

# Virginia

## Board of Funeral Directors and Embalmers



DEPARTMENT OF HEALTH PROFESSIONS

Issue 4

SUMMER 2010

### Lisa R. Hahn, MPA, Board Executive Director

What a productive year it has been. As you know we have had several committee meetings since our last board meeting. The board has tackled some difficult and long standing issues such as physicians not signing death certificates, preneed issues, legislative and regulatory changes and their effect on policy. I would first like to thank the board, the associations and many individuals for your outstanding commitment to the board and your willingness to dedicate your time and expertise as we continue to work through these issues.

During this past year, I have had the opportunity to make numerous presentations and attend funeral association meetings throughout Virginia. I commonly heard the difficulties that funeral directors encounter when physi-

cians do not sign a death certificate in a timely manner. Although attempted before, the Board of Funeral Directors and Embalmers felt that this was an important issue to tackle and created a Special Task Force to work on developing a solution(s) to the problem.

On April 30, 2010, the Special Task Force met and developed a list of major concerns and a list of possible solutions. On May 18, 2010, board staff met with Dr. Bush, Chief Medical Examiner and Janet Rainey, Director, Bureau of Vital Statistics to review the minutes from the previous meeting and discuss if the possible solutions may be feasible. On June 16, 2010, a highly productive meeting was held with all stakeholders, including VHCA, Board of Long-

Term Care Administrators, Department of Health - Vital Records & Medical Examiners Office, Hospital Association, Board of Medicine and the Board of Nursing, Medical Society of Virginia, Virginia College of Emergency Physicians and the Virginia Academy of Family Physicians. A list of possible resolutions was developed from this meeting and a draft legislative bill was then prepared.

The proposed legislation would expand the pool to include nurse practitioners, physician assistants and hospitalists to the list of persons authorized to sign death certificates. Additionally, if a physician or other authorized person is uncertain about the cause of death he shall use his best medical judgment to certify a reasonable cause of death or contact the office of the chief medical examiner in the district where the

### Board President-Randy Minter, FSP (2009-2010)

The Board of Funeral Directors and Embalmers and staff have worked diligently on many accomplishments this past year. Various committees of the board including Legislative, Special Conference, Internship and Continuing Education have had a busy and fruitful year of which this report will speak. On behalf of the

board, I would like to express my thanks to Lisa Hahn, our Executive Director, and her staff- Annie Artis, Kathy Truesdale, Missy Currier, Holly Manke, and Jeannette Meade for their fine work. Our Board could not offer such quality public service if not for their collegial and conscientious efforts. As I complete my tenure as

President of the Board, I am happy to introduce this newsletter which speaks of our accomplishments of the past year. I express my thanks to the entire board, the funeral service associations, and funeral service professionals and establishments in our great Commonwealth in providing their assistance in many of these endeavors.

#### Board Members:

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#### Boards of Funeral Directors & Embalmers, Physical Therapy, & Long Term Care Administrators Staff:

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Executive Director

Annie B. Artis  
Licensure Manager

Kathy Truesdale  
Discipline Manager

Jeanette Meade  
Licensing Specialist

Holly Manke  
Licensing Specialist

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## Board Executive Director Continued

death occurred to obtain guidance in reaching a determination as to a cause of death and document the same. The proposed legislation would also give a physician, nurse practitioner or physician assistant who, in good faith signs a certificate of death, immunity from civil liability, absent gross negligence or willful misconduct. Lastly, it is recommended that a signed death certificate be required prior to removal of a dead human body from a licensed hospital. The legislative proposals have been sent to all individuals that are on the Public Participation Guideline List for comment. We have included the draft bill in this newsletter, see page 10. In addition, Dr. Karen Remley, Commissioner of the Virginia Department of Health took the following action steps towards resolving the ongoing issue of timely completion and signatures of death certificates. These steps include:

- VDH will send a letter to all physicians, nurses, funeral directors and emergency medical services providers concerning the purpose of death certificates, why they are important, who is responsible for completing them, how to complete the death certificate form, and a description of progress we are making towards implementing electronic death certificates. The letter will also include links to additional training resources. The letter will be issued the

week of July 19, 2010.

