# 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 18, 2011 at 10:00 a.m.**

## BOARD MEETING
## AGENDA

**CALL TO ORDER**

**ORDERING OF AGENDA**

**ACCEPTANCE OF MINUTES – Tab 1**

- Board Meeting – April 12, 2011
- Preneed Committee Meeting – May 24, 2011
- Informal Conference – May 24, 2011
- Informal Conferences – August 9, 2011

**PUBLIC COMMENT PERIOD**

**EXECUTIVE DIRECTOR'S REPORT – Tab 2**

**NEW BUSINESS**

- Legislative/Regulatory Reports– **Elaine Yeatts**
    - Exempt Regulatory Action – Adoption of amendment to conform Preneed regulations with Funeral Rule - **Tab 3**
- Visible Identification when a body has been disinterred and the family wants to cremate – **Blair Nelsen**
- Interns completing the embalming requirements of the resident trainee program at the CME Office. – **Michael Leonard - Tab 4**
- Virginia Preneed Life Insurers Coalition – **Michael Leonard - Tab 5**
- Maryland Reciprocal Agreement – **Tab 6**
- Election of Officers

# 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 Tuesday, April 12, 2011 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

**BOARD MEMBERS PRESENT**
Michael J. Leonard, FSP, President
Robert B. Burger, Jr., FSP, Vice-President
Blair Nelsen, FSP, Secretary-Treasurer
Randolph T. Minter, FSP
Billie Watson-Hughes, FSP
Barry M. Murphy, FSP
Willard "Skip" Tharp, FSP
Junius Williams, Citizen Member

**BOARD MEMBERS ABSENT**
Walter S. Ball

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING**
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Dr. Dianne Reynolds-Cane, Agency Director
Arne Owens, Agency Chief Deputy Director
Elaine J.Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

**BOARD COUNSEL**
Amy Marschean, Senior Assistant Attorney General

**QUORUM**
With 8 members present a quorum was established.

**GUESTS PRESENT**
Barry D. Robinson, 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
Hailel "Butch" Gatewood, Jr., Norris Funeral Services
Richard Sikon, John Tyler Community College
Kimberly Jordan, FSD
Janet Rainey, Virginia Department of Health

## CALL TO ORDER

Mr. Leonard, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:05 a.m. and asked the members and guests to introduce themselves.

## ORDERING OF AGENDA

The agenda was accepted as ordered.

## ACCEPTANCE OF MINUTES

- Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the Board voted to accept the Board Meeting Minutes dated January 18, 2011. The motion carried unanimously.
- Upon a motion by Ms. Hughes and properly seconded by Mr. Minter, the Board voted to accept the Formal Hearing minutes dated January 18, 2011. The motion carried unanimously.
- Upon a motion by Mr. Burger and properly seconded by Ms. Hughes, the Board voted to accept the Formal Hearing minutes dated January 18, 2011. The motion carried unanimously.

## PUBLIC COMMENT PERIOD

On behalf of the Virginia Morticians Association, Barry Robinson thanked Barry Murphy for his service and dedication to the board as well as all members whose terms will be expiring in June 2011. He extended an invitation to the board to attend the VMA Annual Convention in June and thanked them for providing a class on Preneed. Lastly, Mr. Robinson requested that when changes are made to regulations that the board provide a summary of the changes.

## EXECUTIVE DIRECTOR'S REPORT

### Expenditure and Revenue Summary

Ms. Hahn stated that the beginning cash balance as of June 30, 2010 was $40,298, revenue received for FY 11 was $229,785 less the direct and allocated expenditures of $376,873 leaving a cash balance as of February 28, 2011 of $(106,790). Ms. Hahn was pleased to share that preliminary numbers are indicating that we may have just a slight cash shortfall at the end of the fiscal year versus a more significant shortfall. Accordingly, we should have a positive cash balance as of 6/30/11 due to the carryover balance from 6/30/10. She attributed the projection to streamlining investigations, not refilling a position, and closely monitoring all expenditures.

### Licensee Statistics

Ms. Hahn stated that the summary of current license statistics was included in the agenda packages.

**Discipline Statistics**

Ms. Hahn stated we have 37 open cases; 20 cases are in the Enforcement Division at the Investigative stage; 13 cases are in the Probable Cause stage; 2 cases at the APD level; 2 cases are at the informal stage; and 0 cases are at the formal stage.

**Virginia Performs – 4th Quarter ending 12/31/10**

Ms. Hahn stated that the following results were unofficial because they had not been published on the Virginia Performs website; 100% rating for issuing licenses in less than 30 days; a 100% rating for patient care cases closed within 250 days; customer satisfaction surveys were unavailable due to non-participation by applicants; and the clearance rate was at 200% which indicates how many cases we closed versus how many cases were received.

**Board Business**

**Alkaline Hydrolysis**

Ms. Hahn announced that Ohio had blocked the use of Alkaline Hydrolysis as a method of disposition. The Department of Health directed officials not to issue permits or accept death certificates when bodies are to be disposed of through Alkaline Hydrolysis.

She also provided the members with a related magazine article in which Randy Minter obtained from the January edition of ICCFA magazine.

**Jeanette Meade**

Ms. Hahn shared how deeply touched Jeanette Meade and her family were for the dinner gathering on her behalf with staff and board member representatives Randy Minter and Barry Murphy. Ms. Hahn shared Jeanette's contributions to the Commonwealth and reported that she not only worked for the Department of Health Professions and the Department of Professional and Occupational Regulation but pointed out that Jeanette worked many years directly with the Board of Funeral Directors & Embalmers. Jeanette was an integral part of the Unit and is missed by her colleagues. Ms. Hahn shared pictures from the special evening.

**Examination Vendor**

Ms. Hahn shared that the contract for the examination vendor was renegotiated to include testing opportunities 5 days per week rather than only 5 days per month. She shared that this change will be greatly beneficial to the profession.

**Board Presentations**

Ms. Hahn mentioned that the board had a very busy quarter giving presentations throughout the State. Lynne Helmick gave several presentations for VFDA Traveling Caravan, Bob Burger and Lynne Helmick will attend and present during the June 2011 VMA Convention, Ms. Hahn & Mr. Leonard will attend and present during the June VFDA Annual Meeting, and Ms. Hughes will be presenting at the Walter Reed Senior Center on May 10th. Ms. Hughes will be participating this upcoming weekend at the National Funeral Directors Association & Mortician's Association, Inc. (NFDMA).

**Board Member Tenures**

Ms. Hahn was sad to point out that second terms for Skip Tharp, Billie Watson Hughes, and Barry Murphy will expire on June 30, 2011. Additionally, Ms. Hughes term on the Board of Health professions will expire June 30, 2011 and the position will need to be filled by another member from the Board of Funeral Directors & Embalmers. Ms. Hahn concluded that she has thoroughly enjoyed working with these members and their service and contributions made to the Commonwealth will be formally recognized at a future meeting.

**Attorney General's Office**

**Ms. Hahn shared that she is currently working with Amy Marschean, Board Counsel on two matters:**

- A response regarding a letter from Edwin F. Brooks regarding a potential establishment license.
- A response regarding AD Price Cremains.

**Calendar**

Ms. Hahn stated the next scheduled meetings in 2011 are May 24th (Preneed Committee meeting followed by Informal Conferences); July 19th (Board Meeting) and October 18th (Board Meeting).

**NEW BUSINESS**

**Electronic Submission of Death Certificates – Janet Rainey, Virginia Department of Health**

Ms. Rainey presented background information that substantiated her need to publish a recent memorandum regarding the electronic submission of death certificates and the need for her department to ensure establishments comply with the requirements. She stated that her office is swamped with establishment waiting for approval and that they are working diligently to keep up.

Mr. Nelsen inquired about VDH developing standard software that everyone utilized rather than each establishment trying to come up with their own software resources and compatibility. Ms.

Rainey indicated that she had a meeting scheduled for the following day to discuss this possibility with her IT resources and that she would share the response.

Mr. Murphy shared that he was looking forward to the web based access and inquired when to expect the system up and running. Ms. Rainey was unable to give a definitive date for the EDR but did say that the Secretary had signed off. She concluded that burial transit permits will also be included in the EDR.

**Alkaline Hydrolysis Presentation – Rick Sikon, John Tyler Community College**

Rick Sikon gave a very informative and interesting presentation on Alkaline Hydrolysis; an alternative method to burial and cremation. He included information on what the method is and how it works. He shared that he sees this as being a viable and "bio-friendly" option for the future.

It was the board consensus that because not enough scientific research had been conducted, especially relating to waste water, that the matter would be monitored until more approvals and information was available.

**Regulatory Report – Elaine Yeatts**

Ms. Yeatts reviewed the status of the following regulations pertaining to **18VAC65-20**:

- Identification of human remains – remain at the Governor's Office
- NOIRA regarding fee increases – remain at the Governor's Office

Ms. Yeatts reviewed the status of regulations pertaining to **18VAC65-30**:

- Fast-Track regarding termination of irrevocable trusts – remain at Governor's Office

**Legislative Report – Elaine Yeatts**

Ms. Yeatts reviewed the following Bills which passed and were approved during the 2011 General Assembly:

- SB 1117 – An Act to amend and reenact **§§ 32.1-263 and 54.1-2972** of the Code of Virginia, relating to requirements for death certificates **(attached).**
- HB 1659 – An Act to amend and reenact **§ 54.1-2818.1** of the Code of Virginia, relating to identification prior to cremation **(attached).**

**Adoption of Exempt Regulation on Cremation- Elaine Yeatts**

Ms. Yeatts presented draft amendments regulations on requirements for cremations based on changes to §§ 54.1-2811.1 and 54.1-2818.1 of the Code of Virginia made by the 2010 and 2011 General Assembly. Mr. Nelsen pointed out that the draft would allow a crematory 48 hours to hold a body after receipt of remains without refrigeration. Since that is not the board's intent nor

is it consistent with the law, that amendment was deleted. Upon a motion by Mr. Tharp and properly seconded by Ms. Hughes, the board voted to adopt the Exempt Regulation on Cremation under 18VAC65-20-436 **(attached).** The motion passed unanimously.

**Maryland Reciprocal Agreement**

A "draft" version of a Maryland Reciprocal Agreement was provided to the members for consideration. Discussion was made about the similarities and the differences in the laws and regulations between the two states. Ms. Hughes pointed out that Maryland offers a "spousal" license in the event of the death of a spouse which our board was strongly opposed to.

Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the board voted to authorize staff the ability to edit the "draft" version of the Maryland Reciprocal Agreement. The motion carried unanimously.

Ms. Hughes agreed to assist with the re-draft.

**Letter Regarding Preneed Contract by Interns**

Mr. Leonard referred to a letter Ms. Hahn received from Regulatory Support Services, Inc. dated February 23, 2011 asking for clarification on whether or not Interns were allowed to make Preneed arrangements.

Following board discussion, a motion was made by Ms. Hughes and properly seconded by Mr. Tharp to authorize board staff to reinforce the laws and regulations regarding interns handling preneed arrangements. The motion carried unanimously.

- **Board Clarification regarding Preneed Contracts by Interns**

  A Funeral Service Intern is permitted to meet with a family and assist in discussions and planning for Preneed contracts provided the Funeral Service Supervisor is present in the room. Preneed contracts are legally binding and must be signed only by a Funeral Service licensee.

**ADJOURNMENT:**

With no further business before the Board, the meeting adjourned at 12:25 p.m.

| | |
|---|---|
| Michael J. Leonard, President | Lisa R. Hahn, Executive Director |
| Date | Date |

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 613

*An Act to amend and reenact §§ 32.1-263 and 54.1-2972 of the Code of Virginia, relating to requirements for death certificates.*

[S 1117]

Approved March 25, 2011

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

**1. That §§ 32.1-263 and 54.1-2972 of the Code of Virginia are amended and reenacted 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 therefor.

