



2015 Directory



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Officers

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Blake Baker **IFHV President**
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 Suffolk, VA 23434
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 FAX: 757/539-8729
 EMAIL: rwbakerfh@yahoo.com

Williams Funeral Home

Katherine Samford **Vice President**
 410 Windsor Avenue Term expires 2016*
 PO Box 41
 Lawrenceville, VA 23868
 PHONE: 434/848-2113
 FAX: 434-848-4664
 EMAIL: williamsfh@verizon.net

Hines Funeral Service

Nathan Hines **Secretary/Treasurer**
 903 Starling Ave. Term expires 2016*
 Martinsville, VA 24112
 PHONE: 276-656-3833
 FAX: 276-656-3855
 EMAIL: chines53@embarqmail.com

Graham Funeral Home

Scott Stroud **IFHV Past President**
 1112 Kempsville Road Term Expires 2015*
 Chesapeake, VA 23320
 PHONE: 757-382-7747
 FAX: 757-382-9522
 EMAIL: grahamfuneralhome@verizon.net

Executive Director & Legislative Counsel

The Keeney Group, Inc..

Bruce B. Keeney, Sr. - Executive Director
Bo Keeney – Associate Director *Ex Officio*
 118 North Eighth Street on Board of Directors
 Richmond, VA 23219
 PHONE: 804/643-0312
 FAX: 804/643-0311
 KeeneyGroup@gmail.com

Board of Directors (at-large members)

Bliley's Funeral Home

Carey Bliley Term expires 2015*
 3801 Augusta Avenue
 Richmond, VA 23230
 PHONE: (804) 355-3800
 FAX: (804) 355-8700
 EMAIL: cbliley@blileys.com

WJ Smith and Son Funeral Home, Inc.

David Cecil Term expires 2015*
 210 Harpersville Road
 Newport News, VA 23601
 PHONE: (757) 596-6911
 FAX: (757) 596-1704
 EMAIL: dceciljr56@cox.net

Loving Funeral Service

James Patton Loving Term expires 2016*
 350 North Maple Avenue
 Covington, VA 24426
 PHONE: 540/962-2283
 FAX: 540/965-4700
 EMAIL: chochopat@aol.com

Bedford Funeral Home

Ronnie Miller Term expires 2015*
 1039 Rock Castle Road
 Bedford, VA 24523
 PHONE: (540) 586-9167
 FAX: (540) 586-1089
 EMAIL: bedfordfuneral@verizon.net

Horne Funeral Service, Inc.

David Muncy Term expires 2016*
 1300 N. Franklin Street
 Christiansburg, VA 24073
 PHONE: (540) 382-2612
 FAX: (540) 382-7918
 EMAIL: tennesseevolzz@yahoo.com

Oakey's Funeral Service and Crematory

Sammy Oakey Term expires 2015*
 318 W. Church Ave
 Roanoke, VA 24016
 PHONE: (540) 982-2100
 FAX: (540) 344-9265
 EMAIL: soakey@oakeys.com

* denotes eligible for re-election when term expires

IFHV COMMITTEES

CHAPLAIN:

Nathan Hines

EDUCATION/CONVENTION COMMITTEE:

Paul Welch
Thomas Gale
David Bristow

INVESTMENT COMMITTEE:

Katharine Samford, Chairman
Scott Stroud
Thomas Gale
Bruce Keeney, Ex Officio

LEGISLATIVE COMMITTEE:

Thomas Gale, Chairman
Eric Bliley
Bruce Keeney, Ex Officio

MEMBERSHIP COMMITTEE:

David Muncy, Chairman
Kim Harris
Paul Welch

PURCHASING COMMITTEE:

David Muncy
Pat Loving

PERSONNEL & ADUIT/REVIEW COMMITTEE

Blake Baker
Thomas Gale
Scott Stroud

INDEPENDENT FUNERAL HOMES OF VIRGINIA BY-LAWS

ARTICLE I. NAME

The name and title of the organization shall be the Independent Funeral Homes of Virginia, Incorporated, herein referred to as the Association.

ARTICLE II. MEMBERSHIP

Section I - Membership Requirements

Membership in the Association shall consist of men and women of good moral character. These persons must also meet the requirements for membership in the Association as determined by the Board of Directors of the IFHV.

Section II - Membership Classes

A. Member Firm - Funeral establishments which meet the definition of "independent" as defined below, or as may be determined by the Board of Directors of the IFHV. Branch establishments will not be entitled to separate memberships.

B. Individual Members - Individuals who meet requirements *for* certification by the Virginia Board of Funeral Directors and Embalmers, or who are employed full-time in a management or executive capacity by a member firm, and meet the definition of "independent" as defined below or as may be determined by the Board of Directors of the IFHV.

C. Honorary Members - Persons of distinction who have rendered outstanding service to the Association.

D. Associate Members - Companies, other groups, institutions or persons who wish to affiliate with the Association.

E. Such other members as shall be decided by the Board of Directors.

Section III - Definitions

A. Independent

Only persons or companies meeting the definition of independent shall be eligible *for* membership. A firm shall be deemed to be independent unless its shares, or parent company's shares, are publicly traded or the parent firm is deemed to be an "acquisition" company.

B. Acquisition Company

A company whose sole purpose is the purchase and operation of existing funeral establishments, or construction and operation of new funeral establishments, as units of a regional or national corporation.

Section IV - Membership Applications

All application for membership shall be made in writing on an application form provided by the Association. The applications will be reviewed and approved or rejected by the Executive Director and/or Chairman of the Membership Committee. All rejected applications shall be reviewed by the Board for final determination.

Section V- Membership Dues

That dues invoices be provided to all members during the first week of December of each year in which the invoice shall clearly state that dues are due and payable by January 1 of the calendar year. A "past due" notice shall be provided at the end of the first week of January to those members who have failed to remit dues by that date. Should dues remain unpaid, a certified letter shall be sent, during the first week of February, to those members in arrears advising them that failure to remit full payment by February 28 shall result in automatic suspension of membership and membership benefits on March 1.

ARTICLE III. OFFICERS

Section I - Offices to be filled

Elected officers of the Association include: President, President Elect, VicePresident, Secretary, Treasurer and five of Directors.

Section II - Term of Office

- A. The term of office for President and Vice-President shall be one year.
- B. The term of office for Secretary/Treasurer shall be two years. The Board of Directors, at their discretion shall have the authority, if deemed necessary by the Board, to divide the Secretary/Treasurer position into two separate positions, one as Secretary and one as Treasurer. Should such occur, the Board shall select the Treasurer whose term shall coincide with that of the Secretary.
- C. The Term of office for Directors shall be two years, with two elected in even years and three to be elected in odd years.
- D. Officers and Directors shall be eligible to stand for reelection to one successive term in his/her office.

Section III - Eligibility and Qualifications of Candidates

All Individual Members, who are members in good standing sixty days prior to the elections, shall be eligible to stand as candidates.

Section IV - Declaration of Candidacy

All candidates must declare intent to run for elected officers or directors of the Association sixty days prior to the appointed date of election.

Section V - Ballots

The Executive Director shall, by mail, distribute a ballot to each Member Firm prior to the Annual Meeting. Each Member Firm, regardless of number of branches, will be entitled to one vote in Association elections. The Board of Directors shall establish all rules and regulations governing the el- Election Date The election of the Officers and Directors of the Association shall be held at the Annual Meeting.

Section VII - Vacancies

A. In the event of a vacancy in the office of President, the Vice-President shall become the President to serve the unexpired term. If at the time a vacancy in the office of Vice- President occurs and the Secretary/Treasurer position has been divided into two positions, the Secretary shall fill the vacant Vice-President's position.

B. In the event of a vacancy in the office of Vice-President, the Secretary/Treasurer shall become the Vice-President to serve the unexpired term.

C. In the event of a vacancy in the office of Secretary/Treasurer, the office shall be filled by a vote of the majority of the members of the Board of Directors as follows:

1. Less than one year remaining in term: the office shall be filled for the unexpired term by a vote of the majority of the members of the Board of Directors.
2. More than one year remaining in term: the office shall be filled for the unexpired term by a vote of the majority of the members of the Board of Directors until the next annual meeting, at which a special election can be held to fill out the unexpired term.

D. All other vacancies occurring in the Board of Directors shall be filled for the unexpired term by a vote of the majority of the remaining members of the Board of Directors.

