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
May 9, 2014 at 10:30 a.m.

BOARD MEETING
AGENDA

CALL TO ORDER

ORDERING OF AGENDA

ACCEPTANCE OF MINUTES – **Tab 1**

- Virtual Funeral Homes - Adhoc Committee Meeting – January 14, 2014
- Board Meeting – January 14, 2014
- Formal Hearing – January 14, 2014

INFORMAL CONFERENCES HELD
- (3) January 14, 2014
- (1) March 19, 2014

PUBLIC COMMENT PERIOD

AGENCY DIRECTOR'S REPORT – **David E. Brown, D.C**

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

NEW BUSINESS
- Report of Legislative/Regulatory Committee Meeting – **Chris Vincent, Chair**
- Legislative/Regulatory Reports– **Lisa R. Hahn - Tab 3**
    - Report of Regulatory Actions
    - Report of the 2014 General Assembly
    - Adoption of changes to section 436 – Conforming to change in Code
    - Consideration of a Fast Track or NOIRA regarding Standards for Cremation

Tab 1

UNAPPROVED

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Adhoc Committee Meeting Minutes
Virtual Funeral Homes

The Adhoc Committee of the Virginia Board of Funeral Directors and Embalmers convened for a meeting on Tuesday, January 14, 2014 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Hearing Room #1, Henrico, Virginia.

COMMITEE MEMBERS PRESENT
Christopher P. Vincent, FSL, Committee Chair
Blair Nelsen, FSL

BOARD MEMBERS PRESENT
Junius H. Williams, President
Robert "Bob" Oman, FSL
Louis R. Jones, FSL

DHP STAFF PRESENT
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Missy Currier, Board Operations Manager

GUESTS PRESENT
Paul Harris, Regulatory Support Services

CALL TO ORDER

Mr. Vincent called the Adhoc Committee meeting of the Virginia Board of Funeral Directors and Embalmers to order at 9:05 a.m.

DISCUSSION

The Committee discussed "Virtual Funeral Homes" and how it may affect Funeral Service Licensees and agreed that the board needs to be proactive with the age of the internet and continue with research and work.

The Committee and Staff will work on the following in order to bring the information to the next committee meeting:

1) Work on draft definition for "Virtual Funeral Homes".
2) Ms. Hahn will contact California to get specific information on what they have done and what they have learned
3) Continue to contact other states
4) Look into redefining "Branch Establishments"

5) Missy Currier will schedule a meeting toward the end of March for the committee to meet again.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 9:40 a.m.

Christopher P. Vincent, Chair	Lisa R. Hahn, Executive Director
Date	Date

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 14, 2014 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT
Junius H. Williams, Jr., Citizen Member, President
Christopher P. Vincent, FSL, Vice-President
Blair H. Nelsen, FSL
Walter Ball, Citizen Member
Robert Oman, FSL
J. Paul Welch, FSL
Connie B. Steele, FSL
Louis R. Jones, FSL

BOARD MEMBERS ABSENT
Eric V. Wray, II, FSL, Secretary-Treasurer

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING
Lisa R. Hahn, Executive Director
Lynne Helmick, Deputy Executive Director
Missy Currier, Board Operations Manager
Annie Artis, Licensing Manager

BOARD COUNSEL
Erin Barrett, Assistant Attorney General

QUORUM
With 8 members present a quorum was established.

GUESTS PRESENT
Paul Harris, Regulatory Support Services, Inc.
Karen McPherson, Virginia Morticians Association (VMA)
Lacy Whittaker, Virginia Funeral Directors Association (VFDA)
Rick Sikon, OCME, VSAP
Bob Burger, Former Board Member
Randy Minter, Former Board Member
Mike Leonard, Former Board Member

CALL TO ORDER
Junius Williams, President, called the meeting of the Virginia Board of Funeral Directors and Embalmers to order at 10:10 a.m. Mr. Williams gave welcome to Connie Steele and Louis Jones as the newest members to the board.

ORDERING OF AGENDA

The agenda was accepted as written.

ACCEPTANCE OF MINUTES

Upon a motion by Bob Oman and properly seconded by Chris Vincent, the Board voted to accept the following Meeting Minutes:

- Surface Transportation –Adhoc Committee Meeting – October 29, 2013
- Board Meeting - October 29, 2013
- Formal Hearing – October 29, 2013

The motion carried. Louis R. Jones abstained from the vote.

PUBLIC COMMENT PERIOD

There was no public comment.

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn

Expenditure and Revenue Summary

Ms. Hahn provided the following financial update:

FY14

FY14 beginning with the cash balance as of June 30, 2013 of $(172,121); revenue received YTD FY 14 was $26,125; less the direct and In-Direct expenditures of $282,639; leaving the cash balance as of November 30, 2013 of $(428,636).

Ms. Hahn concluded that she takes her job seriously and prides herself with being fiscally responsible however, allocated expenditures associated with adjudicating cases, and those that are beyond her control, and the fact that the fee increase has remained unsigned for almost 4 years has put the board and will keep the board in the red until the regulations are approved for a fee increase. She explained that even with the fee increase that this financial situation will take the board years to recover.

Discipline Statistics

Ms. Hahn provided statistics as of January 8, 2014; 35 open cases; 22 in the Enforcement Division at the Investigative stage; 3 cases in the Probable Cause stage, 5 cases at the APD level; 4 cases in the informal stage; and 1 case at the formal stage and would be heard following the

board meeting. Ms. Hahn added that 23 funeral board Orders are being monitored for compliance by Missy Currier.

Licensee Statistics

Ms. Hahn reported that as of January 8th there were; 1,514 Funeral Service Licensees, 181 Funeral Interns, 447 Funeral Establishments, 5 Embalmers, 58 Funeral Directors, 392 Funeral Service Supervisors, 62 Branch Establishments, 101 Crematories, 22 Continuing Education Providers, 73 Courtesy Card Holders and 52 Surface Transportation and Removal Services.

Virginia Performs

1st Quarter 2014:

- Licensing Standard less than 30 days – 100%
- Customer Satisfaction (Goal is 95%) – 100%
- Clearance Rate-90% (rec'd 10 – closed 9)
- Pending Caseload older than 250 days- 5% (1 patient care case)
- % of cases closed within 250 days- 100%

2nd Quarter 2014:

- Licensing Standard less than 30 days – 100%
- Customer Satisfaction (Goal is 95%) – 100%
- Clearance Rate-120% (rec'd 10 – closed 9)
- Pending Caseload older than 250 days-6% (1 patient care case)
- % of cases closed within 250 days- 67%

Presentations

- Lynne and Lisa will both present at the VFDA Winter Summit meeting in January at the Richmond Omni Hotel
- Lynne Helmick –VFDA Traveling Caravan's via live webinars:
  - 1/15
  - 2/20
  - 3/13

- 3/27 Vicki Saxby and Lynne Helmick at John Tyler Community College – Job Fair

BOARD BUSINESS

Ms. Hahn shared the following with the board;

- Following the October 29th meeting, the Surface Transportation & Removal Services application has been updated to include the scope of practice.
- In December, she attended the International Conference of Funeral Service Boards (ICFSEB) as a newly elected member of the Model Practice Act Committee. The committee did a lot of work and completed a draft copy of the Model Practice Act.
- She will be attending the next meeting in Orlando, FL on February 26 & 27th and has been asked to speak on the Model Practice Act.
- Ms. Hahn was pleased to welcome the newest members to the board:
  - Connie B. Steel, Serenity Funeral Home
  - Louis R. Jones, Hollomon-Brown Funeral Home
- Ms. Hahn gave thanks to Bob Burger, Randy Minter and Mike Leonard for decades of excellent years of service to the board! They will be sorely missed.