- VDH will develop a free online CME/CEU module on "How to Complete a Death Certificate." A link to the module will be placed on the Department of Health Professions website. This module will be available by July 23, 2010.
- VDH will contact the Deans of all medical schools in Virginia, during August 2010 and request that they encourage all physicians-in-training to review the CME module.
- Training will be provided to local health district directors on July 28, 2010 concerning proper death certification so that they can be a community resource for private physicians. Local health district directors will be available as a 24/7 point of contact for physicians if they have questions concerning how to complete a death certificate.
- VDH will work with stakeholders, including the Virginia Funeral Directors Association, to identify areas of the state that are experiencing particular difficulties with respect to the timely completion of death certificates. VDH will develop targeted communications for those specific areas in August and September.

- VDH will develop an agency policy to govern our approach for assuring that death certificates are signed and completed in a timely manner, consistent with the requirements of the Code of Virginia, by September 1, 2010.
- VDH will present an overview of this initiative at the upcoming meeting of the Virginia College of Emergency Physicians and other relevant medical conferences.
- VDH will ensure that our non-physician stakeholder organizations, including the Virginia Hospital and Healthcare Association, the Virginia Health Care Association, and the Virginia Association of Non-profit Homes for the Aging, are aware of this initiative during August 2010.
- VDH will develop a methodology to evaluate the success of this initiative prior to release of the course and review effectiveness during the first year of operation.

ensure that these measures taken or soon to be taken do help to resolve the death certificate issues facing funeral directors and the citizens of the Commonwealth.

It is my pleasure to serve as the Executive Director of the Board and to highlight some of the board's 2010 accomplishments. As you can see, your board is a very strong and active board. They take their appointments seriously and pride themselves on protecting the citizens of the Commonwealth.

I wish you a safe and happy summer!



We are very pleased with the cooperation and attention that has been demonstrated by many stakeholders thus far. We look forward to working collaboratively together to



## Crematory Regulations

The Board's current regulations, effective June 9, 2010, address the standards of practice for crematories, ensuring the integrity of the cremation process.

Any person intending to own or operate a Crematory in Virginia must register the Crematory with the Virginia Board of Funeral Directors and Embalmers, at least 30 days prior to opening. An inspection is also required.

Every Crematory regardless of how it is owned must have a manager of record.

The manager of record must have certification by the Cremation Association of North American (CANA); or International

Association (ICCF); or other certification recognized by the Board.

Currently the Manager of Record for a "Stand Alone" Crematory - meaning not part of a funeral service establishment or branch and does not serve the public directly, - is not required to hold licensure as a Funeral Service Provider.

However, he must be in compliance and is fully accountable for the operations of the crematory as it pertains to the laws and regulations governing the practice of funeral services.

A Crematory providing cremation services directly to the public must also be licensed as a funeral service establishment.



## Guidance Documents

The Board has developed an Inspections Guidance Document in a question and answer format.

Areas of interest include proper handling and storage of human remains, refrigeration, appropriate containers for transporting a body to a funeral home or crematory, crematory manager of record, general price list (GPL), embalming

reports, posting of licensure, which should always be posted in plain view of the public in conspicuous place to consumers, disposal of waste materials, and preparation rooms.

Guidance Document 65-11 provides clarification on frequently asked inspection questions. You can find the Document posted to the Agency's website.

Many questions pertaining to standards of practice may be addressed in a Guidance Document.

All of the Board's Guidance Documents are posted online at [www.dhp.virginia.gov](http://www.dhp.virginia.gov).



Public Comment is received at the beginning of each board meeting. Check the website often for meeting postings.

## Board Calendar of Events

All board meetings are open to the public and unless otherwise stated, are usually held at the Department of Health Professions on the 2nd floor in the Conference Center. Should you wish to attend a meeting please call the board office at 804-367-4479 the day before meeting to ensure there have not been any cancellations or postponements.