ARTICLE IV. - BOARD OF DIRECTORS

Section I - Officers of the IFHV

Officers of the IFHV shall be the following:

1. President
2. Vice-President
3. Secretary/Treasurer, or as permitted by Article III, Section II, B, a Secretary and additionally a Treasurer.
4. Immediate Past President

Section II – Directors

ARTICLE V. - DUTIES AND RESPONSIBILITIES OF THE BOARD OF DIRECTORS

Without prejudice to the powers conferred by these By-Laws, it is expressly declared that the Board of Directors shall have the following powers:

- A. To appoint and employ, and at its discretion to remove and suspend, permanently or temporarily, such officers, managers, subordinate managers, assistants, clerks, and agents as it may, from time to time, choose, and to determine and fix their s
- B. To determine who shall be authorized to sign on the Associations behalf, bills, receipts, endorsements, checks, releases, contracts and documents.
- C. To recommend to the membership such charges, dues and/or assessments as it may deem advisable for the purpose of furthering the Association's objectives.
- D. To fill all vacancies occurring in their number between annual elections.

ARTICLE VI. - MEETINGS OF THE BOARD OF DIRECTORS

Section I

The Board of Directors shall meet at least four times a year, or more frequently at the discretion of the President of the IFHV.

Section II

All Board members shall have a copy of the Agenda prior to the start of the Board of Directors meeting.

Section III

An absolute majority of the members of the Board shall constitute a quorum for the purpose of transacting business.

ARTICLE VII. - DUTIES OF THE EXECUTIVE DIRECTOR

A. Exercise general management over the activities and operations of the state office and ensure that services are rendered to members in a timely and effective manner.

B. Develops specific procedures for implementing Board directives.

C. Maintains a planning process that promotes Association goals and objectives.

ARTICLE VIII. - MEETING OF THE MEMBERSHIP

Section I - Annual Meeting

The Board of Directors shall designate the time and place of the annual meeting of the IFHV. the membership shall be advised of the annual meeting at least ninety days prior to the selected date. No business shall be addressed at this meeting that is not on the Agenda.

Section II - Special Membership Meetings

Special membership meetings may be called by the President of the Association, upon order of the Board of Directors or upon written request to the President of at least fifteen members of the Association. the object of special meetings shall be stated in the call, and no other business shall be transacted. Notice of special meetings shall be transmitted by mail no less than thirty days prior to such meetings.

Section III - Quorum

Twenty-five percent of the total membership shall constitute a quorum at any meeting of the Association.

Section IV - Proxy

If a member is unable to vote in person at any membership meeting, they shall be able to request another member in good standing to act as their proxy.

ARTICLE IX. - DUTIES OF THE OFFICERS

Section I - President

The President shall preside at all business meetings of the Association and of the Board of Directors.

A. The President shall make, to the annual meeting of the IFHV, a full report of the year's activities.

B. The President shall establish all committees of the Association and shall designate the chair thereof, subject to the approval of the Board of Directors.

Section II - Vice President

The Vice President shall assume the duties of the President in his absence.

Section III - Secretary/Treasurer

The Secretary/Treasurer, of if such position is divided, then the Secretary will keep minutes of all meetings of the Association and be responsible to see that the original copies of all documents, records and correspondence is sent to the Executive Office for permanent storage. The Secretary/Treasurer, or if such position is divided, then the Treasurer, shall also maintain accurate records of the financial status of the IFHV and make reports of the financial status of the Association to the Board of Directors at Board meetings and annually to the membership.

Section IV - Immediate Past President

Upon completion of his/her term of office, the President shall assume the office of Immediate Past President and shall serve as a member of the Board of Directors for a term of one year.

ARTICLE X. - STANDING COMMITTEES

Section I

Standing Committee chairs shall be appointed by the President. Other committee members shall be selected by the respective chairmen, subject to approval of the Board of Directors.

Section II

The Standing Committees of the IFHV shall be:

- 1. Legislative and Governmental Affairs
- 2. Membership
- 3. Purchasing Alliance

Section III

The Standing Committees will be responsible for the performance of duties and functions delegated to them, hold regular meetings, and make reports of activities at each Board of Directors meeting.

ARTICLE XI. - AMENDMENTS

The By-Laws may be amended, altered or rescinded by a majority vote of the Board of Directors at any scheduled Board meeting or at any regular or special membership meeting, subject to ratification of the membership at the next annual meeting or within 60 days, by mail ballot, whichever occurs first.


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A REMINDER OF

IFHV FIRM MEMBER BENEFITS

The Association of Independent Funeral Homes of Virginia is the only professional state organization dedicated solely to the interests of Virginia's independents. IFHV is pleased to offer a number of member benefits which we hope you will fully utilize. If there is any way we may help you obtain more from your membership please just let us know.

Some of the IFHV Member Benefits

- Discounts on all IFHV sponsored CE Events; including the Annual Conference, One Day CE Seminar, and the Cremation Certification Course.
- Discounts and rebates with Aurora Casket Company.
 - (No minimums required and exclusive to IFHV Members)
- An Annual Directory; including updates to Virginia's laws and regulations affecting funeral service licensees.
- Quarterly Newsletters which provide relevant and timely updates to the funeral service professional.
- Discounted rates on your music license through ICCFA
- Access to the Funeral Service Credit Union
- IFHV offers a free and no obligation review of member firm's *group health insurance plans*. Often IFHV endorsed group health insurance plans can provide savings to our member firms.
- IFHV members, their employees and families are eligible for special preferred rates on *Long Term Care Insurance*.
- IFHV members are eligible for special preferred rates on *Income Disability Insurance*.
- We monitor *regulatory activities* of the Virginia Board of Funeral Directors and Embalmer to ensure that the business and professional interests of independents are considered.
- IFHV is widely recognized as a *successful and influential voice in legislative issues considered by the Virginia General Assembly*. Many of IFHV's legislative initiatives serve as a model for other states.
- Listing on the IFHV website under the "Find a Funeral Home" search feature.
- A knowledgeable staff who can assist you with any questions that might arise, call us at 804-643-0312 or email us at IFHVoffice@gmail.com

Chapter 28 of Title 54.1 of the Code of Virginia

Funeral Service

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§ 54.1-2800. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

§ 54.1-2801. Exemptions.

A. The provisions of this chapter shall not apply to any officer of local or state institutions or to the burial of the bodies of inmates of state institutions when buried at the expense of the Commonwealth or any of its political subdivisions.

B. Any person holding a license as a funeral director or embalmer or an equivalent in another state, having substantially similar requirements as the Board, may apply to the Board for courtesy card privileges to remove bodies from and to arrange funerals or embalm bodies in this Commonwealth. However, these privileges shall not include the right to establish or engage generally in the business of funeral directing and embalming in Virginia.

§ 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.

The Board of Funeral Directors and Embalmers shall consist of nine members as follows: seven funeral service licensees of the Board with at least five consecutive years of funeral service practice in this Commonwealth immediately prior to appointment and two citizen members. The terms of office shall be for four years from July 1. Appointments shall be made annually on or before June 30 as the terms of the members respectively expire. Appointments to the Board should generally represent the geographical areas of the Commonwealth. The Board shall annually elect a president, a vice-president and a secretary-treasurer.

The Board shall hold at least two meetings each year. In addition, the Board may meet as often as its duties require. Five members shall constitute a quorum. No less than quarterly, the Board shall offer examinations for licensure. Such examinations for licensure are not required to be held in conjunction with meetings of the Board.

§ 54.1-2803. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this subtitle, the Board shall have the following specific powers and duties to:

1. Establish standards of service and practice for the funeral service profession in the Commonwealth.
2. Regulate and inspect funeral service establishments, their operation and licenses.
3. Require licensees and funeral service interns to submit all information relevant to their practice or business.
4. Enforce the relevant regulations of the Board of Health.
5. Enforce local ordinances relating to funeral service establishments.
6. Advise the Department of Health Professions of any training appropriate for inspectors serving as the Board's agents.
7. Establish, supervise, regulate and control, in accordance with the law, programs for funeral service interns.
8. Establish standards for and approve schools of mortuary science or funeral service.
9. Regulate preneed funeral contracts and preneed funeral trust accounts as prescribed by this chapter, including, but not limited to, the authority to prescribe preneed contract forms, disclosure requirements and disclosure forms and to require reasonable bonds to insure performance of preneed contracts.
10. Inspect crematories and their operations.

§ 54.1-2804. Licensing authority.

The Board of Funeral Directors and Embalmers is authorized to determine the qualifications to enable any person to engage in the practice of funeral service, preneed funeral planning, funeral directing, embalming and the operation of a funeral service establishment.

§ 54.1-2805. Engaging in the practice of funeral services or the business of preneed funeral planning or acting as a funeral director or embalmer without a license.

It shall be unlawful for any person to engage in or hold himself out as engaging in the practice of funeral services or the business of preneed funeral planning, to operate a funeral service establishment, or to act as a funeral director or embalmer or hold himself out as such unless he is licensed by the Board. Engaging in the practice of funeral services, preneed funeral planning, operating a funeral service establishment, or acting as a funeral director or embalmer shall be recognized as that of a health profession.