Calendar

Ms. Hahn shared the 2014 meeting calendar:

- April 8
- July 15
- October 7

NEW BUSINESS

Legislative/Regulatory Reports – Lisa R. Hahn

Status of Regulatory Actions:

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

Chapter	Action / Stage Information
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	Fee increase [Action 3236] Proposed - *At Governor's Office for 4 days.*
Regulations of the Board of Funeral Directors and Embalmers [18 VAC 65 - 20]	Identification of human remains [Action 3340] Proposed - *At Secretary's Office for 206 days. Emergency Regulations expired on 9/30/13.*

2014 Draft Legislation

Ms. Hahn reviewed the report of the 2014 Session of the General Assembly and provided a handout to the members.

Mr. Nelsen also pointed out that HB924 and HB729 were just submitted into the General Assembly.

Virtual Funeral Homes – Chris Vincent

Mr. Vincent reported that the committee met prior to the board meeting and will plan on meeting again sometime in March to continue working on Virtual Funeral Homes. He stated that the committee agreed that the board should be proactive in developing definitions and regulations to keep ahead of the age of the internet.

Cremation Certificate Meeting Update – Chris Vincent

Mr. Vincent briefed the board on a meeting he attended with Lisa Hahn, Lynne Helmick, Dr. Gormley, Chief Medical Examiner, and Rick Sikon, Director of the Virginia State Anatomical Program regarding the following cremation certificate policies:

1. Cadavers need appropriate cremation authorization.
    a. If the cadaver is a Virginia Donor, they will have cremation authorization from the State Anatomic Program.
    b. If the person died in Virginia and has donated their body to an out-of-state anatomic material vendor, they need Virginia cremation authorization.
    c. If the cadaver comes from out of state the cremation procedures for the state in which they died must be followed.
        i. Importation of cadavers must be authorized by the Commissioner and that authorization includes attestation that appropriate cremation procedures for the state of origin are followed.
        ii. Some out-of-state vendors retrieve cadavers after use for cremation in their own state.
        iii. Those vendors that request cremation by the user in Virginia must provide appropriate documentation that cremation has been properly authorized in the state of origin.
2. Detached body parts may be cremated without further authorization.
    a. Surgical specimens do not require authorization for cremation.
    b. Detached body parts used for education or scientific study do not require additional authorization for cremation..
        i. If the parts are from Virginia donors, cremation of the cadaver has already been authorized.
        ii. If the parts are from out-of-state vendors and the Commissioner has authorized importation, no additional authorization is required since the vendor has attested that proper cremation procedures are followed for the state or origin.

Ms. Hahn added that the meeting was very productive and suggested that Rick Sikon attend a future board meeting to explain the certificate policy with the board.

Certified Copy of Death Certificate for Cremation Certificate – Blair Nelsen

Mr. Nelsen reported that Dr. Gormley recognizes the difficulty funeral directors face trying to comply with death certificates being signed within 72 hours. Dr. Gormley indicated that they do not need to have a filed or certified copy for the cremation certificate. The medical examiner will need only an unofficial copy of the death certificate provided for the cremation certification. The pertinent data elements are the name, date of death, and cause of death. This information is used by the District Offices for supervisory review of the cremation certificates.

The cremation documentation is a different issue from filing the death certificate with the health department.

Letter to Dr. Reynolds-Cane from Senator Alexander – Lisa R. Hahn

Ms. Hahn shared letters between Senator Kenneth Alexander and Dr. Reynolds-Cane.

Senator Kenneth Alexander requested that the Board of Funeral Directors and Embalmers complete a comprehensive study on creating a "limited funeral director only" license that would allow a licensee to provide funeral directing services without engaging in embalming. Dr. Reynolds-Cane response was that she would submit the request for the study to be conducted by the Board of Health Professions.

Randolph Lane Update – Erin Barrett, Assistant Attorney General, Board Counsel

Ms. Barrett reported that Mr. Lane appealed his case to the Middlesex Circuit Court in December. Mr. Lane was under a time clock to file his opening brief and that it appeared that he may have missed his deadline for filing. Ms. Barrett concluded that the appeal may go away on procedural issues.

Meeting Cancellation

Ms. Hahn thanked everyone for attending the meeting and stated that the Legislative/Regulatory meeting scheduled for 2:30 had been cancelled due to a scheduling conflict.

ADJOURNMENT:

With no further business before the Board, the meeting adjourned at 11:08 a.m.

Junius H. Williams, Jr., President	Lisa R. Hahn, Executive Director
Date	Date

UNAPPROVED

VIRGINIA BOARD OF FUNERAL DIRECTORS & EMBALMERS
FORMAL ADMINSTRATIVE HEARING
January 14, 2014 – 1:00 P.M.

The Virginia Board of Funeral Directors and Embalmers convened on January 14, 2014, at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.

BOARD MEMBERS PRESENT:	Junius Williams, President Christopher Vincent, Vice-President Bob Oman, FSL Paul Welch, FSL Blair Nelsen, FSL Louis Jones, FSL Connie Steele, FSL Walter Bell, Citizen Member
BOARD MEMBERS ABSENT:	Eric Wray, FSL
DHP STAFF PRESENT:	Lisa R. Hahn, Executive Director Lynne Helmick, Deputy Executive Director Kathy Petersen, Discipline Operations Manager Missy Currier, Board Operations Manager/Compliance Manager Peter Opper, Adjudication Specialist
MEMBERS FROM THE OFFICE OF THE ATTORNEY GENERAL PRESENT:	Erin Barrett, Assistant Attorney General, Board Counsel
COURT REPORTER:	Crane Snead & Associates, Inc.
CALL TO ORDER	The Formal Administrative Hearing of the Board was called to order at 1:07 p.m.
ESTABLISHMENT OF A QUORUM:	With eight (8) members of the Board present, a quorum was established.
MATTER SCHEDULED:	**Abraham Applewhite, FSL** **License Number: 0502-900475** **Case Number: 153813**
DISCUSSION:	Mr. Applewhite appeared before the Board in accordance with the Notice and Statement of Particulars dated December 13, 2013. Mr. Applewhite was present and was not represented by counsel.

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

CLOSED SESSION: Upon a motion by Mr. Oman, and duly seconded by Mr. Vincent, 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 Abraham Applewhite, FSL. Additionally, Mr. Oman moved that Ms. Hahn, Ms. Helmick, Ms. Petersen and Ms. Barrett attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The Board convened into closed session at 1:39 p.m.

OPEN SESSION: Mr. Oman certified that the matters discussed in the preceding closed session met the requirements of § 2.2.-3712 of the *Code of Virginia;* Mr. Welch seconded the certification and the Board re-convened open session at 2:30 p.m.

ACTION: Upon a motion by Mr. Vincent and duly seconded by Mr. Oman, the Board determined that Mr. Applewhite is not prepared to resume unrestricted practice as a funeral service licensee. The Board denied Mr. Applewhite's petition for termination of the terms and conditions of probation placed upon his license his Funeral Service License in the Commonwealth of Virginia. The Board Ordered to continue Mr. Applewhite on Indefinite Probation for not less than 18 months subject to the terms and conditions as stated in the 2009 Board Order with the exception of terms 1(a) and 1(b) of said Order which have been satisfied. At the end of 18 months, Mr. Applewhite may petition a special conference committee of the Board for an unrestricted license. Mr. Applewhite is subject to other terms and conditions as outlined in the Board Order.

VOTE: The vote was unanimous.

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.

