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
April 12, 2011 at 10:00 a.m.

BOARD MEETING
AMENDED AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES – Tab 1

- Board Meeting Minutes – January 18, 2011
- Formal Hearing - January 18, 2011
- Formal Hearing - January 18, 2011
- Informal Conference – January 18, 2011

PUBLIC COMMENT PERIOD

EXECUTIVE DIRECTOR'S REPORT – Tab 2

NEW BUSINESS

- Electronic Submission of Death Certificates – Janet Rainey - **Tab 3**
- Presentation on Alkaline Hydrolysis – Rick Sikon – Tidewater Community College
- Legislative/Regulatory Reports– Elaine Yeatts - Handout
- Adoption of Exempt Regulation on Cremation – Elaine Yeatts -**Tab 4**
- Maryland Reciprocal Agreement – **Tab 5**
- Letter regarding Preneed Arrangements by Interns – **Tab 6**

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, January 18, 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
Junius Williams, Citizen Member

BOARD MEMBERS ABSENT FOR ALL OR PART OF MEETING
Willard. D. Tharp, FSP
Walter S. Ball, 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
Sammy Johnson, Chief Deputy Director of Enforcement
Missy Currier, Board Operations Manager

BOARD COUNSEL
Amy Marschean, Senior Assistant Attorney General

QUORUM
With 7 members present a quorum was established.

GUESTS PRESENT
Barry D. Robinson, Virginia Morticians Association
Twila Dickerson, Regulatory Support Services, Inc.
Bo Keeney, Independent Funeral Homes of Virginia
Bruce Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association

CALL TO ORDER

Mr. Leonard, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:08 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 October 22, 2010. The motion carried unanimously.

PUBLIC COMMENT PERIOD

Bo Keeney stated that there appeared to be confusion regarding Virginia Law and Federal Law regarding granting continuing education credit. Mr. Keeney requested that the board accept both Federal law and/or Virginia law for the one hour per year CE requirement.

Mr. Ball arrived at 10:15 a.m.

Barry Robinson requested an update about the board's decision to revert the continuing education requirement back to 5 hours per year. On behalf of the Virginia Morticians Association and members in the funeral profession, Mr. Robinson acknowledged the upcoming expiring board appointments and thanked Mr. Tharp and Ms. Hughes for their dedicated service on the board.

Following Mr. Robinson's question, Ms. Yeatts responded that a legislative proposal regarding the 5 hour CE requirement was submitted to the 2011 General Assembly but not accepted.

Lacy Whittaker thanked Lisa Hahn and Lynne Helmick for their assistance with presentations during the Traveling Caravan of the Virginia Funeral Directors Association.

INSPECTION REPORT – SAMMY JOHNSON

Mr. Johnson first introduced himself and informed the board of Karen Schaller, the new inspector that would be taking over Ms. Helmick's position as Funeral Establishment Inspector in the Tidewater region. Mr. Johnson referred the members to the new funeral inspection report and indicated that major revisions were made as a way to keep current with the laws and regulations.

Mr. Johnson then presented a facility inspection concept that the Board of Pharmacy had recently developed in an effort to streamline their program. He explained that the board identified those deficiencies that were critical to the inspection and from that they developed a Prehearing Consent Order form. During the inspection, an Inspector could then generate the PHCO and have it signed by the facility. This cut costs by avoiding hearings and spending board members and staff time.

Ms. Yeatts recommended that if the members decide to utilize this inspection program that they do so by generating a Guidance Document.

Mr. Leonard thanked Mr. Johnson for the information and requested that the Inspection Committee review the information and report back to the full board.

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 $26,825 less the direct and allocated expenditures of $214,545, leaving a cash balance as of November 30, 2010 of $(147,422).

Licensee Statistics

Ms. Hahn provided a summary of current license statistics and agreed to Mr. Murphy's request for future reports to also include statistics from the previous year for comparison purposes.

Discipline Statistics

Ms. Hahn stated we have 47 open cases; 34 cases are in the Enforcement Division at the Investigative stage; 9 cases are in the Probable Cause stage; 2 cases at the APD level; 1 case is at the informal stage; and 1 case is at the formal stage.

Virginia Performs – 4th Quarter ending 9/30/10

Ms. Hahn shared that the board had achieved a 100% rating for issuing licenses in less than 30 days; a 15% rating for patient care cases closed within 250 days; 100% customer satisfaction on surveys; and the clearance rate was at 67% which indicates how many cases were received versus closed.

Board Business

Ms. Hahn updated the board members on a meeting she held with Sammy Johnson and the Inspectors. Collaboratively, they reviewed and edited the new inspection forms, discussed ways to improve the process and discussed preneed disclosures. Ms. Hahn will forward the members a copy of the final inspection form once complete. Any questions may be directed to Ms. Hahn or Ms. Helmick.

Alkaline Hydrolysis

Ms. Hahn shared that she had not received any additional information regarding Alkaline Hydrolysis from any of the associations or board members. She added that she would like the board to stay ahead of any future legislation on the matter.