### 2010 Meetings:

- January 12, 2010** - Board Meeting & IFC
- February 19, 2010** - Special

Internship Program Sub-Committee

**February 23, 2010** - IFC

**March 30, 2010** - Special Internship Program Sub-Committee

**April 13, 2010** - Board Meeting

**April 30, 2010** -Task Force on Death Certificates

**May 10, 2010** - Special Committee on Preeed Issues

**May 13, 2010** - Task Force on Death Certificates

**June 11, 2010** - Telephonic Conference

**June 16, 2010** - Task Force on Death Certificates

**June 24, 2010** - IFC

**July 8, 2010** - Regulatory/Legislative Meeting

**July 20, 2010** - Board Meeting

**July 20, 2010** - CEU Meeting

**October 22, 2010** - Board Meeting, 10:00 a.m.

Board meeting dates and minutes are posted to the Department's website at [www.dhp.virginia.gov](http://www.dhp.virginia.gov) and to Town Hall's website at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). You may register on Town Hall to receive email alerts of when meeting dates and minutes are posted. You will also receive regulatory updates.

## Federal Trade Commission (FTC) - Funeral Rule

Virginia Funeral Service Providers not only comply with state statutes and regulations, but also with federal laws and guidelines. The FTC has published the Funeral Rule. Under the Federal Trade Commission (FTC) Funeral Rule the Funeral Provider **must** provide this information. Refusal of this information is **considered a violation** of the Funeral Rule, for any reason, **such as:**

- State law does not require a funeral provider to disclose price information by telephone or permits a funeral provider to refuse to provide price information by telephone;
- Price information can be provided only by a third-party other than the funeral provider (e.g., the funeral provider's attorney);
- The caller will not disclose information about their organization, or what it

intends to do with the information;

- The caller is not a consumer seeking to make funeral arrangements with the provider;
- The call will or may profit from receipt of the pricing information requested;
- The caller has not requested price information in person at the funeral home;
- The caller has not requested price information in writing; or
- The caller has not paid a fee, or agreed to pay a fee, for the price information.

**None of the above reasons are grounds for non-compliance** with the Federal Rule in providing this information. Funeral Rule - Part 453 Funeral Industry Practices may be found on FTC's

website [www.ftc.gov](http://www.ftc.gov)

§ 453.2 Price disclosures 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.

The Definitions of persons includes any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

Complying with the Funeral Rule <http://www.ftc.gov/bcp/edu/pubs/business/adv/bus05.shtm>

At the same time, as the Guide recognizes, funeral providers may;

- (1) use answering machines to record incoming calls or to advise callers to call a specified number during business hours to get price information;
- (2) decline to provide price information outside of regular business hours if that is the provider's normal practice; and
- (3) take a message if in the middle of an arrangements conference, and call back to provide price information at a later time. In each of these cases, the Rule requires that the funeral provider furnish price information promptly by returning the telephone call.

**These are the expressed views of the FTC staff.**

# Issue 4

## Current Continuing Competency Hours Required

The board may conduct a random audit after the end of each renewal period and the licensee is required to verify compliance with the requirement for that renewal period.

Upon request, the licensee must provide documentation within 14 days of the request from the board.

Acceptable forms of documentation include official transcripts showing credit hours earned from an accredited institution; or certificates of completion from approved providers.

NOTE: Continuing education hours required by disciplinary order may not be used to satisfy renewal requirements.

The professions under the Board responsible for CE are Funeral Service Providers (FSP), Funeral Directors, and

Embalmers. A list of approved CE providers and courses are online at [www.dhp.virginia.gov](http://www.dhp.virginia.gov)

### **PLEASE NOTE:**

The Board will soon be performing a random audit for the March 31, 2008—March 31, 2010 licensure period. In the event you are audited, please be sure to provide documentation of having completed 10 hours of CE with at least **two (2)** hours in Preneed and **two (2)** hours in law and regulations.