Junius Williams, President	Lisa R. Hahn, Executive Director
Date	Date

Tab 2

Virgina Department of Health Professions
Cash Balance
As of February 28, 2014

	104- Funeral Directors and Emba
Board Cash Balance as of June 30, 2013	$ (172,121)
YTD FY14 Revenue	189,740
Less: YTD FY14 Direct and In-Direct Expenditures	437,068
Board Cash Balance as of Febraury 28, 2014	(419,449)

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
Revenue				
2400 · Fee Revenue				
2401 · Application Fee	26,350.00	25,425.00	925.00	103.64%
2402 · Examination Fee	0.00			
2406 · License & Renewal Fee	153,985.00	467,330.00	-313,345.00	32.95%
2407 · Dup. License Certificate Fee	150.00	240.00	-90.00	62.5%
2408 · Board Endorsement - In	0.00			
2409 · Board Endorsement - Out	1,200.00	3,850.00	-2,650.00	31.17%
2421 · Monetary Penalty & Late Fees	730.00	3,270.00	-2,540.00	22.32%
2430 · Board Changes Fee	2,625.00	3,875.00	-1,250.00	67.74%
2432 · Misc. Fee (Bad Check Fee)	0.00	35.00	-35.00	0.0%
Total 2400 · Fee Revenue	185,040.00	504,025.00	-318,985.00	36.71%
2600 · Fees for Miscellaneous Services				
2660 · Administrative Fees	0.00			
Total 2600 · Fees for Miscellaneous Services	0.00			
3000 · Sales of Prop. & Commodities				
3007 · Sales of Goods/Svces to State	0.00			
3020 · Misc. Sales-Dishonored Payments	0.00			
Total 3000 · Sales of Prop. & Commodities	0.00			
9000 · Other Revenue				
9060 · Miscellaneous Revenue	4,700.00	3,900.00	800.00	120.51%
9084 · Refund- Prior Yr Disb	0.00			
Total 9000 · Other Revenue	4,700.00	3,900.00	800.00	120.51%
Total Revenue	189,740.00	507,925.00	-318,185.00	37.36%
Expenditures				
1100 · Personal Services				
1110 · Employee Benefits				
1111 · Employer Retirement Contrib.	4,736.03	6,694.00	-1,957.97	70.75%
1112 · Fed Old-Age Ins- Sal St Emp	3,818.67	5,846.00	-2,027.33	65.32%
1113 · Fed Old-Age Ins- Wage Earners	0.00			
1114 · Group Insurance	643.32	910.00	-266.68	70.7%
1115 · Medical/Hospitalization Ins.	12,043.56	22,193.00	-10,149.44	54.27%
1116 · Retiree Medical/Hospitalizatn	540.52	765.00	-224.48	70.66%
1117 · Long term Disability Ins	244.78	360.00	-115.22	67.99%
Total 1110 · Employee Benefits	22,026.88	36,768.00	-14,741.12	59.91%
1120 · Salaries				

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
1123 · Salaries, Classified	54,063.27	76,407.00	-22,343.73	70.76%
1125 · Salaries, Overtime	0.00			
Total 1120 · Salaries	54,063.27	76,407.00	-22,343.73	70.76%
1130 · Special Payments				
1131 · Bonuses and Incentives	0.00	0.00	0.00	0.0%
1138 · Deferred Compnstn Match Pmts	467.50	840.00	-372.50	55.66%
Total 1130 · Special Payments	467.50	840.00	-372.50	55.66%
1140 · Wages				
1141 · Wages, General	0.00			
Total 1140 · Wages	0.00			
1150 · Disability Benefits				
1153 · Short-trm Disability Benefits	0.00			
Total 1150 · Disability Benefits	0.00			
1160 · Terminatn Personal Svce Costs				
1165 · Employee Retirement Contributio	0.00	0.00	0.00	0.0%
1166 · Defined Contribution Match - Hy	0.00			
Total 1160 · Terminatn Personal Svce Costs	0.00	0.00	0.00	0.0%
Total 1100 · Personal Services	76,557.65	114,015.00	-37,457.35	67.15%
1200 · Contractual Services				
1210 · Communication Services				
1211 · Express Services	51.22	200.00	-148.78	25.61%
1212 · Outbound Freight Services	0.00			
1213 · Messenger Services	0.00			
1214 · Postal Services	927.87	3,500.00	-2,572.13	26.51%
1215 · Printing Services	50.96	1,500.00	-1,449.04	3.4%
1216 · Telecommunications Svcs (DIT)	186.25	600.00	-413.75	31.04%
1217 · Telecomm. Svcs (Non-State)	236.40			
1219 · Inbound Freight Services	14.79			
Total 1210 · Communication Services	1,467.49	5,800.00	-4,332.51	25.3%
1220 · Employee Development Services				
1221 · Organization Memberships	250.00	1,200.00	-950.00	20.83%
1222 · Publication Subscriptions	0.00	600.00	-600.00	0.0%
1224 · Emp Trning Courses, Wkshp & Cnf	0.00	1,000.00	-1,000.00	0.0%
1225 · Employee Tuition Reimbursement	0.00	1,000.00	-1,000.00	0.0%
1227 · Emp Trning- Trns, Ldgng & Meals	0.00	800.00	-800.00	0.0%
Total 1220 · Employee Development Services	250.00	4,600.00	-4,350.00	5.44%

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
1230 · Health Services				
1236 · X-ray and Laboratory Services	0.00			
1238 · Other Medical Services	0.00			
Total 1230 · Health Services	0.00			
1240 · Mgmnt and Informational Svcs				
1242 · Fiscal Services	14.71	9,520.00	-9,505.29	0.16%
1244 · Management Services	12.81	120.00	-107.19	10.68%
1246 · Public Infrmtnl & Relation Svcs	0.00			
1247 · Legal Services	585.00	150.00	435.00	390.0%
1249 · Recruitment Services	0.00			
Total 1240 · Mgmnt and Informational Svcs	612.52	9,790.00	-9,177.48	6.26%
1250 · Repair and Maintenance Svcs				
1251 · Custodial Services	49.81			
1252 · Electrical Rep & Maintenance	0.00			
1253 · Equip Repair & Maintenance	5.10	40.00	-34.90	12.75%
1256 · Mechanical Rep & Maint Svcs	0.00			
1257 · Plant Rep & Maintenance Svcs	0.00			
Total 1250 · Repair and Maintenance Svcs	54.91	40.00	14.91	137.28%
1260 · Support Services				
1263 · Clerical Services	0.00	5,500.00	-5,500.00	0.0%
1264 · Food & Dietary Services	611.21	2,100.00	-1,488.79	29.11%
1266 · Manual Labor Services	208.03	1,200.00	-991.97	17.34%
1267 · Production Services	1,671.62	1,120.00	551.62	149.25%
1268 · Skilled Services	1.51	3,910.00	-3,908.49	0.04%
Total 1260 · Support Services	2,492.37	13,830.00	-11,337.63	18.02%
1280 · Transportation Services				
1282 · Travel, Personal Vehicle	2,870.69	5,100.00	-2,229.31	56.29%
1283 · Travel, Public Carriers	420.25	700.00	-279.75	60.04%
1284 · Travel, State Vehicles	0.00			
1285 · Travel, Subsistence & Lodging	563.99	1,600.00	-1,036.01	35.25%
1288 · Trvl, Meal Reimb- Not Rprtble	222.50	750.00	-527.50	29.67%
Total 1280 · Transportation Services	4,077.43	8,150.00	-4,072.57	50.03%
Total 1200 · Contractual Services	8,954.72	42,210.00	-33,255.28	21.22%
1300 · Supplies And Materials				
1310 · Administrative Supplies				
1311 · Apparel Supplies	0.00			