Probable Cause Review Sheet

Ms. Hahn provided the members with a copy of the new probable cause review sheet that she revised in an effort to streamline the process. Ms. Hahn stated that the revised form includes more detailed information including previous case history, priority level of the case, investigative hours already spent on case, and key questions for board members to ask themselves while reviewing the case. Ms. Hahn also reviewed the actions that a board member can recommend after determining probable cause. Ms. Hahn concluded that most cases are resolved at the Informal Conference or Pre-Hearing Consent Agreement levels.

Examination Vendor

Ms. Hahn shared that the contract for the examination vendor would be going out for re-bid in the near future. She requested board input on the current examination offering. She explained that the vendor currently provided testing 5 days per month but that she discovered that the contract includes the requirement that they offer tests 5 days per week not per month. She wanted to make sure that the board wanted to be able to offer the examination more often. The board agreed that they wanted to increase the offering of the examination.

Calendar

Ms. Hahn stated the next scheduled board meetings in 2011 were April 12th, July 19th and October 18th.

NEW BUSINESS

Legislative Report – Elaine Yeatts

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

- Identification of human remains –at the Secretary's Office
- NOIRA regarding fee increases – at Secretary's Office – seeing a substantial reluctance to approve any fee increases – the board will continue in a deficit which will have to be paid at some point – an increase in fees now will create less extraordinary increases later
- Fast-Track regarding clarification of requirements – approved – out for comment

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

- Fast-Track regarding termination of irrevocable trusts – remains at Secretary's Office

Ms. Yeatts gave a brief overview of all proposed legislation related to the profession including; SB 1117, HB 1659, HB 1661, HB 2017, HB 2018, and HB 2267. Ms. Yeatts requested that the board offer advice on House Bill 2267 so that she could communicate their view to the Secretary's office. The Board agreed that the HB 2267 offered no benefit to the consumer by limiting options available to them and were not in favor of requiring the funds to be limited to a location in the Commonwealth.

Upon a motion by Mr. Murphy and properly seconded by Mr. Burger, the board voted to strike the words "located in the Commonwealth" on line 111 and all of lines 131 thru 134 of HB 2267. The motion carried unanimously. Mr. Tharp had not yet arrived to the meeting.

Mr. Tharp arrived at 11:25 a.m.

Guidance for Internship Extensions (Guidance Document 65-15)

The members were presented with the following revision:

In accordance with **18VAC65-40-130,** the board for good cause shown, may grant an extension of time for completion of an internship.

The board policy on granting an extension is as follows:

- The intern has to provide the board with a letter explaining the circumstances that have prevented the completion of the program within the specified time. The letter should include the length of time the intern is requesting for the extension. Additionally, the board will want to review the intern's current college transcript to review the courses already completed toward the mortuary educational requirement.

- The Board will grant no more than 2 extensions to an intern.

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes, the board voted to approve revised Guidance Document 65-15 as written. The motion carried unanimously. Mr. Tharp had arrived to the meeting.

Procedures for Auditing Continuing Education (Guidance Document 65-16)

1. Board staff audits a random sample of licensees to investigate compliance with the Board's continuing education requirements.
    a. Board staff reviews each audit report and determines if the licensee is in compliance with their CE requirements.
    b. Board staff will confer with the CE committee for any questionable matters.
2. Board staff reviews each audit and, depending on compliance, will either:
    a. Send a letter of appreciation for cooperation with the audit and for compliance with the Board's CE requirements, OR;
    b. Send an Advisory letter, OR
    c. Send a Pre-hearing Consent Order based on the following guidelines:
        i. Monetary Penalty of $100 per missing credit hour,
        ii. Monetary Penalty of $300 for a fraudulent renewal certification, and;

iii. Require submission of proof of completion of the missing credit hours within 90 days of entry of the order. This CE is to be in addition to the annual requirement for renewal.

3. If the licensee fails to respond to the audit or pre-hearing consent order, the matter will be referred to an informal conference.
4. If the licensee has been previously disciplined for CE violations, the matter should be referred to the Special Conference Committee.

Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the board voted to accept Guidance Document 65-16. The motion carried unanimously.

CE Requirements:

- **One Hour Law & Regulation** – the board reiterated that only VA law (Section 54.1-2400 and 54.1-2800) and VA regulation Title 18 VAC 65-20-10 et seq. will be accepted to meet the one hour specific CE requirement effective March 31, 2011.

Upon a motion by Ms. Hughes and properly seconded by Mr. Tharp, the board voted that education regarding the one hour Preneed and the one hour VA law requirement must be specifically Virginia. The motion carried unanimously.

- **Crematory Operators Permit Course**

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes, the board voted to accept 1 hour of Virginia law for CE for completion of the Crematory Operators Course and to accept additional course hours as general CE credit provided the Crematory Operators Course was given by an approved vendor. The motion carried unanimously.

- **Board Approved CE Providers** – CE providers specifically named in 18 VAC65-20-152 are approved to provide CE in accordance with the regulations.