## Continuing Education Providers

All Continuing Education (CE) Providers that wish to be considered for board approval to offer CE should submit an application, application fee, and supporting documents to the board office at least 60 days prior to offering the continuing education course. The board is now requiring supporting documentation on CD in PDF format (Adobe). Four (4) CDs must be included with the paper application and fee, the CDs must be “unprotected”.

The CD shall include the following information and book-marked in the order of: (1) title of course, objectives, and number of continuing education hours; (2) syllabus of course; (3) instructional plan; (4) course instructor credentials; (5) evaluation forms to

be used with program; (5) sample certificate of completion for CE; and lastly (6) advertising brochure for CE program.

Keep in mind there will be no refund of the application fee whether approval is granted or denied.

With that being said, it is important that the CE course submitted complies with the regulations.

Acceptable areas of study relating to funeral services are ethics, standards of practice, preneed funeral arrangements, preneed contracts and funding, Virginia laws and regulations governing the profession of funeral services.

Once approved as a board CE provider, you will be responsible for renewal each year by July 1. Renewal no-

tices are usually sent out at least 30 days prior to the expiration date; however, failure to receive a renewal notice does not relieve the obligation to renew the CE Provider license.

Failure to renew may result in late fees and additional documentation.

Should you not receive the renewal notice you may submit a copy of the license as evidence of intent to renew, the required renewal fee along with a statement that the courses and instructors offered for the coming year will not change from the previous year. If there will be additions or alterations to the continuing education offered, resubmission of documentation, application, and a provider fee is required.





## Internship Committee

“ONLY TWO EXTENSIONS WILL BE GRANTED TO A FUNERAL SERVICE INTERN DURING THE INTERNSHIP PROGRAM”

The Virginia Board of Funeral Directors and Embalmers has appointed a sub-committee to address granting funeral service internship extensions and ultimately improving the program to better prepare interns for the funeral service industry as funeral service providers (FSP).

The Special Internship Sub-Committee has held two meetings, February 19<sup>th</sup> and March 30<sup>th</sup>; Mortuary School Program Directors were invited to participate on the Committee.

Several proposals and suggestions have been made in the areas of educational requirements and the supervisory responsibilities for internship program.

The sub-committee proposed a Guidance Document to address internship extensions; recommendations were:

The intern must submit a letter addressing the impediments that are interfering with the completion of the internship.

The intern shall submit a copy of their college transcripts to demonstrate hours completed toward the mortuary educational requirement.

The intern would provide a specific time-frame for the extension.

Only two (2) extensions may be granted to an intern.

The Board discussed other recommendations from the Committee but they did not approve any additional changes at this time.

## Irrevocable Trusts

**FAST TRACK** clarification will be made between the Code of Virginia and the regulations related to irrevocable trusts by the following proposed language:

**18VAC65-30-110.** Cancellation or transfer of contract. D. If the contract buyer uses an irrevocable trust as the funding source, the contract buyer is not able to cancel or modify the trust after 30 days following its execution except in accordance with § 55-544.11 of the Code of Virginia.



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## 2010 ELECTION OF OFFICERS

Congratulations to the following members who were elected as the new officers for the 2010/2011 tenure:

**Michael J. Leonard, FSP, President**

**Robert B. Burger, FSP, Vice-President**

**Blair Nelsen, FSP, Secretary-Treasurer**

We look forward to working diligently throughout the next year with the newly elected officers!



## Disciplinary Matters

### How an Investigation is Begun

The Department's Complaint Intake Unit receives information from sources indicating that a violation of law or regulation may have occurred. These sources may include health care practitioners, employers and employees, other licensed professionals, law enforcement agencies, courts, or concerned citizens. When information appears to be sufficient to justify an investigation, a case is opened, given a priority, recorded in the agency's computer tracking system and assigned to an investigator.

### The Investigation

When information indicates that a violation of law or regulation within the Department's jurisdiction may have occurred, a specially-trained, sworn investigator of the Enforcement Division interviews potential

witnesses, obtains copies of relevant documents and accumulates evidence.