§ 54.1-2806. Refusal, suspension or revocation of license.

The Board may refuse to admit a candidate to any examination, refuse to issue a license to any applicant and may suspend a license for a stated period or indefinitely, or revoke any license or censure or reprimand any licensee or place him on probation for such time as it may designate for any of the following causes:

1. Conviction of any felony or any crime involving moral turpitude;
2. Unprofessional conduct which is likely to defraud or to deceive the public or clients;
3. Misrepresentation or fraud in the conduct of the funeral service profession, or in obtaining or renewing a license;
4. False or misleading advertising or solicitation;
5. Solicitation at-need or any preneed solicitation using in-person communication by the licensee, his agents, assistants or employees; however, general advertising and preneed solicitation, other than in-person communication, shall be allowed;
6. Employment by the licensee of persons known as "cappers" or "steerers," or "solicitors," or other such persons to obtain the services of a holder of a license for the practice of funeral service;
7. Employment directly or indirectly of any agent, employee or other person, on part or full time, or on a commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;
8. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing business;
9. Use of alcohol or drugs to the extent that such use renders him unsafe to practice his licensed activity;
10. Aiding or abetting an unlicensed person to practice within the funeral service profession;
11. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of;
12. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
13. Violation of any statute, ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
14. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to custody;
15. Knowingly making any false statement on a certificate of death;
16. Violation of any provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1;
17. Failure to comply with § 54.1-2812, and to keep on file an itemized statement of funeral expenses in accordance with Board regulations;

18. Knowingly disposing of parts of human remains, including viscera, that are received with the body by the funeral establishment, in a manner different from that used for final disposition of the body, unless the persons authorizing the method of final disposition give written permission that the body parts may be disposed of in a manner different from that used to dispose of the body;
19. Violating or failing to comply with Federal Trade Commission rules regulating funeral industry practices;
20. Violating or cooperating with others to violate any provision of this chapter or the regulations of the Board of Funeral Directors and Embalmers or the Board of Health;
21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral service interns;
22. Failure to provide proper and adequate supervision and training instruction to registered funeral service interns as required by regulations of the Board;
23. Violating any statute or regulation of the Board regarding the confidentiality of information pertaining to the deceased or the family of the deceased or permitting access to the body in a manner that is contrary to the lawful instructions of the next-of-kin of the deceased;
24. Failure to include, as part of the general price list for funeral services, a disclosure statement notifying the next of kin that certain funeral services may be provided off-premises by other funeral service providers;
25. Disciplinary action against a license, certificate or registration issued by another state, the District of Columbia or territory or possession of the United States; and
26. Failure to ensure that a dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed if it is to be stored for more than 48 hours prior to disposition. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order.

§ 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 an investigation by the Office of the Chief Medical Examiner 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 Office of the Chief Medical Examiner as required by § 32.1-309.3.

B. Except as provided in § 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 the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282, 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.

§ 54.1-2807.01. When next of kin disagree.

A. In the absence of a designation under § 54.1-2825, when there is a disagreement among a decedent's next of kin concerning the arrangements for his funeral or the disposition of his remains, any of the next of kin may petition the circuit court where the decedent resided at the time of his death to determine which of the next of kin shall have the authority to make arrangements for the decedent's funeral or the disposition of his remains. The court may require notice to and the convening of such of the next of kin as it deems proper.

B. In determining the matter before it, the court shall consider the expressed wishes, if any, of the decedent, the legal and factual relationship between or among the disputing next of kin and between each of the disputing next of kin and the decedent, and any other factor the court considers relevant to determine who should be authorized to make the arrangements for the decedent's funeral or the disposition of his remains.

§ 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.

§ 54.1-2807.1. Confidentiality of information on infectious diseases.

All information received by any person practicing funeral services or his agent regarding the fact that any dead body which they have received harbors an infectious disease shall be confidential, and disclosure of such information shall be grounds for disciplinary action against the funeral service licensee pursuant to § 54.1-2806.

Notification that a dead body harbors an infectious disease will not constitute grounds for any funeral director's refusal to accept the body.

§ 54.1-2808.

Repealed by Acts 1998, c. 867.

§ 54.1-2808.1. Disposition of cremains.

Except as otherwise provided in § 54.1-2808.2, a funeral director may dispose of the cremains of an individual by interment, entombment, inurnment, or by scattering of the cremains, if after 120 days from the date of cremation, the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition. The funeral director shall keep a permanent record of all cremains which identifies the method and site of final disposition. The costs and all reasonable expenses incurred in disposing of the cremains shall be borne by the contracting agent. Upon the disposition of the cremains, the funeral director shall not be liable for the cremains or for the method of final disposition. Except as otherwise provided in § 54.1-2808.2, any funeral director in possession of unclaimed cremains prior to July 1, 1993, may dispose of such cremains in accordance with the provisions of this section. However, no funeral director shall, without written permission of the contracting agent, dispose of cremains in a manner or a location in which the cremains of the deceased are commingled, except in the scattering of cremains at sea, by air, or in an area used exclusively for such purpose, or place, temporarily, the cremains of persons in the same container or urn.

For the purposes of this section, "contracting agent" means any person, organization, association, institution, or group of persons who contracts with a funeral director or funeral establishment for funeral services.

§ 54.1-2808.2. Identification of unclaimed cremains of veterans.

A. If the contracting agent has not claimed the cremains or instructed the funeral director as to final disposition within 90 days from the date of cremation, the funeral director shall provide names and any other identifying information of the unclaimed cremains to the Department of Veterans Services in order for the Department to determine if the unclaimed cremains are those of a veteran. The names and any personal identifying information submitted by a funeral director to the Department of Veterans Services in compliance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Commencing July 1, 2014, the Department of Veterans Services shall notify the funeral director within 30 days of receipt of the information required by subsection A if the cremains are those of a veteran and, if so, whether such veteran is eligible for burial in a veterans cemetery in order to permit the transfer of the unclaimed cremains to a veterans cemetery.

C. No disposal of the unclaimed cremains of an eligible veteran shall be made until the funeral director has notified the Virginia Department of Veterans Services and has received a determination as to whether the cremains are those of an eligible veteran. Absent bad faith or malicious intent, no funeral director who transfers the cremains of a veteran to the Virginia Department of Veterans Services for purposes of disposition as provided in this section shall be liable for civil negligence.

§ 54.1-2809. Penalties.

Any person, partnership, corporation, association, or its agents or employees who violate any of the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

§ 54.1-2810. Licensure of funeral establishments.

No person shall conduct, maintain, manage or operate a funeral establishment unless a license for each such establishment has been issued by the Board. No license to operate a funeral establishment shall be issued by the Board unless each such funeral establishment has in charge, full time, a person licensed for the practice of funeral service or a licensed funeral director. Applications for funeral establishment licenses shall be made on forms furnished by the Board and filed by the owner or the registered agent of the corporation with the Board.

Each funeral establishment license shall expire annually at a time prescribed by Board regulation. A license may be renewed within 30 days of its expiration. Upon expiration of the license, the Board shall notify each licensee of the provisions of this section. Renewal of a license after the expiration of the 30-day period shall be in the discretion of the Board.

Violations of any provisions of this chapter or any Board regulations by any person, or an officer, agent or employee with the knowledge or consent of any person operating a funeral establishment shall be considered sufficient cause for suspension or revocation of the funeral establishment license.

An operator of a funeral establishment shall not allow any person licensed for the practice of funeral service to operate out of his funeral establishment unless the licensee is the operator or an employee of the operator of a licensed funeral establishment.

If the manager of the funeral service establishment is unable, for any reason, to exercise adequate supervision, direction, management, and control of the funeral establishment, the owner shall designate any funeral service licensee to serve as a temporary manager and notify the Board in writing within 14 days. If such inability of the manager exceeds 90 days or is expected to exceed 90 days, a new manager shall be designated and registered with the Board. At the conclusion of the 90-day period for designation of a new manager, a funeral service establishment which has failed to designate a new manager shall not operate as a funeral service establishment.

When licensing funeral establishments, the Board may grant a hardship waiver from the requirement for a full-time manager licensed for the practice of funeral service or licensed as a funeral director, allowing the operation of two funeral establishments having in charge one full-time person licensed for the practice of funeral service or one licensed funeral director who divides his time between the two funeral establishments. Prior to granting a hardship waiver, the Board shall find that (i) the two establishments have been in operation for at least three years; (ii) the combined average number of funeral calls at the two establishments, as submitted in monthly reports to the Division of Vital Records and Health Statistics of the Virginia Department of Health, over the previous three years is no more than 85 per year; and (iii) the distance between the two establishments is 50 miles or less.