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~~ *such* physician or with his approval, the certificate may be completed and signed by ~~an associate~~ *another* physician *employed or engaged by the same professional practice, a nurse practitioner or physician assistant supervised by such physician,* the chief medical officer of the institution in which death occurred, *a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by 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 death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and 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 health district physician director in the district where the death occurred to 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, only for such signature and determination of causes of death on such certificate, absent gross negligence or willful misconduct.*

§ 54.1-2972. When person deemed medically and legally dead; determination of death; nurses' or physician assistants' authority to pronounce death under certain circumstances.

A. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in this Commonwealth, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition which directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed and a specialist in the field of neurology, neurosurgery, electroencephalography, or critical care medicine, when based on the ordinary standards of medical practice, there is the absence of brain stem reflexes, spontaneous brain functions and spontaneous respiratory functions and, in the opinion of another physician and such specialist, based on the ordinary standards of medical practice and considering the absence of brain stem reflexes, spontaneous brain functions and spontaneous respiratory functions and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such reflexes or spontaneous functions, and, in such event, death shall be deemed to have occurred at the time when these conditions first coincide.

B. A registered nurse or a physician assistant who practices under the supervision of a physician may pronounce death if the following criteria are satisfied: (i) the nurse is employed by or the physician assistant works at (a) a home health organization as defined in § 32.1-162.7, or (b) a hospice as defined in § 32.1-162.1, or (c) a hospital or nursing home as defined in § 32.1-123, including state-operated hospitals for the purposes of this section, or (d) the Department of Corrections; (ii) the nurse or physician assistant is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs; (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to § 54.1-2987.1 for the patient who has died. The nurse or physician assistant shall inform the patient's attending and consulting physicians of his death as soon as practicable.

The nurse or physician assistant shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by a medical examiner, the nurse or physician assistant shall notify the chief medical examiner of the death and the body shall not be released to the funeral director.

This subsection shall not authorize a nurse or physician assistant to determine the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician, *except as provided in § 32.1-263*. Further, this subsection shall not be construed to impose any obligation to carry out the functions of this subsection.

This subsection shall not relieve any registered nurse or physician assistant from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing or Board of Medicine regulations.

C. Death, as defined in subdivision A 2, shall be determined by one of the two physicians and recorded in the patient's medical record and attested by the other physician. One of the two physicians determining or attesting to brain death may be the attending physician regardless of his specialty so long as at least one of the physicians is a specialist, as set out in subdivision A 2.

D. The alternative definitions of death provided in subdivisions A 1 and A 2 may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 88

*An Act to amend and reenact § 54.1-2818.1 of the Code of Virginia, relating to identification prior to cremation.*

[H 1659]

Approved March 15, 2011

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

**1. That § 54.1-2818.1 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2818.1. Prerequisites for cremation.

No dead human body shall be cremated without permission of the medical examiner as required by § 32.1-284 and visual identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to § 54.1-2825 ~~or~~, an agent named in an advance directive pursuant to § 54.1-2984, *or a sheriff, upon court order, if no next-of-kin, designated person or agent is available.* When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation.

**Project 2807 – Exempt action**

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Exempt action on cremation criteria

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

A. Authorization to cremate.

1. In accordance with § 54.1-2818.1 of the Code of Virginia, a crematory shall require a cremation authorization form executed in person or electronically in a manner that provides a copy of an original signature of the next-of-kin ~~or the person designated pursuant to § 54.1-2825 of the Code of Virginia~~ or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to § 54.1-2825, an agent named in an advance directive pursuant to § 54.1-2984, or a sheriff, upon court order, if no next-of-kin, designated person or agent is available.

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. 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 ~~made~~ feasible, a crematory ~~shall observe a 24-hour waiting period between the time of death and the cremation~~ may use other positive identification of the deceased as a prerequisite for cremation, pursuant to § 54.1-2818.1 of the Code of Virginia.

B. Standards for cremation. The following standards shall be required for every crematory:

1. Every crematory shall provide evidence at the time of an inspection of a permit to operate issued by the Department of Environmental Quality (DEQ).

2. A crematory shall not knowingly cremate a body with a pacemaker, defibrillator or other potentially hazardous implant in place.

3. A crematory shall not cremate the human remains of more than one person simultaneously in the same retort, unless the crematory has received specific written authorization to do so from the person signing the cremation authorization form.

4. A crematory shall not cremate nonhuman remains in a retort permitted by DEQ for cremation of human remains.

5. Whenever a crematory is unable to cremate the remains within 24 hours upon taking custody thereof, the crematory shall maintain the remains in refrigeration at approximately 40 degrees Fahrenheit or less, unless the remains have been embalmed.

C. Handling of human remains.

1. Human remains shall be transported to a crematory in a cremation container and shall not be removed from the container unless the crematory has been provided with written instructions to the contrary by the person who signed the authorization form. A cremation container shall substantially meet all the following standards:

a. Be composed of readily combustible materials suitable for cremation;

b. Be able to be closed in order to provide complete covering for the human remains;

c. Be resistant to leakage or spillage; and

d. Be rigid enough for handling with ease.

2. No crematory shall require that human remains be placed in a casket before cremation nor shall it require that the cremains be placed in a cremation urn, cremation vault or receptacle designed to permanently encase the cremains after cremation. Cremated remains shall be placed in a plastic bag inside a rigid container provided by the crematory or by the next-of-kin for return to the funeral establishment or to the next-of-kin. If cremated remains are placed in a biodegradable container, a biodegradable bag shall be used. If placed in a container designed for scattering, the cremated remains may be placed directly into the container if the next-of-kin so authorized in writing.

3. The identification of the decedent shall be physically attached to the remains and appropriate identification placed on the exterior of the cremation container. The crematory operator shall verify the identification on the remains with the identification attached to the cremation container and with the identification attached to the cremation authorization. The crematory operator shall also verify the identification of the cremains and place evidence of such verification in the cremation record.

D. Recordkeeping. A crematory shall maintain the records of cremation for a period of three years from the date of the cremation that indicate the name of the decedent, the date and time of the receipt of the body, and the date and time of the cremation and shall include:

1. The cremation authorization form signed by the person authorized by law to dispose of the remains and the form on which the next-of-kin or ~~his designee~~ the person authorized by § 54.1-2818.1 to make the identification has made a visual identification of the deceased or evidence of positive identification, if visual identification is not feasible;

2. The permission form from the medical examiner;

3. The DEQ permit number of the retort used for the cremation and the name of the retort operator; and

4. The form verifying the release of the cremains, including date and time of release, the name of the person and the entity to whom the cremains were released and the name of the decedent.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official: Lisa R. Hahn, Executive Director

Name of agency: Board of Funeral Directors and Embalmers

Date: _____

# UNAPPROVED
# VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

## Preneed Committee Meeting Minutes

The Preneed Committee of the Virginia Board of Funeral Directors and Embalmers convened for a meeting on Tuesday, May 24, 2011 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

**COMMITEE MEMBERS PRESENT**
Michael J. Leonard, FSP, Acting Chair
Billie Watson-Hughes, FSP

**COMMITEE MEMBER ABSENT**
Barry M. Murphy, FSP, Chair

**BOARD MEMBERS PRESENT**
Robert B. Burger, Jr., FSP, Vice-President
Blair Nelsen, FSP, Secretary-Treasurer
Randolph T. Minter, FSP
Junius Williams, Citizen Member

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING**
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Arne Owens, Agency Chief Deputy Director
Elaine J. Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

**BOARD COUNSEL**
Amy Marschean, Senior Assistant Attorney General

**GUESTS PRESENT**
Dennis W. Byers, Virginia State Manager, Preneed Funeral Program
Lynn Armstrong Patterson, Chairman, DC Board of Funeral Directors
Mark C. Neidinger, Associate General Counsel, National Guardian Life (NGL)
Barry D. Robinson, Virginia Morticians Association
Walt Dixon, Vice-President - Corporate Counsel, ForeThought Life Insurance Companies
Dan Price, Regional Director of Sales, ForeThought Life Insurance Companies
R.D. Monson, Homesteaders Life Company
Tracy Kelly, Legal Counsel, Homesteaders Life Company
Robert M. Hardy, Jr. VP & General Counsel, Investors Heritage
Karen L. Golden, President, Future Planning Services, LLC
Y.W. Scarborough III, President & CEO, Atlantic Coast Life Insurance Company
Billy Jenkins, Commonwealth Funeral Planning Inc.
Paulette Strawbridge, Virginia Morticians Association

Ben Lacy IV, Sands Anderson PC
Malcolm Oliver Ames, Ames Funeral Home, Inc.
Rusty Spencer, Regional Manager, TDW Associates
Laura S. McHale, Association of Independent Funeral Homes
Fred Carter, Virginia Morticians Association
Connie Steele, Virginia Morticians Association
Curtis L. Cunningham, Virginia Morticians Association
Ernest L. Johnson III, Life Actuary, State Corporation Commission - Bureau of Insurance
Karen Howell McPherson, McPherson Funeral Home, Inc.
Phillip Bell, Phillip Bell & Johnson
Robert B. Baker, Chinn Funeral Service
Mark S. Gutierrez, District Manager, Golden Considerations
Ashley Colvin, JLARC
Lacy Whittaker, Virginia Funeral Directors Association
Kristian L. Havard, Government Relations Associate, Advantage Strategies
Bob Oman, Virginia Funeral Directors Association
Annette Greenwood, Vice President & COO, Provider/Horizon Trust
Scott A. White, Senior Counsel, State Corporation Commission
Todd Rose, Senior Counsel, Bureau of Financial Institutions
William J. Irvin, The Irvin Law Firm
Richard Brockwell, Regional Manager, Southland National Insurance Corp.
Meredyth Partridge – Regulatory Support Services (RSS)
Harvey W. Bollinger, Jr., General Manager, SCI
Ralph De Stefano, SCI
Bernie Henderson, SCI
Thomas Bryant, Independent Funeral Planning

**CALL TO ORDER**

Mr. Leonard called the preneed committee meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:05 a.m. and asked the members and guests to introduce themselves.

**ORDERING OF AGENDA**

The agenda was reordered by moving Third Party Sellers of Preneed to the beginning of the meeting.

**OPENING COMMENTS**

Mr. Leonard requested that all guests make sure they signed in before leaving the meeting and to leave a business card if possible so that their signatures could be correctly discerned. He also requested that if anyone had prepared comments, that they leave a copy in order to ensure the essence of their comments were captured.

The Chair explained that due to the size and interest in the meeting, the committee would receive comments on each agenda item and would allow approximately 3 minutes per person. The board members and staff may have questions following comments.

## PURPOSE OF MEETING

Mr. Leonard explained that the Preneed Committee meeting was being held in order to gain a deeper understanding of the issues being addressed. That in past years, the board had been solicited for comment on numerous funeral bills being proposed in Virginia Assembly and they wanted to ensure they are properly informed and able to formulate educated opinions. The meeting was an opportunity for the committee to hear comments from experts in the field in order to share with the board and assist with making recommendations or decisions. It is also the intent to share this information with the legislative committee tasked to study funeral bills.

## THIRD PARTY SELLERS OF PRENEED

Mr. Leonard reiterated that the board had previously reviewed this issue and had stated that Third Party sellers of Preneed are legal in Virginia as long as the seller is licensed both as a Funeral Service Licensee and licensed to sell insurance in the Commonwealth of Virginia and have a contractual relationship with the funeral home.

No other comments were made.