Persons involved in a case can communicate directly with the assigned investigator. The investigator may periodically contact sources of information to advise them of the status of the investigation. It is the Department's policy to provide as much time and effort as is required for a thorough investigation.

When the investigation is complete, the investigator writes a comprehensive report and submits it, along with all the records and evidence, to the appropriate regulatory board for consideration and action.

### Board Action

When a board receives the investigative report, a preliminary review of the case is made to determine whether the evidence

is sufficient to indicate that a violation of law or regulation has occurred. If the evidence is not sufficient for that purpose, the case is then closed and no further action is taken. If the board believes there is sufficient evidence to indicate that a violation has occurred, disciplinary action may be taken. An informal conference may be scheduled at which a committee of the board meets with the licensee. All informal conferences are open to the public. The source of the investigated information is notified of the conference and may attend. While he or she may be allowed to speak at the informal, testimony is not required at this level. If the case is not resolved at the informal level, a formal hearing will be held.

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## A Reminder from the Department of Medical Assistance Services (DMAS)



### Disciplinary Matters Continued from page 6



#### Disciplinary Action Usually Takes the Form of One or More of the Following Sanc- tions:

- Reprimand or censure
- Monetary penalty (Paid to the Literary Fund of Virginia, not to the Department)
- Remedial or corrective action
- Probation with requirements for the licensee to complete within a specified time
- Limitations on the licensee's privilege to practice
- Suspension of the license either indefinitely or for a specific period of time
- Revocation of license

From time to time, staff at the Department of Medical Assistance Services, have been told of instances where an individual purchased a pre-need burial arrangement that was significantly altered by family members at the time of the individual's death. In such situations, the family opts for less expensive burial arrangements and receives a refund of the difference between the original pre-need agreement and the actual arrangement.

This is just a reminder that, in instances where this may happen, the Code of Virginia requires that any money to be refunded would go to the Commonwealth of Virginia, Department of Medical Assistance Services for reimbursement of medical expenses paid on the individual's behalf and not to the family members.

Section 55-1 9.5 of the Code of Virginia addresses trusts. Item E. in this section provides that funds remaining in an irrevocable inter vivos trust created for the purpose of paying an individual's funeral and burial expenses may be exempt as a countable resource in determining eligibility for medical assistance benefits through the Medicaid program.

However, in the event that any amount remains in the trust upon payment of the funeral or burial arrangements provided for the individual, payment must be made to the Commonwealth up to an amount equal to the total medical assistance paid on behalf of the individual.

For policy questions please contact:

Cindy Olson  
Eligibility Policy Manager  
Policy & Research Division  
Department of Medical Assistance Services  
600 E. Broad Street  
Suite 1300  
Richmond, VA 23219  
(804) 225-4282  
[cindy.olson@dmas.virginia.gov](mailto:cindy.olson@dmas.virginia.gov)

To determine if a deceased person was a Medicaid member and the amount that's due back to the program you may contact:

Diane Dabney  
Recovery Analyst  
Third Party Liability Unit  
Department of Medical Assistance Services  
600 E. Broad Street  
Suite 1300  
Richmond, VA 23219  
(804) 786-5804  
[diane.dabney@dmas.virginia.gov](mailto:diane.dabney@dmas.virginia.gov)

## Preneed Meeting

In May, 2010, the Board requested that a committee be developed to address Preneed concerns registered by one of our legislators. A meeting was held with the State Corporation Commission (SCC) - Bureau of Insurance, Department of Social Services and the Department of Medical Assistance Services (DMAS) to discuss these preneed matters. The committee discussed how the Medicaid burial set aside works and addressed how when a deceased burial wishes are changed, that excess money (if any) can be properly refunded back to Medicaid. According to the Code of VA Section 55-19.5(E):

- In the event any amount remains in the trust upon payment of the funeral or burial arrangement provided to or on behalf of such individual, the commonwealth shall receive all amounts remaining in such trust up to an amount equal to the total medical assistance paid on behalf of the individual.