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
1312 · Office Supplies	339.97	1,500.00	-1,160.03	22.67%
1313 · Stationery and Forms	122.69	675.00	-552.31	18.18%
Total 1310 · Administrative Supplies	462.66	2,175.00	-1,712.34	21.27%
1320 · Energy Supplies				
1323 · Gasoline	9.18			
Total 1320 · Energy Supplies	9.18			
1330 · Manufctrng and Merch Supplies				
1335 · Packaging and Shipping Suppl	0.00	85.00	-85.00	0.0%
Total 1330 · Manufctrng and Merch Supplies	0.00	85.00	-85.00	0.0%
1340 · Medical and Laboratory Supp.				
1342 · Medical and Dental Supplies	0.49			
1343 · Field Supplies	0.00			
Total 1340 · Medical and Laboratory Supp.	0.49			
1350 · Repair and Maint. Supplies				
1352 · Custodial Rep & Maint Mat'ls	0.00			
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	3.31	90.00	-86.69	3.68%
1364 · Laundry and Linen Supplies	0.00			
1365 · Personal Care Supplies	0.00			
Total 1360 · Residential Supplies	3.31	120.00	-116.69	2.76%
1370 · Specific Use Supplies				
1373 · Computer Operating Supplies	4.96	15.00	-10.04	33.07%
Total 1370 · Specific Use Supplies	4.96	15.00	-10.04	33.07%
Total 1300 · Supplies And Materials	480.60	2,395.00	-1,914.40	20.07%
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			

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
1500 · Continuous Charges				
1510 · Insurance-Fixed Assets				
1512 · Automobile Liability	0.00			
1516 · Property Insurance	31.14	36.00	-4.86	86.5%
Total 1510 · Insurance-Fixed Assets	31.14	36.00	-4.86	86.5%
1530 · Operating Lease Payments				
1534 · Equipment Rentals	1.44			
1535 · Building Rentals	7.29	15.00	-7.71	48.6%
1539 · Building Rentals - Non State	6,202.38	8,912.00	-2,709.62	69.6%
Total 1530 · Operating Lease Payments	6,211.11	8,927.00	-2,715.89	69.58%
1540 · Service Charges				
1546 · S Purch Ch. Card Check Fee	0.00			
Total 1540 · Service Charges	0.00			
1550 · Insurance-Operations				
1551 · General Liability Insurance	111.77	135.00	-23.23	82.79%
1554 · Surety Bonds	6.60	8.00	-1.40	82.5%
Total 1550 · Insurance-Operations	118.37	143.00	-24.63	82.78%
Total 1500 · Continuous Charges	6,360.62	9,106.00	-2,745.38	69.85%
2200 · Equipment Expenditures				
2210 · Computer Equipment				
2218 · Computer Software Purchases	0.00			
Total 2210 · Computer Equipment	0.00			
2220 · Educational & Cultural Equip				
2224 · Reference Equipment	191.16			
Total 2220 · Educational & Cultural Equip	191.16			
2230 · Electrnc & Photographic Equip				
2238 · Electronic & Photo Equip Impr	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			
2263 · Office Incidentals	3.98			
2264 · Office Machines	0.00			
2268 · Office Equipment Improvements	0.00			

Virginia Dept. of Health Professions
Revenue and Expendtures Summary
July 1, 2013 through February 28, 2014

	104- Funeral Directors and Emba			
	Jul '13 - Feb 14	Budget	$ Over Budget	% of Budget
Total 2260 · Office Equipment	3.98	132.00	-128.02	3.02%
2270 · Specific Use Equipment				
2271 · Household Equipment	0.00			
2274 · Non Power Rep & Maint- Equip	3.72			
Total 2270 · Specific Use Equipment	3.72			
Total 2200 · Equipment Expenditures	198.86	132.00	66.86	150.65%
Total Direct Expenditures	92,672.45	167,858.00	-75,185.55	55.21%
9001 · Allocated Expenditures				
9206 · Funeral\LTCA\PT	66,181.88	95,935.32	-29,753.44	68.99%
9301 · DP Operations & Equipment	65,940.65	154,845.00	-88,904.35	42.59%
9302 · Human Resources	8,637.63	11,933.40	-3,295.77	72.38%
9303 · Finance	16,028.78	22,608.84	-6,580.06	70.9%
9304 · Director's Office	7,885.20	13,358.40	-5,473.20	59.03%
9305 · Enforcement	108,292.08	223,963.32	-115,671.24	48.35%
9306 · Administrative Proceedings	24,804.55	44,343.60	-19,539.05	55.94%
9307 · Impaired Practitioners	0.00	0.00	0.00	0.0%
9308 · Attorney General	36,173.28	42,581.88	-6,408.60	84.95%
9309 · Board of Health Professions	4,862.91	7,442.16	-2,579.25	65.34%
9310 · SRTA	0.00			
9311 · Maintenance and Repairs	86.00	479.64	-393.64	17.93%
9313 · Emp. Recognition Program	24.29	336.12	-311.83	7.23%
9314 · Conference Center	68.49	310.56	-242.07	22.05%
9315 · Pgm Devlpmnt & Implmentn	5,409.66	7,753.68	-2,344.02	69.77%
Total 9001 · Allocated Expenditures	344,395.40	625,891.92	-281,496.52	55.03%
987900 · Cash Trsfr Out- Appr Act Pt. 3	0.00	1,416.96	-1,416.96	0.0%
Total Direct, Allocated and Cash Transfer Expenditures	437,067.85	795,166.88	-358,099.03	54.97%
Net Cash Surplus\Shortfall	-247,327.85	-287,241.88	39,914.03	86.1%

License Count Report for Funeral Directors
May 9, 2014

Branch Establishment	57
Continuing Education Provider	24
Courtesy Card	69
Crematories	101
Funeral Establishments	428
Funeral Service Interns	159
Embalmer	4
Funeral Service Director	50
Funeral Service Licensee's	1,465
Funeral Service Supervisors	397
Surface Transportation & Removal Services	45
Total	2,799

Data as of 04/21/2014

Disciplinary Case Report for Funeral Directors
May 9, 2014

Investigations	13
Probable Cause	7
APD	3
Informal Stage	0
Formal Stage	2
Total	**25**

FDE Orders currently being monitored by Compliance Manager - **23**

Data as of 12/29/2013

Virginia Department of Health Professions

Patient Care Disciplinary Case Processing Times: Quarterly Performance Measurement, Q2 2010 - Q2 2014

Dianne Reynolds-Cane, M.D.
Director

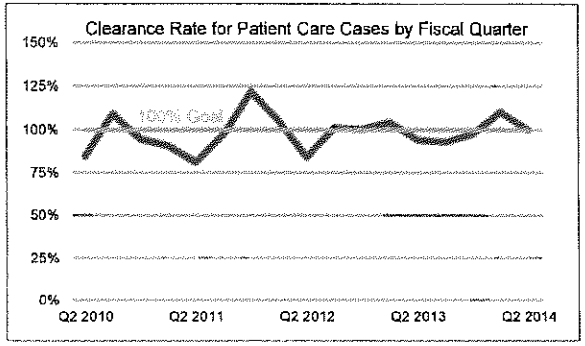
"To ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public."
DHP Mission Statement

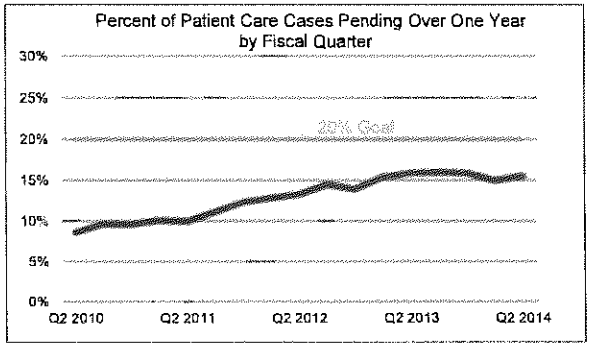
In order to uphold its mission relating to discipline, DHP continually assesses and reports on performance. Extensive trend information is provided on the DHP website, in biennial reports, and, most recently, on Virginia Performs through Key Performance Measures (KPMs). KPMs offer a concise, balanced, 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.

