHIN THE PAST 2 YEARS.

4 (F) A FUNERAL ESTABLISHMENT, CREMATORY, OR TRANSPORTATION
 5 SERVICE MAY NOT TRANSPORT OR STORE THE BODY OF A DECEDENT TOGETHER
 6 WITH ANIMAL REMAINS IN THE SAME CONFINED SPACE.

7 (G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 8 SUBSECTION, WHILE THE BODY OF A DECEDENT IS IN THE CUSTODY OF A
 9 FUNERAL ESTABLISHMENT OR CREMATORY IN THE STATE, THE BODY MAY NOT
 10 BE TRANSPORTED FOR PREPARATION OR STORAGE TO A FACILITY THAT IS NOT
 11 WITHIN THE JURISDICTION OF THE STATE ~~OR~~, LICENSED BY THE STATE BOARD
 12 OF MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF
 13 CEMETERY OVERSIGHT.

14 (2) THE BODY OF A DECEDENT MAY BE TRANSPORTED FOR
 15 PREPARATION OR STORAGE TO A FACILITY THAT IS NOT WITHIN THE
 16 JURISDICTION OF THE STATE ~~OR~~, LICENSED BY THE STATE BOARD OF
 17 MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF
 18 CEMETERY OVERSIGHT IF:

19 (I) THE FACILITY HAS ENTERED INTO A WRITTEN
 20 AGREEMENT WITH THE STATE BOARD OF MORTICIANS AND FUNERAL
 21 DIRECTORS OR THE OFFICE OF CEMETERY OVERSIGHT TO ALLOW THE STATE
 22 TO MAKE UNANNOUNCED INSPECTIONS OF THE FACILITY; AND

23 (II) THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL
 24 DISPOSITION OF THE BODY UNDER § 5-509 OF THIS SUBTITLE ~~HAS:~~

25 1. HAS GIVEN WRITTEN PERMISSION FOR THE BODY
 26 TO BE TRANSPORTED TO THE FACILITY; OR

27 2. A. HAS GIVEN ORAL PERMISSION FOR THE
 28 BODY TO BE TRANSPORTED TO THE FACILITY; AND

29 B. WITHIN 36 HOURS AFTER GIVING ORAL
 30 PERMISSION, PROVIDES WRITTEN VERIFICATION OF THE ORAL PERMISSION.

31 Article - Health Occupations

32 7-101.

33 (a) In this title the following words have the meanings indicated.

1 (d) "Board" means the Maryland State Board of Morticians and Funeral
2 Directors.

3 7-316.

4 (a) Subject to the hearing provisions of § 7-319 of this subtitle and except as
5 to a funeral establishment license, the Board may deny a license to any applicant,
6 reprimand any licensee, place any licensee on probation, or suspend or revoke any
7 license if the applicant or licensee:

8 (30) Fails to comply with inspection requirements in the time specified
9 by the Board: [or]

10 (31) Fails to provide the Board the certification required under §
11 7-405(i) of this title; OR

12 (32) FAILS TO COMPLY WITH § 5-513 OF THE HEALTH - GENERAL
13 ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.

TAB 6

From: Gifford, Julie (GOV)
Sent: Wednesday, September 12, 2012 9:38 AM
To: Hahn, Lisa R. (DHP)
Cc: Hopper, Jim (GOV); de Graaf, Brandon (GOV)
Subject: RE: Transferability of Mortuary Affairs MOS into Civilian Sector (UNCLASSIFIED)

Lisa,

Great! Thank you for taking this under consideration.

SGT Henry has offered to attend your meeting if you need him to answer any questions regarding DoD processes or we can just wait, like you suggest, and hear back from you after the October meeting. What do you prefer?

BTW-I am copying Deputy Jim Hopper and Brandon de Graaf (Assistant Secretary), from our office, because they work the legislative issues more than I so I want to keep them in the loop too.