This committee met and discussed the issues and possible solutions to the problem that money is not returned to DMAS when there is a change in the preneed contract. A discussion was held regarding mandating that Medicaid applicants or recipients make the Commonwealth a secondary beneficiary on their preneed policy so any excess funds remaining after payment of all funeral expenses is sent to DMAS.

Although the committee thought this was a good solution, Cindy Olson, Eligibility Policy Manager for the Department of Medical Assistance Services pointed out in an article that this would change the current Maintenance of Effort (MOE) requirements imposed by the federal government and even though it is a current requirement in State law, it would appear to be in violation of the current Maintenance of Effort (MOE) requirements imposed by CMS. Two additional meetings were held with State representatives from DHP and DMAS. After exploring several additional options the following action steps were recommended.

DMAS will look into amending their current annual Medicaid eligibility audit process to include validation of existing preneed contract. This added step in the annual audit process would spotlight those individuals who terminated their preneed contract to receive a refund or those that changed their preneed arrangements in order to receive a partial refund. It is not anticipated that this would be in violation of the current MOE requirements.

DHP will request the Funeral Service Licensee to include notification to the contract buyer that if preneed arrangements for Medicaid burial set aside are reduced from the original contract, that DMAS is entitled to receive the remainder of the funds. Likewise, if the contract is modified or terminated to reduce the original set aside amount, DMAS is entitled to receive any remaining funds resulting from the termination or

modification of the contract. (Board approved this action step on 7/20/10)

There were additional issues raised in the initial letter having to do with insurance policies and ownership rights. It is our understanding that meetings were held with BOI and DMAS to discuss and resolve these issues.

### **Third Party Sellers of Preneed**

It appears that §54.1-2810 regarding licensure of funeral establishments may be misunderstood in that marketing practices of third party sellers is being applied to this section.

The Special Preneed Committee suggested that alternative wording be developed to clarify the verbiage from “employee of “ to “**employed by**”. The Committee believes that this would provide better understanding of the intent of the law and clarify any misunderstandings.

The following section of the Code were referenced for this discussion:

- **§ 54.1-2810.** Licensure of funeral establishments (4); An operator of a funeral establishment shall not allow any person licensed for the practice of funeral service to operate out of his funeral establishment unless the licensee is the operator or an **employee of** the operator of a licensed funeral establishment.



Out of sight out of mind



## Legislative Proposals

This proposal is a result of the collaborative efforts of multiple meetings held this spring addressing death certificate issues.

*A bill to amend and reenact § 32.1-263 of the Code of Virginia and enact § 54.1-2809.1, relating to requirements for signed death certificates.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-263 is amended and reenacted and § 54.1-2809.1 is enacted as follows:**

**§ 32.1-263. Filing death certificates; medical certification; investigation by medical examiner.**

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § [46.2-342](#) of the deceased, shall be filed for each death which occurs in this Commonwealth with the registrar of the district in which the death occurred within three days after such death and prior to final disposition or removal of the body from the Commonwealth, and shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in this Commonwealth, a death

certificate shall be filed in the registration district in which the dead body is found in accordance with this section.

The place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including but not limited to, information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth and the place where it is first removed shall be considered the place of death.

When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § [54.1-2800](#) who first assumes custody of a dead body shall file the certificate of death with the registrar. He shall obtain the personal data, including the social security number of the

deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § [46.2-342](#), from the next of kin or the best qualified person or source available and obtain the medical certification from the person responsible therefore.

C. The medical certification shall be completed, signed in black or dark blue ink, and returned to the funeral director within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by a medical examiner is required by § [32.1-283](#) or [32.1-285.1](#), or by the physician that pronounces death pursuant to § [54.1-2972](#).

In the absence of the physician or with his approval, the certificate may be completed and signed by an associate or partner of the physician, or by a nurse practitioner or physician assistant supervised by the physician, the chief medical officer of the institution in which death occurred, a hospitalist employed or engaged by the facility where the death occurred or the physician who performed an autopsy upon the decedent, if such individual has access to the medical history of the case and death is due to natural causes.