## HB 2267

Mr. Leonard stated that HB 2267 failed during the 2011 general assembly, but that the board had been informed that the bill may be studied by a subcommittee during the upcoming summer and possibly reintroduced. He then requested comments from guests in favor and against the bill in an effort for everyone to better understand the issues and the purpose of the bill.

**Comments:**

- **Fred Carter** spoke on behalf of the Virginia Morticians Association (VMA) and pointed out that the bill contained a mistake in line 23, paragraph 2, section B, in that the word "actual" was supposed to be deleted and not part of the law. Mr. Carter stated that he supported the 5% rule. He also stated that scandals occurred in other states due to failure of enforcement of the laws. He believes that the consumer is confused by the term "final expense" because of the expectation that it relates to a funeral. He further stated that the disclosure forms are long and confusing to the consumer. He would rather see the term simply stated as being "life" or "funeral". He also stated that 5 companies was a reasonable amount of competition in Virginia.

- **Walt Dixon** spoke on behalf of Forethought Life Insurance Company and Forethought Federal Savings Bank and shared that they were against HB 2267 because they were never clear what the Bill intended to address. He stated that he was unaware of any State in the Union where preneed law regulates final expense. He explained that Insurance carriers who sell Final Expense life insurance policies typically have their agents and customers sign a simple Acknowledgment Form whereby the agent and customer confirm that the only item the customer is purchasing is a life insurance policy and that the customer **IS NOT** purchasing or entering into a preneed funeral contract. Mr. Dixon

stated that he is an advocate for enforcement of existing laws and that the bill is not a remedy for the issues at hand. Mr. Dixon further explained that Medicaid Trusts are set up in accordance with a federally mandated 2 step process; (1) ownership must be transferred to a funeral home; and (2) funeral home signs it over to an irrevocable trust. In conclusion, he stated that State law needs to clearly indicate under what circumstances the state is entitled to recover such excess proceeds and provide that it is the state's duty to recover excess proceeds and not the responsibility of the insurance company or Trustee to do so.

- **Mark Neidinger** spoke on behalf of National Guardian Life and shared their opposition to HB 2267 by first stating that the way it was drafted could be an argument that all life insurance policies could be pulled into Virginia law. A CPI requirement on final expense policy would result in many insurers pulling out of the state which would further limit who the consumer could use to buy their policies.

- **Ernest Johnson** stated that he was neither opposed or for HB 2267 but wanted to provide the following technical assistance. The Commonwealth of Virginia places requirements on insurance policies sold in Virginia. He explained that for life policies with level death benefits, companies can design the plan to comply with both the federal and the state requirements. But for those with a death benefit that increases according to either the CPI index or by 5% per year, the state minimum exceeds the federal maximum so companies cannot satisfy both. For policies with an initial death benefit no larger than $15,850 there are exemptions and special interpretations (established to facilitate preneed issues) which allow for companies to satisfy both requirements and sell the policies. But for larger initial death benefits there are no exemptions or interpretations which would permit a company to design a policy with the death benefit indexed to the CPI or increase annually by 5% and still satisfy both requirements. He concluded by stating that if HB 2267 as written were passed, companies would have no policies to sell above $15,580 in this market. Since this is probably the largest portion of all sales up to a much higher amount, it would have a large impact on the availability of policies to Virginia consumers.

- **Bob Oman** spoke on behalf of the Virginia Funeral Directors Association (VFDA) by stating that they have been unable to get a better understanding and purpose of the bill since it was introduced. The laws are in place to protect consumers from losing money yet, they are not aware of anyone having lost money in Virginia. They are also concerned about limiting the competition in Virginia.

- **Meredyth Partridge** stated that she was neither for nor against HB 2267 but shared a story about a client of hers who had an issue with interest only being accrued on the insurance policy for 10 years rather than 15 years as required. She explained that SCC did not sanction this insurance company and neither did the board.

**BREAK**

With no further comments offered on SB 2267, the committee recessed at 11:00 a.m.

**RECONVENE**

The committee reconvened at 11:20 a.m.

## TRUSTS CONFORMING TO THE 5% OR CPI RULE

Mr. Leonard explained that the Board had been asked to ponder why there is not a 5% or CPI rule for trust policies as it is required for insurance policies or annuity contracts when used to fund the preneed funeral contract. He reiterated that in a 2006 preneed meeting, the board looked at the current requirement for insurance products to pay the 5% or the CPI and it was the general consensus at the time from the insurance companies who were present as well as the board to leave the growth requirement intact. Therefore, the board is looking at the possibility of placing a similar requirement on trusts as is currently on insurance products.

**Comments:**

- **Mark Neidinger** provided everyone with handouts and began his discussion by stating that this rule would take choices away from funeral homes and create an unfair playing field. He stated that consumers would pay higher premiums, funeral homes would see lower commissions and product offerings, insurers would incur higher expenses and the State would see lower tax revenue from premiums and income taxes. He concluded his comments by stating that he wished to dispel the notion that a CPI rule would be good for consumers and funeral homes. He also provided the final comments regarding HB 2267 by stating that when his company receives an application for insurance that is completed correctly and the premium is paid, they process the application. He reiterated that the CPI ruling would increase premiums and companies and competition would leave the State.

- **Mr. Leonard** responded that it is the mission of the Board to safeguard citizens of Virginia, not to protect commissions. He requested that a representative explain the current position of Bank Trusts; are they sufficient to meet the current needs? Where do they currently stand? What protection is there for the consumer?

- **Walt Dixon** responded to the Committee by stating that most Trustees' are a Direct Trustee which means they will direct how the money will be invested; money can be directed into a federally insured account (FDIC). He added that mandating a CPI rule would reduce the number of final expense carriers selling in Virginia and that no states, including Virginia, have a minimum return on investment for preneed funeral trust funds. To the best of his knowledge, no funeral home had ever failed to provide the funeral goods and/or services listed in a trust or insurance-funded preneed funeral contract because the trust did not have a guaranteed minimum rate of return or because the policy used to fund the preneed contract did not have a guaranteed minimum growth rate. He also mentioned that concerns may arise from funeral directors who do not understand "Trusts".

- **Blair Nelsen** received clarification from Mr. Dixon that if a "Trust" purchases insurance, it does not need to conform to the CPI rule; that insurance funded transactions never go to a funeral home and that insurance is a lawful investment guaranteed by a State fund.

- **Fred Carter** spoke before the Committee about a "defined benefit program" that has been set up by Buddy Moore with the Chesapeake Bank which offers a 5% return. He stated that he program was "simple and clean and that nobody had ever lost a dime." Mr. Carter simply stated that no agreements can be made to restrict the right of the consumer to choose their funeral home.

- **Thomas Bryant** expressed his concern that purchaser's are not aware of whether or not they are buying an Insurance Policy or a Trust because perhaps the people selling the policies are inexperienced.

- **Annette Greenwood** spoke on behalf of herself, Buddy Moore and Chesapeake Bank by stating that all of their employees are licensed insurance agents and that they do not process any documentation that is illegal. She added that their bank pays a fair return and that they are proud of who they serve.

- **Lisa Hahn** reported that she is not aware of any complaint being registered against Chesapeake Bank regarding insufficient funding.

## FIDUCIARY RESPONSIBILITY OF TRUSTS

Mr. Leonard stated that the board wanted to ensure that Trusts are held to the same or similar safeguards and requirements as insurance. The board also wants to understand the issues and determine if it is necessary to propose changes or determine if it is even under their authority to do so.

- **Amy Marschean** stated that her preliminary research of the Uniform Trust Law as implemented in Virginia bore out what Walt Dixon had stated previously. For trusts established under Virginia law, Va. Code § 55-548.01 provides that assets are to be invested in compliance with the Uniform Prudent Investor Act and the Uniform Principal and Income Act. She reiterated Mr. Dixon's point that laws are in place to safeguard trusts, but it is hard to protect against persons intent on criminal fraud. She requested the audience to comment on whether those in the banking industry saw a need to propose changes to safeguard trusts used to fund preneed contracts and no one came forward.

## CONCLUSION

Mr. Leonard asked if anyone felt there was a need to continue discussion or research on any of the day's discussions.

Mark Neidinger requested that further discussion take place regarding the current CPI rule for insurance companies. The Board asked Mr. Neidinger and his staff to have something in writing by July 1, 2011 for the board to review at their next meeting.

## ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 12:10 p.m.

| | |
|---|---|
| Michael J. Leonard, Chair | Lisa R. Hahn, Executive Director |
| Date | Date |

*DRAFT UNAPPROVED*

# VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
# SPECIAL CONFERENCE COMMITTEE
# MINUTES

| Tuesday, May 24, 2011 | Department of Health Professions<br>Perimeter Center<br>9960 Mayland Drive, Suite #300 | Henrico, Virginia |
|---|---|---|

**CALL TO ORDER:** A Special Conference Committee of the Board was called to order at 3:05 p.m.

**MEMBERS PRESENT:** Randy Minter, FSP, Chair
Bob Burger, FSP

**DHP STAFF PRESENT:** Lynne Helmick, Deputy Executive Director
Kathy Truesdale, Discipline Operations Manager
Peter Opper, APD

**MATTER:** **Dennis K. Pruitt, Applicant**
**Heaven Bound Transport**
**Case No.: 135973**

**DISCUSSION:** Mr. Pruitt did not appear before the Committee in person in accordance with a Notice of the Board dated April 20, 2011. Mr. Pruitt was not represented by counsel.

**CLOSED SESSION:** Upon a motion by Mr. Burger, and duly seconded by Mr. Minter, the Committee 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 Dennis K. Pruitt/Heaven Bound Transport. Additionally, he moved that Ms. Helmick, Ms. Truesdale and Mr. Opper attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions.

**RECONVENE:** Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session.

**DECISION:** Upon a motion by Mr. Burger, and duly seconded by Mr. Minter, the Committee made certain Findings of Fact and voted to DENY the application for licensure for Heaven Bound Transport.

**VOTE:** The vote was unanimous.

**ADJOURNMENT:** The Committee adjourned at 3:25 p.m.

Michael Leonard, FSP, Chair

Lisa R. Hahn, Executive Director

Date

Date

*DRAFT UNAPPROVED*

# VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
# SPECIAL CONFERENCE COMMITTEE
# MINUTES

| | |
|---|---|
| **Tuesday, August 9, 2011** | **Department of Health Professions**<br>**Perimeter Center**<br>**9960 Mayland Drive, Suite #300**<br>**Henrico, Virginia 23233** |

**CALL TO ORDER:** A Special Conference Committee of the Board was called to order at 9:31 a.m.

**MEMBERS PRESENT:** Randy Minter, FSP, Chair
Blair Nelsen, FSP

**DHP STAFF PRESENT:** Lynne Helmick, Deputy Executive Director
Kathy Truesdale, Discipline Operations Manager
Peter Opper, APD

**MATTER:** **Jeffrey L. Dodson, Sr., FSP**
**License No.: 0502-860053**
**Case No.: 138699**

**DISCUSSION:** Mr. Dodson appeared before the Committee in person in accordance with an Amended Notice of the Board dated July 5, 2011. Mr. Dodson was not represented by counsel.

The Committee fully discussed the allegations in the Notice with Mr. Dodson.

**CLOSED SESSION:** Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Committee 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 Jeffrey L. Dodson, FSP. Additionally, he moved that Ms. Helmick, Ms. Truesdale and Mr. Opper attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions. The Committee entered into closed session at 9:41 a.m.

**RECONVENE:** Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session at 9:53 a.m..

**DECISION:** Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Committee made certain Findings of Fact and voted to release Mr. Dodson from his probation on the grounds that he fulfilled all of the terms of the Board's Order entered January 28, 2011.

