VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Henrico VA 23233-1463
Board Room #4, Second Floor
July 16, 2013 at 10:00 a.m.

BOARD MEETING
AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES – Tab 1

- Board Meeting – April 23, 2013
- Formal Hearing – April 24, 2013

INFORMAL CONFERENCES HELD

- (2) – Held on April 24, 2013

PUBLIC COMMENT PERIOD

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

NEW BUSINESS

- Legislative/Regulatory Reports– **Elaine Yeatts - Tab 3**
    - Report on status of regulatory actions
- Definition of Embalming – **Tab 4**
- Alternate Embalming/Training Sites – **Lisa R. Hahn - Tab 5**
- Probable Cause Review – **Lisa R. Hahn**
- 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 23, 2013 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT
Blair Nelsen, FSP, President
Junius Williams, Citizen Member, Vice-President
Christopher P. Vincent, FSP, Secretary-Treasurer
Michael J. Leonard, FSP
Randolph T. Minter, FSP
Robert Oman, FSP
Eric V. Wray, II, FSP

BOARD MEMBERS PRESENT FOR ALL OR PART OF THE MEETING
Robert B. Burger, Jr., FSP
Walter Ball, Citizen Member

DHP STAFF PRESENT FOR THE MEETING
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Missy Currier, Board Operations Manager

BOARD COUNSEL
Charis Mitchell, Assistant Attorney General

QUORUM
With 7 members present a quorum was established.

GUESTS PRESENT
Paul Harris, Regulatory Support Services, Inc.
Karen McPherson, Virginia Morticians Association
Bo Keeney, Independent Funeral Homes of Virginia
Lacy Whittaker, Virginia Funeral Directors Association
Scott Johnson, SCI
Tyler Cox, SCI
Harvey Bollinger, SCI
Aimee Seibert, VCA

CALL TO ORDER

Blair Nelsen, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:00 a.m. On behalf of the board members and staff, Mr. Nelsen offered

condolences to Randy Minter on the death of his father. Mr. Nelsen also asked everyone to keep board counsel Erin Barrett in their thoughts and prayers due to complications with her pregnancy.

ORDERING OF AGENDA

The Election of Officers was removed from the agenda and delayed until the July 2013 meeting. The agenda was then accepted as amended.

ACCEPTANCE OF MINUTES

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

- Board Meeting – October 16, 2012

The motion carried unanimously. Mr. Ball had not yet arrived.

INFORMAL CONFERENCES HELD

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

- (2) – held on October 16, 2012
- (1) - held on April 3, 2013

PUBLIC COMMENT PERIOD

None

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn

Expenditure and Revenue Summary

Ms. Hahn then gave the most recent financial numbers for FY13 beginning with the cash balance as of June 30, 2012 of $(64,321); revenue received YTD FY 13 was $493,090; less the direct and In-Direct expenditures of $509,842; leaving the cash balance as of March 31, 2013 of $(81,073).

Discipline Statistics

Ms. Hahn stated the board has 40 open cases; 21 of the cases are in the Enforcement Division at the Investigative stage; 8 cases are in the Probable Cause stage, 7 cases at the APD level; 2 cases are in the informal stage; and 1 case was at the formal stage and was scheduled for the next day. Ms. Hahn added that 20 funeral board Orders are being monitored for compliance by Missy Currier.

Licensee Statistics

Ms. Hahn reported that there are 1,441 Funeral Service Providers, 140 Funeral Interns, 427 Funeral Establishments, 5 Embalmers, 55 Funeral Directors, 357 Funeral Service Supervisors, 60 Branch Establishments, 97 Crematories, 25 Continuing Education Providers, 63 Courtesy Card Holders and 43 Surface Transportation and Removal Services.

Virginia Performs – 1st Quarter 2013

Ms. Hahn stated that she was reporting the same figures as the October 2012 meeting; 100% rating for issuing licenses in less than 30 days; customer satisfaction was at 100% (goal is 95%); the clearance rate which represents only patient care cases was at 29%; a 100% rating for patient care cases closed within 250 days; the percent of cases closed within 250 days was at 50% which represented 1 out of the 2 cases closed outside of the 250 days; and the pending caseload older than 250 days was 0%.

2013 Board Presentations

Ms. Hahn reported on the following presentations recently completed or on the schedule:

- **January:**
  - VFDA Summit Meeting– Omni Richmond –Lisa Hahn
- **February:**
  - VFDA Traveling Caravan -Tidewater District – Eric Wray
- **March:**
  - VFDA Traveling Caravan –Fredericksburg & John Tyler CC, Chester - Lynne Helmick
  - Career Fair at John Tyler – Vicki Saxby
- **June:**
  - VMA Conference – Short Pump – Lisa Hahn, Lynne Helmick
- **July:**
  - VFDA Convention – VA Beach – Lisa Hahn, Lynne Helmick

Ms. Hahn stated that she had received great feedback on the presentation given by Eric Wray in Tidewater. She added that Vicki Saxby did a great job representing the board and talking to students at the John Tyler Career Fair.

Board Business

Ms. Hahn stated the 2013 newsletter had been published and posted on the website.

Examination Process

Ms. Hahn was pleased to report that the Examination process has been greatly improved since it is now offered on a daily basis. Additionally, approved candidates can now take the Virginia exam out of state. PCS contracts with PSI/Laser Grade who administers our examination.

Examination Review

Ms. Hahn shared that she and Ms. Helmick had dedicated a lot of time reviewing every single test item and referenced each item to the laws and regulations to insure accuracy. She stated that they pulled bad questions and made edits to others. Ms. Hahn concluded that the board would enter into closed session during the afternoon to assist in the development of additional test items.

Pending Projects

- Virtual Funeral Homes - Ms. Hahn shared that staff had only received feedback from four States on what they are doing and in those states, they must be licensed as a facility and meet the same requirements.

- No Known Next of Kin – Ms. Hahn shared that we received responses from many states through the Conference.

- Surface and Transportation – Ms. Hahn reiterated from her last meeting that this subject needs to be reviewed and addressed to broaden the regulations.

Ms. Hahn suggested that smaller adHoc Committees be formed to work on these issues to then provide information to the full board on their findings.

Randolph Lane Appeal

Ms. Hahn stated that Mr. Lane's appeal is still pending and is scheduled to be heard on May 29th in Middlesex County.

Inspectors

Ms. Hahn stated that although she had planned on inviting the inspectors to the meeting, she decided to wait until the next fiscal year due to budget issues.

Military Update/News

Ms. Hahn reported that she and Arne Owens will be meeting again with Fort Lee to discuss the transferability of Mortuary Affairs positions back into the civilian sector. She added that the goal is to review the course curriculum, training and experience and provide some type of credit hours toward the full internship. Ms. Hahn concluded that the process was still in the infancy stages.

Calendar

Ms. Hahn concluded her report by giving the remaining 2013 board meeting calendar dates; July 16th and October 22nd.

Mr. Ball arrived at 10:20 a.m.

NEW BUSINESS

Legislative/Regulatory Reports – Elaine Yeatts

Status of Regulations

Ms. Yeatts reported on the status of the following Regulatory Actions:

18VAC65-20:

- Fee Increase – re-proposed remain at the Secretary's Office and not optimistic that they will be approved any time soon.
- Identification of human remains – Emergency regulations are in effect from 10/1/12 to 9/30/13 and the board may request a six month extension.