D. When inquiry or investigation by a medical examiner is required by § [32.1-283](#) or [32.1-285.1](#), the medical examiner shall investigate the cause of death and shall complete and sign the medical certification portion of the

death certificate within 24 hours after being notified of the death. If the medical examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and sign the medical certification portion of the death certificate.

E. If the physician, nurse practitioner or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the office of the chief medical examiner in the district where the death occurred and obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or medical examiner shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician or medical examiner.

F. A physician, nurse practitioner or physician assistant who, in good faith, signs a certificate of death or determines the cause of death shall be immune from civil liability absent gross negligence or willful misconduct.

**§ 54.1-2809.1. Requirement for a signed death certificate.**

Prior to removal of a dead human body from a licensed hospital, a funeral service establishment or a surface transportation and removal service shall have a signed death certificate for the decedent.



## Legislative Proposals Continued

A second legislative proposal has been approved by the board to be submitted for consideration. This bill will change the CE requirements back to an annual requirement in order to eliminate the confusion over an annual and a biennial requirement. The bill will also exempt licensees during their renewal cycle from having to take CE during their first year of practice.

*A bill to amend and reenact § 54.1-2816.1 of the Code of Virginia pertaining to continuing education requirements.*

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 54.1-2816.1 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2816.1. Continuing education requirements; promulgation of regulations.

A. The Board shall promulgate regulations governing continuing education requirements for funeral services licensees, funeral directors and embalmers licensed by the Board.

B. The Board shall approve criteria for continuing education courses, requiring no more than five hours per year, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors and embalmers. Approved continuing education courses shall include, but not be limited to, at least one hour per year covering compliance with laws and regulations governing the profession, and at least one hour per year covering preneed funeral arrangements.

Course providers may be required to register continuing education courses with the Board pursuant to Board

regulations. The Board shall not allow continuing education credit for courses where the principal purpose of the course is to promote, sell or offer goods, products or services to funeral homes.

C. All course providers shall furnish written certification to licensees of the Board attending and completing respective courses, indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of two years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of two years the written certification issued by any Board-approved provider of continuing education courses. The Board may require course providers or licensees to submit copies of such records or certification, as it deems necessary, to ensure compliance with continuing education requirements.

D. The Board shall have the authority to grant exemptions or waivers in cases of certified illness or undue hardship. A licensee shall be exempt from the requirement for continuing education at the first renewal following initial licensure by examination.

E. The Board may provide for an inactive status for those licensees who do not practice in Virginia. The Board may adopt

regulations reducing or waiving continuing education requirements for any licensee granted such inactive status. However, no licensee granted inactive status may have their license changed to active status without first obtaining additional continuing education hours as may be determined by the Board. No person or registrant shall practice in Virginia as an embalmer, funeral director, or funeral service licensee unless he holds a current, active license.



**You may provide comments on this proposal in writing to the board office by August 16, 2010 to the attention of Lisa R. Hahn, Executive Director**



## Regulatory Changes

The Board filed in January, 2010, a Notice of Intended Regulatory Action to increase licensure fees. This Notice will be published on August 16, 2010 and public comment will be accepted through September 15, 2010.

The board has submitted another Notice of Intended Regulatory Action in order to establish a maximum number of hours credited for taking an online CE course. Public comment is now being accepted.

The board has also submitted an exempt action change regarding CE providers due to a conflict in the Code of Virginia. The section requires CE providers to maintain documentation of the course titles and objectives and licensee attendance records for a period of two years instead of three years.

Additionally, the Board of Funeral Directors and Embalmers approved a motion to publish emergency regulations in response to House Bill 319 which amended Section 54.1-2818.1 -Prerequisites for Cremation. The revised regulatory language in 18 VAC 65-20-436 will follow:

**18VAC65-20-436.** Standards for registered crematories or funeral establishments that operate a crematory

- **A. Authorization to cremate.**

2. The cremation authorization form shall include an attestation of visual identification of the deceased from a viewing of the remains or a photograph signed by the person making the identification. Visual identification may be made by viewing unique identifiers or markings on the remains. The identification attestation shall either be given on the cremation authorization form or on an identification form attached to the cremation authorization form.