**VOTE:** The vote was unanimous.

**ADJOURNMENT:** The Committee adjourned at 9:57 a.m.

| | |
|---|---|
| Randy Minter, FSP, Chair | Lisa R. Hahn, Executive Director |
| Date | Date |

*DRAFT UNAPPROVED*

# VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
# SPECIAL CONFERENCE COMMITTEE
# MINUTES

| | |
|---|---|
| **Tuesday, August 9, 2011** | **Department of Health Professions**<br>**Perimeter Center**<br>**9960 Mayland Drive, Suite #300**<br>**Henrico, Virginia 23233** |

**CALL TO ORDER:** A Special Conference Committee of the Board was called to order at 10:11 a.m.

**MEMBERS PRESENT:** Randy Minter, FSP, Chair
Blair Nelsen, FSP

**DHP STAFF PRESENT:** Lynne Helmick, Deputy Executive Director
Kathy Truesdale, Discipline Operations Manager
Tammie Jones, APD

**OTHERS PRESENT:** Gareth Hilton, FSP – Serenity Funeral Services
Carl Nichols, FSP – Serenity Funeral Services

**MATTER:** **Miriam Rose Abd-Rahmaan, FSI**
**License No.: 0505-009039**
**Case No.: 133966**

**DISCUSSION:** Ms. Abd-Rahmaan appeared before the Committee in person in accordance with a Notice of the Board dated July 5, 2011. Ms. Abd-Rahmaan was not represented by counsel.

The Committee fully discussed the allegations in the Notice with Ms. Abd-Rahmaan.

**CLOSED SESSION:** Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Committee 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 Miriam Rose Abd-Rahmaan, FSI. Additionally, he moved that Ms. Helmick, Ms. Truesdale and Ms. Jones attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its discussions. The Committee entered into closed session at 10:53 a.m.

**RECONVENE:** Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Committee re-convened in open session at 11:49 a.m.

**DECISION:** Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Committee made certain Findings of Fact and Conclusions of Law and agree to a monetary penalty and certain terms and conditions.

**VOTE:** The vote was unanimous.

**ADJOURNMENT:** The Committee adjourned at 11:52 a.m.

_____
Randy Minter, FSP, Chair

_____
Lisa R. Hahn, Executive Director

_____
Date

_____
Date

# Tab 2

Virgina Department of Health Professions
Cash Balance
As of June 30, 2011

| | 104- Funeral Directors and Emba |
|---|---|
| **Cash Balance as of June 30, 2010** | $ 40,298 |
| **YTD FY11 Revenue** | 532,650 |
| **Less: YTD FY11 Direct and In-Direct Expenditures** | 546,432 |
| **Cash Balance as of June 30, 2011** | $ 26,516 |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
### July 1, 2010 through June 30, 2011

104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| Revenue | | | | |
| 2400 · Fee Revenue | | | | |
| 2401 · Application Fee | 39,725.00 | 34,225.00 | 5,500.00 | 116.07% |
| 2402 · Examination Fee | 0.00 | | | |
| 2406 · License & Renewal Fee | 470,770.00 | 488,660.00 | -17,890.00 | 96.34% |
| 2407 · Dup. License Certificate Fee | 385.00 | 480.00 | -95.00 | 80.21% |
| 2408 · Board Endorsement - In | 0.00 | | | |
| 2409 · Board Endorsement - Out | 6,200.00 | 2,600.00 | 3,600.00 | 238.46% |
| 2421 · Monetary Penalty & Late Fees | 5,495.00 | 5,395.00 | 100.00 | 101.85% |
| 2430 · Board Changes Fee | 4,600.00 | 5,075.00 | -475.00 | 90.64% |
| 2432 · Misc. Fee (Bad Check Fee) | 175.00 | 35.00 | 140.00 | 500.0% |
| Total 2400 · Fee Revenue | 527,350.00 | 536,470.00 | -9,120.00 | 98.3% |
| 3000 · Sales of Prop. & Commodities | | | | |
| 3002 · Overpayments | 0.00 | | | |
| 3007 · Sales of Goods/Svces to State | 0.00 | | | |
| 3020 · Misc. Sales-Dishonored Payments | 700.00 | | | |
| Total 3000 · Sales of Prop. & Commodities | 700.00 | | | |
| 9000 · Other Revenue | | | | |
| Miscellaneous Revenue | 4,600.00 | 5,700.00 | -1,100.00 | 80.7% |
| Inspection Fees | 0.00 | 0.00 | 0.00 | 0.0% |
| 9084 · Refund- Prior Yr Disb | 0.00 | | | |
| Total 9000 · Other Revenue | 4,600.00 | 5,700.00 | -1,100.00 | 80.7% |
| Total Revenue | 532,650.00 | 542,170.00 | -9,520.00 | 98.24% |
| Expenditures | | | | |
| 1100 · Personal Services | | | | |
| 1110 · Employee Benefits | | | | |
| 1111 · Employer Retirement Contrib. | 3,871.29 | 4,941.00 | -1,069.71 | 78.35% |
| 1112 · Fed Old-Age Ins- Sal St Emp | 4,594.79 | 5,918.00 | -1,323.21 | 77.64% |
| 1113 · Fed Old-Age Ins- Wage Earners | 468.07 | 783.00 | -314.93 | 59.78% |
| 1114 · Group Insurance | 679.79 | 766.00 | -86.21 | 88.75% |
| 1115 · Medical/Hospitalization Ins. | 14,665.43 | 20,441.00 | -5,775.57 | 71.75% |
| 1116 · Retiree Medical/Hospitalizatn | 630.32 | 744.00 | -113.68 | 84.72% |
| 1117 · Long term Disability Ins | 430.78 | 496.00 | -65.22 | 86.85% |
| Total 1110 · Employee Benefits | 25,340.47 | 34,089.00 | -8,748.53 | 74.34% |
| 1120 · Salaries | | | | |
| 1123 · Salaries, Classified | 49,080.77 | 75,091.00 | -26,010.23 | 65.36% |
| 1125 · Salaries, Overtime | 0.00 | 200.00 | -200.00 | 0.0% |
| Total 1120 · Salaries | 49,080.77 | 75,291.00 | -26,210.23 | 65.19% |
| 1130 · Special Payments | | | | |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
### July 1, 2010 through June 30, 2011

104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| 1131 · Bonuses and Incentives | 2,283.15 | 2,253.00 | 30.15 | 101.34% |
| 1138 · Deferred Compnstn Match Pmts | 297.00 | 408.00 | -111.00 | 72.79% |
| Total 1130 · Special Payments | 2,580.15 | 2,661.00 | -80.85 | 96.96% |
| 1140 · Wages | | | | |
| 1141 · Wages, General | 6,118.62 | 10,026.00 | -3,907.38 | 61.03% |
| 1143 · Wages, Overtime | 0.00 | | | |
| Total 1140 · Wages | 6,118.62 | 10,026.00 | -3,907.38 | 61.03% |
| 1150 · Disability Benefits | | | | |
| 1153 · Short-trm Disability Benefits | 14,000.93 | | | |
| Total 1150 · Disability Benefits | 14,000.93 | | | |
| 1160 · Terminatn Personal Svce Costs | | | | |
| 1162 · Salaries, Annual Leave Balanc | 15.78 | | | |
| 1163 · Salaries, Sick Leave Balances | 18.74 | | | |
| 1165 · Employee Retirement Contributio | 3,149.79 | 3,755.00 | -605.21 | 83.88% |
| Total 1160 · Terminatn Personal Svce Costs | 3,184.31 | 3,755.00 | -570.69 | 84.8% |
| Total 1100 · Personal Services | 100,305.25 | 125,822.00 | -25,516.75 | 79.72% |
| 1200 · Contractual Services | | | | |
| 1210 · Communication Services | | | | |
| 1211 · Express Services | 30.44 | 500.00 | -469.56 | 6.09% |
| 1212 · Outbound Freight Services | 13.39 | | | |
| 1213 · Messenger Services | 0.00 | | | |
| 1214 · Postal Services | 3,203.22 | 4,500.00 | -1,296.78 | 71.18% |
| 1215 · Printing Services | 38.72 | 400.00 | -361.28 | 9.68% |
| 1216 · Telecommunications Svcs (DIT) | 788.31 | 800.00 | -11.69 | 98.54% |
| 1217 · Telecomm. Svcs (Non-State) | 0.00 | | | |
| 1219 · Inbound Freight Services | 0.00 | | | |
| Total 1210 · Communication Services | 4,074.08 | 6,200.00 | -2,125.92 | 65.71% |
| 1220 · Employee Development Services | | | | |
| 1221 · Organization Memberships | 0.00 | 500.00 | -500.00 | 0.0% |
| 1222 · Publication Subscriptions | 0.00 | | | |
| 1224 · Emp Trning Courses, Wkshp & Cnf | 257.88 | 500.00 | -242.12 | 51.58% |
| 1225 · Employee Tuition Reimbursement | 0.00 | 900.00 | -900.00 | 0.0% |
| 1227 · Emp Trning- Trns, Ldgng & Meals | 0.00 | | | |
| Total 1220 · Employee Development Services | 257.88 | 1,900.00 | -1,642.12 | 13.57% |
| 1230 · Health Services | | | | |
| 1236 · X-ray and Laboratory Services | 0.00 | | | |
| Total 1230 · Health Services | 0.00 | | | |
| 1240 · Mgmnt and Informational Svcs | | | | |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
### July 1, 2010 through June 30, 2011 104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| 1242 · Fiscal Services | 6,152.67 | 6,878.00 | -725.33 | 89.45% |
| 1243 · Attorney Services | 0.00 | | | |
| 1244 · Management Services | 23.53 | | | |
| 1246 · Public Infrmtnl & Relation Svcs | 0.00 | | | |
| 1247 · Legal Services | 0.00 | 550.00 | -550.00 | 0.0% |
| 1248 · Media Services | 0.00 | | | |
| 1249 · Recruitment Services | 0.00 | | | |
| Total 1240 · Mgmnt and Informational Svcs | 6,176.20 | 7,428.00 | -1,251.80 | 83.15% |
| 1250 · Repair and Maintenance Svcs | | | | |
| 1252 · Electrical Rep & Maintenance | 0.00 | | | |
| 1253 · Equip Repair & Maintenance | 20.78 | | | |
| 1254 · Extermination/Vector Control | 0.00 | | | |
| 1256 · Mechanical Rep & Maint Svcs | 2.79 | | | |
| Total 1250 · Repair and Maintenance Svcs | 23.57 | | | |
| 1260 · Support Services | | | | |
| 1261 · Architectural and Engnering Svc | 0.00 | | | |
| 1263 · Clerical Services | 0.00 | | | |
| 1264 · Food & Dietary Services | 1,462.77 | 2,000.00 | -537.23 | 73.14% |
| 1266 · Manual Labor Services | 473.82 | 700.00 | -226.18 | 67.69% |
| 1267 · Production Services | 1,652.37 | 1,200.00 | 452.37 | 137.7% |
| 1268 · Skilled Services | 793.50 | 1,241.00 | -447.50 | 63.94% |
| Total 1260 · Support Services | 4,382.46 | 5,141.00 | -758.54 | 85.25% |
| 1280 · Transportation Services | | | | |
| 1282 · Travel, Personal Vehicle | 5,377.77 | 4,000.00 | 1,377.77 | 134.44% |
| 1283 · Travel, Public Carriers | 150.31 | 700.00 | -549.69 | 21.47% |
| 1284 · Travel, State Vehicles | 0.00 | | | |
| 1285 · Travel, Subsistence & Lodging | 799.12 | 1,500.00 | -700.88 | 53.28% |
| 1288 · Trvl, Meal Reimb- Not Rprtble | 379.00 | 780.00 | -401.00 | 48.59% |
| Total 1280 · Transportation Services | 6,706.20 | 6,980.00 | -273.80 | 96.08% |
| Total 1200 · Contractual Services | 21,620.39 | 27,649.00 | -6,028.61 | 78.2% |
| 1300 · Supplies And Materials | | | | |
| 1310 · Administrative Supplies | | | | |
| 1312 · Office Supplies | 973.42 | 700.00 | 273.42 | 139.06% |
| 1313 · Stationery and Forms | 0.00 | -15.00 | 15.00 | 0.0% |
| Total 1310 · Administrative Supplies | 973.42 | 685.00 | 288.42 | 142.11% |
| 1330 · Manufctrng and Merch Supplies | | | | |
| 1335 · Packaging and Shipping Suppl | 6.38 | | | |
| Total 1330 · Manufctrng and Merch Supplies | 6.38 | | | |
| 1340 · Medical and Laboratory Supp. | | | | |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
### July 1, 2010 through June 30, 2011