Report of the 2013 General Assembly

- Ms. Yeatts reported that House Bill 1796 an Act to amend and reenact § *32.1-263 of the Code of Virginia*, relating to death certificate; timely return to funeral director was dead for 2013. Board Member Bob Oman challenged the report by indicating that he had knowledge of the Bill going into Joint Session this summer and had not been killed during General Assembly. Ms. Hahn reported that Scott Johnson indicated that the Governor has pulled the Bill and has until May 3rd to sign and if the Governor does not sign the Bill, it still becomes Law. Ms. Yeatts concluded that the information she reported was directly from the Governor's office however she would look again into the status of HB 1796.

- Ms. Yeatts reported that Senate Bill 1142 (below) regarding hardship waivers passed during the General Assembly and becomes effective on July 1, 2013.

  Board of Funeral Directors and Embalmers; licensure of funeral establishments; hardship waivers. *Authorizes the Board of Funeral Directors and Embalmers to grant a waiver to allow a single full-time manager or funeral director to divide his time between two funeral establishments provided the distance between the two establishments is 50 miles or less. Under current law, the distance between the two establishments is limited to 35 miles or less.*

Proposed Regulations on Identification Prior to Cremation (Attachment #1)

Upon a motion by Mr. Vincent and properly seconded by Mr. Wray, the board voted to adopt the proposed regulations on identification prior to cremation for replacement of emergency regulations. The motion passed unanimously.

Fast-Track Action on Regulations under Governor's Regulatory Reform Project (Attachments #2, #3 & #4)

Ms. Yeatts reminded the board that as part of the Governor's Regulatory Reform Project, they were required to conduct a periodic review of **18VAC65-20; 18VAC65-30;** and **18VAC65-40.** Ms. Yeatts reported that no comment was received during the public comment period of November 5th thru December 5th, 2012.

Ms. Yeatts reviewed staff recommendations made to **18VAC65-20** of the Regulations of the Board of Funeral Directors & Embalmers. The Board agreed to all recommendations except the following:

- **18VAC65-20-510** Embalming Report

  Every funeral establishment shall record and maintain ~~a separate~~, an identifiable report for each embalming procedure conducted, which shall at a minimum include the following information:

Upon a motion by Mr. Vincent and properly seconded by Mr. Minter, the board voted to a Fast Track Action to accept all staff recommendations to **18VAC65-20** of the Regulations of the Board of Funeral Directors and Embalmers except the change in **18VAC65-20-510**. The motion passed unanimously.

Ms. Yeatts reviewed staff recommendations made to **18VAC65-30** of the Regulations for Preneed Funeral Planning of the Board of Funeral Directors & Embalmers. The Board agreed to all recommendations except the following:

- 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 Department of Health Professions, 9960 Mayland Drive, Suite 300, ~~Richmond~~ Henrico, Virginia 23233

Upon a motion by Mr. Minter and properly seconded by Mr. Oman, the board voted to a Fast Track Action to accept all staff recommendations to **18VAC65-30** of the Regulations for Preneed Funeral Planning of the Board of Funeral Directors & Embalmers except the change in address from Richmond to Henrico. The motion passed unanimously.

Ms. Yeatts reviewed staff recommendations made to **18VAC65-40** of the Regulations for Funeral Service Internship Program of the Board of Funeral Directors & Embalmers. The Board agreed to all recommendations with the addition of federal government to the following:

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

  A. 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.

  B. The board may grant approval for a resident trainee to receive all or a portion of the embalming training at a facility of state or federal government or an accredited educational institution.

Upon a motion by Mr. Vincent and properly seconded by Mr. Williams, the board voted to a Fast Track Action to accept all staff recommendations to **18VAC65-40** of the Regulations for Funeral Service Internship Program of the Board of Funeral Directors & Embalmers with the addition of federal government in**18VAC65-40-220 (B)** and with the understanding that staff work with a board member on developing a guidance document to establish standards for section (B).

The motion passed unanimously.

BREAK

The Board took a recess at 11:10 a.m. and reconvened at 11:25 a.m.

New Maryland Statutes

Ms. Hahn reported that as promised during the October board meeting, she had submitted a letter to Ruth Ann Arty, Executive Director of the Maryland Board of Morticians and Funeral Directors in November 2012 in response to Maryland's new Statue. Ms. Hahn stated that she had never received a response back regarding her letter.

Mr. Nelsen summarized that the board is not giving any legal advice regarding the enforceability of Maryland entering a Virginia facility to conduct an inspection. The Board suggests that Virginia firms consult with an attorney if approached by Maryland to sign any documents or perform any inspections.

Guardian Cremation Authorization

Ms. Hahn referred the member to Tab 7 of the Agenda package and indicated that she had included the following Virginia Code section for informational purposes only:

> **§ 64.2-2019. (Effective October 1, 2012) Duties and powers of guardian.**
>
> F. A guardian shall have authority to make arrangements for the funeral and disposition of remains, including cremation, interment, entombment, memorialization, inurnment, or scattering of the cremains, or some combination thereof, if the guardian is not aware of any person that has been otherwise designated to make such arrangements as set forth in § 54.1-2825. A guardian shall have authority to make arrangements for the funeral and disposition of remains after the death of an incapacitated person if, after the guardian has made a good faith effort to locate the next of kin of the incapacitated person to determine if the next of kin wishes to make such arrangements, the next of kin does not wish to make the arrangements or the next of kin cannot be located. Good faith effort shall include contacting the next of kin identified in the petition for appointment of a guardian. The funeral service licensee, funeral service establishment, registered crematory, cemetery, cemetery operator, or guardian shall be immune from civil liability for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition when the provisions of this section are met, unless such acts, decisions, or omissions resulted from bad faith or malicious intent.

Cemetery Requirements

Discussion was made regarding a copy of a letter Woodlawn Memorial Gardens sent to a Funeral Home indicating they required that a Funeral Director remain at the grave until the grave is "closed". The Board agreed that the requirement was a "Cemetery" business decision and an issue for the Cemetery Board not for the Board of Funeral Directors and Embalmers. Mr. Nelsen requested that Ms. Hahn write a letter to Woodlawn suggesting that they should remove the funeral board's name from this standard letter and explain that it appears to be a cemetery business decision and a possible cemetery board matter but not a funeral board matter.

Insurance Requirements

Brief discussion was made for informational purposes only that it is not the Board's decision on establishing insurance requirements for the Funeral Profession; rather it is a business practice.

Virginia Wounded Warrior Program

Ms. Hahn referred the members to the information included in the Agenda about the Virginia Wounded Warrior Program (VWWP). She explained that it is a statewide delivery and response system for veterans and family members who need behavioral health, primary healthcare, rehabilitative services and community support and that they are seeking donations. Ms. Hahn also pointed out that this program is specific for Virginia veterans and their families.

Mr. Leonard added that another program in conjunction with (VWWP) assists funeral homes who are storing ashes for deceased veterans, the opportunity to have a dignified burial in one of the veteran cemeteries.

All board members agreed that the Department of Veteran Services is doing a tremendous job for the citizens of Virginia.

LUNCH BREAK

The Board broke for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

AFTERNOON SESSION

Mr. Nelsen began the afternoon session by asking Mr. Williams to enter the board into closed session for the purpose of working on the State Examination.

CLOSED SESSION:

Upon a motion by Mr. Williams and duly seconded by Mr. Vincent, the Board voted to convene a closed meeting pursuant to Section 2.2-3705 (4) of the Code of Virginia for the purpose of discussion and consideration of examinations. Additionally, Mr. Williams moved that Ms. Hahn, Ms. Helmick, Ms. Currier attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its discussions and considerations. The motion passed unanimously.