3. In the event visual identification is not feasible, a crematory may use positive identification of the deceased in consultation with the medical personnel, a medical examiner or law enforcement pursuant to § 54.1-2818.1 of the Code of Virginia.

Lastly, the board passed a motion to submit an exempt regulatory action for approval to repeal Section **18VAC65-20-530** from its regulations in light of the passage of HB201. The regulation was in conflict with the Code of Virginia. The regulation will be repealed once the exempt action is approved.

We recommend that you register on the Town Hall to keep informed of regulatory actions and meetings. There is a link to Town Hall from the Board's website. You may also contact the board and be added to the Public Participation Guideline list in order to receive proposed legislation.





## Virginia Board of Funeral Directors and Embalmers

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*The Virginia Board of Funeral Directors and Embalmers falls under the Agency umbrella of the Virginia Department of Health Professions. Our Agency's mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public. The Virginia Board of Funeral Directors and Embalmers is mandated to ensure fair and competent practice of funeral services and the delivery of those services with integrity and with accountability to the Virginia laws and regulations that govern the funeral industry.*

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**We're on the Web!**  
[www.dhp.virginia.gov](http://www.dhp.virginia.gov)

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## Technology - A Business Tool Available to You

Technology has become a very important and practical tool in life, simply because it makes things easier and more accessible. Nowadays Grandma is keeping in touch with the family via email and sharing photos on one of the social websites. No one is immune to its presence. As a business owner technology is almost a vital element for success. A website can direct consumers to your business, product and services.

The Virginia Board of Funeral Directors and Embalmers has taken advantage of tools offered by the Internet and other software services to cut cost. Licensees may renew online, send address changes via e-mail and the board's applications, forms, regulations, laws, and other pertinent information on its website. This enables the Board to reach a broader populations of licensees, pro-

spective licensees, consumers, etc. with out incurring postage or paper cost. The board encourages all its licensees to log onto [www.dhp.virginia.gov](http://www.dhp.virginia.gov), to stay abreast of regulatory changes and requirements, board meetings, and other industry news.

The board uses e-mail to communicate with our licensees such as we notify them that the latest newsletter has been posted to the website. It is important that you provide and keep your e-mail address current with the board office. If you do not have a computer you may go to your local library and type in our web address to see what the board is doing.

There are e-mail accounts you may register without any charge to you.





## Test your Knowledge!

**Question #1** – How many continuing education hours are currently required in a two year period?

**Question #2** – A licensee is required to maintain original CE documentation for a period of \_\_\_\_\_ years after renewal?

**Question #3** – The crematory shall maintain the remains in refrigeration at \_\_\_\_\_degrees Fahrenheit or less, unless the remains have been embalmed?

**Question #4** – Price lists shall be retained for \_\_\_\_\_ years after the date on which they are no longer effective?

**Question #5** – If someone terminates their preneed contract within \_\_\_\_\_days, you shall refund all payments, plus any interest or income earned.

**Question #6-** An internship shall consist of at least \_\_\_\_\_hours to be completed within no less than 12 months and not more than \_\_\_\_\_ months.

**Question #7-**The intern, the supervisor and the establishment shall submit a written report to the board at the end of every\_\_\_\_hours of training. The report shall be received in the board office no later than \_\_\_\_days following the completion.

**Question #8** – Guess what the two most common inspection violations are?

**Question #9** - Every crematory shall have a manager of record who has achieved certification by CANA or ICCFA by \_\_\_\_\_.

**Question #10-** At the time of the Preneed inquiry, licensees shall furnish to each person inquiring about preneed arrangements a copy of \_\_\_\_\_ and \_\_\_\_\_.

**Answer Key:** 1. 10 2. 2 3. 40 degrees 4. 3  
5. 30 6. 3000, 48 7. 1000, 10 8. incorrect  
price list on GPL, incorrect price ranges listed  
9. July 8, 2010 10. GPL, Preneed disclosure