Prior to granting a renewal of a license granted under a hardship waiver, the Board shall determine whether the requirements for license renewal under such waiver continue to exist.

§ 54.1-2811. Facility requirements.

A funeral service establishment shall contain a preparation room equipped with a tile, cement or other waterproof floor, proper drainage and ventilation, the necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition, and separate restroom facilities.

A funeral service establishment having more than one location at which it performs funeral services shall not be required to maintain more than one preparation room.

The Board may adopt regulations and classifications to prescribe proper drainage and ventilation and necessary instruments and supplies in preparation rooms and separate restroom facilities.

§ 54.1-2811.1. Handling and storage of human remains.

A. Upon taking custody of a dead human body, a funeral service establishment shall maintain such body in a manner that provides complete coverage of the body and that is resistant to leakage or spillage, except during embalming or preparation of an unembalmed body for final disposition; restoration and dressing of a body in preparation for final disposition; and viewing during any visitation and funeral service.

B. If a dead human body is to be stored for more than 48 hours prior to disposition, a funeral services establishment having custody of such body shall ensure that the dead human body is maintained in refrigeration at no more than approximately 40 degrees Fahrenheit or embalmed. A dead human body shall be maintained in refrigeration and shall not be embalmed in the absence of express permission by a next of kin of the deceased or a court order.

C. If a dead human body is to be stored for more than 10 days prior to disposition at a location other than a funeral service establishment, the funeral service establishment shall disclose to the contract buyer the location where the body is to be stored and the method of storage.

D. Funeral services establishments, crematories, or transportation services shall not transport animal remains together with dead human bodies. Further, animal remains shall not be refrigerated in a unit where dead human bodies are being stored.

§ 54.1-2812. Itemized statement and general price list of funeral expenses to be furnished.

Every person licensed pursuant to the provisions of this chapter shall furnish a written general price list and a written itemized statement of charges in connection with the care and disposition of the body of a deceased person.

Individuals inquiring in person about funeral arrangements or the prices of funeral goods shall be given the general price list. Upon beginning discussion of funeral arrangements or the selection of any funeral goods or services, the general price list must be offered by the funeral licensee.

The itemized statement shall include, but not be limited to, the following charges: casket, other funeral merchandise, vault or other burial receptacle, facilities used, transportation costs, embalming, preparation of the body, other professional services used and disclosure statements required by the Federal Trade Commission, which shall be set forth in a clear and conspicuous manner.

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

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

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

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

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

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

§ 54.1-2814. Examination.

Each applicant for license for the practice of funeral service shall be examined in writing on:

1. Basic and health sciences including anatomy, chemistry, bacteriology, pathology, hygiene and public health;
2. Funeral service arts and sciences including embalming and restorative art;
3. Funeral service administration including accounting, funeral law, psychology, and funeral principles, directing and management.

The Board may recognize other examinations that it considers equivalent to its examination.

§ 54.1-2814.1. Registration as a cremator.

A. No crematorium, cemeterian, memorial society, or other establishment, organization, or person shall cremate a dead human body without having registered with the Board as a cremator.

B. The Board shall prescribe the procedures for registration under this section. Such procedures shall include a requirement that any crematory registered with the Board that engages in the practice of funeral services operate in compliance with the provisions § 54.1-2810. However, nothing in this subsection shall require a crematory registered with the Board to obtain a license as a funeral service establishment as long as the crematory provides cremation services directly to or for a licensed funeral service establishment only and not to the general public.

C. The Board may suspend or revoke any crematory registration or deny any application for such registration, or refuse to issue or renew any such registration, if the Board finds that the applicant or registrant has violated any provision of this chapter, the Board's regulations, or if the Board finds the crematory has operated or is operating in a manner that endangers the health, safety or welfare of the public.

§ 54.1-2815. Application for license; how license signed; duration.

All applications for examination for a license for the practice of funeral service shall be upon forms furnished by the Board.

All licenses shall be signed by the president and secretary of the Board and stamped with the seal of the Board.

All licenses shall be issued or renewed for a period prescribed by the Board, not exceeding two years.

§ 54.1-2816. License renewal; failure to return renewal form.

Prior to the expiration of a license, the Board shall provide to each person licensed to practice funeral service, embalming, or funeral directing a renewal notice and application to be submitted to the Board together with the prescribed fee. Upon request, the Board shall provide renewal notices by mail to any licensee. The license of any person who does not submit the completed form prior to the date of expiration shall automatically expire. The Board shall immediately notify the person of the expiration and the reinstatement requirements. The Board shall reinstate an expired license upon receipt, within 30 days of the notice of expiration, of the completed form and the prescribed fee. Reinstatement after the 30-day period shall be at the discretion of the Board.

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

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

B. The Board shall approve criteria for continuing education courses, requiring no more than five hours per year, that are directly related to the respective license and scope of practice of funeral service licensees, funeral directors and embalmers. Approved continuing education courses shall include, but not be limited to, at least one hour per year covering compliance with federal or state laws and regulations governing the profession, and at least one hour per year covering preneed funeral arrangements. Course providers may be required to register continuing education courses with the Board pursuant to Board regulations. The Board shall not allow continuing education credit for courses where the principal purpose of the course is to promote, sell or offer goods, products or services to funeral homes.

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

D. The Board shall have the authority to grant exemptions or waivers in cases of certified illness or undue hardship.

E. The Board may provide for an inactive status for those licensees who do not practice in Virginia. The Board may adopt regulations reducing or waiving continuing education requirements for any licensee granted such inactive status. However, no licensee granted inactive status may have their license changed to active status without first obtaining additional continuing education hours as may be determined by the Board. No person or registrant shall practice in Virginia as an embalmer, funeral director, or funeral service licensee unless he holds a current, active license.

§ 54.1-2817. Funeral service interns.

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

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

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

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

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

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

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

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

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

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

§ 54.1-2818. Registration and display of licenses.

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

§ 54.1-2818.1. Prerequisites for cremation.

No dead human body shall be cremated without permission of the Office of the Chief Medical Examiner as required by § 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 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.

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

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

§ 54.1-2818.3. Applications for registration required.

Any crematory shall apply for and receive a registration from the Board as a registered crematory. However, this section shall not supersede or restrict the provisions of § 54.1-2814.1.

§ 54.1-2818.4. Immunity from liability for services after organ and tissue donation.

Unless such act, decision, or omission resulted from bad faith or malicious intent, any funeral service establishment, funeral service licensee, crematory, or registered crematory that receives a body following donation of organs, tissues, or eyes shall be immune from civil liability for any failure to restore such decedent's form or features in a manner acceptable for viewing prior to the final disposition of the remains.

§ 54.1-2819. Registration of surface transportation and removal services.

Any person or private business, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, or an emergency medical services agency holding a permit issued by the Commissioner of Health pursuant to § 32.1-111.6, shall apply for and receive a registration as a transportation and removal service in order to be authorized to engage in the business of surface transportation or removal of dead human bodies in this Commonwealth.

Surface transportation and removal services shall not arrange or conduct funerals, provide for the care or preparation, including embalming, of dead human bodies, or sell or provide funeral-related goods and services without the issuance of a funeral service establishment license.

The Board of Funeral Directors and Embalmers shall promulgate regulations for such registration including proper procedures in the handling of all dead human bodies being transported, application process for registration, and establishment of registration fees. These regulations shall not require the use of a casket for transportation. No licensed funeral service establishment shall be required to receive such registration in addition to its funeral service establishment license. However, such establishment shall be subject to the regulations pertaining to transportation and removal services.

All registrations as a surface transportation and removal service shall be renewed annually and no person, private business or funeral service establishment shall engage in the business as a surface transportation and removal service without holding a valid registration.

Any surface transportation or removal service which is not registered or persons who knowingly engage in transportation or removal services without registration shall be subject to the disciplinary actions provided in this chapter.

This section shall not be construed to prohibit private individuals from transporting or removing the remains of deceased family members and relatives either by preference or in observation of religious beliefs and customs.

§ 54.1-2820. Requirements of preneed funeral contracts.