The Board convened into closed session at 1:05 p.m.

OPEN SESSION:

Upon a motion by Mr. Williams and duly seconded by Mr. Vincent, the Board voted to open the meeting. The motion passed unanimously.

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 2:25 p.m.

Ad Hoc Committee Appointments

Following Ms. Hahn's request for smaller committees to work on pending projects, Mr. Nelsen appointed the following members:

- **Next of Kin & Surface Transportation:**
  Bob Oman, Chair
  Junius Williams

- **Virtual Funeral Homes:**
  Christopher Vincent, Chair
  Blair Nelsen
  Eric Wray

- **Guidance Document Regarding Embalming/Training Facilities:**
  Mike Leonard, Chair
  Randy Minter

Probable Cause Review

Ms. Hahn shared that she wanted to spend time reviewing the Probable Cause process but due to time constraints, she has delayed the task until the July meeting.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 2:55 p.m.

Blair Nelsen, President	Lisa R. Hahn, Executive Director
Date	Date

ATTACHMENT #1

Proposed Regulations

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Identification of human 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 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 of the Code of Virginia; 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. Visual identification my be made by viewing unique identifiers or markings on the remains. The identification attestation shall either be given on the cremation authorization form or on an identification form attached to the cremation authorization form.

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

Project 3539 - none

ATTACHMENT #2

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Chapter 20 Regulatory reform

Part III
Requirements for Licensure

18VAC65-20-170. Requirements for an establishment license.

A. No person shall maintain, manage, or operate a funeral service establishment in the Commonwealth, unless such establishment holds a license issued by the board. The name of the funeral service licensee or licensed funeral director designated by the ownership to be manager of the establishment shall be included on the license.

B. Except as provided in § 54.1-2810 of the Code of Virginia, every funeral service establishment and every branch or chapel of such establishment, regardless of how owned, shall have a separate manager of record who has responsibility for the establishment as prescribed in 18VAC65-20-171. The owner of the establishment shall not abridge the authority of the manager of record relating to compliance with the laws governing the practice of funeral services and regulations of the board.

C. At least ~~45~~ 30 days prior to opening an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously a completed application, any additional documentation as may be required by the board to determine eligibility, and the applicable fee. An incomplete package will be returned to the licensee. A license shall not be issued until an inspection of the establishment has been completed and approved.

D. Within 30 days following a change of ownership, the owner or licensed manager shall request a reinspection of the establishment, submit an application for a new establishment license with documentation that identifies the new owner, and pay the licensure and reinspection fees as required by 18VAC65-20-70. Reinspection of the establishment may occur on a schedule determined by the board, but shall occur no later than one year from the date of the change.

E. The application for licensure of a branch or chapel shall specify the name of the main establishment.

18VAC65-20-171. Responsibilities of the manager of record.

A. ~~The~~ Every funeral establishment shall have a manager of record ~~shall be~~ who is employed full time by and in charge of the establishment ~~for at least 40 hours a week~~.

B. The manager shall be fully accountable for the operation of the establishment as it pertains to the laws and regulations governing the practice of funeral services, to include but not be limited to:

1. Maintenance of the facility within standards established in this chapter;

2. Retention of reports and documents as prescribed by the board in 18VAC65-20-700 during the period in which he serves as manager of record; and

3. Reporting to the board of any changes in information as required by 18VAC65-20-60.

Part IV

Registration

18VAC65-20-400. Registration of surface transportation and removal services.

All persons applying to own or operate a surface transportation and removal service, according to requirements of § 54.1-2819 of the Code of Virginia, shall submit an application package for registration which shall include:

1. A completed and signed application;

2. The fee prescribed in 18VAC65-20-70 A 3; and

3. Additional documentation as may be required by the board to determine eligibility of the applicant, including, but not limited to, evidence of training in ~~the requirements~~ compliance with standards of the Occupational Safety and Health Administration (OSHA) for universal precautions and blood-borne pathogens.

18VAC65-20-435. Registration of crematories.

A. At least 30 days prior to opening a crematory, any person intending to own or operate a crematory shall apply for registration with the board by submitting a completed application and fee as prescribed in 18VAC65-20-70. The name of the individual designated by the ownership to be the crematory manager shall be included on the application. The owner of the crematory shall not abridge the authority of the crematory manager relating to compliance with the laws governing the practice of funeral services and regulations of the board.

B. Every crematory, regardless of how owned, shall have a manager who has (i) achieved certification by the Cremation Association of North America (CANA); the International Cemetery, Cremation and Funeral Association (ICCFA); or other certification recognized by the board and (ii) received training in compliance with ~~requirements~~ standards of the Occupational Health and Safety Administration (OSHA) for universal precautions and blood-borne pathogens. ~~Every crematory manager registered by the board prior to July 8, 2009, shall have one year from that date to obtain such certification.~~

C. The manager shall be fully accountable for the operation of the crematory as it pertains to the laws and regulations governing the practice of funeral services, to include but not be limited to:

1. Maintenance of the facility within standards established in this chapter;

2. Retention of reports and documents as prescribed by the board in 18VAC65-20-436 during the period in which he serves as crematory manager; and

3. Reporting to the board of any changes in information as required by 18VAC65-20-60.

D. All persons who operate the retort in a crematory shall have certification by the Cremation Association of North America (CANA); the International Cemetery, Cremation and Funeral Association (ICCFA); or other certification recognized by the board. ~~Every operator in a crematory registered by the board prior to July 8, 2009, shall have one year from that date to obtain such certification.~~ Persons

receiving training toward certification to operate a retort shall be allowed to work under the supervision of an operator who holds certification for a period not to exceed six months.

E. A crematory providing cremation services directly to the public shall also be licensed as a funeral service establishment or shall be a branch of a licensed establishment.

F. The board may take disciplinary action against a crematory registration for a violation of § 54.1-2818.1 of the Code of Virginia or for the inappropriate handling of dead human bodies or cremains.

18VAC65-20-436. Standards for registered crematories or funeral establishments ~~that operate a crematory~~ relating to cremation.

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 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 of the Code of Virginia; 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 feasible, a crematory 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° 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 eremains 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 the person authorized by § 54.1-2818.1 of the Code of Virginia 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.

18VAC65-20-580. Preparation room equipment.

The preparation room or rooms shall be equipped with:

1. A ventilation system which operates and is appropriate to the size and function of the room;

2. Running hot and cold water;

3. Flush or slop sink connected with public sewer or with septic tank where no public sewer is available;

4. Metal, fiberglass or porcelain morgue table;

5. Covered waste container;

6. Instruments and apparatus for the embalming process;

7. A means or method for the sterilization of reusable instruments by chemical bath or soak; autoclave (steam); or ultraviolet light;

8. Disinfectants and antiseptic solutions;

9. Clean gowns or aprons, preferably impervious to water;

10. Rubber gloves for each embalmer or intern using the room;

11. An electric aspirator or hydroaspirator equipped with a vacuum breaker;

12. An eye wash station that is readily accessible; and

13. A standard first aid kit which is immediately accessible <u>either in the preparation room or</u> outside the door to the preparation room.

Project 3666 - none **ATTACHMENT #3**

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Chapter 30 Regulatory reform

18VAC65-30-70. Record reporting.