Best,
Julie

Julie A. Gifford
Regional Military Liaison
Office of the Secretary of Veterans Affairs & Homeland Security
Commonwealth of Virginia
1111 E. Broad Street
Richmond, VA 23219
Office: 757-689-2424

This is a confidential e-mail - Governor's Working Papers

From: Hahn, Lisa R. (DHP)
Sent: Tuesday, September 11, 2012 4:55 PM
To: Gifford, Julie (GOV)
Cc: Hopper, Jim (GOV); de Graaf, Brandon (GOV)
Subject: RE: Transferability of Mortuary Affairs MOS into Civilian Sector (UNCLASSIFIED)
Importance: Low

Hi Julie,

Indeed I remember working with you. I understand and appreciate the issue and I would be happy to work with you on this matter. Our next Funeral Board meeting is October 16th, I would like to address this with the board to determine how we can best work together on this very important issue. I will be back in touch with you following the board meeting.

I look forward to reconnecting and working with you soon. Lisa

Lisa R. Hahn, MPA, Executive Director
Department of Health Professions
Board of Funeral Directors and Embalmers
Board of Long Term Care Administrators
Board of Physical Therapy
9960 Mayland Drive, Suite 300
Henrico, VA 23233

(804) 367-4400
Fax:(804) 527-4413

From: Gifford, Julie (GOV)
Sent: Wednesday, September 05, 2012 10:10 AM
To: Hahn, Lisa R. (DHP)
Cc: Hopper, Jim (GOV); de Graaf, Brandon (GOV)
Subject: FW: Transferability of Mortuary Affairs MOS into Civilian Sector (UNCLASSIFIED)

Lisa,

I now work for Secretary Suit, Veterans Affairs & Homeland Security and we recently had this issue (please see email below) brought to our attention. I wanted to ask you for your comments on this Service Member's idea of making transferability easier for Mortuary Affairs Officers who want to transfer into the civilian sector. Making Virginia the most Veteran friendly state in the nation is a top priority of the Governor so we are always looking for ways to assist.

I am not sure if you will recognize my name but a couple of years ago, I worked for the Department of Defense State Liaison Office and you provided advise to me in making it easier for Service members to be able to name who they wanted to direct disposition of their remains. As you know, we had a successful outcome on this issue, unopposed in the General Assembly, so I appreciate all that you do for Service Members in the Commonwealth!

Please let me know your thoughts on this issue and how we may be able to assist.

Very best,
Julie

Julie A. Gifford
Regional Military Liaison
Office of the Secretary of Veterans Affairs & Homeland Security
Commonwealth of Virginia
1111 E. Broad Street
Richmond, VA 23219
Office: 757-689-2424

This is a confidential e-mail - Governor's Working Papers

From: Henry, Billy R SGT USARMY (US) [<mailto:billy.r.henry12.mil@mail.mil>]
Sent: Thursday, August 30, 2012 1:12 PM
To: Gifford, Julie (GOV)
Cc: terri.suit@governor.virginia.gov
Subject: Transferability of Mortuary Affairs MOS into Civilian Sector (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Good Afternoon Ma'am,

I was sitting in on the Military Family Roundtable at Fort Lee today, and one of the concerns I had but didn't get to address:

For Service Members that are in the field of Mortuary Affairs, there seems to be quite a lack of equal transfer according to their skills. Withholding at most 40 personnel, the remaining portion of all Army Mortuary Affairs Personnel are located here in the state of Virginia. The Service Members that reside here, are more likely to spend stateside time at 3 different Mortuary facilities, and while they are deployed will on average have to deal with over 400 cases per deployment. While the Service Members are at the stateside Mortuary Facilities they will assist with, and prepare for autopsies; handle infectious cases, and much more. Sadly, with the amount of time spent doing these things, with the average Service Member time being stationed at Ft. Lee set at a solid 3 years. According to the American Board of Funeral Service Education, for licensure in the state of VA, a person must complete high school plus attend a mortuary college, with an 18 month apprenticeship either prior to or after the schooling. It seems to me that these soldiers not only meet the requirements, but have a vastly stronger understanding of the intricate details of the profession.