A. It shall be unlawful for any person residing or doing business within this Commonwealth, to make, either directly or indirectly by any means, a preneed funeral contract unless the contract:

1. Is made on forms prescribed by the Board and is written in clear, understandable language and printed in easy-to-read type, size and style;
2. Identifies the seller, seller's license number and contract buyer and the person for whom the contract is purchased if other than the contract buyer;
3. Contains a complete description of the supplies or services purchased;
4. Clearly discloses whether the price of the supplies and services purchased is guaranteed;
5. States if funds are required to be trusted pursuant to § 54.1-2822, the amount to be trusted, the name of the trustee, the disposition of the interest, the fees, expenses and taxes which may be deducted from the interest and a statement of the buyer's responsibility for taxes owed on the interest;
6. Contains the name, address and telephone number of the Board and lists the Board as the regulatory agency which handles consumer complaints;
7. Provides that any person who makes payment under the contract may terminate the agreement at any time prior to the furnishing of the services or supplies contracted for except as provided pursuant to subsection B; if the purchaser terminates the contract within 30 days of execution, the purchaser shall be refunded all consideration paid or delivered, together with any interest or income accrued thereon; if the purchaser terminates the contract after 30 days, the purchaser shall be refunded any amounts required to be deposited under § 54.1-2822, together with any interest or income accrued thereon;
8. Provides that if the particular supplies and services specified in the contract are unavailable at the time of delivery, the seller shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship and the representative of the deceased shall have the right to choose the supplies or services to be substituted;
9. Discloses any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or prearrangement guarantee; and

10. Complies with all disclosure requirements imposed by the Board.

If the contract seller will not be furnishing the supplies and services to the purchaser, the contract seller must attach to the preneed funeral contract a copy of the seller's agreement with the provider.

B. Subject to the requirements of § 54.1-2822, a preneed funeral contract may provide for an irrevocable trust or an amount in an irrevocable trust that is specifically identified as available exclusively for funeral or burial expenses, where:

1. A person irrevocably contracts for funeral goods and services, such person funds the contract by prepaying for the goods and services, and the funeral provider residing or doing business within the Commonwealth subsequently places the funds in a trust; or

2. A person establishes an irrevocable trust naming the funeral provider as the beneficiary; however, such person shall have the right to change the beneficiary to another funeral provider pursuant to § 54.1-2822.

C. If a life insurance or annuity contract is used to fund the preneed funeral contract, the life insurance or annuity contract shall provide either that the face value thereof shall be adjusted annually by a factor equal to the annualized Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor, or a benefit payable at death under such contract that will equal or exceed the sum of all premiums paid for such contract plus interest or dividends, which for the first 15 years shall be compounded annually at a rate of at least five percent. In any event, interest or dividends shall continue to be paid after 15 years. In addition, the following must also be disclosed as prescribed by the Board:

1. The fact that a life insurance policy or annuity contract is involved or being used to fund the preneed contract;

2. The nature of the relationship among the soliciting agent, the provider of the supplies or services, the prearranger and the insurer;

3. The relationship of the life insurance policy or annuity contract to the funding of the preneed contract and the nature and existence of any guarantees relating to the preneed contract; and

4. The impact on the preneed contract of (i) any changes in the life insurance policy or annuity contract including but not limited to changes in the assignment, beneficiary designation or use of the proceeds, (ii) any penalties to be incurred by the policyholder as a result of failure to make premium payments, (iii) any penalties to be incurred or moneys to be received as a result of cancellation or surrender of the life insurance policy or annuity contract, and (iv) all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy or annuity contract and the amount actually needed to fund the preneed contract.

D. When the consideration consists in whole or in part of any real estate, the contract shall be recorded as an attachment to the deed whereby such real estate is conveyed, and the deed shall be recorded in the clerk's office of the circuit court of the city or county in which the real estate being conveyed is located.

E. If any funeral supplies are sold and delivered prior to the death of the subject for whom they are provided, and the seller or any legal entity in which he or a member of his family has an interest thereafter stores these supplies, the risk of loss or damage shall be upon the seller during such period of storage.

§ 54.1-2821. Exemptions.

This article shall not apply to the preneed sale of cemetery services or supplies regulated under Chapter 23.1 (§ 54.1-2310 et seq.) of this title.

§ 54.1-2822. Deposit of money received pursuant to preneed funeral contract.

A. Within 30 days following the receipt of any money paid pursuant to any preneed funeral contract or interest or income accrued thereon, unless such amounts are paid to fund either an annuity or an insurance policy which will be used to purchase the funeral supplies or services contracted for, the person receiving such amounts shall deposit all consideration paid pursuant to the terms of a preneed funeral contract in which the price of the supplies and services is not guaranteed, or ninety percent of all consideration paid pursuant to the terms of a preneed funeral contract in which the price of the supplies and services is guaranteed, in a special account in a bank or savings institution doing business in this Commonwealth.

B. The funds shall be deposited in separate, identifiable trust accounts setting forth the names of the depositor, the trustee for the person who is the subject of the contract, the name of the person who will render the funeral services and the name of the person who is the subject of the contract. The purchaser shall have the right to change the beneficiary and trustee of the trust at any time prior to the furnishing of the services or supplies contracted for under the preneed funeral contract. Trust account records shall be subject to examination by the Board.

C. No funeral director, embalmer, funeral service licensee, owner of a funeral establishment, or any person employed by or having an interest in a funeral establishment shall serve as trustee of a trust account for which any such person, or any funeral establishment owned by or employing such person or in which such person has an interest, has been named the beneficiary or designated the provider of services, unless two or more such persons are named and serve as trustees and are required to act jointly in such fiduciary capacity. Subject to the terms of this subsection, and notwithstanding any other provision of law, the trustee for any such trust account may be an incorporated association that is authorized to sell burial association group life insurance certificates in the Commonwealth, as described in the definition of limited burial insurance authority in § 38.2-1800, whose principal purpose is to assist its members in (i) financial planning for their funerals and burials and (ii) obtaining insurance for the payment, in whole or in part, for funeral, burial, and related expenses.

§ 54.1-2822.1. Funeral establishments to maintain preneed records.

Every person selling preneed funeral contracts within this Commonwealth shall keep and maintain such records of preneed transactions, including copies of preneed contracts, as may be prescribed by the Board. All such records shall be maintained on the premises of the funeral establishment providing the preneed services and supplies, except that preneed records of funeral establishments under common ownership, control, or management may be maintained at a single location within this Commonwealth.

§ 54.1-2823. Exemption from levy, garnishment and distress.

Any money, personal property or real property paid, delivered or conveyed subject to § 54.1-2822 shall be exempt from levy, garnishment or distress.

§ 54.1-2824. Declaration of trust in consideration other than money.

Within thirty days following the receipt of any personal property other than money delivered pursuant to any preneed funeral contract, the person receiving it, if title thereto is transferred, or the person making such delivery, if title thereto is not transferred, shall execute in writing a declaration of trust setting forth all the terms, conditions and considerations upon which the personal property is delivered, which shall be acknowledged in the same manner as the contract and recorded in the clerk's office of the circuit court of the city or county in which the person delivering the personal property resides; provided, that if such terms, conditions and considerations are contained in the preneed funeral contract, the contract shall be recorded.

§ 54.1-2825. Person to make arrangements for disposition of remains.

A. Any person may designate in a signed and notarized writing, which has been accepted in writing by the person so designated, an individual who shall make arrangements and be otherwise responsible for his funeral and the disposition of his remains, including cremation, interment, entombment, or memorialization, or some combination thereof, upon his death. Such designee shall have priority over all persons otherwise entitled to make such arrangements, provided that a copy of the signed and notarized writing is provided to the funeral service establishment and to the cemetery, if any, no later than 48 hours after the funeral service establishment has received the remains. Nothing in this section shall preclude any next of kin from paying any costs associated with any funeral or disposition of any remains, provided that such payment is made with the concurrence of any person designated to make arrangements.

B. In cases in which a person has designated in a U.S. Department of Defense Record of Emergency Data (DD Form 93) or any successor form an individual to make arrangements for his funeral and disposition of his remains, and such person dies while serving in any branch of the United States Armed Forces as defined in 10 U.S.C. § 1481, such designee shall be responsible for making such arrangements.

Commonwealth of Virginia



**REGULATIONS
OF THE
VIRGINIA BOARD OF
FUNERAL DIRECTORS AND EMBALMERS**

Title of Regulations: 18 VAC 65-20-10 et seq.

**Statutory Authority: § 54.1-2400 and Chapter 28
of Title 54.1 of the *Code of Virginia***

Revised Date: July 29, 2014

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Part I. General Provisions.

18VAC65-20-10. Definitions.

Words and terms used in this chapter shall have the definitions ascribed in §54.1-2800 of the Code of Virginia or in 16 CFR Part 453, Funeral Industry Practices, of the Federal Trade Commission, which is incorporated by reference in this chapter. In addition, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Branch" or "chapel" means a funeral service establishment that is affiliated with a licensed main establishment and that conforms with the requirements of §54.1-2811 of the Code of Virginia.