A. A contract provider shall keep a chronological or alphabetical listing of all preneed contracts. The listing shall include the following:

1. Name of contract buyer;

2. Name of contract beneficiary;

3. Date of contract;

4. How contract was funded;

5. Whether up to 10% of funds are retained by the contract provider for contracts funded through trust; and

6. Whether funeral goods and supplies are stored for the contract buyer.

B. A contract provider who discontinues its business operations shall notify the board and each existing contract buyer in writing.

Project 3667 - none

ATTACHMENT #4

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Chapter 40 Regulatory Reform

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, facility or institution which has agreed to serve as ~~the~~ a location for a funeral service internship and has been approved by the board.

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.

C. The funeral service intern is responsible for notifying the board within 14 days of any changes in name, address, employment, or supervisor. Any notices shall be validly given when mailed to the address on record with the board.

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

A. 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.

B. The board may grant approval for a resident trainee to receive all or a portion of the embalming training at a facility of state or federal government or an accredited educational institution.

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, facility or institution 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.

18VAC65-40-320. Reports to the board.

A. The intern, the supervisor or supervisors, and the establishment shall submit a written report to the board at the end of every 1,000 hours of training. The report shall:

1. Specify the period of time in which the 1,000 hours has been completed and verify that the intern has actually served in the required capacity during the preceding period; and

2. Be received in the board office no later than ~~10~~ 14 days following the end of the completion of 1,000 hours. Late reports may result in additional time being added to the internship.

B. If the internship is terminated or interrupted prior to completion of 1,000 hours or if the intern is changing supervisors or training sites, the intern and the supervisor shall submit a partial report to the board with a written explanation of the cause of program termination or interruption or of the change in training or supervision.

1. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given for the number of hours of training completed.

2. Partial reports shall be received in the board office no later than ~~10~~ 14 days after the interruption or termination of the internship or after the change in supervisors or training sites. Credit may be deducted for late reports.

UNAPPROVED

VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINSTRATIVE HEARING
April 24, 2013

The Virginia Board of Funeral Directors and Embalmers convened on April 24, 2013, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT:	Blair Nelsen, President Christopher Vincent, FSP Mike Leonard, FSP Bob Oman, FSP Eric Wray, FSP Randy Minter, FSP Walter S. Ball, Citizen Member
DHP STAFF PRESENT:	Lisa R. Hahn, Executive Director Lynne Helmick, Deputy Executive Director Kathy Petersen, Discipline Operations Manager Tammie Jones, Adjudication Specialist Gayle Miller, Senior Investigator - HQ
MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT:	Charis Mitchell, Assistant Attorney General, Board Counsel
RESPONDENT'S COUNSEL :	Richard Dezio, Esq.
OTHERS PRESENT:	Gwen C. Russell, FSP Mark Fisher, FSP
COURT REPORTER:	Nerissia Bass, Certified Court Reporter Farnsworth & Taylor Reporting
CALL TO ORDER	The Formal Administrative Hearing of the Board was called to order at 10:08 a.m.
ESTABLISHMENT OF A QUORUM:	With seven (7) members of the Board present, a quorum was established.
MATTER SCHEDULED:	**Bennie Smith, FSP** **License Number: 0502-900252** **Case Number: 148881**

DISCUSSION: Mr. Smith appeared before the Board in accordance with the Notice and Statement of Particulars dated April 1, 2013. Mr. Smith was represented by Richard Dezio, Esq.

The Board received evidence and sworn testimony from the Commonwealth's witness regarding the matters as set forth in the Statement of Particulars.

Mr. Dezio did not present any additional evidence for the Board's consideration and did not call any witnesses for testimony on Mr. Smith's behalf.

CLOSED SESSION: Upon a motion by Mr. Leonard, and duly seconded by Mr. Wray, the Board voted to convene a closed meeting pursuant to 2.2-3711.A(27) of the *Code of Virginia*, for the purpose of deliberation to reach a decision in the matter of Mr. Bennie Smith, FSP. Additionally, Mr. Leonard moved that Ms. Hahn, Ms. Helmick, Ms. Petersen, and Ms. Mitchell attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 10:24 a.m.

OPEN SESSION: Mr. Leonard certified that the matters discussed in the preceding closed session met the requirements of § 2.2.-3712 of the *Code of Virginia;* Mr. Oman seconded the certification and the Board re-convened open session at 12:02 p.m.

ACTION: Upon a motion by Mr. Minter, and duly seconded by Mr. Ball, the Board voted to reinstate the Funeral Service Provider license of Mr. Smith. A roll call was taken.

VOTE:

Mike Leonard	Yes
Eric Wray	No
Randy Minter	Yes
Blair Nelsen	No
Walter Ball	Yes
Bob Oman	Yes
Chris Vincent	No

The motion requires the affirmative vote of three-fourths of the members present at the hearing as noted in §54.1-2409 (D) of the *Code of Virginia.* The vote of four affirmative votes and three negative votes, therefore the motion fails. The reinstatement of the Funeral Service Provider's license of Mr. Bennie Smith is denied.

ADJOUNMENT: The Board adjourned at 12:14 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.

Blair Nelsen, FSP, President	Lisa R. Hahn, Executive Director
Date	Date

UNAPPROVED

VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
SPECIAL CONFERENCE COMMITTEE
MINUTES

Wednesday, April 24, 2013	**Department of Health Professions** **Perimeter Center** **9960 Mayland Drive, Suite #300** **Henrico, Virginia 23233**

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

MEMBERS PRESENT: Mike Leonard, FSP, Chair
Bob Oman, FSP

DHP STAFF PRESENT: Lynne Helmick, Deputy Executive Director
Kathy Petersen, Discipline Operations Manager
Tammie Jones, Adjudication Specialist, APD

OTHERS PRESENT: Mindy Litten

MATTER: David Litten, FSP
License # 0502-890033
Case # 143316

DISCUSSION: Mr. Litten appeared before the Committee in accordance with the Amended Notice of the Board dated April 15, 2013. Mr. Litten was present and was represented by J. Burns Earle, III.

The Committee fully discussed the allegations as referenced in the April 15, 2013, Notice.

CLOSED SESSION: Upon a motion by Mr. Oman, and duly seconded by Mr. Leonard, 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 David Litten, FSP. Additionally, he moved that Ms. Helmick, Ms. Petersen 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 3:44 p.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 4:33 p.m.

DECISION: Mr. Oman moved to issue an Order for probation of no less than two years with other terms and conditions.

VOTE: The motion was seconded by Mr. Leonard, and carried.

ADJOURNMENT: The Committee adjourned at 4:35 p.m.