104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| 1342 · Medical and Dental Supplies | 2.67 | | | |
| Total 1340 · Medical and Laboratory Supp. | 2.67 | | | |
| 1350 · Repair and Maint. Supplies | | | | |
| 1352 · Custodial Rep & Maint Mat'ls | 0.00 | | | |
| Total 1350 · Repair and Maint. Supplies | 0.00 | | | |
| 1360 · Residential Supplies | | | | |
| 1362 · Food and Dietary Supplies | 4.01 | 50.00 | -45.99 | 8.02% |
| 1363 · Food Service Supplies | 0.00 | 50.00 | -50.00 | 0.0% |
| Total 1360 · Residential Supplies | 4.01 | 100.00 | -95.99 | 4.01% |
| 1370 · Specific Use Supplies | | | | |
| 1373 · Computer Operating Supplies | 57.43 | | | |
| Total 1370 · Specific Use Supplies | 57.43 | | | |
| Total 1300 · Supplies And Materials | 1,043.91 | 785.00 | 258.91 | 132.98% |
| 1400 · Transfer Payments | | | | |
| Incentives | 0.00 | | | |
| 1410 · Awards, Contrib., and Claims | | | | |
| 1413 · Premiums | 60.00 | | | |
| 1415 · Unemployment Compnsatn Reimb | 0.00 | | | |
| Total 1410 · Awards, Contrib., and Claims | 60.00 | | | |
| Total 1400 · Transfer Payments | 60.00 | | | |
| 1500 · Continuous Charges | | | | |
| 1510 · Insurance-Fixed Assets | | | | |
| 1516 · Property Insurance | 35.95 | | | |
| 1510 · Insurance-Fixed Assets - Other | 0.00 | 245.00 | -245.00 | 0.0% |
| Total 1510 · Insurance-Fixed Assets | 35.95 | 245.00 | -209.05 | 14.67% |
| 1530 · Operating Lease Payments | | | | |
| 1534 · Equipment Rentals | 333.91 | 1,217.00 | -883.09 | 27.44% |
| 1535 · Building Rentals | 3.24 | | | |
| 1539 · Building Rentals - Non State | 8,188.09 | 8,018.00 | 170.09 | 102.12% |
| Total 1530 · Operating Lease Payments | 8,525.24 | 9,235.00 | -709.76 | 92.31% |
| 1540 · Service Charges | | | | |
| 1541 · Agency Service Charges | 633.33 | | | |
| Total 1540 · Service Charges | 633.33 | | | |
| 1550 · Insurance-Operations | | | | |
| 1551 · General Liability Insurance | 129.03 | | | |
| 1554 · Surety Bonds | 7.61 | | | |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
July 1, 2010 through June 30, 2011 104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| Total 1550 · Insurance-Operations | 136.64 | | | |
| Total 1500 · Continuous Charges | 9,331.16 | 9,480.00 | -148.84 | 98.43% |
| 2200 · Equipment Expenditures | | | | |
| Electronic & Photo Equip Impr | 0.74 | | | |
| 2220 · Educational & Cultural Equip | | | | |
| 2224 · Reference Equipment | 0.00 | 300.00 | -300.00 | 0.0% |
| Total 2220 · Educational & Cultural Equip | 0.00 | 300.00 | -300.00 | 0.0% |
| 2230 · Electrnc & Photographic Equip | | | | |
| 2233 · Voice & Data Transmissn Equip | 0.00 | | | |
| Total 2230 · Electrnc & Photographic Equip | 0.00 | | | |
| 2260 · Office Equipment | | | | |
| 2261 · Office Appurtenances | 17.75 | | | |
| 2262 · Office Furniture | 1.33 | 200.00 | -198.67 | 0.67% |
| 2263 · Office Incidentals | 25.75 | | | |
| 2264 · Office Machines | 0.00 | | | |
| 2268 · Office Equipment Improvements | 0.00 | | | |
| Total 2260 · Office Equipment | 44.83 | 200.00 | -155.17 | 22.42% |
| 2270 · Specific Use Equipment | | | | |
| 2271 · Household Equipment | 12.16 | | | |
| Total 2270 · Specific Use Equipment | 12.16 | | | |
| Total 2200 · Equipment Expenditures | 57.73 | 500.00 | -442.27 | 11.55% |
| Total Direct Expenditures | 132,418.44 | 164,236.00 | -31,817.56 | 80.63% |
| 9001 · Allocated Expenditures | | | | |
| 9201 · Behavioral Science Exec | 0.00 | | | |
| 9202 · Opt\VM\ASLP Exec Dir | 0.00 | | | |
| 9204 · Nursing / Nurse Aid | 0.00 | | | |
| 9206 · Funeral\LTCA\PT | 80,369.05 | 79,591.45 | 777.60 | 100.98% |
| 9301 · DP Operations & Equipment | 73,232.93 | 134,719.92 | -61,486.99 | 54.36% |
| 9302 · Human Resources | 9,090.75 | 12,029.16 | -2,938.41 | 75.57% |
| 9303 · Finance | 19,076.19 | 24,040.92 | -4,964.73 | 79.35% |
| 9304 · Director's Office | 9,054.50 | 12,669.84 | -3,615.34 | 71.47% |
| 9305 · Enforcement | 148,009.85 | 132,825.00 | 15,184.85 | 111.43% |
| 9306 · Administrative Proceedings | 11,899.90 | 23,364.72 | -11,464.82 | 50.93% |
| 9307 · Impaired Practitioners | 25.40 | 38.04 | -12.64 | 66.77% |
| 9308 · Attorney General | 49,313.25 | 37,790.16 | 11,523.09 | 130.49% |
| 9309 · Board of Health Professions | 6,775.18 | 9,664.08 | -2,888.90 | 70.11% |
| 9310 · SRTA | 0.00 | | | |
| 9311 · Moving Costs | 0.00 | 828.48 | -828.48 | 0.0% |
| 9313 · Emp. Recognition Program | 105.07 | 474.00 | -368.93 | 22.17% |

# Virginia Dept. of Health Professions
## Revenue and Expenditures Summary
### July 1, 2010 through June 30, 2011

104- Funeral Directors and Emba

| | Jul '10 - Jun 11 | Budget | $ Over Budget | % of Budget |
|---|---|---|---|---|
| 9314 · Conference Center | 306.91 | 527.88 | -220.97 | 58.14% |
| 9315 · Pgm Devlpmnt & Implmentn | 3,711.63 | 5,424.24 | -1,712.61 | 68.43% |
| 987900 · Cash Trsfr Out- Appr Act Pt. 3 | 3,042.86 | 1,576.80 | 1,466.06 | 192.98% |
| Total 9001 · Allocated Expenditures | 414,013.47 | 475,564.69 | -61,551.22 | 87.06% |
| Total Direct and Allocated Expenditures | 546,431.91 | 639,800.69 | -93,368.78 | 85.41% |
| Net Cash Surplus\Shortfall | **-13,781.91** | **-97,630.69** | **83,848.78** | **14.12%** |

# Case Pending Report for Funeral Directors
# October 18, 2011

| | |
|---|---|
| Investigations | 7 |
| Probable Cause | 22 (5 are CE Non-compliance) |
| APD | 9 |
| Informal Stage | 2 |
| Formal Stage | 1 |
| Total | 41 |

# License Count Report for Funeral Directors
# October 18, 2011

| | |
|---|---|
| Branch Establishment | 34 |
| Continuing Education Provider | 23 |
| Courtesy Card | 58 |
| Crematories | 91 |
| Funeral Establishments | 471 |
| Funeral Service Interns | 159 |
| Embalmer | 5 |
| Funeral Service Director | 68 |
| Funeral Service Providers | 1,429 |
| Funeral Service Supervisors | 301 |
| Surface Transportation & Removal Services | 50 |
| Total | 2,689 |

**Board of Funeral Directors & Embalmers**
**2012 Board Meeting Dates**

| | | | |
|---|---|---|---|
| January 17th | Board of Funeral | Board Room #2 | 10:00 a.m. |
| April 24th | Board of Funeral | Board Room #2 | 10:00 a.m. |
| July 17th | Board of Funeral | Board Room #2 | 10:00 a.m. |
| October 16th | Board of Funeral | Board Room #2 | 10:00 a.m. |

# Tab 3

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Exempt action on itemized statements

**18VAC65-30-230. Content of disclosure statements.**

The following disclosure statements shall be provided as a part of any contract used for preneed funeral planning:

We are required by law and/or the Virginia Board of Funeral Directors and Embalmers to provide access to and the opportunity for you to read the following information to assist you in preplanning. A question and answer format is used for clarity and includes the most commonly asked questions.

PRENEED CONTRACTS

-- Is there more than one type of preneed agreement?

Yes. Guaranteed contracts mean that the costs of certain individual items or the cost of the total package will never be more to your family or estate. Nonguaranteed means just the opposite. (See the section entitled "General Funding Information" for more information on guaranteed and nonguaranteed costs.)

Contracts may be funded by insurance/annuity policies, trusts, or transfer of real estate/personal property.

-- What are my protections?

You should take your completed preneed contract home before you sign it and review it with your family or your legal advisor. You have a right to this review before you sign the contract or pay any money.

You should also read carefully the information in this disclosure statement. If you have any questions, contact the seller for more information or contact your legal advisor.

CANCELLATION

-- Can I cancel my preneed agreement if I change my mind? Will I get my money back?

You may cancel payment for supplies or services within 30 days after signing the agreement. If you funded your preneed arrangement through a trust, the contract seller will refund all the money you have paid plus any interest or income you have earned.

If you funded your preneed arrangement through a revocable trust and you cancel the preneed contract AFTER the 30-day deadline, you will be refunded all of your money on the items that are not guaranteed and 90% of all your money on the items that are guaranteed. You will also receive any interest or income on that amount. A revocable trust is a trust that you can cancel.

There may be a penalty to withdraw money from a revocable trust account which has already been established in your name. If there is, your contract will give you this information. (See the first question under the section entitled "Payment" below.)

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

If you funded your preneed arrangement through an insurance policy/annuity contract which will be used at the time of your death to purchase the supplies and services you have selected, you will need to pay careful attention to the cancellation terms and conditions of the policy. You may not be eligible for a refund.

PAYMENT

-- What happens to my money after the contract is signed?

Your money will be handled in one of several ways. It may be deposited in a separate trust account in your name. The trust account will list a trustee who will be responsible for handling your account. The funeral home you have selected as your beneficiary will also be listed. You have the right to change the funeral home and the trustee of your account prior to receiving the supplies and services under the preneed contract.