Upon a motion by Ms. Hughes and properly seconded by Mr. Tharp the board agreed to review CE courses if the provider questions whether or not the content meets the CE requirements. If the provider wishes to have a course reviewed in advance of the offering, the course content and required information should be submitted to the Board 60 days prior to advertising the course. The motion passed by a majority of the voting members. Mr. Burger and Mr. Murphy were opposed to the motion.

The board would like to add that this is on a voluntary basis and not a new requirement for CE providers specifically named in 18 VAC65-20-152.

Funeral Establishment Trends – Lynne Helmick

Ms. Helmick discussed funeral establishment trends and the various applications and questions the board had been receiving. Some of the trends noted are:

- Main establishments with branches serving a niche market or branches with direct cremation services in the same building.
- Cost cutting funeral homes that do not have a chapel or space for viewing.

She requested that the board may want to consider:

- What constitutes a funeral home?
- Is there a need to consider additional facility requirements that would ensure that all public spaces of a funeral home are clean and safe?

Subcommittees

Mr. Leonard provided the members of the board with a revised Subcommittee list and explained that number of members participating in each Committee was reduced in an effort to reduce costs. We will attempt to hold the subcommittee meetings on the same day as a board meeting. He added that the board needs to save wherever they can.

Mr. Leonard ended the meeting by asking Ms. Hahn if any cost resolutions had been made with Northrop Grumman & Virginia Information Technologies Agency (VITA). Ms. Hahn responded that no resolutions had been made and she does not believe that they will be forthcoming.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 12:30 p.m.

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

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
FORMAL HEARING
JANUARY 18, 2011

The Virginia Board of Funeral Directors and Embalmers convened on January 18, 2011, at the Department of Health Professions, 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 Barry Murphy, FSP Billie Watson Hughes, FSP Randy T. Minter, FSP Willard D. Tharp, FSP Walter Bell, Citizen Member
DHP STAFF PRESENT:	Lisa R. Hahn, Executive Director Lynne Helmick, Executive Deputy Director Kathy Truesdale, Discipline Operations Manager Cynthia Gaines, Adjudication Specialist Loretta Hopson-Bush, Senior Investigator
MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT:	Amy Marschean, Senior Assistant Attorney General, Board Counsel Wayne T. Halbleib, Senior Assistant Attorney General Patrick Dorgan, Senior Assistant Attorney General, OAG
OTHERS PRESENT:	Robert Diggs, Sr. (*on behalf of Mr. Bland)* Taylor Stone (*on behalf of Mr. Bland*) Al Harley (*on behalf of Mr. Bland*)
COURT REPORTER:	Lynn R. Taylor, Farnsworth & Taylor Reporting, LLC
CALL TO ORDER	The Formal Administrative Hearing of the Board was called to order at 1:05 p.m.
ESTABLISHMENT OF A QUORUM:	With eight (8) members of the Board present, a quorum was established.
MATTER SCHEDULED:	**Fenton L. Bland, Jr., FSP Reinstatement Applicant** **Case Number: 134699**

DISCUSSION: Mr. Bland appeared before the Board in accordance with the Notice and Statement of Particulars dated January 3, 2011, after having waived his right to thirty days notice prior to the convening of this proceeding. Mr. Bland was not represented by counsel.

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

CLOSED SESSION: Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Bland at 2:45 p.m. Additional, Mr. Nelsen moved that Ms. Hahn, Ms. Helmick, Ms. Marschean, and Ms. Truesdale attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2.-3712 of the *Code of Virginia,* the Board re-convened open session at 3:37 p.m. and announced its decision.

ACTION: Upon a motion by Mr. Nelsen, and duly seconded by Mr. Minter, the Board made certain Findings of Fact and Conclusions of Law and voted to deny the reinstatement of the license for Mr. Bland. It was further ordered that Mr. Bland shall not petition the Board for reinstatement for a period of at least twenty-four months from entry of the Order.

VOTE: A vote of six (6) to deny the reinstatement and two (2) to grant the reinstatement of Mr. Bland's Funeral Service Provider license.

ADJOURNMENT: The Board adjourned at 3:47 p.m.

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

Michael Leonard, FSP, President	Lisa R. Hahn, Executive Director
Date	Date

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
FORMAL HEARING
JANUARY 18, 2011