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

Tab 2

Virgina Department of Health Professions
Cash Balance
As of May 31, 2013

	104- Funeral Directors and Emba
Board Cash Balance as of June 30, 2012	$ (64,321)
YTD FY13 Revenue	529,105
Less: YTD FY13 Direct and In-Direct Expenditures	616,140
Cash Balance as of May 31, 2013	(151,356)

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	29,800.00	25,425.00	4,375.00	117.21%
2402 · Examination Fee	0.00			
2406 · License & Renewal Fee	471,995.00	489,470.00	-17,475.00	96.43%
2407 · Dup. License Certificate Fee	180.00	240.00	-60.00	75.0%
2408 · Board Endorsement - In	0.00			
2409 · Board Endorsement - Out	3,150.00	3,850.00	-700.00	81.82%
2421 · Monetary Penalty & Late Fees	4,775.00	3,270.00	1,505.00	146.02%
2430 · Board Changes Fee	5,025.00	3,875.00	1,150.00	129.68%
2432 · Misc. Fee (Bad Check Fee)	105.00	35.00	70.00	300.0%
Total 2400 · Fee Revenue	515,030.00	526,165.00	-11,135.00	97.88%
2600 · Fees for Miscellaneous Services				
2660 · Administrative Fees	0.00			
Total 2600 · Fees for Miscellaneous Services	0.00			
3000 · Sales of Prop. & Commodities				
3002 · Overpayments	0.00			
3007 · Sales of Goods/Svces to State	0.00			
3020 · Misc. Sales-Dishonored Payments	575.00			
Total 3000 · Sales of Prop. & Commodities	575.00			
9000 · Other Revenue				
9060 · Miscellaneous Revenue	13,500.00	3,900.00	9,600.00	346.15%
9084 · Refund- Prior Yr Disb	0.00			
Total 9000 · Other Revenue	13,500.00	3,900.00	9,600.00	346.15%
Total Revenue	529,105.00	530,065.00	-960.00	99.82%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	5,037.94	5,311.00	-273.06	94.86%
1112 · Fed Old-Age Ins- Sal St Emp	4,188.78	4,810.00	-621.22	87.09%
1113 · Fed Old-Age Ins- Wage Earners	0.00	0.00	0.00	0.0%
1114 · Group Insurance	688.27	721.00	-32.73	95.46%
1115 · Medical/Hospitalization Ins.	13,595.55	18,410.00	-4,814.45	73.85%
1116 · Retiree Medical/Hospitalizatn	582.48	606.00	-23.52	96.12%
1117 · Long term Disability Ins	276.07	285.00	-8.93	96.87%
Total 1110 · Employee Benefits	24,369.09	30,143.00	-5,773.91	80.85%
1120 · Salaries				
1123 · Salaries, Classified	58,284.63	60,628.00	-2,343.37	96.14%
1125 · Salaries, Overtime	0.00	0.00	0.00	0.0%
Total 1120 · Salaries	58,284.63	60,628.00	-2,343.37	96.14%
1130 · Special Payments				
1131 · Bonuses and Incentives	1,671.62	2,239.00	-567.38	74.66%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
1138 · Deferred Compnstn Match Pmts	422.00	696.00	-274.00	60.63%
Total 1130 · Special Payments	2,093.62	2,935.00	-841.38	71.33%
1140 · Wages				
1141 · Wages, General	0.00	0.00	0.00	0.0%
1143 · Wages, Overtime	0.00			
Total 1140 · Wages	0.00	0.00	0.00	0.0%
1150 · Disability Benefits				
1153 · Short-trm Disability Benefits	0.00			
Total 1150 · Disability Benefits	0.00			
1160 · Terminatn Personal Svce Costs				
1162 · Salaries, Annual Leave Balanc	0.00			
1165 · Employee Retirement Contributio	0.00	0.00	0.00	0.0%
Total 1160 · Terminatn Personal Svce Costs	0.00	0.00	0.00	0.0%
Total 1100 · Personal Services	84,747.34	93,706.00	-8,958.66	90.44%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	17.05	200.00	-182.95	8.53%
1212 · Outbound Freight Services	0.00			
1213 · Messenger Services	0.00			
1214 · Postal Services	3,930.65	3,500.00	430.65	112.3%
1215 · Printing Services	2.68	1,500.00	-1,497.32	0.18%
1216 · Telecommunications Svcs (DIT)	264.45	600.00	-335.55	44.08%
1219 · Inbound Freight Services	0.00			
Total 1210 · Communication Services	4,214.83	5,800.00	-1,585.17	72.67%
1220 · Employee Development Services				
1221 · Organization Memberships	0.00	1,200.00	-1,200.00	0.0%
1222 · Publication Subscriptions	0.00	600.00	-600.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	250.00	1,000.00	-750.00	25.0%
1225 · Employee Tuition Reimbursement	0.00	1,000.00	-1,000.00	0.0%
1227 · Emp Trning- Trns, Ldgng & Meals	0.00	800.00	-800.00	0.0%
Total 1220 · Employee Development Services	250.00	4,600.00	-4,350.00	5.44%
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	5,392.90	9,520.00	-4,127.10	56.65%
1243 · Attorney Services	0.00			
1244 · Management Services	9.12	120.00	-110.88	7.6%
1246 · Public Infrmtnl & Relation Svcs	8.02			
1247 · Legal Services	525.00	150.00	375.00	350.0%
1248 · Media Services	0.00			
1249 · Recruitment Services	0.00			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
Total 1240 · Mgmnt and Informational Svcs	5,935.04	9,790.00	-3,854.96	60.62%
1250 · Repair and Maintenance Svcs				
1252 · Electrical Rep & Maintenance	0.00			
1253 · Equip Repair & Maintenance	0.00	40.00	-40.00	0.0%
1256 · Mechanical Rep & Maint Svcs	0.00			
1257 · Plant Rep & Maintenance Svcs	0.00			
Total 1250 · Repair and Maintenance Svcs	0.00	40.00	-40.00	0.0%
1260 · Support Services				
1263 · Clerical Services	0.00	5,500.00	-5,500.00	0.0%
1264 · Food & Dietary Services	1,017.86	2,100.00	-1,082.14	48.47%
1266 · Manual Labor Services	271.41	1,200.00	-928.59	22.62%
1267 · Production Services	1,025.33	1,120.00	-94.67	91.55%
1268 · Skilled Services	0.00	3,910.00	-3,910.00	0.0%
Total 1260 · Support Services	2,314.60	13,830.00	-11,515.40	16.74%
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	3,220.68	5,100.00	-1,879.32	63.15%
1283 · Travel, Public Carriers	0.00	700.00	-700.00	0.0%
1284 · Travel, State Vehicles	0.00			
1285 · Travel, Subsistence & Lodging	1,040.69	1,600.00	-559.31	65.04%
1288 · Trvl, Meal Reimb- Not Rprtble	446.00	750.00	-304.00	59.47%
Total 1280 · Transportation Services	4,707.37	8,150.00	-3,442.63	57.76%
1297 · Late Payment Penalties	0.00			
Total 1200 · Contractual Services	17,421.84	42,210.00	-24,788.16	41.27%
1300 · Supplies And Materials				
Personal Care Supplies	0.00			
1310 · Administrative Supplies				
1311 · Apparel Supplies	6.03			
1312 · Office Supplies	286.43	1,500.00	-1,213.57	19.1%
1313 · Stationery and Forms	16.99	675.00	-658.01	2.52%
Total 1310 · Administrative Supplies	309.45	2,175.00	-1,865.55	14.23%
1320 · Energy Supplies				
1323 · Gasoline	0.00			
Total 1320 · Energy Supplies	0.00			
1330 · Manufctrng and Merch Supplies				
1335 · Packaging and Shipping Suppl	9.06	85.00	-75.94	10.66%
Total 1330 · Manufctrng and Merch Supplies	9.06	85.00	-75.94	10.66%
1340 · Medical and Laboratory Supp.				
1342 · Medical and Dental Supplies	9.99			
Total 1340 · Medical and Laboratory Supp.	9.99			
1350 · Repair and Maint. Supplies				
1352 · Custodial Rep & Maint Mat'ls	0.00			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
1353 · Electrical Repair and Maint	0.00			
Total 1350 · Repair and Maint. Supplies	0.00			
1360 · Residential Supplies				
1362 · Food and Dietary Supplies	0.00	30.00	-30.00	0.0%
1363 · Food Service Supplies	0.90	90.00	-89.10	1.0%
1364 · Laundry and Linen Supplies	0.00			
Total 1360 · Residential Supplies	0.90	120.00	-119.10	0.75%
1370 · Specific Use Supplies				
1373 · Computer Operating Supplies	6.54	15.00	-8.46	43.6%
Total 1370 · Specific Use Supplies	6.54	15.00	-8.46	43.6%
Total 1300 · Supplies And Materials	335.94	2,395.00	-2,059.06	14.03%
1400 · Transfer Payments				
1410 · Awards, Contrib., and Claims				
1413 · Premiums	120.00			
1415 · Unemployment Compnsatn Reimb	0.00			
Total 1410 · Awards, Contrib., and Claims	120.00			
Total 1400 · Transfer Payments	120.00			
1500 · Continuous Charges				
S Purch Ch. Card Check Fee	0.00			
1510 · Insurance-Fixed Assets				
1512 · Automobile Liability	0.00			
1516 · Property Insurance	35.74	0.00	35.74	100.0%
Total 1510 · Insurance-Fixed Assets	35.74	0.00	35.74	100.0%
1530 · Operating Lease Payments				
1534 · Equipment Rentals	1.51			
1535 · Building Rentals	9.72			
1539 · Building Rentals - Non State	7,118.25	7,568.00	-449.75	94.06%
Total 1530 · Operating Lease Payments	7,129.48	7,568.00	-438.52	94.21%
1550 · Insurance-Operations				
1551 · General Liability Insurance	128.27	0.00	128.27	100.0%
1554 · Surety Bonds	7.57	0.00	7.57	100.0%
Total 1550 · Insurance-Operations	135.84	0.00	135.84	100.0%
Total 1500 · Continuous Charges	7,301.06	7,568.00	-266.94	96.47%
2200 · Equipment Expenditures				
Educational & Cultural Equip Im	0.00			
Electronic & Photo Equip Impr	0.00			
Medical and Dental Equip	10.36			
2210 · Computer Equipment				
2217 · Other Computer Equipment	6.74			
2218 · Computer Software Purchases	286.00			