Your money may be used to purchase a preneed life insurance policy which may be used to pay for your arrangements upon your death. The proceeds of the policy will be assigned to the funeral home of your choice. You may change the funeral home assignment at any time prior to receiving the supplies and services under the preneed contract.

You may decide to choose a life insurance policy or a trust account that requires regular premium payments and not have to make an up-front, lump sum payment.

-- May I pay for goods and services with real estate or personal property?

Yes. When you pay for these supplies and services in whole or in part with any real estate you may own, the preneed contract that you sign will be attached to the deed on the real estate and the deed will be recorded in the clerk's office of the circuit court in the city or county where the real estate is located.

If you pay for goods and services with personal property other than cash or real estate, the contract seller, will declare in writing that the property will be placed in a trust until the time of your death and will give you written information on all the terms, conditions, and considerations surrounding the trust. The contract seller will confirm in writing that he has received property.

You may decide not to transfer the title of the personal property to the contract seller of your preneed contract. In this situation, you will have to submit information to the contract seller in writing that you are giving him the property without a title, and describe the property and where it will be kept until the time of your death.

In either case, the written statements will be recorded in the clerk's office of the circuit court of the city or county in which you live. The written statement does not have to be a separate document.

GENERAL FUNDING INFORMATION

-- If the prices of the goods and services are affected by inflation between now and my death, will the funding I choose be adjusted accordingly?

There is a possibility that the funding may fail to keep up with inflation. This could mean that the funding you choose could have insufficient value to cover all expenses.

-- What happens if my funding is not enough to cover the full cost of these arrangements?

If the entire funeral or specific items in the agreement are guaranteed by the contract seller, your family or estate will not have to pay any more for those items provided that you have paid the grand total in full and all interest earned is allowed to accumulate in your account. However, if you have not paid the account in full and have not allowed the

interest to accumulate in the account and any items increase in price, your family or estate would be responsible for the extra amount if the funds are not sufficient. In some situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

-- What happens to the extra money if my funding is more than what is needed to pay for these arrangements?

Sometimes, as explained in the answer above, your funding account may not have had the time to grow sufficiently before your death to cover items which are guaranteed in price to you, yet have increased in price for the funeral home.

After funeral expenses are paid, there may be money left over. Because of the ongoing risk that a funeral home takes in guaranteeing prices for you, the funeral home may not be required to return this excess money.

Some funding agreements and funeral homes, however, require that extra money be returned to the estate or family. Others do not. You should obtain information concerning this in writing before signing the preneed contract.

The answers to the following questions will depend upon the terms and conditions of the individual's funding and preneed agreements.

Please review your preneed contract and/or funding agreement for answers to these questions.

-- What happens to my preneed contract if I change my assignment from one funeral home to another?

(Funeral home shall place answer here)

-- What happens to my preneed contract if I change the beneficiary of my funding or the use of my proceeds from the funding.

If you make such changes, it could void your contract. You should request specific information from the contract seller and the funding arrangement.

-- What will happen to my preneed contract if I fail to make agreed to premium payments to my funding source?

(Funeral home shall place answer here)

-- Do I get any money back if I surrender or cancel my funding arrangements?

(Funeral home shall place answer here)

TRUST ACCOUNT

-- If my money goes into a trust account, what information will I receive about that account?

If you want your money to go into a trust fund, the trust agreement must furnish you with information about the amount to be deposited into the account, the name of the trustee, information about what happens to the interest your trust account will earn, and information about your responsibility to file and pay taxes on that interest.

If there are filing expenses connected with your trust account, you will be notified what the expenses are and whether you or the contract seller is the responsible party for paying those.

-- What happens to the interest earned by the trust?

The interest earned by the trust may be handled in different ways by different trust arrangements. The interest may have to go back into your account if items on your contract are guaranteed. You may be responsible for reporting that interest to the Internal Revenue Service and paying taxes on it. You will be responsible to pay any taxes on the interest earned even if you cancel your trust account.

Some trust accounts cannot be cancelled.

There may be special fees deducted from your interest. However, you may still be responsible for paying taxes on the entire amount of interest earned before the fees were deducted. Please ask your contract seller for a written list of any fees so you will have a clear understanding about them before you sign the contract.

-- If I pay my trust in premium payments, what happens if I die before the grand total of the funeral has been placed in trust?

(Funeral home shall place answer here)

CLAIMS AGAINST THIS CONTRACT

-- Can someone to whom I owe money make a claim against the money, personal property, or real estate that I have used to pay for this contract?

No. This money or property cannot be used to settle a debt, a bankruptcy, or resolve a claim. These funds cannot be garnished.

-- Can the money or property be taxed?

No. Currently, interest earned on the money you deposit in a trust, savings account, or the value of the property you used for payment can be taxed but not the original amount which you invested. Interest earned on annuities is generally deferred until withdrawal.

GENERAL GOODS AND SERVICES

-- If I choose goods and services that might not be available at the time of my death, what is the provider required to do?

The funeral home which you select is required to furnish supplies and services that are similar in style and equal in value and quality if what you choose is no longer made or is not available at the time of your death.

Your representative or next-of-kin will have the right to choose the supplies or services to be substituted. However, if the substitute is more expensive than the item originally selected by you, your designee or next-of-kin would be responsible for paying the difference. Under no circumstances will the funeral establishment be allowed to substitute lesser goods and services than the ones you chose.

If, before your death, the funeral home goes out of business or is otherwise unable to fulfill its obligation to you under the preneed contract, you have the right to use the proceeds at the funeral home of your choice.

If the inability to provide services does not become apparent until the time of your death, the individual that you named as your designee could use the funds for services at another funeral home.

-- May I choose the exact item I want now and have the funeral home store it until my death?

If the funeral home or supplier has a storage policy you may ask for this service. If the funeral home or contract seller agrees to store these items, the risk of loss or damage shall be upon the funeral home during the storage period.

For example, what would happen if you select a casket which is in-stock at the time you make these arrangements and the funeral home or supplier agrees to store it for you in their warehouse and: (i) damage occurs, (ii) the funeral home or supplier goes out of business, (iii) the funeral home or supplier is sold, etc.? You need to be assured in writing of protection in these types of situations.

-- What happens if I choose to have a unique service that is not customary or routine in my community? Must the funeral home comply with my wishes?

The funeral home which you have chosen to conduct your service may be able to only provide certain types of services. They may not be able to fulfill your request. If there is a restriction on what they can provide, you will be notified in writing before you sign the preneed contract.

If the funeral home agrees in writing before you sign the contract to perform such services, the funeral home shall provide you a written, itemized statement of fees which you will be charged.

-- Will the funeral home agree to transport my body to another area for burial?

Again, the funeral home may have restrictions on the distance they are willing to travel to conduct a burial. If restrictions apply, you will be notified in writing.

If the funeral home agrees in writing before you sign the contract to honor your wishes, the funeral home shall provide you a written, itemized statement of any penalties (fees) which you will be charged.

-- I may die and be buried in a city other than one where the funeral home that I select for my goods and services is located. Will the funeral home that I select under this contract deliver my merchandise to the city where I die and am to be buried?

This is entirely up to the funeral home to decide. If the funeral home has restrictions on this, they will notify you in writing. If they agree to ship merchandise to another area for your funeral, you will be notified before signing this contract of the fees involved if they can be determined and guaranteed at this time.

However, the preneed contract arrangements and funding is considered portable. This means that they are available for transfer from one locality to another. It is unusual for actual goods and merchandise to be transferred.

PRICING

-- How will I know that the prices of items which I select are the same for everyone?

The funeral home maintains a general price list and a casket and outer burial container price list. Your contract seller will give this to you before you begin talking about arrangements. After your discussion is finished, you will be given a copy of your preneed contract on which charges will be listed. Charges will only be made for the items you select. If there are any legal or other requirements that mandate that you must buy any items you did not specifically ask for, the contract seller will explain the reason for the charges to you in writing.

You may ask a funeral home to purchase certain items or make special arrangements for you. If the funeral home charges you for these services, you will receive an explanation in writing. The charges to you for these services may be higher than if you or your family purchased them directly.

At the time of your death, your family or estate will be given an itemized statement which will list all of the specific charges. ~~This is a requirement of the Federal Trade Commission. Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.~~

-- What is meant by guaranteed and nonguaranteed prices?

Some contract sellers may agree that certain prices are guaranteed. Some may guarantee the price of the total package. Other funeral homes may not guarantee any prices.

Guaranteed prices are those that will not increase for your family or estate at the time of your death. Basically, this means that your funeral arrangement for those items will be covered by and will not exceed your funding and the interest it earns. Nonguaranteed prices are those which might increase or decrease. The nonguaranteed prices may be written in at the time of this contract with you understanding that the price is an estimate

only and may increase or decrease. A settlement to that effect may have to be made with your family or representative after your death.

-- Can the contract seller and I negotiate a projected charge for the nonguaranteed items based on the rate of inflation?

It is entirely up to the contract seller to inform you of the funeral home policy in that regard.

CASKETS AND CONTAINERS

-- Do I have to buy a vault or a container to surround the casket in the grave?

In most areas of the country, state and local laws do not require that you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container to support the earth above the grave. Either a burial vault or a grave liner will satisfy if such requirements exist.

-- Is a casket required?

A casket is not required for direct cremation. If you want to arrange a direct cremation, you may use an unfinished wood box or an alternative container made of heavy cardboard or composition materials. You may choose a canvas pouch.

-- Do certain cemeteries and crematoriums have special requirements?

Particular cemeteries and crematoriums may have policies requiring that certain goods and services be purchased. If you decide not to purchase goods and services required by a particular cemetery or crematorium, you have the right to select another location that has no such policy.

EMBALMING

-- Is embalming always required?

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements such as viewing or visitation with an open casket. You do not have to pay for embalming you did not approve if you select arrangements such as a direct cremation or immediate burial. If the funeral home must charge to conduct an embalming, your designee will be notified of the reasons in writing.

ASSISTANCE

-- This is all very confusing to me. May I pick someone close to me to help with all of this? May this person also work with the funeral home to ensure that my wishes as written in the preneed contract are carried out?

You may designate in writing a person of your choice to work with the funeral home and contract seller either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing. Under the laws governing preneed contracts, the individual whom you designate has final authority at the time of your death.

-- Where can I complain if I have a problem concerning my preneed contract, the contract seller, or the funeral home?

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers

9960 Mayland Drive, Suite 300

Richmond, Virginia 23233

Telephone Number (804) 367-4479

Toll Free Number 1-800-533-1560

Fax: (804) 527-4413

# Who Must Comply With the Funeral Rule?

All "funeral providers" must comply with the Rule. You are a funeral provider if you sell or offer to sell both funeral goods and funeral services to the public.

*Funeral goods* are all products sold directly to the public in connection with funeral services.

*Funeral services* are:

- services used to care for and prepare bodies for burial, cremation, or other final disposition; and
- services used to arrange, supervise, or conduct the funeral ceremony or final disposition of human remains.

You are a funeral provider if you sell or offer to sell funeral goods ***and*** both types of funeral services. You do not have to be a licensed funeral director and your business does not have to be a licensed funeral home to be covered by the Funeral Rule. Cemeteries, crematories, and other businesses can also be "funeral providers" if they market both funeral goods and services.

You must comply with the Rule even if a particular consumer buys only goods or only funeral services, but not both. If you offer to sell both goods and services, you must comply with the Rule for every customer. However, you are not covered by the Rule if you sell only funeral goods, such as caskets, but ***not*** services relating to the disposition of remains.

You are covered by the Rule even if you organize your business to sell goods through one company and services through another. If you are a funeral provider, you cannot avoid being covered by the Rule by restructuring your business.

## Does the Rule Apply to Pre-Need Arrangements?

The Rule's requirements, as described on the following pages, apply to both pre-need and at-need funeral arrangements.