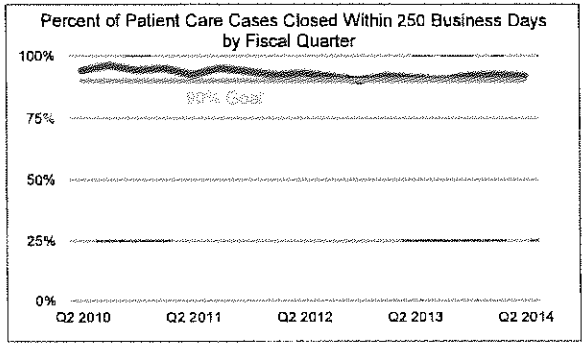
Clearance Rate - the number of closed cases as a percentage of the number of received cases. A 100% clearance rate means that the agency is closing the same number of cases as it receives each quarter. DHP's goal is to maintain a 100% clearance rate of allegations of misconduct through the end of FY 2016. The current quarter's clearance rate is 100%, with 863 patient care cases received and 863 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 20% through the end of FY 2016. That goal continues to be achieved with the percent of cases pending over 250 business days maintaining an average of 16% for the past 4 quarters. For the last quarter shown, there were 2,062 patient care cases pending, with 320 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 2016. That goal continues to be acheived with 92% percent of patient care cases being resolved within 250 business days this past quarter. During the last quarter, there were 855 patient care cases closed, with 785 closed within 250 business days.







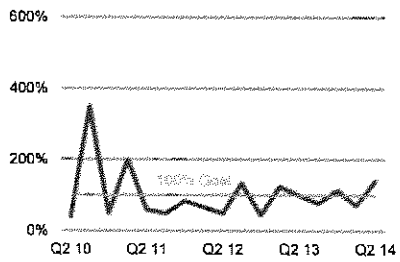
Submitted: 1/5/2014

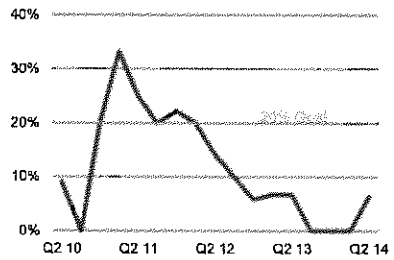
Prepared by: VisualResearch, Inc.

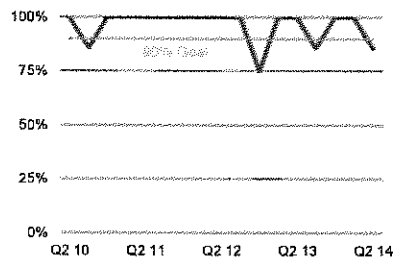
Virginia Department of Health Professions - Patient Care Disciplinary Case Processing Times, by Board

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

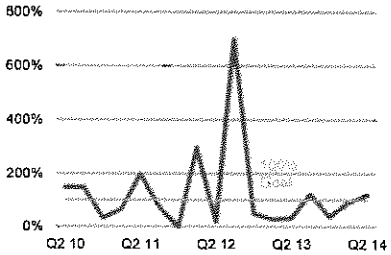
Physical Therapy - In Q2 2014, the clearance rate was 140%, the Pending Caseload older than 250 business days was 6% and the percent closed within 250 business days was 86%.
Q2 2014 Caseloads:
Received=5, Closed=7
Pending over 250 days=1
Closed within 250 days=6

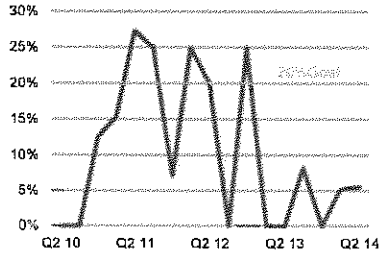


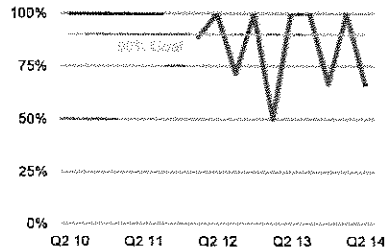




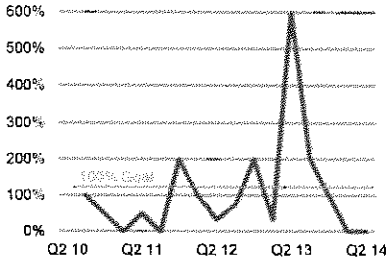
Funeral - In Q2 2014, the clearance rate was 120%, the Pending Caseload older than 250 business days was 6% and the percent closed within 250 business days was 67%.
Q2 2014 Caseloads:
Received=5, Closed=6
Pending over 250 days=1
Closed within 250 days=4

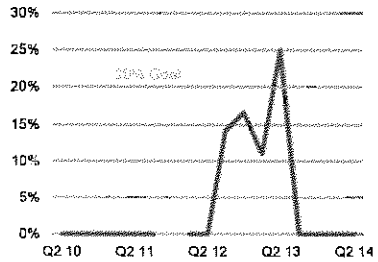


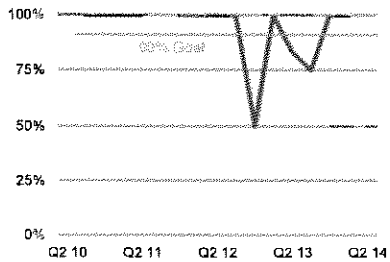




Audiology - In Q2 2014, the clearance rate was 0% the Pending Caseload older than 250 business days was 0% and the percent closed within 250 business days was N/A.
Q2 2014 Caseloads:
Received=2, Closed=0
Pending over 250 days=0
Closed within 250 days=N/A







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

Submitted: 1/5/2014

Prepared by: VisualResearch, Inc.

Virginia Department of Health Professions

APPLICANT SATISFACTION SURVEY RESULTS

APPROVAL RATE

FISCAL YEAR 2014, QUARTER ENDING 12/31/2013

Quarter Breakdown	
Quarter 1	July 1st - September 30th
Quarter 2	October 1st - December 31st
Quarter 3	January 1st - March 31st
Quarter 4	April 1st - June 30th

***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. An "n/a" is used if no response was received for that board during the specified timeframe.**

Board	12/31/13	09/30/13	06/30/13	03/31/13	12/31/12	09/30/12	06/30/12	03/31/12	12/31/11	09/30/11	06/30/11	03/31/11
Audiology/Speech Pathology	85.7%	94.8%	100.0%	100.0%	100.0%	97.0%	86.7%	100.0%	100.0%	82.8%	85.7%	100.0%
Counseling	83.2%	80.1%	76.3%	69.9%	78.0%	60.3%	74.5%	71.6%	63.0%	82.2%	69.4%	81.5%
Dentistry	95.9%	90.9%	94.7%	98.7%	94.1%	92.9%	93.7%	96.6%	98.3%	88.7%	100.0%	89.6%
Funeral Directing	100.0%	100.0%	100.0%	n/a	100.0%	100.0%	100.0%	n/a	100.0%	100.0%	91.7%	100.0%
Long Term Care Administrator	100.0%	100.0%	n/a	100.0%	100.0%	100.0%	81.0%	100.0%	100.0%	100.0%	100.0%	92.6%
Medicine	91.8%	91.1%	87.5%	94.4%	86.2%	93.9%	95.4%	95.1%	97.0%	97.9%	99.1%	95.6%
Nurse Aide	99.7%	97.2%	99.1%	97.6%	96.8%	97.1%	97.5%	97.7%	97.5%	93.8%	96.9%	96.3%
Nursing	96.4%	94.3%	96.5%	94.4%	93.7%	95.7%	94.7%	97.9%	96.3%	95.9%	96.1%	95.6%
Optometry	100.0%	100.0%	100.0%	n/a	n/a	n/a	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Pharmacy	98.1%	97.7%	97.3%	97.5%	98.8%	97.5%	98.1%	96.1%	96.7%	96.0%	96.0%	98.7%
Physical Therapy	98.7%	96.9%	98.6%	100.0%	96.6%	95.3%	98.2%	100.0%	100.0%	95.2%	n/a	98.9%
Psychology	92.6%	88.6%	99.1%	89.6%	78.7%	92.8%	90.2%	98.8%	85.0%	91.7%	91.7%	87.0%
Social Work	90.7%	86.6%	94.9%	84.7%	87.3%	84.2%	86.9%	85.6%	83.3%	85.3%	89.1%	91.4%
Veterinary Medicine	100.0%	97.4%	93.3%	83.3%	100.0%	100.0%	98.7%	88.9%	100.0%	97.8%	100.0%	95.8%
AGENCY	*95.0%*	*93.6%*	*93.5%*	*93.5%*	*91.9%*	*94.7%*	*94.5%*	*95.5%*	*95.6%*	*95.9%*	*96.1%*	*95.2%*

Virginia Department of Health Professions

APPLICANT SATISFACTION SURVEY RESULTS

APPROVAL RATE*

LAST FIVE FISCAL YEARS

Quarter Breakdown	
Quarter 1	July 1st - September 30th
Quarter 2	October 1st - December 31st
Quarter 3	January 1st - March 31st
Quarter 4	April 1st - June 30th

*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. "N/A" indicates that no response was received for that board during the specified timeframe.