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
Total 2210 · Computer Equipment	292.74			
2220 · Educational & Cultural Equip				
2224 · Reference Equipment	0.00	0.00	0.00	0.0%
Total 2220 · Educational & Cultural Equip	0.00	0.00	0.00	0.0%
2230 · Electrnc & Photographic Equip				
2233 · Voice & Data Transmissn Equip	0.00			
Total 2230 · Electrnc & Photographic Equip	0.00			
2260 · Office Equipment				
2261 · Office Appurtenances	0.00	132.00	-132.00	0.0%
2262 · Office Furniture	0.00	0.00	0.00	0.0%
2263 · Office Incidentals	0.37			
2264 · Office Machines	0.00			
2268 · Office Equipment Improvements	14.74			
Total 2260 · Office Equipment	15.11	132.00	-116.89	11.45%
2270 · Specific Use Equipment				
2271 · Household Equipment	0.00			
Total 2270 · Specific Use Equipment	0.00			
Total 2200 · Equipment Expenditures	318.21	132.00	186.21	241.07%
Total Direct Expenditures	110,244.39	146,011.00	-35,766.61	75.5%
9001 · Allocated Expenditures				
Moving Costs	0.00	0.00	0.00	0.0%
9201 · Behavioral Science Exec	0.00			
9202 · Opt\VM\ASLP Exec Dir	0.00			
9204 · Nursing / Nurse Aid	0.00			
9206 · Funeral\LTCA\PT	86,690.84	91,801.18	-5,110.34	94.43%
9301 · DP Operations & Equipment	92,877.76	133,297.80	-40,420.04	69.68%
9302 · Human Resources	10,039.89	12,906.72	-2,866.83	77.79%
9303 · Finance	18,839.60	22,531.80	-3,692.20	83.61%
9304 · Director's Office	10,497.62	13,005.84	-2,508.22	80.72%
9305 · Enforcement	204,693.80	131,100.36	73,593.44	156.14%
9306 · Administrative Proceedings	29,923.54	21,921.48	8,002.06	136.5%
9307 · Impaired Practitioners	0.00	38.16	-38.16	0.0%
9308 · Attorney General	39,978.92	40,622.16	-643.24	98.42%
9309 · Board of Health Professions	7,099.18	8,834.76	-1,735.58	80.36%
9310 · SRTA	0.00			
9311 · Maintenance and Repairs	0.00	442.20	-442.20	0.0%
9313 · Emp. Recognition Program	58.27	374.88	-316.61	15.54%
9314 · Conference Center	165.05	286.44	-121.39	57.62%
9315 · Pgm Devlpmnt & Implmentn	4,933.35	5,886.36	-953.01	83.81%
Total 9001 · Allocated Expenditures	505,797.82	483,050.14	22,747.68	104.71%
987900 · Cash Trsfr Out- Appr Act Pt. 3	98.04	1,580.16	-1,482.12	6.2%
Total Direct and Allocated Expenditures	616,140.25	630,641.30	-14,501.05	97.7%

Virginia Dept. of Health Professions
Revenue and Expenditures Summary
July 1, 2012 through May 31, 2013

	104- Funeral Directors and Emba			
	Jul '12 - May 13	Budget	$ Over Budget	% of Budget
Net Cash Surplus\Shortfall	-87,035.25	-100,576.30	13,541.05	86.54%

License Count Report for Funeral Directors
April 23, 2013

Branch Establishment	63
Continuing Education Provider	27
Courtesy Card	68
Crematories	99
Funeral Establishments	444
Funeral Service Interns	159
Embalmer	5
Funeral Service Director	58
Funeral Service Providers	1,479
Funeral Service Supervisors	371
Surface Transportation & Removal Services	48
Total	2,821

Data as of 06/28/2013

Disciplinary Case Report for Funeral Directors
July 1, 2013

Investigations	26
Probable Cause	10
APD	5
Informal Stage	1
Formal Stage	2
Total	**44**

FDE Orders currently being monitored by Compliance Manager - **20**

Data as of 07/01/2013

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times: Quarterly Performance Measurement, Q3 2009 - Q3 2013

Dianne Reynolds-Cane, M.D.
Director

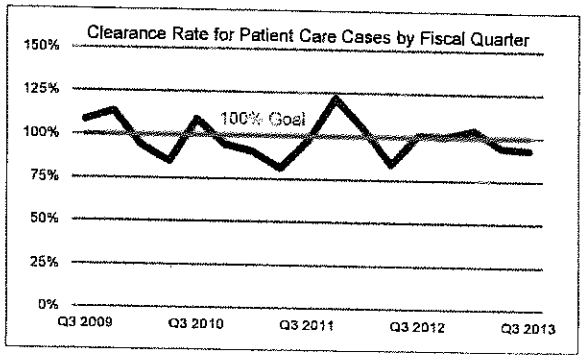
"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

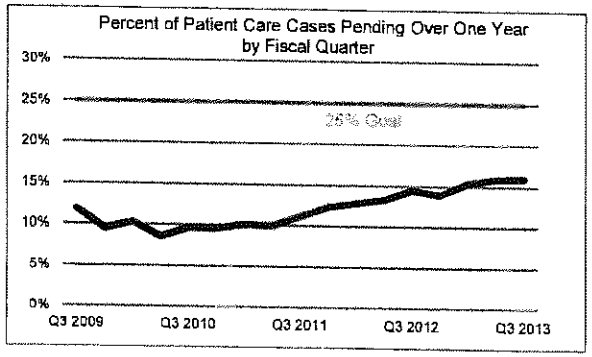
In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, and data-based way to measure disciplinary case processing. These three measures, taken together, enable staff to identify and focus on areas of greatest importance in managing the disciplinary caseload; Clearance Rate, Age of Pending Caseload and Time to Disposition uphold the objectives of the DHP mission statement. The following pages show the KPMs by board, listed in order by caseload volume; volume is defined as the number of cases received during the previous 4 quarters. In addition, readers should be aware that vertical scales on the line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