In pre-need situations, you must comply with all Rule requirements at the time funeral arrangements are pre-planned. You also need to comply with the Rule after the death of the individual who made pre-need arrangements. If the survivors inquire about goods or services, alter the pre-planned arrangements, or are required to pay additional sums of money, you must give them all relevant disclosures and price lists. For example, survivors may be asked to pay additional amounts if the pre-paid plan does not guarantee prices at the time of death. In other cases, survivors may change arrangements specified in the pre-need plan, adding or subtracting certain goods or services. In both situations, the requirements of the Rule apply. You must give the survivors relevant price lists, as well as an itemized Statement of Funeral Goods and Services Selected (see pages 4-5 and 18).

You also must comply with the Rule if you sell pre-need contracts on behalf of one or more funeral homes, but do not yourself provide funeral goods and services. In such a case, even though you don't provide the funeral items, you are an agent of a funeral provider and therefore are covered by the Rule.

The Rule does not apply to pre-need contracts entered into before the Rule went into effect in 1984. However, if a pre-need contract signed before 1984 is modified after 1984, the modification triggers all of the Rule's requirements.

**Example:** Mr. Green made pre-need arrangements in 1980; he dies in 1994. At the time of his death, his wife wants to change the casket specified in the pre-need contract and to add visitation hours. Because Mrs. Green is changing the contract after 1984, the funeral provider must comply with all of the Rule's requirements, including giving Mrs. Green a General Price List, showing her a Casket Price List, and providing her with an itemized Statement of Goods and Services Selected.

**Note:** In a situation like the above example, you should check your state law to determine whether it allows you to alter the terms of such a contract.

# Tab 4

## Hahn, Lisa R. (DHP)

**Subject:** FW: FW: Regulations For The Funeral Service Internship Program/ Follow up!

**Importance:** Low

>
> Hello, my name is (Name Redacted)and I've been actively seeking an
> internship position at numerous funeral establishments. As we all
> know, economic conditions have caused much hardship for this specific
> industry as well as many others. Due to budget restraints, families
> are opting out of planning traditional funerals where embalming is
> required and choosing more budget friendly options such as cremation
> or whole body donation. Because of this, many funeral homes aren't
> performing the required amount of embalming necessary to hire an
> intern or are unable to afford someone for the position. This has
> adversely affected many individuals like myself desperately in need of this opportunity.
> Regulations for the Funeral Service Internship Program state that two
> combined training sites can be utilized for training. I have come
> across a solution that will enable myself to complete the required
> time and embalming procedures necessary. The Office Of The Chief
> Medical Examiner in Richmond Virginia has a whole body donation
> program(The Virginia State Anatomical Program) which have licensed
> funeral directors on staff who perform all embalming and necessary reports for each donor.
> Administrative staff at the Office of the Chief Medical Examiner
> offered to have these funeral director's teach, supervise and
> administer the embalming portion of my internship. This will allow me
> to receive training in all other areas of funeral service at a
> secondary establishment which was not earlier attainable due to the
> lack of embalming material at the funeral home.
> I sincerely ask that you consider this scenario as an option for my
> situation. I have worked diligently to excel/complete my schooling as
> well as the National Funeral Director's Examination. Finding an
> establishment to complete my internship has been a long and arduous
> process, and would not like to see this final step thwarted because of
> lack of employment opportunity. Please feel free to contact me at the
> phone number provided below with your response.
>
>
>

## Part I. General Provisions.

**18VAC65-40-10. Definitions.**

In addition to words and terms defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Direct supervision" means that a licensed funeral service professional is present and on the premises of the facility.

"Supervisor" means a licensed employee at the training site who has been approved by the board to provide supervision for the funeral intern.

"Training site" means the licensed funeral establishment which has agreed to serve as the location for a funeral service internship and has been approved by the board.

**18VAC65-40-20 to 18VAC65-40-30. [Repealed]**

**18VAC65-40-40. Fees.**

A. The following fees shall be paid as applicable for registration:

| | |
|---|---|
| 1. Funeral service intern registration, reinstatement or renewal | $100 |
| 2. Late fee for renewal up to one year after expiration | $35 |
| 3. Duplicate copy of intern registration | $25 |
| 4. Returned check | $35 |
| 5. Registration of supervisor | $25 |
| 6. Change of supervisor | $25 |
| 7. Reinstatement fee | $170 |

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

**18VAC65-40-50 to 18VAC65-40-80. [Repealed]**

**18VAC65-40-90. Renewal of registration.**

A. The funeral service intern registration shall expire on March 31 of each calendar year and may be renewed by submission of the renewal notice and prescribed fee.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration. No credit will be allowed for an internship period served under an expired registration.

If the internship is not approved by the board prior to initiation of training, no credit shall be allowed for the length of time served.

**18VAC65-40-210. Training sites.**

A. Funeral training shall be given at the licensed funeral service establishment or at any branch of such establishment that complies with the provisions of this chapter and is approved by the board as a training site.

B. An individual, firm, or corporation owning or operating any funeral service establishment shall apply to and be approved by the board prior to permitting funeral training to be given or conducted in the establishment.

**18VAC65-40-220. Qualifications of training site.**

The board shall approve only an establishment or two combined establishments to serve as the training site or sites which:

1. Have a full and unrestricted Virginia license;

2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and

3. Have 50 or more funerals and 50 or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the funeral service intern may seek approval for an additional training site.

**18VAC65-40-230 to 18VAC65-40-240. [Repealed]**

**18VAC65-40-250. Requirements for supervision.**

A. Training shall be conducted under the direct supervision of a licensee or licensees approved by the board. Credit shall only be allowed for training under direct supervision.

B. The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who have a full and unrestricted Virginia funeral license, have at least two consecutive years in practice and are employed full time in or under contract with the establishment where training occurs.

C. A supervisor licensed as an embalmer or a funeral director shall provide supervision only in the areas of funeral practice for which he is licensed.

D. Failure to register as a supervisor may subject the licensee to disciplinary action by the board.
E. If a supervisor is unable or unwilling to continue providing supervision, the funeral service intern shall obtain a new supervisor. Credit for training shall resume when a new supervisor is approved by the board and the intern has paid the prescribed fee for the change of supervisor.

**§ 54.1-2800. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any information disseminated or placed before the public.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.

"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the preservation and disinfection of the human dead by external or internal application of chemicals.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch or chapel which is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing, the practice of funeral services, or the act of embalming is performed.

"Funeral service intern" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following persons, regardless of the relationship to the decedent: any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over 18 years of age, custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age

required by the Federal Trade Commission, which shall be set forth in a clear and conspicuous manner.

Further, there shall be included a statement of all anticipated cash advances and expenditures requested by the person contracting for the funeral arrangements and such other items as required by regulation of the Board of Funeral Directors and Embalmers. The statement shall be furnished to the person contracting for funeral arrangements at the time such arrangements are made if the person is present and, if not present, no later than the time of the final disposition of the body.

The general price list and itemized statement of funeral expenses shall comply with forms prescribed by regulation of the Board. All regulations promulgated herewith shall promote the purposes of this section.

(1979, c. 8, § 54-260.71:1; 1986, c. 42; 1988, c. 765.)

**§ 54.1-2813. License for the practice of funeral service.**

To be licensed for the practice of funeral service, a person shall (i) be at least 18 years of age; (ii) hold a high school diploma or its equivalent; (iii) have completed a funeral service internship prescribed by the Board in regulation; (iv) have graduated from a school of mortuary science or funeral service approved by the Board; and (v) have passed the examination for licensure.

The Board, in its discretion, may license an individual convicted of a felony if he has successfully fulfilled all conditions of sentencing, been pardoned, or has had his civil rights restored.

The Board, in its discretion, may refuse to license an individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

(Code 1950, § 54-260.70; Code 1950, §§ 54-260.22 through 54-260.30, 54-260.32; 1956, c. 220; 1966, c. 284, § 54-260.70; 1972, c. 797; 1973, c. 296; 1974, c. 686; 1978, c. 849; 1986, c. 43; 1988, c. 765; 1990, c. 363; 2005, c. 477; 2006, c. 56.)

**§ 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.

A person desiring to become a funeral service intern shall apply on a form provided by the Board. The applicant shall attest that he holds a high school diploma or its equivalent. The Board, in its discretion, may approve an application to be a funeral service intern for an individual convicted of a felony, if he has successfully fulfilled all conditions of sentencing, been pardoned, or has had his civil rights restored. The Board shall not, however, approve an application to be a funeral service intern for any person convicted of embezzlement or of violating subsection B of § 18.2-126.

The Board, in its discretion, may refuse to approve an application to be a funeral service intern for an individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

When the Board is satisfied as to the qualifications of an applicant, it shall issue a certificate of internship. When a funeral service intern wishes to receive in-service training from a person licensed for the practice of funeral service, a request shall be submitted to the Board. If such permission is granted and the funeral service intern later leaves the proctorship of the licensee whose service has been entered, the licensee shall give the funeral service intern an affidavit showing the length of time served with him. The affidavit shall be filed with the Board and made a matter of record in that office. Any funeral service intern seeking permission to continue in-service training shall submit a request to the Board.

A certificate of internship shall be renewable as prescribed by the Board. The Board shall mail at such time as it may prescribe by regulation, to each registered funeral service intern at his last known address, a notice that the renewal fee is due and that, if not paid by the prescribed time, a penalty fee shall be due in addition to the renewal fee.

The registration of any funeral service intern who is in the active military service of the United States may, at the discretion of the Board, be held in abeyance for the duration of his service. The Board may also waive the renewal fees for such military personnel.

All registered funeral service interns shall report to the Board on a schedule prescribed by the Board upon forms provided by the Board, showing the work which has been completed during the preceding period of internship. The data contained in the report shall be certified as correct by the person licensed for the practice of funeral service under whom he has served during this period and by the person licensed for the practice of funeral service owning or managing the funeral service establishment.

Before such funeral service intern becomes eligible to be examined for the practice of funeral service, evidence shall be presented along with an affidavit from any licensee under whom the intern worked showing that the intern has assisted in embalming at least 25 bodies and that the intern has assisted in conducting at least 25 funerals. In all applications of funeral service interns for licenses for the practice of funeral service, the eligibility of the applicant shall be determined by the records filed with the Board. The successful completion by any person of the internship shall not entitle him to any privilege except to be examined for such license.

Credit shall not be allowed for any period of internship that has been completed more than three years prior to application for license or more than five years prior to examination for license. If all requirements for licensure are not completed within five years of initial application, the Board may deny an additional internship. A funeral service intern may continue to practice for up to 90 days from the completion of his internship or until he has taken and received the results of all examinations required by the Board. However, the Board may waive such limitation for any person in the armed service of the United States when application for the waiver is made in writing within six months of leaving service or if the Board determines that enforcement of the limitation will create an unreasonable hardship.

The Board shall have power to suspend or revoke a certificate of internship for violation of any provision of this chapter.

No more than two funeral service interns shall be concurrently registered under any one person licensed for the practice of funeral service, funeral directing or embalming. Each sponsor for a registered funeral service intern must be actively employed by or under contract with a funeral establishment.

(Code 1950, §§ 54-260.34 through 54-260.38; 1956, c. 220; 1970, c. 513, § 54-260.72; 1972, c. 797; 1973, c. 296; 1974, c. 157; 1978, c. 849; 1981, c. 258; 1986, c. 43; 1988, c. 765; 2005, c. 477; 2006, c. 56.)

**§ 54.1-2818. Registration and display of licenses.**

A copy of all licenses shall be displayed in a conspicuous place in each establishment in which the licensee practices.