Board	FY13	FY12	Change Between FY13 & FY11	FY11	Change Between FY12 & FY11	FY10	Change Between FY11 & FY10	FY09	Change Between FY10 & FY09
Audiology/Speech Pathology	98.7%	90.5%	9.1%	91.8%	-1.4%	88.9%	3.3%	92.8%	-4.2%
Counseling	72.5%	74.3%	-2.4%	75.7%	-1.8%	82.1%	-7.8%	85.0%	-3.4%
Dentistry	94.8%	92.9%	2.0%	95.7%	-2.9%	96.1%	-0.4%	95.5%	0.6%
Funeral Directing	100.0%	100.0%	0.0%	95.2%	5.0%	73.3%	29.9%	100.0%	-26.7%
Long Term Care Administrator	n/a	96.3%	-100.0%	94.4%	2.0%	93.1%	1.4%	95.6%	-2.6%
Medicine	90.3%	96.5%	-6.4%	94.1%	2.6%	96.1%	-2.1%	92.3%	4.1%
Nurse Aide	97.8%	97.9%	-0.1%	97.5%	0.4%	98.1%	-0.6%	96.1%	2.1%
Nursing	95.2%	96.3%	-1.1%	94.8%	1.6%	96.1%	-1.4%	93.0%	3.3%
Optometry	92.9%	100.0%	-7.1%	100.0%	0.0%	96.7%	3.4%	98.8%	-2.1%
Pharmacy	97.9%	96.8%	1.1%	97.7%	-0.9%	96.7%	1.0%	94.3%	2.5%
Physical Therapy	96.8%	97.6%	-0.8%	95.3%	2.4%	98.4%	-3.2%	91.5%	7.5%
Psychology	91.3%	84.6%	7.9%	88.1%	-4.0%	89.4%	-1.5%	86.5%	3.4%
Social Work	88.2%	85.5%	3.2%	90.6%	-5.6%	96.3%	-5.9%	96.6%	-0.3%
Veterinary Medicine	95.8%	97.6%	-1.8%	97.7%	-0.1%	95.2%	2.6%	92.8%	2.6%
Agency Total	93.6%	95.3%	-1.8%	94.6%	0.7%	95.6%	-1.0%	94.4%	1.3%

Tab 3

Report of Regulatory Actions (as of 4/21/14)

Board of Funeral Directors and Embalmers

Board of Funeral Directors and Embalmers

Chapter		Action / Stage Information
[18 VAC 65 - 20]	Regulations of the Board of Funeral Directors and Embalmers	Fee increase [Action 3236] Proposed - *At Governor's Office for 3 days*
[18 VAC 65 - 20]	Regulations of the Board of Funeral Directors and Embalmers	Identification of human remains [Action 3340] Proposed - *At Secretary's Office for 304 days*

Timeline for fee increase currently in process:

NOIRA to DPB	3/2/10
DPB approval of NOIRA	3/4/10
14 days lapsed – publication allowed	7/19/10
Comment on NOIRA	8/16/10 – 9/15/10
Adopt Proposed	10/22/10
Proposed to DPB	11/10/10
DPB approval	12/27/10
Proposed withdrawn at request of SHHR	3/26/12
Re-proposed submitted to DPB Secretary requested withdrawal of the 2-step increase proposed to address the budget shortfall, actual and projected	5/8/12
DPB approval	5/11/12
SHHR review completed – not approved	1/14/14
SHHR approved proposed	4/18/14

Report of the 2014 General Assembly

Board of Funeral Directors and Embalmers

HB 541 Death; determination by specialist in field of neurology, neurosurgery, etc.

Chief patron: O'Bannon

Summary as passed House:

Determination of death. Removes the requirement for a second physician to declare death when the initial declaration of death is made by a physician who is a specialist in the field of neurology, neurosurgery, electroencephalography, or critical care medicine.

03/03/14 Governor: Approved by Governor-Chapter 73 (effective 7/1/14)

HB 611 Health regulatory boards; denial or suspension of a license, certificate or registration, exception.

Chief patron: Robinson

Summary as introduced:

Health regulatory boards; denial or suspension of a license, certificate, or registration; exception. Creates an exception to the requirement that health regulatory boards within the Department of Health Professions shall refuse to issue a license, certificate, or registration to an applicant if the candidate or applicant has had his license, certificate, or registration to practice the profession or occupation revoked or suspended in another jurisdiction and shall suspend the license, registration, or certification of a person licensed, registered, or certified in the Commonwealth if his license, registration, or certification has been suspended or revoked or accepted for surrender in lieu of disciplinary action in another jurisdiction for cases in which the revocation or suspension in the other jurisdiction is the result of nonrenewal of the license, registration, or certification.

03/03/14 Governor: Approved by Governor-Chapter 76 (effective 7/1/14)

HB 661 Falsifying patient records; statute of limitation on prosecutions increased.

Chief patron: Bell, Robert B.

Summary as passed:

Limitation of prosecutions; falsifying patient records. Increases from one year to three years the statute of limitations on prosecutions for the misdemeanor of falsifying patient records with the intent to defraud.

03/05/14 Governor: Approved by Governor-Chapter 169 (effective 7/1/14)

HB 855 Health regulatory boards; reinstatement of licensure.

Chief patron: Garrett

Summary as introduced:

Health regulatory boards; reinstatement of licensure. Provides that an applicant for reinstatement of a certificate, registration, or license that has been revoked bears the burden of proof to show to the appropriate health regulatory board by clear and convincing evidence that he is safe and competent to practice. This bill is identical to SB 463.

02/20/14 Governor: Approved by Governor-Chapter 11 (effective 7/1/14)

HB 891 Health regulatory boards; powers and duties, special conference committees.

Chief patron: Peace

Summary as introduced:

Powers and duties of health regulatory boards; special conference committees. Provides that special conference committees may consider applications for a license, certificate, registration, permit, or issuance of a multistate licensure privilege and may grant or deny the application or issue a restricted license, certification, registration, permit, or multistate licensure privilege. The bill also provides that special conference committees may hear cases in which a holder of a permit issued by a health regulatory board is reported to be the subject of disciplinary action.

03/31/14 Governor: Approved by Governor-Chapter 426 (effective 7/1/14)

SB 77 Dead human bodies; absence of next of kin, disposition of remains, prerequisites for cremation.

Chief patron: Martin

Summary as passed:

Disposition of remains; absence of next of kin. Provides that, in the absence of a next of kin, a person designated to make arrangements for disposition of a decedent's remains, an agent named in an advance directive, or a guardian who exercises powers conferred in an order of appointment, or upon the failure or refusal of such next of kin, designated person, agent, or

guardian to accept responsibility for the disposition of the decedent's remains, any person who is 18 years of age or older who is able to provide identification of the deceased and willing to pay the costs of disposition of the remains may make arrangements for such disposition and may authorize cremation. The bill also provides that a funeral service establishment or funeral service licensee who makes arrangements in accordance with the provisions of this act shall be immune from civil liability absent bad faith or malicious intent.