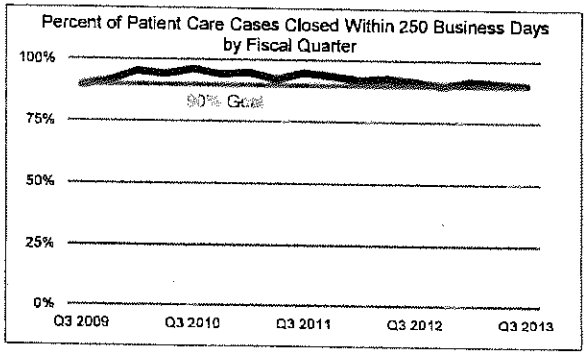
Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2012. The current quarter's clearance rate is 93%, with 935 patient care cases received and 869 closed.

Age of Pending Caseload - the percent of open patient care cases over 250 business days old. This measure tracks the backlog of patient care cases older than 250 business days to aid management in providing specific closure targets. The goal is to maintain the percentage of open patient care cases older than 250 business days at no more than 25% through the end of FY 2012. That goal continues to be achieved with the percent of cases pending over 250 business days maintaining an average of 12% for the past 4 years. For the last quarter shown, there were 2,019 patient care cases pending, with 324 pending over 250 business days.

Time to Disposition - the percent of patient care cases closed within 250 business days for cases received within the preceding eight quarters. This moving eight-quarter window approach captures the vast majority of cases closed in a given quarter and effectively removes any undue influence of the oldest cases on the measure. The goal is to resolve 90% of patient care cases within 250 business days through the end of FY 2012. That goal continues to be acheived with 91% percent of patient care cases being resolved within 250 business days this past quarter. During the last quarter, there were 865 patient care cases closed, with 783 closed within 250 business days.







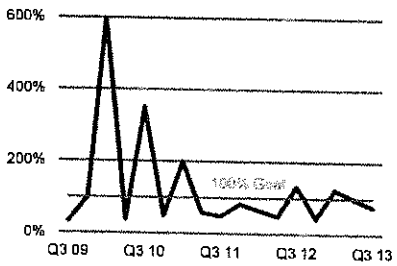
Submitted: 4/4/2013

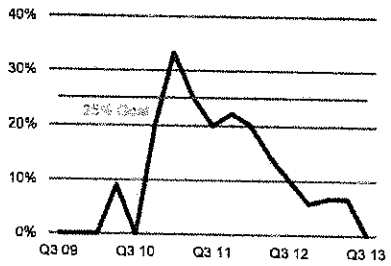
Prepared by: VisualResearch, Inc.

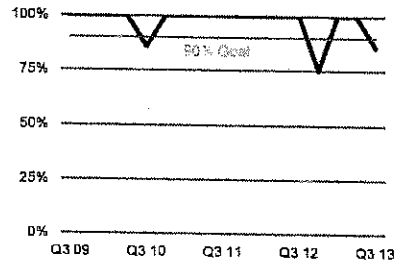
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

Clearance Rate | **Age of Pending Caseload** (percent of cases pending over one year) | **Percent Closed in 250 Business Days**

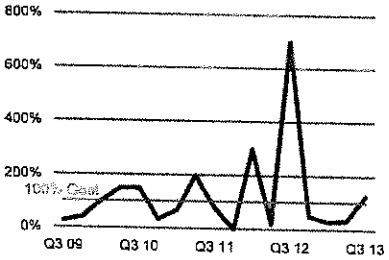
Physical Therapy - In Q3 2013, the clearance rate was 78%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 86%.
Q3 2013 Caseloads:
Received=9, Closed=7
Pending over 250 days=0
Closed within 250 days=6

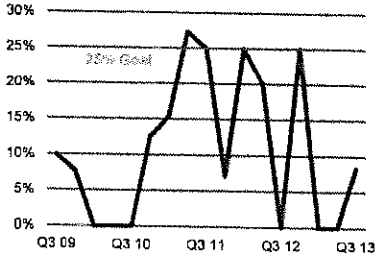


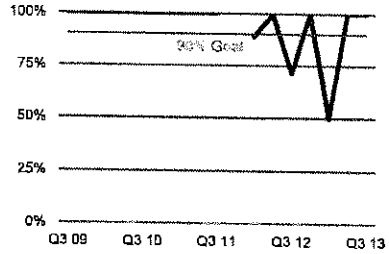




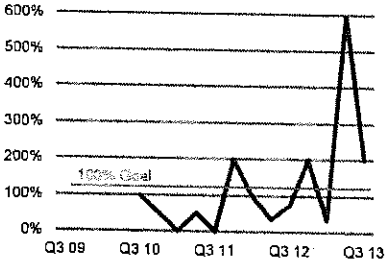
Funeral - In Q3 2013, the clearance rate was 125%, the Pending Caseload older than 250 business days was 8% and the percent closed within 250 business days was 100%.
Q3 2013 Caseloads:
Received=4, Closed=5
Pending over 250 days=1
Closed within 250 days=5

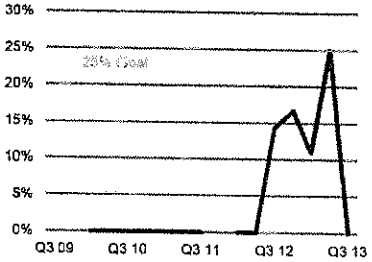


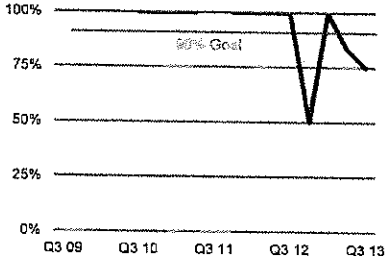




Audiology - In Q3 2013, the clearance rate was 200%, the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was 75%.
Q3 2013 Caseloads:
Received=2, Closed=4
Pending over 250 days=0
Closed within 250 days=3







Note: Vertical scales on line charts change, both across boards and measures, in order to accommodate varying degrees of data fluctuation.

Submitted: 4/4/2013

Prepared by: VisualResearch, Inc.