The Virginia Board of Funeral Directors and Embalmers convened on January 18, 2011, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT:	Robert B. Burger, Jr., FSP, Vice-President Blair Nelsen, FSP, Secretary-Treasurer Billie Watson Hughes, FSP Randy T. Minter, FSP Willard D. Tharp, FSP Walter S. Bell, Citizen Member Junius H. Williams, Jr., Citizen Member
DHP STAFF PRESENT:	Lisa R. Hahn, Executive Director Lynne Helmick, Executive Deputy Director Missy Currier, Board Operations Manager Cynthia Gaines, Adjudication Specialist Kathy Truesdale, Discipline Operations Manager Marta Ishmael, Senior Investigator
MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT:	Amy Marschean, Senior Assistant Attorney General, Board Counsel Corie E. Tillman-Wolf, Assistant Attorney General
OTHERS PRESENT:	Elizabeth Boggan, Office Administrator, Lewis Funeral Home Shaye Nelson, Manager of Record, Lewis Funeral Home Cordell Credit, Funeral Assistant, Lewis Funeral Home Barry Hanna, Funeral Assistant, Lewis Funeral Home Jessie Parker, Funeral Assistant, Lewis Funeral Home
COURT REPORTER:	Lynn R. Taylor, Farnsworth & Taylor Reporting, LLC
CALL TO ORDER	The Formal Administrative Hearing of the Board was called to order at 4:05 p.m.
ESTABLISHMENT OF A QUORUM:	With seven (7) members of the Board present, a quorum was established.
MATTER SCHEDULED:	**Norman Northern, FSP** **License Number: 0502-900167** **Case Number: 130896**

DISCUSSION: Mr. Northern appeared before the Board in accordance with the Notice and Statement of Particulars dated October 18, 2010. Mr. Northern was not represented by counsel and agreed to proceed with the Formal Administrative Hearing.

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

CLOSED SESSION: Upon a motion by Mr. Nelsen, and duly seconded by Ms. Hughes, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Northern. Additionally, Mr. Nelsen moved that Ms. Hahn, Ms. Helmick, Ms. Marschean, and Ms. Currier attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

OPEN SESSION: Having certified that the matters discussed in the preceding closed session met the requirements of 2.2.-3712 of the *Code of Virginia,* the Board re-convened open session at 7:10 p.m. and announced its decision. The Chair noted that the time was 7:10 p.m. and the respondent, Mr. Northern had left the premises and was not present to hear the sanctions.

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

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

ADJOURNMENT: The Board adjourned at 7:14 p.m.

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

Michael Leonard, FSP, President	Lisa R. Hahn, Executive Director
Date	Date

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
SPECIAL CONFERNCE COMMITTEE

The Special Conference Committee of the Virginia Board of Funeral Directors and Embalmers convened on January 18, 2011, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Henrico, Virginia.

MEMBERS PRESENT: Mike Leonard, FSP, Chair
Barry Murphy, FSP, Board Member

DHP STAFF PRESENT: Kathy Truesdale, Discipline Operations Manager
Jim Banning, Director, Administrative Proceedings Division

CONFERENCE SCHEDULED: **Jeffrey L. Dodson, FSP**
License Number: 0502-860053
Case Number: 134474

CALL TO ORDER: Mr. Leonard called the conference to order at 4:13 p.m.

DISCUSSION: Mr. Dodson appeared before the Committee in person in accordance with the notice of the Board dated December 10, 2010. Mr. Dodson was not represented by counsel.

The Committee reviewed the allegations in the Notice of Informal Conference with Mr. Dodson, in that he may have violated the laws and/or regulations governing the practice of funeral directors and embalmers.

CLOSED SESSION: Mr. Murphy moved that the Special Conference Committee of the Board of Funeral Directors and Embalmers convene a closed meeting pursuant to Section §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, Mr. Murphy moved that Ms. Truesdale and Mr. Banning attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Committee in its deliberations. The motion was seconded and carried unanimously. The committee went into closed session at 4:50 p.m.

OPEN SESSION: The Committee reconvened in open session at 5:14 p.m.

Mr. Murphy moved that the Special Conference Committee of the Board of Funeral Directors and Embalmers certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was

convened. The motion was seconded and carried unanimously.

ACTION: Mr. Leonard moved to have Mr. Banning read the Findings of Fact and Conclusions of Law adopted by the Committee and the decision of the Committee.

Mr. Dodson shall be placed on INDEFINITE PROBATION upon entry date of the Board Order.

Mr. Dodson shall provide the Board with verification that he has completed six (6) hours of continuing education focused upon Virginia Law and Regulations within twelve (12) months of the entry date of the Board Order.

Mr. Dodson shall take and successfully pass the State examination for funeral service providers within twelve (12) months of the entry date of the Board Order.

Upon completion of the terms and conditions of his probation, Mr. Dodson may petition the Board for termination of his probation.

The motion was seconded and carried unanimously.

ADJOURNMENT: The Committee adjourned this case at 5:17 p.m.