(Code 1950, § 54-260.31; 1956, c. 220; 1972, c. 797, § 54-260.71; 1988, c. 765.)

**§ 54.1-2818.1. Prerequisites for cremation.**

No dead human body shall be cremated without permission of the medical examiner as required by § 32.1-284 and visual identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to § 54.1-2825 or an agent named in an advance directive pursuant to § 54.1-2984. When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation.

(1998, c. 867; 2010, c. 377.)

**§ 54.1-2818.2. Inapplicability to officers of state and local institutions.**

Nothing in this article shall be applicable to any officer of any institution operated by the Commonwealth or by any county, city or town in the performance of his duties as such.

(1998, c. 867.)

# Tab 5

Dear Ms. Hahn:

On behalf of the Virginia Preneed Life Insurers Coalition I would like to thank you and the members of the Board for inviting us to speak with you at the May 24th meeting. Attached is a follow-up letter to the discussion that occurred at the meeting regarding the Coalitions request to eliminate the 5% or CPI requirement for life insurance funded preneed funeral contracts. The Coalition will be discussing this issue with the Virginia Funeral Directors Association and the Independent Funeral Home of Virginia in the near future.

After reviewing the documents, if the Board has any questions please feel free to contact us.

Tracy A. Kelly, J.D., FLMI
Legal Counsel
Homesteaders Life Company
5700 Westown Parkway West Des Moines, IA 50266

# Virginia Preneed Life Insurers Coalition

Assurant
Atlantic Coast Life Insurance Company
Columbian Mutual Life/Columbian Life Insurance Companies
Forethought Life Insurance Company
Great Western Insurance Company
Homesteaders Life Company
Investors Heritage Life Insurance Company
Lincoln Heritage Life Insurance Company
National Guardian Life Insurance Company

Date: June 24, 2011

RE: Removal of CPI or 5% Compound Annual Interest Requirement for Life Insurance and Annuity Contracts issued to fund Preneed Funeral Contracts

The Coalition members listed above are all life insurance companies that are licensed to sell life insurance in the state of Virginia. Members of the Coalition were invited to speak at the May 24th meeting of the Preneed Committee comprised of members of the State Board of Funeral Directors and Embalmers. We appreciated this invitation and the opportunity to speak about the items on the Agenda for this meeting.

During that meeting, the Preneed Committee invited the Coalition to submit written comments relative to the statutory requirement of CPI mandated growth for insurance policies funding preneed contracts. This letter is submitted in response to this invitation. The Coalition would like to expand upon the remarks that were made on behalf of the Coalition by certain of its members regarding the elimination of the CPI requirement.

As previously stated, the Coalition is in favor of leveling the playing field between insurance funding and trust funding, which seems to have been the purpose of the agenda item relative to CPI growth on trust-funded preneed contracts. However, we feel this can best be accomplished by removing the CPI or 5% Compound Annual Interest requirement set forth in VA Code Ann. §54.1-2820(C) which pertains to life insurance and annuity contracts used to fund preneed funeral contracts. Given our experience in applying CPI growth in Virginia, we believe that expanding this statutory requirement to trust funded contracts would inflict additional harm to consumers, funeral providers, insurance agents and both insurance and trust companies.

Premium rate and death benefit regulation for life insurance and/or annuity contracts that may be used to fund preneed funeral contracts currently exists only in Michigan, New Jersey, Virginia, and Washington – a clear minority of states. Unfortunately, this seemingly consumer-oriented statutory/regulatory mandate is rarely positive for anyone involved in the transaction. In each instance, such regulations have resulted in unintended consequences, including increased premiums, decreased commissions, and excess reserve strain. These consequences have led to decreased competition.

Approximately 95% of the preneed funeral contracts purchased by Virginia consumers include a price guarantee for goods and services provided by the funeral home. Third-

party provided "cash advance items", although included in most preneed funeral contracts as an accommodation to the consumer, typically do not have a guaranteed price. In an insurance funded guaranteed price scenario, the consumer (person planning their funeral) enters into a preneed funeral contract which may either be funded by a life insurance or annuity contract. The life insurance or annuity contract is purchased directly from an insurance company by the consumer. Once the preneed funeral contract is fully-funded, the consumer will not pay anything further for those items which have a guaranteed price.

The value of the insurance contract used to fund the preneed funeral contract will typically grow over time and upon the death of the intended funeral recipient named in the preneed funeral contract, the death benefit payable under the insurance contract will be paid to the funeral home upon satisfactory proof that the contracted for goods and/or services have been provided. The consumer does not receive any of the money in the policy, the funeral home does. There are situations where there are excess proceeds (i.e., amounts payable in excess of the funeral home's at need price for the goods and/or services at the time they are provided). In those situations the excess proceeds are payable to a designated beneficiary.

Whether the insurance contract is able to generate enough growth to cover the at-need prices, is really not a concern of the consumer since their funeral will be provided at no additional costs to them in accordance with applicable state law. The growth generated by the insurance contract should properly be a concern of the funeral home that will service the preneed funeral contract when called upon to do so.

Even if we were to assume that the CPI or 5% Compound Annual Interest requirement set forth in VA Code Ann. §54.1-2820(C) benefits the funeral recipient, the actual data supporting this assumption is not all that clear. As we provided at the meeting, and attached hereto, the average CPI over the last 20 years (2.6%) and last 10 years (2.4%) is less than some high growth (3%)/low commission products offered by preneed insurers operating in other states and is only slightly higher than moderate growth (2%)/higher commission products. The attached chart shows the comparison between CPI growth and three different growth rate products. The funeral recipient may not benefit as much as if the private market were able to operate without the statutory mandate.

Continuing on with the assumption that the CPI or 5% Compound Annual Interest statute is a consumer-oriented statutory requirement, we must ask the following question: What costs are incurred by the CPI mandate and who bears them? The chart that we provided to the Preneed Committee (based on NGL's experience, which is similar to others in the industry) shows that the costs are borne by three parties – the consumer (funeral recipient), the funeral home and the insurers.

The funeral recipients (who are the supposed intended beneficiary of this statute) pay extra for the privilege of obtaining higher growth to support the price guarantee offered by the funeral homes. This benefit costs the funeral recipient between $12 and $40 per policy. In addition to the actual costs passed on to the funeral recipients in the form of higher premiums, this law also restricts the funeral recipient to only one type of product from an extremely limited number of insurers.

The funeral homes, which may incorrectly be seen as benefitting from the funeral recipients "purchase" of a price guarantee, are also harmed by the CPI mandate. As shown in the attached chart, the funeral homes are paying (in the form of lost up-front commission) between $88 to $481 per policy (dependent on growth rate chosen) for the CPI mandate. Perhaps this wouldn't be a bad price to pay for the funeral home for a significant benefit. Unfortunately, over the last 10 and 20 years, it appears that the funeral home may be paying too much for what they are getting.

In addition to the commissions lost, the funeral homes are giving up a significant degree of autonomy. The free market, in other states, allows funeral homes to make fundamental business decisions regarding their cash flow and investment income strategies. This statutory mandate prevents the funeral home from making decisions to increase cash flow at the expense of long term growth or vice versa.

Given the above, one may also incorrectly assume that, since the costs are passed on to both the funeral recipients and the funeral homes, the insurers' operations in Virginia are similarly profitable to their operations in other states. Unfortunately, that is not the case. Minimum benefit growth mandates require insurance companies to hold additional reserves (between 25% to 40% more than other states). The higher reserving requirement reduces profits significantly (15% to 20%). These higher reserves and lower profits are the reasons for higher premiums, lower commissions and less favorable product offerings referenced previously. Competition is also affected by a reduction of preneed companies competing in the market, which further limits the availability of products for Virginia consumers

In addition to the comments set forth in this letter, the Coalition would like to incorporate the email comments summarizing the testimony of both Walt Dixon and Mark Neidinger. A copy of both of these emails is attached hereto for your convenience.

The Coalition would like to work with the State Board and others to remove the mandated CPI or 5% Compound Annual Interest requirement set forth in §54.1-2820(C) of the Virginia Code. As stated above, this removal will positively impact Virginia consumers, Virginia funeral homes, Virginia insurance agents and insurers authorized to operate in Virginia. Additionally, removal of the CPI or 5% Compound Annual Interest requirement may encourage more preneed insurance carriers to start offering insurance products to Virginia consumers.

Respectfully submitted.

# Tab 6

**AGREEMENT FOR RECIPROCAL LICENSURE OF LICENSED MARYLAND MORTICIANS AND VIRGINIA FUNERAL SERVICE LICENSEES**

**BETWEEN**

**THE MARYLAND STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS AND THE COMMONWEALTH OF VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

WHEREAS:

The Maryland State Board of Morticians and Funeral Directors and the Commonwealth of Virginia Board of Funeral Directors and Embalmers desire to enter into an agreement for the granting of reciprocal mortician, embalmer and funeral director licenses for the mutual benefit of their citizens and licensees;

The Boards have the legal authority to enter into this agreement.

The Boards' education, examination, and experience requirements for licensure of morticians and funeral directors in Maryland and embalmers and funeral directors in Virginia are equivalent.

For the purpose of this agreement, Maryland's term, "Mortician", and the Commonwealth of Virginia's term "Funeral Service Licensee" (Funeral Director and Embalmer combined license) are to be viewed as equivalent titles for one who provides funeral services and practices mortuary science in their respective jurisdiction. Likewise, in either jurisdiction, the term "Funeral Director" means one who is licensed to practice all aspects of mortuary science except for embalming. In Virginia, we no longer issue separate licenses for either" Funeral Director" or "Embalmer".

NOW THEREFORE, IT IS AGREED THAT:

We, the undersigned representatives of the Maryland State Board of Morticians and Funeral Directors and the Virginia State Board of Funeral Directors and Embalmers, by and through our respective licensing authorities, hereby jointly agree pursuant to Md. Code Ann., Health Occ. § 7-305 (c) (2009 Repl. Vol.) and Chapter 28, of Title 54.1 of the Code of Virginia, that persons licensed as "Morticians" in the State of Maryland may be granted like licensure in the Commonwealth of Virginia, and persons duly licensed as "Funeral Service Licensee" in the Commonwealth of Virginia may be granted like licensure in the State of Maryland in compliance with the terms of this reciprocal licensure agreement.

The applicant shall submit a completed application to include the following:

1. An applicant for licensure by reciprocity in either jurisdiction must provide certification of the applicant's licensure status from the issuing board, including a statement of the licensing board that the applicant has held a license in good standing and has practiced continuously in the state of Maryland as a mortician or funeral director in the Commonwealth of Virginia for at least 5 years preceding the waiver request;

2. An applicant for licensure must pass an examination on the current existing laws and regulations of the reciprocating jurisdiction.

3. An applicant must pay all required fees in accordance with the current laws of the reciprocating jurisdiction.

4. As a condition of renewal of a reciprocal license, the licensee shall satisfy the continuing education requirements of each jurisdiction by completing courses approved by each state. Any course that has been approved by both jurisdictions may be used by the licensee to satisfy the continuing education requirements for both licenses.

Termination

This agreement waiving certain requirements for State of Maryland Licensees and Commonwealth of Virginia licensees may be terminated at will by the Maryland State Board of Morticians or the Commonwealth of Virginia's Board of Funeral Directors and Embalmers upon 90 days written notice. The Boards agree to provide written notice to each other within 90 days of the effective date of a statutory or other change affecting reciprocal licensing.

Intending to legally bind our respective boards, we hereby execute this agreement on the dates indicated below.

Maryland State Board of Morticians

By _____
President

By_____
Executive Director

Date:_____

Virginia Board of Funeral Directors and Embalmers

By_____
President

By_____
Executive Director

Date:_____