FISCAL YEAR 2013, QUARTER ENDING 3/31/13

*APPLICANT SATISFACTION SURVEY RESULTS: APPROVAL RATE**

Board	Quarter Ending 3/31/13 Percent Approval	Quarter Ending 3/31/12 Percent Approval	Percent Change	Fiscal Year 2013 to Date Percent Approval	Fiscal Year 2012 to Date Percent Approval	Percent Change	Current Biennial to Date 7/1/12 - 3/31/13 Percent Approval	Prior Biennial to Date 7/1/10 - 3/31/11 Percent Approval	Percent Change
Total	100.0%	100.0%	0.0%	98.5%	91.5%	7.6%	98.5%	96.4%	2.1%
Counseling	69.9%	71.6%	-2.4%	71.0%	74.2%	-4.3%	71.0%	76.8%	-7.6%
Dentistry	98.7%	96.6%	2.2%	94.9%	92.6%	2.5%	94.9%	95.0%	-0.1%
Funeral Directing	n/a	n/a		100.0%	100.0%	0.0%	100.0%	100.0%	0.0%
Long Term Care Administrator	100.0%	100.0%	0.0%	100.0%	100.0%	0.0%	100.0%	93.9%	6.5%
Medicine	94.4%	95.1%	-0.7%	92.0%	96.7%	-4.9%	92.0%	93.2%	-1.3%
Nurse Aide	97.6%	97.7%	-0.1%	97.2%	98.0%	-0.8%	97.2%	97.6%	-0.5%
Nursing	94.4%	97.9%	-3.6%	94.8%	96.6%	-1.9%	94.8%	94.5%	0.3%
Optometry	n/a	100.0%		n/a	100.0%		n/a	100.0%	
Pharmacy	97.5%	96.1%	1.5%	97.9%	96.4%	1.5%	97.9%	98.1%	-0.2%
Physical Therapy	100.0%	100.0%	0.0%	96.4%	97.5%	-1.1%	96.4%	95.1%	1.4%
Psychology	89.6%	98.8%	-9.3%	87.8%	85.9%	2.2%	87.8%	87.4%	0.5%
Social Work	84.7%	85.6%	-1.1%	85.3%	85.0%	0.4%	85.3%	91.2%	-6.5%
Veterinary Medicine	83.3%	88.9%	-6.3%	97.8%	96.7%	1.2%	97.8%	96.6%	1.3%
Agency Total	*93.5%*	*95.5%*	*-2.1%*	*93.7%*	*95.6%*	*-1.9%*	*93.7%*	*94.4%*	-0.7%

*Applicant Satisfaction Surveys are sent to all initial applicants. The survey includes six categories for which applicants rate their satisfaction on a scale from one to four, one and two being degrees of satisfaction, three and four being degrees of disatisfaction. This report calculates the percentage of total responses falling into the approval range.

Tab 3

Board of Funeral Directors and Embalmers

Current Regulatory Actions (as of July 12, 2013)

Chapter	Action / Stage Information
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	Action: Fee increase Stage: Proposed - *At Secretary's Office for 351 days*
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	Action: Identification of human remains Stage: Proposed - *At Secretary's Office for 21 days* ***Emergency expires 9/30/13***
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	Action: [illegible] Regulatory reform changes Stage: Fast-Track - *At Secretary's Office for 28 days*
Regulations for Preneed Funeral Planning [18 VAC 65 - 30]	Action: [illegible] Regulatory reform changes Stage: Fast-Track - *At Secretary's Office for 36 days*
Regulations for the Funeral Service Intern Program [18 VAC 65 - 40]	Action: [illegible] Regulatory reform changes Stage: Fast-Track - *At Secretary's Office for 28 days*

Virginia
Regulatory
Town Hall

townhall.virginia.gov

Request to Extend Life of Emergency Regulation up to Six Months

According to § 2.2-4011.D of the Code of Virginia (effective 7/1/07): **In the event that an agency concludes that despite its best efforts, a replacement regulation [for an emergency regulation] cannot be adopted before expiration of the 12-month period..., it may seek the prior written approval of the Governor to extend the duration of the emergency regulation for a period of not more than six additional months.**

Any such request must be submitted to the Governor at least 30 days prior to the scheduled expiration of the emergency regulation and shall include a description of the agency's efforts to adopt a replacement regulation together with the reasons that a replacement regulation cannot be adopted before the expiration of the emergency regulation. Upon approval of the Governor, the duration of the emergency regulation shall be extended for a period of no more than six months. Such approval shall be in the sole discretion of the Governor and shall not be subject to judicial review. Agencies shall notify the Registrar of Regulations of the new expiration date of the emergency regulation as soon as practicable.

Agency name	Board of Funeral Directors and Embalmers, Department of Health Professions
Regulation Title/ VAC Citation	18VAC65-20 Regulations of the Board of Funeral Directors and Embalmers
Action title	Identification of human remains
Stage	Proposed
Town Hall action/stage #	Action 3340 / Stage 6577
Date emergency reg expires	9/30/13
Requested new expiration date	3/29/14

Rationale

*Please describe the **agency's** best efforts to promulgate a permanent regulation before the expiration of the emergency regulation and provide the reason(s) why the effective period of this emergency regulation should be extended up to 18 months.*

Chapter 377 of the 2010 Acts of the Assembly provided the specific mandate to the Board for adoption of regulations for identification of human remains as a prerequisite for cremation to be

effective within 280 days of its enactment. Emergency regulations were submitted on the Regulatory Townhall on 8/3/10 and approved for publication on 9/11/12. They became effective on 10/1/12 and expire on 9/30/13. A Notice of Intended Regulatory Action was published simultaneously with comment until 11/7/12.

At the next Board meeting (4/23/13) following close of comment on the NOIRA, the Board adopted proposed regulations. In the adoption of proposed regulations, the Board adopted the same requirements in effect as emergency regulations.

Proposed regulations were submitted on Townhall on 5/2/13; DPB approval was given on 6/21/13. *The proposed regulations have been awaiting the Secretary's approval since that date.*

It is now impossible for the Board to replace the emergency regulations within the statutory deadline of 12 months. Therefore, the Board of Funeral Directors and Embalmers voted at its meeting on July 16, 2013 to request a six-month extension to ensure that regulations for identification of human remains, as mandated by the Code of Virginia, do not expire.

Submitted by

Name: Elaine J. Yeatts Title: Agency Regulatory Coordinator

Signature: _____ Date: _____

Send this form directly to Kathleen Shannon in the Governor's Policy Office and send copies of this form to your Cabinet Secretary and Melanie West of DPB.

Approved by

Governor's Office

Name: _____ Title: _____

Signature: _____ Date: _____

Tab 4

Hahn, Lisa R. (DHP)

Subject: FW: Definition

From: Hahn, Lisa R. (DHP)
Sent: Thursday, May 02, 2013 10:06 AM
To: Yeatts, Elaine J. (DHP)
Cc: Helmick, Lynne (DHP); Currier, Missy (DHP)
Subject: Definition

Definition of Embalming – We need to amend the definition because our current definition could be interpreted to mean that someone is embalmed if they are sprinkled with disinfection externally on a body.

I just got off the phone with Rick Sikon and he says we have lots of funeral homes not refrigerating bodies but sprinkling them with disinfection instead and saying that it fits the current definition of embalming.

Lisa R. Hahn, Executive Director
Department of Health Professions
Board of Physical Therapy
Board of Long Term Care Administrators
Board of Funeral Directors and Embalmers
9960 Mayland Drive, Suite 300
Henrico, VA 23233
804 367-4400

§ 54.1-2800. Definitions.

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

Tab 5

Guidance document: Adopted:

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Guidance for Qualifications of Internship Training Sites for Purposes of Completing Embalming Requirements

DRAFT

In accordance with **18VAC65-40-220 and 18VAC65-40-250,** the board may grant approval for an intern to receive a portion of the embalming training at a facility of state or federal government or an accredited institution.

The board's policy is outlined as follows:

- The intern has to provide the board with a letter explaining the circumstances that will prevent the completion of the embalming portion of the program in one facility.
- In order to be considered for an alternate embalming site, you must have a letter from the licensed funeral director who will supervise this portion of your training.
- If approval is granted, the intern must still complete 10 out of the 25 embalmings in a Virginia licensed Funeral Establishment.
- An intern may still complete the requirement for embalming in two licensed funeral establishments in addition to an alternate embalming site.