Mike Leonard, FSP, Chair	Lisa R. Hahn, Executive Director
Date	Date

Tab 2

Virgina Department of Health Professions
Cash Balance
As of February 28, 2011

	104- Funeral Directors and Emba
Cash Balance as of June 30, 2010	$ 40,298
YTD FY11 Revenue	229,785
Less: YTD FY11 Direct and In-Direct Expenditures	376,873
Cash Balance as of February 28, 2011	$ (106,790)

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2010 through February 28, 2011

	104- Funeral Directors and Emba			
	Jul '10 - Feb 11	Budget	$ Over Budget	% of Budget
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	23,625.00	34,225.00	-10,600.00	69.03%
2402 · Examination Fee	0.00			
2406 · License & Renewal Fee	194,470.00	488,660.00	-294,190.00	39.8%
2407 · Dup. License Certificate Fee	220.00	480.00	-260.00	45.83%
2408 · Board Endorsement - In	0.00			
2409 · Board Endorsement - Out	4,150.00	2,600.00	1,550.00	159.62%
2421 · Monetary Penalty & Late Fees	1,075.00	5,395.00	-4,320.00	19.93%
2430 · Board Changes Fee	3,175.00	5,075.00	-1,900.00	62.56%
2432 · Misc. Fee (Bad Check Fee)	70.00	35.00	35.00	200.0%
Total 2400 · Fee Revenue	226,785.00	536,470.00	-309,685.00	42.27%
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				
9060 · Inspection Fees	2,300.00	5,700.00	-3,400.00	40.35%
9084 · Refund- Prior Yr Disb	0.00			
Total 9000 · Other Revenue	2,300.00	5,700.00	-3,400.00	40.35%
Total Revenue	229,785.00	542,170.00	-312,385.00	42.38%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	3,041.12	4,941.00	-1,899.88	61.55%
1112 · Fed Old-Age Ins- Sal St Emp	3,340.05	5,918.00	-2,577.95	56.44%
1113 · Fed Old-Age Ins- Wage Earners	367.23	783.00	-415.77	46.9%
1114 · Group Insurance	447.76	766.00	-318.24	58.45%
1115 · Medical/Hospitalization Ins.	11,614.81	20,441.00	-8,826.19	56.82%
1116 · Retiree Medical/Hospitalizatn	459.49	744.00	-284.51	61.76%
1117 · Long term Disability Ins	321.64	496.00	-174.36	64.85%
Total 1110 · Employee Benefits	19,592.10	34,089.00	-14,496.90	57.47%
1120 · Salaries				
1123 · Salaries, Classified	31,825.76	75,091.00	-43,265.24	42.38%
1125 · Salaries, Overtime	0.00	200.00	-200.00	0.0%
Total 1120 · Salaries	31,825.76	75,291.00	-43,465.24	42.27%
1130 · Special Payments				
1131 · Bonuses and Incentives	2,283.15	2,253.00	30.15	101.34%
1138 · Deferred Compnstn Match Pmts	248.00	408.00	-160.00	60.78%
Total 1130 · Special Payments	2,531.15	2,661.00	-129.85	95.12%
1140 · Wages				

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2010 through February 28, 2011

	104- Funeral Directors and Emba			
	Jul '10 - Feb 11	Budget	$ Over Budget	% of Budget
1141 · Wages, General	4,800.47	10,026.00	-5,225.53	47.88%
1143 · Wages, Overtime	0.00			
Total 1140 · Wages	4,800.47	10,026.00	-5,225.53	47.88%
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	3,003.55	3,755.00	-751.45	79.99%
Total 1160 · Terminatn Personal Svce Costs	3,038.07	3,755.00	-716.93	80.91%
Total 1100 · Personal Services	75,788.48	125,822.00	-50,033.52	60.24%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	7.02	500.00	-492.98	1.4%
1212 · Outbound Freight Services	13.39			
1213 · Messenger Services	0.00			
1214 · Postal Services	868.20	4,500.00	-3,631.80	19.29%
1215 · Printing Services	3.50	400.00	-396.50	0.88%
1216 · Telecommunications Svcs (DIT)	349.46	800.00	-450.54	43.68%
1217 · Telecomm. Svcs (Non-State)	0.00			
1219 · Inbound Freight Services	0.00			
Total 1210 · Communication Services	1,241.57	6,200.00	-4,958.43	20.03%
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				
1242 · Fiscal Services	31.93	6,878.00	-6,846.07	0.46%
1243 · Attorney Services	0.00			
1244 · Management Services	6.63			
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	38.56	7,428.00	-7,389.44	0.52%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2010 through February 28, 2011

	104- Funeral Directors and Emba			
	Jul '10 - Feb 11	Budget	$ Over Budget	% of Budget
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	1,112.21	2,000.00	-887.79	55.61%
1266 · Manual Labor Services	375.89	700.00	-324.11	53.7%
1267 · Production Services	1,413.44	1,200.00	213.44	117.79%
1268 · Skilled Services	555.00	1,241.00	-686.00	44.72%
Total 1260 · Support Services	3,456.54	5,141.00	-1,684.46	67.24%
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	4,123.17	4,000.00	123.17	103.08%
1283 · Travel, Public Carriers	150.31	700.00	-549.69	21.47%
1284 · Travel, State Vehicles	0.00			
1285 · Travel, Subsistence & Lodging	602.50	1,500.00	-897.50	40.17%
1288 · Trvl, Meal Reimb- Not Rprtble	379.00	780.00	-401.00	48.59%
Total 1280 · Transportation Services	5,254.98	6,980.00	-1,725.02	75.29%
Total 1200 · Contractual Services	10,273.10	27,649.00	-17,375.90	37.16%
1300 · Supplies And Materials				
1310 · Administrative Supplies				
1312 · Office Supplies	719.66	700.00	19.66	102.81%
1313 · Stationery and Forms	0.00	-15.00	15.00	0.0%
Total 1310 · Administrative Supplies	719.66	685.00	34.66	105.06%
1330 · Manufctrng and Merch Supplies				
1335 · Packaging and Shipping Suppl	0.00			
Total 1330 · Manufctrng and Merch Supplies	0.00			
1340 · Medical and Laboratory Supp.				
1342 · Medical and Dental Supplies	2.67			
Total 1340 · Medical and Laboratory Supp.	2.67			
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			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2010 through February 28, 2011