"Courtesy card" means the card issued by the board which grants limited and restricted funeral service privileges in the Commonwealth to out-of-state funeral service licensees, funeral directors, and embalmers.

"Cremation container" means a container in which human remains are transported to the crematory and placed in the retort for cremation.

"Cremation urn" means a wood, metal, stone, plastic, or composition container or a container of other material, which is designed for encasing cremated ashes.

"Cremation vault" or "cremation outer burial container" means any container that is designed for encasement of an inner container or urn containing cremated ashes. Also known as a cremation box.

"FTC" means the Federal Trade Commission.

"Manager of record" means a funeral service licensee or licensed funeral director who is responsible for the direct supervision and management of a funeral service establishment or branch facility.

18VAC65-20-15. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate.

In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate, except with the concurrence of a committee of the board, are those that involve:

1. Intentional or negligent conduct that causes or is likely to cause injury;
2. Conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public;
3. Impairment with an inability to practice with skill and safety;
4. Inappropriate handling of dead human bodies;
5. Sexual misconduct;
6. Misappropriation of funds;
7. Aiding or abetting unauthorized practice; or
8. Felony conviction by an applicant.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.
2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.
3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

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

18VAC65-20-50. Posting of license.

- A. Each licensee shall post an original or photocopy of his license in a place conspicuous to consumers of funeral services in each establishment or branch where he is employed.
- B. The establishment license shall be posted in a place conspicuous to consumers of funeral services.

18VAC65-20-60. Accuracy of information.

- A. All changes in the address of record or the public address, if different from the address of record, or in the name of a licensee or registrant shall be furnished to the board within 30 days after the change occurs.
- B. Any change in ownership or manager of record for an establishment or crematory shall be reported to the board within 14 days of the change.
- C. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address of record on file with the board and shall not relieve the licensee, funeral service intern, establishment, crematory, or firm of obligation to comply.

18VAC65-20-70. Required fees.

A. The following fees shall apply for initial licensure or registration:

- | | |
|--|-------|
| 1. License to practice funeral service or as a funeral director or an embalmer | \$275 |
| 2. Funeral service establishment license | \$500 |
| 3. Surface transportation and removal service registration | \$300 |
| 4. Courtesy card | \$275 |
| 5. Crematory | \$200 |
| 6. Waiver of full-time manager requirement | \$150 |

B. The following fees shall apply for renewal of licensure or registration:

- | | |
|--|-------|
| 1. License to practice funeral service or as a funeral director or an embalmer | \$175 |
| 2. Funeral service establishment license | \$300 |
| 3. Surface transportation and removal service registration | \$250 |
| 4. Courtesy card | \$275 |
| 5. Crematory | \$150 |

6. Waiver of full-time manager requirement \$100

C. The following fees shall apply for late renewal of licensure or registration up to one year following expiration:

1. License to practice funeral service or as a funeral director or an embalmer \$60
2. Funeral service establishment license \$100
3. Surface transportation and removal service registration \$85
4. Courtesy card \$90
5. Crematory \$50
6. Waiver of full-time manager requirement \$35

D. The following fees shall apply for reinstatement of licensure or registration:

1. License to practice funeral service or as a funeral director or an embalmer \$275
2. Establishment license \$500
3. Surface transportation and removal service registration \$350
4. Courtesy card \$275
5. Crematory \$225
6. Reinstatement following suspension \$500
7. Reinstatement following revocation \$1,000

E. Other fees.

1. Change of manager or establishment name \$75
2. Verification of license or registration to another state \$50
3. Duplicate license, registration, or courtesy card \$15
4. Duplicate wall certificates \$60
5. Change of ownership \$100
6. Non-routine reinspection \$300

F. Fees for approval of continuing education providers

1. Application or renewal for continuing education provider \$300
2. Late renewal of continuing education provider approval \$100
3. Review of additional courses not included on initial or renewal application \$300

18VAC65-20-80 to 18VAC65-20-100. [Repealed]

18VAC65-20-110. Additional fee information.

- A. There shall be a fee of \$35 for returned checks.
- B. Fees shall not be refunded once submitted.
- C. The fee for the Virginia State Board Examination shall be paid directly to the examination service contracted by the board for its administration.

Part II. Renewals and Reinstatement.

18VAC65-20-120. Expiration dates.

- A. A funeral service establishment license, crematory registration, or surface transportation and removal service registration shall expire on March 31 of each calendar year.
- B. The funeral service license, funeral director license, or embalmer license shall expire on March 31 of each calendar year.
- C. Courtesy cards expire on March 31 of each calendar year.

18VAC65-20-130. Renewal of license; registration.

- A. A person, establishment, crematory, courtesy card holder or surface transportation and removal service that desires to renew its license or registration for the next year shall, not later than the expiration date as provided in 18VAC65-20-120, submit the renewal form and applicable fee.
 - 1. In order to renew an active funeral service, director or embalmer license, a licensee shall be required to comply with continuing competency requirements set forth in 18VAC65-20-151.
 - 2. The board shall not renew a license for any licensee who fails to attest to compliance with continuing competency requirements on the renewal form.
- B. A person who or entity which desires to renew an expired license for up to one year following expiration shall comply with requirements of subsection A of this section and also submit the applicable fee for late renewal.
- C. A person who or entity which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in 18VAC65-20-120 shall be deemed to have an invalid license, registration, or courtesy card and continued practice may subject the licensee to disciplinary action by the board.

18VAC65-20-140. Reinstatement of expired license or registration.

- A. The board may consider reinstatement of an expired license or registration that has not been renewed within one year of expiration for up to three years following expiration. An application request for reinstatement shall be submitted to the board and shall include payment of the reinstatement fee prescribed in 18VAC65-20-70.
- B. If the Virginia license of a funeral service provider, funeral director and embalmer is lapsed three years or less and the applicant is seeking reinstatement, he shall provide evidence of having completing the number of continuing competency hours required for the period in which the license has been lapsed.
- C. When a license is not reinstated within three years of its expiration date, an applicant shall reapply for licensure and pass the state examination.

18VAC65-20-150. [Repealed]

18VAC65-20-151. Continued competency requirements for renewal of an active license.

A. Funeral service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of five hours per year of continuing education offered by a board-approved sponsor for licensure renewal in courses that emphasize the ethics, standards of practice, preneed contracts and funding, or federal or state laws and regulations governing the profession of funeral service. One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell or offer goods, products or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

18VAC65-20-152. Continuing education providers.

A. Unless disqualified by action of the board, courses offered by the following providers are approved for continuing education credit:

1. Local, state or federal government agencies;
2. Regionally accredited colleges and universities; or
3. Board-recognized national, regional, state and local associations or organizations as follows:
 - a. National Funeral Directors Association and state chapters;
 - b. National Funeral Directors and Morticians Association and state chapters;
 - c. Association of Independent Funeral Homes of Virginia;
 - d. Cremation Association of North America;
 - e. American Board of Funeral Service Education;
 - f. International Conference of Funeral Service Examining Boards;
 - g. Virginia Morticians Association; and
 - h. Other similar associations or organizations as approved by action of the board.

B. Course providers not listed in subsection A of this section may apply for approval by the board as continuing education providers.

1. To be considered for board approval, a continuing education provider shall submit 60 days prior to offering a continuing education course:

- a. Documentation of an instructional plan and course objectives for continuing education courses that meet the criteria set forth in 18VAC65-20-151 B;
- b. A syllabus of the course or courses to be offered with the credentials of the course instructors, a description of each session, including number of continuing education hours; and
- c. The continuing education provider fee set forth under 18VAC65-20-70.

2. Board approval of continuing education providers under this subsection shall expire on July 1 of each year and may be renewed upon resubmission of documentation on courses and instructors and the provider fee as required by the board.

3. Continued approval of a continuing education provider may be granted without submission of the provider fee if the provider submits a statement that courses and instructors offered for the coming year will not change from the previous year. If there will be additions or alterations to the continuing education offerings of a provider, resubmission of documentation and a provider fee is required.

C. Continuing education providers approved under subsection A or B of this section shall:

1. Maintain and provide to the board upon request documentation of the course titles and objectives and of licensee attendance and completion of courses for a period of two years;

2. Monitor attendance at classroom or similar educational experiences for compliance with law and regulations; and

3. Provide a certificate of completion for licensees who successfully complete a course.

18VAC65-20-153. Documenting compliance with continuing education requirements.

A. All licensees with active status are required to maintain original documentation for a period of two years after renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation within 14 days as follows:

1. Official transcripts showing credit hours earned from an accredited institution; or

2. Certificates of completion from approved providers.

D. Compliance with continuing education requirements, including the subject and purpose of the courses as prescribed in 18VAC65-20-151 B, the maintenance of records and the relevance of the courses to the category of licensure is the responsibility of the licensee. The board may request additional information if such compliance is not clear from the transcripts or certificates.

E. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.

18VAC65-20-154. Inactive license.

A. A funeral service licensee, funeral director or embalmer who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee of \$90, be issued an inactive license. The fee for late renewal up to one year following expiration of an inactive license shall be \$30.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice funeral service in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A funeral service licensee, funeral director or embalmer who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

Part III. Requirements for Licensure.

18VAC65-20-160. [Repealed]

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 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 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. Every funeral establishment shall have a manager of record who is employed full time by and in charge of the establishment.

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.

18VAC65-20-180 to 18VAC65-20-230. [Repealed]

18VAC65-20-235. Approval of educational programs.

All applicants for funeral service licensure are required to have graduated from a funeral service program offered by a school of mortuary science or funeral service accredited by the American Board of Funeral Service Education, Incorporated.

18VAC65-20-240. Requirements for funeral service licensure by examination.

A. Application requirements.

1. Applicants shall submit school transcripts and national examination board scores as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.
2. An individual applying for the state examination shall submit the application package not less than 30 days prior to an examination date. The board may, for good cause shown by the applicant, waive the time for the filing of any application.

B. National examination requirements. Prior to applying for licensure by examination, every applicant shall pass the National Board Examination of the International Conference of Funeral Service Examining Boards.

C. State examination requirements. All applicants shall pass the Virginia State Board Examination.

18VAC65-20-250 to 18VAC65-20-340. [Repealed]

18VAC65-20-350. Requirements for licensure by reciprocity or endorsement.

A. Licenses for the practice of funeral service or its equivalent issued by other states, territories, or the District of Columbia may be recognized by the board and the holder of such license or licenses may be granted a license to practice funeral service within the Commonwealth. Licenses may be granted to applicants by the board on a case-by-case basis if the applicant holds a valid license for the practice of funeral service or its equivalent in another state, territory, or the District of Columbia and possesses credentials which are substantially similar to or more stringent than required by the Commonwealth for initial licensure at the time the applicant was initially licensed.

B. An applicant for licensure by reciprocity or endorsement shall pass the Virginia State Board Examination.

18VAC65-20-360 to 18VAC65-20-390. [Repealed]

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 compliance with standards of the Occupational Safety and Health Administration (OSHA) for universal precautions and blood-borne pathogens.

18VAC65-20-410. [Repealed]

18VAC65-20-420. Misrepresentation.

A person employed or operating a surface transportation and removal service shall not in any manner misrepresent himself to the public as being an official of any local jurisdiction, the Commonwealth, federal, or any other governmental body unless granted such authority. This shall include the name and title of the company or service, uniforms, equipment, vehicles, and any other instruments used or proffered by the services or its agents.

18VAC65-20-430. [Repealed]

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 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 of record who has (i) achieved certification by the Cremation Association of North America (CANA); the International Cemetery, Cremation and Funeral Association (ICCF); or other

certification recognized by the board and (ii) received training in compliance standards of the Occupational Health and Safety Administration (OSHA) for universal precautions and blood-borne pathogens.

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 (ICCF); or other certification recognized by the board. 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 relating to cremation.

A. Authorization to cremate.

1. 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.
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 degrees Fahrenheit or less, unless the remains have been embalmed.

C. Handling of human remains.

1. Human remains shall be transported to a crematory in a cremation container and shall not be removed from the container unless the crematory has been provided with written instructions to the contrary by the person who signed the authorization form. A cremation container shall substantially meet all the following standards:
 - a. Be composed of readily combustible materials suitable for cremation;

- b. Be able to be closed in order to provide complete covering for the human remains;
- c. Be resistant to leakage or spillage; and
- d. Be rigid enough for handling with ease.

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

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

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

- 1. The cremation authorization form signed by the person authorized by law to dispose of the remains and the form on which the next-of-kin or the person authorized by § 54.1-2818.1 to make the identification has made a visual identification of the deceased or evidence of positive identification, if visual identification is not feasible;
- 2. The permission form from the medical examiner;
- 3. The DEQ permit number of the retort used for the cremation and the name of the retort operator; and
- 4. The form verifying the release of the cremains, including date and time of release, the name of the person and the entity to whom the cremains were released and the name of the decedent.

Part V. Issuance of Courtesy Cards.

18VAC65-20-440. Courtesy cards.

A. An out-of-state person applying for a courtesy card pursuant to §54.1-2801 B of the Code of Virginia shall hold a valid license for funeral service, funeral directing, or embalming in another state, territory, or the District of Columbia.

B. An applicant for a courtesy card shall submit:

- 1. A completed application and prescribed fee; and
- 2. Verification of a current funeral service license in good standing from the applicant's licensing authority.

C. The holder of a Virginia courtesy card shall only engage in the practice for which he is currently licensed in another jurisdiction.

18VAC65-20-450 to 18VAC65-20-490. [Repealed]

Part VI. Refusal, Suspension, Revocation, and Disciplinary Action.

18VAC65-20-500. Disciplinary action.

In accordance with the provisions of §54.1-2806 of the Code of Virginia, the following practices are considered unprofessional conduct and may subject the licensee to disciplinary action by the board:

1. Breach of confidence. The unnecessary or unwarranted disclosure of confidences by the funeral licensee.
2. Unfair competition.
 - a. Interference by a funeral service licensee, funeral director, or registered surface transportation and removal service when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.
 - b. Consent by a funeral service licensee or funeral director to take charge of a body unless authorized by the person or his agent having the legal right to disposition.
3. False advertising.
 - a. No licensee or registrant shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.
 - b. The following practices, both written and verbal, shall constitute false, deceptive, or misleading advertisement within the meaning of subdivision 4 of §54.1-2806 of the Code of Virginia:
 - (1) Advertising containing inaccurate statements; and
 - (2) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.
 - c. The following practices are among those which shall constitute an untrue, deceptive, and misleading representation or statement of fact:
 - (1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long term or indefinite time; and
 - (2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.
4. Inappropriate handling and storage of dead human bodies, consistent with § 54.1-2811.1 of the Code of Virginia and regulations of the board. Transportation and removal vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation. During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.
5. Failure to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.
6. Conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public.
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.
8. Failure to register as a supervisor for a funeral service intern or failure to provide reports to the board as required by the Code of Virginia and 18VAC65-40-320.
9. Failure to comply with applicable federal and state laws and regulations, including requirements for continuing education.

Part VII. Standards for Embalming.

18VAC65-20-510. Embalming report.

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

1. The name of the deceased and the date of death;
2. The date and location of the embalming;
3. The name and signature of the embalmer and the Virginia license number of the embalmer; and
4. If the embalming was performed by a funeral service intern, the name and signature of the supervisor.

18VAC65-20-520. [Repealed]

18VAC65-20-530. [Repealed]

18VAC65-20-540. Preparation room requirements.

A. Every funeral service establishment at which embalming of dead human bodies is performed shall have at least one room used exclusively for embalming or preparation of the body.

B. The following are required of the preparation room or rooms:

1. The walls shall extend floor to ceiling;
2. The floor and wall surfaces shall be of a material or covered by a material impervious to water; and
3. The material shall extend from wall to wall with all joints tight and sanitary.

C. All functions connected with embalming shall be performed within the preparation room.

18VAC65-20-550 to 18VAC65-20-560. [Repealed]

18VAC65-20-570. Condition of preparation room.

A. The preparation room or rooms shall be kept in a clean and sanitary condition at all times, subject to inspection.

B. Inventories of embalming and preparation materials shall be stored in a container and in a manner that makes them impervious to water and protects them from contamination.

C. Any items or supplies not directly used in an embalming procedure shall not be stored in the preparation room.

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, either in the preparation room or outside the door to the preparation room.

18VAC65-20-590. Disposal of waste materials.

Disposal of all waste materials shall be in conformity with local, state, and federal law and regulations to avoid contagion and the possible spread of disease. Upon inspection, the establishment shall provide evidence of compliance, such as a copy of a contract with a medical waste disposal company.

18VAC65-20-600 to 18VAC65-20-610. [Repealed]

Part VIII. Pricing Standards and Forms.

18VAC65-20-620. [Repealed]

18VAC65-20-630. Disclosures.

Funeral providers shall make all required disclosures and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of the FTC and shall contain the information included in:

APPENDIX I - General Price List;

APPENDIX II - Casket Price List, Outer Burial Container Price List; and

APPENDIX III - Itemized Statement of Funeral Goods and Services Selected.

18VAC65-20-640 to 18VAC65-20-690. [Repealed]

18VAC65-20-700. Retention of documents.