03/27/14 Governor: Approved by Governor-Chapter 355 (effective 7/1/14)

SB 304 Dead human bodies; establishes a process for disposition for unclaimed bodies.

Summary as passed:

Disposition of dead bodies. Establishes a process for the disposition of unclaimed dead bodies. The bill contains an emergency clause.

EMERGENCY

03/07/14 Governor: Approved by Governor-Chapter 228 (**effective 3/7/14**)

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 355

An Act to amend and reenact § 54.1-2818.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2807.02, relating to dead bodies; absence of next of kin.

[S 77]

Approved March 27, 2014

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2818.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2807.02 as follows:

§ 54.1-2807.02. Absence of next of kin.

In the absence of a next of kin, a 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 any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019, or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent, then any other person 18 years of age or older who is able to provide positive identification of the deceased and is willing to pay for the costs associated with the disposition of the decedent's remains shall be authorized to make arrangements for such disposition of the decedent's remains. If a funeral service establishment or funeral service licensee makes arrangements with a person other than a next of kin, designated person, agent, or guardian in accordance with this section, then the funeral service licensee or funeral service establishment shall be immune from civil liability unless such act, decision, or omission resulted from bad faith or malicious intent.

§ 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, 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~~, *or any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019. If no next of kin, designated person, agent, or guardian is available or willing to make visual identification of the deceased, such identification shall be made by a member of the primary law-enforcement agency of the city or county in which the person or institution having initial custody of the body is located, pursuant to court order.* When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation. *Unless such act, decision, or omission resulted from bad faith or malicious intent, the funeral service establishment, funeral service licensee, crematory, cemetery, primary law-enforcement officer, or sheriff shall be immune from civil liability for any act, decision, or omission resulting from cremation. Nothing in this section shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing the duties established by this section if so requested by the primary law-enforcement agency and agreed to by the other law-enforcement agency.*

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 228

An Act to amend and reenact §§ 32.1-298, 32.1-299, 54.1-2807, and 54.1-2818.1 of the Code of Virginia; to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 8.1, consisting of sections numbered 32.1-309.1 through 32.1-309.4; and to repeal §§ 32.1-284, 32.1-288, and 32.1-288.1 of the Code of Virginia, relating to disposition of dead bodies.

[S 304]

Approved March 7, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-298, 32.1-299, 54.1-2807, and 54.1-2818.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 8.1, consisting of sections numbered 32.1-309.1 through 32.1-309.4, as follows:

§ 32.1-298. Notification of Commissioner and delivery of bodies.

Any person having charge or control of any dead human body ~~which~~ *that* is unclaimed for disposition~~, which is required to be buried at the public expense,~~ or ~~which~~ *that* has been lawfully donated for scientific study shall notify the Commissioner whenever and as soon as any such body comes to his possession, charge, or control and shall, without fee or reward, permit the Commissioner or his agents to remove such body, to be used for the advancement of health science.

§ 32.1-299. Distribution of bodies.

A. The bodies received pursuant to §§ 32.1-298 ~~and 32.1-288~~ shall be distributed by the Commissioner to institutions and individuals as they may be needed for the purposes of scientific education and training in health and related subjects as follows:

1. First, to the medical schools in Virginia;

2. Second, equitably to the several colleges and schools of this Commonwealth authorized by law to teach health science and issue diplomas and such physicians and surgeons as the Commissioner may designate;

3. Third, to colleges and schools in other states and the District of Columbia authorized by law to teach health science and issue diplomas.

B. Before any institution or individual may receive any body pursuant to this section, such institution or individual shall have given a bond to the Commonwealth in the penalty of $1,000 with condition that any body received shall be used only for scientific education and training in health and related subjects. Evidence of such bond shall be filed with the Commissioner.

C. All expenses incurred in the distribution and delivery of bodies pursuant to this section shall be paid by those receiving the bodies in such amount as may be prescribed by the Commissioner.

D. The Commissioner is authorized to employ carriers to effect the distribution of dead human bodies pursuant to this section. Any carrier so employed shall obtain a receipt by name or, if the name be unknown, by a description for each body delivered by him and shall deposit such receipt with the Commissioner.

CHAPTER 8.1.

DISPOSITION OF DEAD HUMAN BODIES.

§ 32.1-309.1. Identification of decedent, next of kin; disposition of claimed dead body.

A. As used in this chapter, "next of kin" has the same meaning assigned to it in § 54.1-2800. In the absence of a next of kin, a 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 any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019, or upon the failure or refusal of such next of kin, designated person, agent, or guardian to accept responsibility for the disposition of the decedent, then any other person 18 years of age or older who is able to provide positive identification of the deceased and is willing to pay for the costs associated with the disposition of the decedent's remains shall be authorized to make arrangements for such disposition of the decedent's remains. If a funeral service establishment or funeral service licensee makes arrangements with a person other than a next of kin, designated person, agent, or guardian in accordance with this section, then the funeral service licensee or funeral service establishment shall be immune from civil liability unless such act, decision, or omission resulted from bad faith or malicious intent.

B. Upon the death of any person, irrespective of the cause and manner of death, and irrespective of whether a medical examiner's investigation is required pursuant to § 32.1-283 or 32.1-285.1, the person or institution having initial custody of the dead body shall make good faith efforts to determine the identity of the decedent, if unknown, and to identify and notify the next of kin of the decedent regarding the decedent's death. If, upon notification of the death of the decedent, the next of kin of the decedent is

willing and able to claim the body, the body may be claimed by the next of kin for disposition, and the claimant shall bear the expenses of such disposition. If the next of kin of the decedent fails or refuses to claim the body within 10 days of receiving notice of the death of the decedent, the body shall be disposed of in accordance with § 32.1-309.2.

C. If the person or institution having initial custody of the dead body is unable to determine the identity of the decedent or to identify and notify the next of kin of the decedent regarding the decedent's death, the person or institution shall contact the primary law-enforcement agency for the locality, which shall make good faith efforts to determine the identity of the decedent and to identify and notify the next of kin of the decedent.

If the identity of the decedent is known to the primary law-enforcement agency or the primary law-enforcement agency is able to identify the decedent, the primary law-enforcement agency is able to identify and notify the next of kin of the decedent, and the next of kin of the decedent is willing and able to claim the body, the body may be claimed by the next of kin for disposition, and the claimant shall bear the expenses of such disposition.

If the identity of the decedent is known or the primary law-enforcement agency is able to determine the identity of the decedent but the primary law-enforcement agency is unable, despite good faith efforts, to identify and notify the decedent's next of kin within 10 days of the date of contact by the person or institution having initial custody of the dead body, or the primary law-enforcement agency is able to identify and notify the decedent's next of kin but the next of kin fails or refuses to claim the body within 10 days, the primary law-enforcement agency shall notify the person or institution having initial custody of the dead body, and the body shall be disposed of in accordance with § 32.1-309.2.

D. In cases in which a dead body is claimed by the decedent's next of kin but the next of kin is unable to pay the reasonable costs of disposition of the body and the costs are paid by the county or city in which the decedent resided or in which the death occurred in accordance with this section, and the decedent has an estate out of which burial expenses may be paid, in whole or in part, such assets shall be seized for such purpose.

E. No dead body that is the subject of an investigation pursuant to § 32.1-283 or autopsy pursuant to § 32.1-285 shall be transferred for purposes of disposition until such investigation or autopsy has been completed.

F. Any sheriff or primary law-enforcement officer, county, city, health care provider, funeral service establishment, funeral service licensee, or other person or institution that acts in accordance with the requirements of this chapter shall be immune from civil liability for any act, decision, or omission resulting from acceptance and disposition of the dead body in accordance with this section, unless such act, decision, or omission resulted from bad faith or malicious intent.