	104- Funeral Directors and Emba			
	Jul '10 - Feb 11	Budget	$ Over Budget	% of Budget
Total 1300 · Supplies And Materials	783.77	785.00	-1.23	99.84%
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	0.00	1,217.00	-1,217.00	0.0%
1535 · Building Rentals	2.43			
1539 · Building Rentals - Non State	5,464.14	8,018.00	-2,553.86	68.15%
Total 1530 · Operating Lease Payments	5,466.57	9,235.00	-3,768.43	59.19%
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			
Total 1550 · Insurance-Operations	136.64			
Total 1500 · Continuous Charges	6,272.49	9,480.00	-3,207.51	66.17%
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	4.90			
2262 · Office Furniture	1.33	200.00	-198.67	0.67%
2263 · Office Incidentals	25.75			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2010 through February 28, 2011

	104- Funeral Directors and Emba			
	Jul '10 - Feb 11	Budget	$ Over Budget	% of Budget
2264 · Office Machines	0.00			
2268 · Office Equipment Improvements	0.00			
Total 2260 · Office Equipment	31.98	200.00	-168.02	15.99%
Total 2200 · Equipment Expenditures	32.72	500.00	-467.28	6.54%
Total Expenditures	93,210.56	164,236.00	-71,025.44	56.75%
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	53,967.29	79,591.45	-25,624.16	67.81%
9301 · DP Operations & Equipment	50,035.12	134,719.92	-84,684.80	37.14%
9302 · Human Resources	6,621.15	12,029.17	-5,408.02	55.04%
9303 · Finance	13,576.14	24,040.92	-10,464.78	56.47%
9304 · Director's Office	6,278.44	12,669.84	-6,391.40	49.55%
9305 · Enforcement	97,460.33	132,825.00	-35,364.67	73.38%
9306 · Administrative Proceedings	8,851.34	23,364.72	-14,513.38	37.88%
9307 · Impaired Practitioners	25.40	38.04	-12.64	66.77%
9308 · Attorney General	36,789.26	37,790.16	-1,000.90	97.35%
9309 · Board of Health Professions	4,480.96	9,664.08	-5,183.12	46.37%
9310 · SRTA	0.00			
9311 · Moving Costs	0.00	828.48	-828.48	0.0%
9313 · Emp. Recognition Program	0.00	474.00	-474.00	0.0%
9314 · Conference Center	195.59	527.88	-332.29	37.05%
9315 · Pgm Devlpmnt & Implmentn	2,338.32	5,424.24	-3,085.92	43.11%
987900 · Cash Trsfr Out- Appr Act Pt. 3	3,042.86	1,580.16	1,462.70	192.57%
Total 9001 · Allocated Expenditures	283,662.20	475,568.06	-191,905.86	59.65%
Total Direct and Allocated Expenditures	376,872.76	639,804.06	-262,931.30	58.9%
Net Cash Surplus\Shortfall	-147,087.76	-97,634.06	-49,453.70	150.65%

Case Pending Report for Funeral Directors
April 12, 2011

Investigations	35
Probable Cause	1
APD	2
Informal Stage	0
Formal Stage	0
Total	38

KEY PERFORMANCE MEASURES*
Qtr2 2011 – December 31, 2010

	Clearance Rate	Percent of Pending Case Load Older than 250 Business Days	Percent of Patient Care Cases Resolved within 250 Working Days	Percent of Customer Satisfaction	Percent of Initial Applications Processed within 30 Days of Completion
Funeral Directing	200%	27%	100%	n/a	100.0%
AGENCY	81%	10%	92%	94.7% (421)	99.9%

*Unofficial Results – Not official until the Department of Planning and Budget publish on the Virginia Performs Website.

License Count Report for Funeral Directors
April 12, 2011

Branch Establishment	24
Continuing Education Provider	27
Courtesy Card	88
Crematories	91
Funeral Establishments	486
Funeral Service Interns	165
Embalmer	6
Funeral Service Director	75
Funeral Service Providers	1,441
Funeral Service Supervisors	279
Surface Transportation & Removal Services	56
Total	2,738

Tab 3

COMMONWEALTH of VIRGINIA

Department of Health

JANET M. RAINEY
DIRECTOR AND STATE REGISTRAR

DIVISION OF VITAL RECORDS
1601 WILLOW LAWN DR. STE 275
P.O. BOX 1000
RICHMOND, VA 23218-1000
(804) 662-6200

Memorandum

To: Association of Independent Funeral Homes of Virginia
Virginia Morticians Association, Inc.
Virginia Funeral Directors Association

From: Janet M. Rainey Janet M Rainey
Director and State Registrar

Subject: Computer Generated Death Certificates

Date: March 18, 2011

Before a funeral director or funeral service licensee can submit a computer generated death certificate for filing, prior approval must be obtained from the State Registrar.