For me this subject has become near and dear to my heart, in that I have been serving for the past 9 years in this field. Have completed 3 tours of duty overseas resulting in 36 months of continuous mortuary related activities, and assisted with Autopsies at the Richmond Morgue; yet there seems to be a lack of credit within the civilian sector. For someone to spend all their professional military career dealing within the field of Mortuary Affairs, it's difficult to understand why they should not be extremely close to finishing their licensure process. Is it possible to waive the apprenticeship time requirement, or greatly reduce the amount of school requirement?

Please send replies to peace_1082@yahoo.com

V/r

Billy R. Henry
SGT, USA
Garrison CMD Driver
Office: (804) 734-7504
Cell: (843) 826-1233

"Even the Tallest Tree owes it's very existence to the soil beneath it's roots, and the sun shining upon it." -Unkown

Classification: UNCLASSIFIED
Caveats: NONE

Tab 7



COMMONWEALTH of VIRGINIA

Department of Veterans Services *Albert G. Horton, Jr. Memorial Veterans Cemetery*

Susan K. Ulrich
Burial Operations Manager

Telephone (757) 255-7217
Fax: (757) 255-7047
E-mail: Susan.Ulrich@dvs.virginia.gov

To: Virginia Funeral Directors

Subject: Identification of unclaimed remains of veterans

The Virginia Department of Veterans Services (DVS) requests the assistance of funeral homes in identifying and interring the unclaimed remains of Virginia's veterans, in order to provide these veterans the honor, dignity, respect, and remembrance they have earned through service and sacrifice.

To implement the legislation passed by the 2012 General Assembly, DVS stands ready to assist funeral directors in determining if unclaimed remains in their possession are those of a veteran eligible for burial in a veterans cemetery, and, if so, in transferring the remains to a veterans cemetery for an honorable burial.

Funeral directors are asked to send the name and other identifying information to me at:

Susan K. Ulrich
Burial Operations Manager
Albert G. Horton, Jr. Memorial Veterans Cemetery
5310 Milners Rd
Suffolk VA 23434

DVS will determine if the remains are those of a veteran eligible for burial in a veterans cemetery and will notify you as soon as a determination is made.

DVS operates three state veterans cemeteries – in Amelia, Dublin, and Suffolk. For each eligible veterans, we will work with you to arrange transfer of the cremains to one of these cemeteries. Upon transfer, we will schedule and conduct a memorial service with appropriate military honors. Veterans groups such as the Marine Corps League and the Virginia Patriot Guard Riders will participate in the memorial service.

If we may be of assistance in compiling a list of your unclaimed remains, we will be happy to send someone to your facility to help.

If I may provide further information or answer any questions, please do not hesitate to contact me.

AN EQUAL OPPORTUNITY EMPLOYER
5310 Milners Road, Suffolk, Virginia 23434
www.dvs.virginia.gov



COMMONWEALTH of VIRGINIA
Department of Veterans Services

Susan Ulrich
Burial Operations Manager

Telephone: (757) 255-7217
Fax: (757) 255-7047

Identification of Unclaimed Cremated Remains

To be completed by Funeral Home

Name of Funeral Home: Contact:

Address: State: Zip:

Phone: Email:

Amplifying information available for the unclaimed cremated remains:

A. First, Middle, and Last Name

B. Social Security Number

C. Date of Birth Date of Death

C. Place of Birth

D. Marital Status: Married Single Widowed Divorced Unknown

E. Town/City residing in at time of death

Date individuals information was sent to the Burial Operations Manager, Albert G. Horton Jr. Memorial Veterans Cemetery: Notes:

To be completed by cemetery

Date information was received by the Burial Operations Manager, Albert G. Horton Jr. Memorial Veterans Cemetery: Notes:

Virginia veteran's cemetery assigned to create folder and investigate this case:

Status of the case investigation indicates: Veteran Non-Veteran Non-Eligible Spouse Eligible Spouse

Funeral director informed of case details:

Veteran/Spouse cremated remains transferred to the designated state veteran's cemetery for scheduled honors service and ground burial: Date transferred: Date interred:

Military Honors were conducted: Yes No

Please fax to 757-255-7217 attention Susan Ulrich