G. Nothing in this section shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing the duties established by this section if so requested by the primary law-enforcement agency and agreed to by the other law-enforcement agency.

§ 32.1-309.2. Disposition of unclaimed dead body; how expenses paid.

A. In any case in which (i) the primary law-enforcement agency is unable to identify and notify the next of kin of the decedent within 10 days of the date of contact by the person or institution having initial custody of the dead body despite good faith efforts to do so or (ii) the next of kin of the decedent fails or refuses to claim the body within 10 days of receipt of notice of the decedent's death, the primary law-enforcement agency shall notify the attorney for the county or city in which the person or institution is located or, if there is no county or city attorney, the attorney for the Commonwealth, and such attorney shall without delay request an order authorizing the person or institution having initial custody of the dead body to transfer custody of the body to a funeral service establishment for final disposition. Upon entry of a final order for disposition of the dead body, the person or institution having initial custody of the body shall transfer custody of the body to a funeral service establishment, which shall take possession of the dead body for disposition in accordance with the provisions of such order. Except as provided in subsection B or C, the reasonable expenses of disposition of the body shall be borne (a) by the county or city in which the decedent resided at the time of death if the decedent was a resident of Virginia or (b) by the county or city where death occurred if the decedent was not a resident of Virginia or the location of the decedent's residence cannot reasonably be determined. However, no such expenses shall be paid by such county or city until allowed by an appropriate court in such county or city.

B. In the case of a person who has been received into the state corrections system and died prior to his release, whose body is unclaimed, the Department of Corrections shall accept the body for proper disposition and shall bear the reasonable expenses for cremation or other disposition of the body. In the case of a person who has been received into the state corrections system and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

C. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release, whose body is unclaimed, the Department of Behavioral Health and Developmental Services shall bear the reasonable expenses for

cremation or other disposition of the body. In the case of a person who has been committed to the custody of the Department of Behavioral Health and Developmental Services and died prior to his release and whose claimant is financially unable to pay reasonable expenses of disposition, the expenses shall be borne by the county or city where the claimant resides.

D. Any person or institution having initial custody of a dead body may enter into an agreement with a local funeral service establishment whereby the funeral service establishment shall take possession of the dead body for the purpose of storing the dead body during such time as the person or institution having initial custody of the body or the primary local law-enforcement agency is engaged in identifying the decedent, attempting to identify and contact the next of kin of the decedent, and making arrangements for the final disposition of the body in accordance with this section, provided that at all times during which the funeral service establishment is providing storage of the body, the person or institution having initial custody of the dead body shall continue to have legal custody of the body until such time as custody is transferred in accordance with this chapter.

E. In cases in which a decedent whose remains are disposed of in accordance with this section has an estate out of which burial expenses may be paid, in whole or in part, such assets shall be seized for such purpose.

F. No dead body that is the subject of an investigation pursuant to § 32.1-283 or autopsy pursuant to § 32.1-285 shall be transferred for purposes of disposition until such investigation or autopsy has been completed.

G. Any sheriff or primary law-enforcement officer, county, city, health care provider, funeral service establishment, or funeral service licensee; the Department of Corrections; or any other person or institution that acts in accordance with the requirements of this chapter shall be immune from civil liability for any act, decision, or omission resulting from acceptance and disposition of the dead body in accordance with this section, unless such act, decision, or omission resulted from bad faith or malicious intent.

H. Nothing in this section shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing the duties established by this section if so requested by the primary law-enforcement agency and agreed to by the other law-enforcement agency.

§ 32.1-309.3. Cremations and burials at sea.

No dead human body whose death occurred in Virginia shall be cremated or buried at sea, irrespective of the cause and manner of death, unless a medical examiner determines that there is no further need for medicolegal inquiry into the death and so certifies upon a form supplied by the Chief Medical Examiner. For this service the medical examiner shall be entitled to a fee established by the Board, not to exceed the fee provided for in subsection D of § 32.1-283, to be paid by the applicant for the certificate.

§ 32.1-309.4. Determination of hazardous human remains.

The Commissioner, in consultation with the Governor, shall have the authority to determine if human remains are hazardous to the public health. If the Commissioner determines that such remains are hazardous, the Commonwealth, with direction from the Commissioner, shall be charged with the safe handling, identification, and disposition of the remains and shall erect a memorial, as appropriate, at any disposition site.

For the purposes of this section, "hazardous," with regard to human remains, means those remains contaminated with an infectious, radiologic, chemical, or other dangerous agent.

§ 54.1-2807. Other prohibited activities.

A. A person licensed for the practice of funeral service shall not (i) remove or embalm a body when he has information indicating the death was such that a medical examiner's investigation is required pursuant to § 32.1-283 or 32.1-285.1 or (ii) cremate or bury at sea a body until he has obtained permission of the medical examiner as required by § ~~32.1-284~~ *32.1-309.3.*

B. Except as provided in §§ ~~32.1-288~~ ~~and~~ 32.1-301 *and Chapter 8.1 (§ 32.1-309.1 et seq.) of Title 32.1*, funeral service establishments shall not accept a dead human body from any public officer except a medical examiner, or from any public or private facility or person having a professional relationship with the decedent without having first inquired about the desires of the next of kin and the persons liable for the funeral expenses of the decedent. The authority and directions of any next of kin shall govern the disposal of the body, subject to the provisions of § 54.1-2807.01 or 54.1-2825.

Any funeral service establishment violating this subsection shall not charge for any service delivered without the directions of the next of kin. However, in cases of accidental or violent death, the funeral service establishment may charge and be reimbursed for the removal of bodies and rendering necessary professional services until the next of kin or the persons liable for the funeral expenses have been notified.

C. No company, corporation or association engaged in the business of paying or providing for the payment of the expenses for the care of the remains of deceased certificate holders or members or engaged in providing life insurance when the contract might or could give rise to an obligation to care for the remains of the insured shall contract to pay or pay any benefits to any licensee of the Board or other individual in a manner which could restrict the freedom of choice of the representative or next of

kin of a decedent in procuring necessary and proper services and supplies for the care of the remains of the decedent.

D. No person licensed for the practice of funeral service or preneed funeral planning or any of his agents shall interfere with the freedom of choice of the general public in the choice of persons or establishments for the care of human remains or of preneed funeral planning or preneed funeral contracts.

E. This section shall not be construed to apply to the authority of any administrator, executor, trustee or other person having a fiduciary relationship with the decedent.

§ 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~~ *32.1-309.3* 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, 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~~ *any guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019. If no next of kin, designated person, agent, or guardian is available or willing to make visual identification of the deceased, such identification shall be made by a member of the primary law-enforcement agency of the city or county in which the person or institution having initial custody of the body is located, pursuant to court order.* When visual identification is not feasible, other positive identification of the deceased may be used as a prerequisite for cremation. *Unless such act, decision, or omission resulted from bad faith or malicious intent, the funeral service establishment, funeral service licensee, crematory, cemetery, primary law-enforcement officer, sheriff, county, or city shall be immune from civil liability for any act, decision, or omission resulting from cremation. Nothing in this section shall prevent a law-enforcement agency other than the primary law-enforcement agency from performing the duties established by this section if so requested by the primary law-enforcement agency and agreed to by the other law-enforcement agency.*

2. That §§ 32.1-284, 32.1-288, and 32.1-288.1 of the Code of Virginia are repealed.

3. That an emergency exists and this act is in force from its passage.

Exempt Regulatory Action

Conforming to Changes in Code of Virginia

18VAC65-20-436. Standards for registered crematories or funeral establishments relating to cremation.

A. Authorization to cremate.

1. ~~In accordance with § 54.1-2818.1 of the Code of Virginia, a~~ A crematory shall require a cremation authorization form executed in person or electronically in a manner that provides a copy of an original signature in accordance with § 54.1-2818.1 of the Code of Virginia ~~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 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.