A death certificate audit has revealed that several computer generated death certificates have been filed without the approval of the State Registrar. A review of these death certificates showed mistakes such as; omission of words, formatting errors and improper paper stock.

Please advise your members if they are generating computer death certificates without the approval of the State Registrar they are to cease immediately. Until approval has been granted, they should be using the VS2 (green border) and the VS2A (red border) death certificate forms. Effective immediately, the Deputy Registrars at the Local Health Departments will be rejecting computer generated death certificates from funeral home establishments that have not obtained approval from the State Registrar.

To obtain approval, the funeral director or funeral service licensee should contact my Executive Secretary, Linda Whitaker at (804) 662-6207. Mrs. Whitaker will provide them with the necessary specifications and documentation needed to obtain approval for filing computer generated death certificates.

Thank you in advance for your support.

Tab 4

2011 SESSION

INTRODUCED

11100248D

HOUSE BILL NO. 1659

Offered January 12, 2011

Prefiled January 10, 2011

A BILL to amend and reenact § 54.1-2818.1 of the Code of Virginia, relating to identification prior to cremation.

Patron—Alexander

Committee Referral Pending

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 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.

INTRODUCED

HB1659

1/10/11 13:30

Exempt action

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Identification of remains

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 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 has made a visual identification of the deceased;

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.

Tab 5

Maryland Reciprocal Agreement

Information will be provided once received by the Maryland State Board of Morticians

Tab 6

REGULATORY SUPPORT SERVICES, Inc.

Meredyth P. Partridge
President

February 23, 2011

RECEIVED
Board of Funeral Directors and Embalmers
FEB 25 2011
DHP

Mrs. Lisa Hahn, Executive Director
Virginia Board of Funeral Directors and Embalmers
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, VA 23233

Dear Mrs. Hahn:

We respectfully request that you place this letter on the agenda for the next meeting of the Board of Funeral Directors and Embalmers. And we thank you in advance for your consideration of this subject.

Beginning in the early 1980s, members of the Board of Funeral Directors and Embalmers fought a long battle to enact preneed regulations and laws in Virginia. In fact, the Board at that time took such matters all the way to the Virginia Supreme Court when Service Corporation International filed suit against the Board for its promulgation of preneed statutes. With development of the Board's preneed regulations in 1986, the Board established enforcement procedures for its preneed regulations and have generally held steady to the course since that time. Those former Board members, just as the current Board members, have always focused earnestly on preneed, particularly as violations of those laws and regulations have escalated in recent years. It is for this reason, that we have questions about a recent interpretation that appears to limit a future funeral director from experience and instruction in preneed which might avert problems as that individual becomes licensed and continues to practice funeral service.

A Board staff member recently informed a client of ours that an intern is not allowed to make preneed arrangements. We called Mrs. Lynne Helmick to ask about that interpretation and she returned our call stating, through reading some of the regulations and laws, that they did not allow an intern to make preneed arrangements. We were puzzled by that answer, which Mrs. Helmick stated was confirmed with others, since in numerous Board meetings over the years the Board has expressed concern that interns are not learning about preneed because their trainers/supervisors do not always provide them the opportunity to make preneed arrangements with buyers. This Board in the past has expressed concern about failures on the State Board exam, particularly the number of answers missed on preneed questions. An intern committee has discussed a training course for supervisors to ensure that interns receive full training in all aspects of funeral service. And, interns have been making preneed arrangements under direct supervision of a licensee since a former Board first enacted preneed regulations in the late 1980s even though some funeral homes have chosen to limit interns to at need arrangements only.

We would like to detail our confusion over this interpretation:

1. Throughout the laws and regulations, the terms funeral director and embalmer are used yet no Board has interpreted those terms as limited to licensees only in spite of §54.1-2805 which states that it is "unlawful for any person to engage in or hold himself out as engaging in the practice of funeral services or the business or preneed funeral planning … or to act as a funeral director or embalmer or hold himself out as such unless he is licensed by the Board…"

P. O. Box 148 • Manakin-Sabot, VA 23103-0148 • (804) 784-7347 • Fax (804) 784-7349
mail@regulatorysupportservices.com

If one was to take that language literally, one might have to say that an intern cannot engage in the practice of funeral service since the intern is not "licensed" by the Board.

RECEIVED

2. Indeed, §54.1-2800 defines a funeral service intern to 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." And, this same section of the Code defines the practice of funeral services to mean, in pertinent part, "the making of arrangements for the funeral service or the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public."

There does not appear to be any language in this wording restricting the definition of practice of funeral services to at need funeral arrangements and services only. In fact, the definition of preneed funeral planning states that it means: "The making of arrangements prior to death for (i) providing of funeral services or (ii) the sale of funeral supplies." And the definition of a preneed funeral contract discusses financing, the words strikingly similar to the language in "practice of funeral services," all activities in which this Board and past Board members appear to expect or have expected an intern to engage in order to comply with the internship regulations.

3. And, since 1986, it has been my experience in attending Board meetings and Committee meetings that Boards have expected an intern's training to be thorough and through verbal instruction, written instruction, demonstration, and hands-on experience. For example, §18VAC65-40-340(D) states that "the supervisor shall provide the intern with instruction in all aspects of funeral services and shall allow the intern under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals." The simple wording of this regulation does not appear to restrict the intern to at need arrangements only.

4. Whereas it is clear and easily understood language in §18VAC65-40-340 that the supervisor has responsibility for providing instruction on applicable laws and regulations; forms and price lists; necessary precautions, embalmings, and reporting forms; and on cremations and cremation laws and regulations, the term "instruction" is not defined in regulation or Code. Yet, I believe through listening to discussions during meetings, that this Board and previous Boards have had the expectations that "instruction" includes those elements described in the first sentence of #3 above, all of which supervisors include in at need arranging and embalming as well.

5. §18VAC65-40-340(G) states that if a training site does not offer preneed funeral planning or cremation services, "the supervisor shall arrange for such training at another licensed funeral establishment that does." Why would another training site be necessary if all an instructor had to do was verbally or paper instruct on preneed funeral planning? Wouldn't having a second training site be necessary only if the original funeral home "does not offer preneed funeral planning" and could not provide the intern with hands-on experience in making preneed arrangements? After all, the supervisor takes preneed continuing education each year so should be versed in providing verbal or written instruction in spite of the fact that his/her employer "does not offer preneed funeral planning."

6. In support of our need for clarification of this interpretation, the Board has not held that the language in §54.1-2805 (requiring anyone practicing funeral services or the business of preneed funeral planning to be a licensee), requires only a licensee to make at need arrangements and embalm and prohibits an intern from doing so. Why, therefore, would the interpretation call upon the requirements below to mean that they are restricted only to licensees?

(a) §18VAC65-30-10 - Contract seller means "the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided." Again, this language mimics "practice of funeral services" which does not appear to be restricted to just at need arrangements; and

(b) §18VAC65-30-50(B) – "After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee." Yet although it is not in law or regulation, the Board holds licensees to the same expectations for an at need inquiry. And responding to an inquiry could be a part of "arranging all aspects of 25 funerals." Just as the solicitation requirement ended up in the preneed regulations yet applies to the Board's at need regulations as well, could it be that the language in both this paragraph and in (a) above was handled in the same manner and was meant to apply applicably to at need as well as preneed?

7. In discussing the concept of direct supervision with Mrs. Helmick, I mentioned that direct supervision means "that a licensed funeral service professional is present and on the premises of the facility." We discussed that the Board has not interpreted "on the premises" to mean "in the room with" since the latter language was deleted numerous internship revisions ago. Since that revision, Board members have interpreted "on the premises" to mean on the property where the funeral home is sited in order that the supervisor can be available to the intern as needed. Or Board members have interpreted "on the premises" to mean that the supervisor is present (but not necessarily in the room with) an intern who meets with a family in a location other than the funeral home. And I believe that most Board members would agree that a supervisor could be "on the premises" and not be in the building with the intern.

It is confusing for the Board to strive for all interns to have full knowledge of preneed funeral arranging yet, in spite of no regulatory or statutory prohibition, the recent interpretation is that interns cannot make preneed arrangements when the practice has been different for over 24 years. In fact, I believe that this Board's minutes might support that all this Board has mandated is that interns cannot sign preneed contracts. With at need contracts and embalming reports requiring a supervisor's co-signature, this Board has said that an intern's supervisor must provide the only lawful signature on a preneed contract. But this Board has not, to my knowledge, prohibited an intern from making a preneed arrangement.

As preneed complaints, theft, and fraud continue to rise nationally, I can only wonder where there is public harm for an intern to become more skilled by entering into a preneed arrangement under direct supervision of his/her supervisor; after receiving training from the supervisor on preneed laws and regulations; after the intern has observed his/her supervisor making such arrangements; and followed by the supervisor carefully reviewing the contract and signing it. It seems to be a valid argument that there is no more harm present than that occurring when an intern makes an at need arrangement with a buyer.

Because this Board chooses for interns to be at skilled in all areas when they earn their licenses, I trust the Board might also agree that more, not less, hands-on experience is needed in all areas of funeral service and particularly in areas of preneed. It is our hope that the Board will agree that the regulations and laws support this position.

Thank you for your consideration of our concerns.

RECEIVED
Board of Funeral Directors
& Embalmers

Respectfully yours,

Meredyth P. Partridge, President