A. The following retention schedule shall apply to retention of embalming reports, price lists, and itemized statements:

1. Price lists shall be retained for three years after the date on which they are no longer effective;
2. Itemized statements shall be retained for three years from the date on which the arrangements were made; and
3. Embalming reports shall be retained at the location of the embalming for three years after the date of the embalming.

B. The manager of record shall be responsible for retention and maintenance of all required documents.

C. Documents shall be maintained on the premises of the funeral establishment and made available for inspection.

D. In instances where the funeral establishment is sold, documents shall be transferred to the new owner, unless the existing firm is relocating to a new facility.

Commonwealth of Virginia



REGULATIONS
FOR
PRENEED FUNERAL PLANNING

VIRGINIA BOARD OF
FUNERAL DIRECTORS AND EMBALMERS

Title of Regulations: 18VAC65-30-10 et seq.

Statutory Authority: § 54.1-2400 and Chapter 28
of Title 54.1 of the *Code of Virginia*

Revised Date: September 26, 2013

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Part I. General Provisions.

18VAC65-30-10. Definitions.

In addition to those 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:

"Appointee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

"Capper," "steerer," or "shill" means a person who serves to entice another to purchase a product or to direct the course of action and choice of the buyer in a preneed funeral contract sale.

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration," "contract price," or "funds" means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract, and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

"Contract seller" means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

"Designee" means the individual designated to make arrangements for burial or final disposition of the remains pursuant to §54.1-2825 of the Code of Virginia.

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers that will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery that complies with Chapter 23.1 (§54.1-2310 et seq.) of Title 54.1 of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment that are sold by a cemetery operating in accordance with Chapter 23.1 of Title 54.1 of the Code of Virginia.

"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

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

Part II. Sale of Preneed Plans.

18VAC65-30-40. [Repealed]

18VAC65-30-50. Solicitation.

A. In accordance with provisions of §54.1-2806 of the Code of Virginia, a licensee shall not initiate any preneed solicitation using in-person communication by the licensee, his agents, assistants, or employees.

B. After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee.

Part III. Operational Responsibilities.

18VAC65-30-60. Records; general.

A. A licensee shall keep accurate accounts, books, and records of all transactions required by this chapter.

B. Preneed contracts and reporting documents shall be retained on the premises of the establishment for one year after the death of the contract beneficiary.

C. A funeral home shall keep on file a written verification from the insurance company that the insurance or annuity contract complies with §54.1-2820 C of the Code of Virginia.

D. All preneed records shall be available for inspection by the Department of Health Professions.

18VAC65-30-70. Record reporting.

A. A contract provider shall keep a chronological or an 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.

Part IV. Contract.

18VAC65-30-80. Content and format.

A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the contract buyer has been given in writing all information and disclosures required by law and regulation.

B. In addition to requirements of §54.1-2820 of the Code of Virginia, the contract shall contain the following:

1. The date of the contract;
2. Whether or not the price of the supplies and services purchased is guaranteed;
3. The appointee agreement when applicable; and
4. Signatures of the contract seller and the contract buyer.

C. If an appointee agreement has been signed, it shall be attached to the preneed contract as a valid part of the contract.

Part V. Disclosures.

18VAC65-30-90. Disclosures.

A. At the time of the inquiry, licensees shall furnish to each person inquiring about preneed arrangements a copy of the general price list and preneed disclosure questions and answers.

B. Immediately upon concluding the arrangement conference, licensees shall furnish to each person who makes a preneed arrangement a copy of the preneed contract and funding contract.

C. An itemized statement of funeral goods and services shall be given at the time of need even if the arrangements were made through a preneed contract.

Part VI. Funding.

18VAC65-30-100. Finance charges prohibited.

A licensee shall not charge finance charges on a preneed arrangement.

18VAC65-30-110. Cancellation or transfer of contract.

A. Any person who makes payment under this contract may terminate the agreement at any time prior to the time for which the services or supplies are furnished.

B. If the contract buyer terminates the contract within 30 days of the execution of the contract, the contract buyer shall be refunded all consideration paid or delivered and any interest or income accrued on it.

C. If the contract buyer uses a revocable trust as the funding source and terminates the contract after 30 days of the execution of the contract, the contract buyer shall be refunded:

1. All consideration paid or delivered on nonguaranteed items;
2. At least 90% of all consideration paid for guaranteed items; and
3. All interest or income accrued on it.

D. If the contract buyer uses an irrevocable trust as the funding source, the contract buyer is not able to cancel the trust after 30 days following its execution except in accordance with § 64.2-729 of the Code of Virginia.

E. The contract buyer shall have the right to change the contract provider and the trustee at any time prior to the furnishing of the services or supplies contracted for under the preneed contract.

18VAC65-30-120. Escrow account.

Within five banking days after the day of receipt of any money from the contract buyer and until the time the money is invested in a trust, life insurance, or annuity policy, the contract seller or the contract provider shall deposit the money into an escrow account in a bank or savings institution approved to do business in the Commonwealth.

18VAC65-30-130. Real estate.

When the consideration consists in whole or in part of any real estate, the following shall occur:

1. The preneed contract shall be recorded as an attachment to the deed whereby the real estate is conveyed; and
2. The deed shall be recorded in the clerk's office in the circuit court of the city or county in which the real estate being conveyed is located.

18VAC65-30-140. Personal property.

When the consideration consists in whole or in part of any personal property, the following shall occur:

1. Personal property shall be transferred by:
 - a. Actual delivery of the personal property; or
 - b. Transfer of the title to the personal property.
2. Within 30 days of receiving the personal property or the title to the personal property, the licensee or person delivering the property shall:
 - a. Execute a written declaration of trust setting forth the terms, conditions, and considerations upon which the personal property is delivered; and
 - b. Record the trust agreement in the clerk's office of the circuit court of the locality in which the person delivering the property is living; or
 - c. Record the preneed contract in the clerk's office of the circuit court of the locality in which the person delivering the property or trust agreement is living provided that the preneed contract sets forth the terms, conditions, and considerations of the trust.

18VAC65-30-150 to 18VAC65-30-160. [Repealed]

18VAC65-30-170. Trust accounts.

If funds are to be trusted, the trust account is to be established according to provisions of §§54.1-2822 and 54.1-2824 of the Code of Virginia and the following information shall be disclosed in writing to the contract buyer:

1. The amount to be trusted;
2. The name of the trustee;
3. The disposition of the interest;

4. The fees, expenses, and taxes which may be deducted from the interest;
5. Whether up to 10% is retained by the contract provider; and
6. A statement of the contract buyer's responsibility for taxes owed on the interest.

18VAC65-30-180. Life insurance or annuity.

If a life insurance or annuity policy is used to fund the preneed funeral contract, the contract shall be in compliance with provisions of §§ 38.2-3100.3 and 54.1-2820 B of the Code of Virginia and shall contain the following information:

1. Name of the contract provider;
2. Name and funeral license number of contract seller;
3. Place of employment of contract seller;
4. Name of insurance agent and agent's insurance license number;
5. Insurance agent's employer and insurance company represented by insurance agent; and
6. Identification as to whether the insurance agent is a funeral service licensee and, if so, the funeral service license number.

18VAC65-30-190. [Repealed]

Part VII. Supplies and Services.

18VAC65-30-200. Supplies and services.

- A. If the contract seller will not be responsible for furnishing the supplies and services to the contract buyer, the contract seller shall attach to the preneed funeral contract a copy of the contract seller's agreement with the contract provider.
- B. If any funeral supplies are sold and delivered to the contract provider prior to the death of the contract beneficiary, the risk of loss or damage shall be upon the contract provider during such period of storage.
- C. If the particular supplies and services specified in the contract are unavailable at the time of delivery, the contract provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Part VIII. Required Content of Contracts and Disclosures.

18VAC65-30-210. [Repealed]

18VAC65-30-220. Content of preneed contracts.

The following information shall be contained in any contract for preneed funeral planning.

Date: _____

Contract: _____

PRENEED FUNERAL CONTRACT

For: (Name of Recipient of Services)

_____ (Zip)_____

I. SUPPLIES AND SERVICES PURCHASED

If the prices of goods and services are guaranteed, no additional cost will incur for your family or estate even though the actual prices of goods and services may increase between the date of this contract and the time of need. (Please see the disclosure document.)

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use an item, we will explain the reasons in writing below. If you selected a funeral that may require embalming, such as a funeral with a viewing, you may have to pay for embalming. You do not have to pay for embalming you did not select if you select arrangements such as a direct cremation or immediate burial.

Guaranteed Services Purchased

I. BASIC SERVICES OF FUNERAL DIRECTOR AND STAFF \$_____

II. FUNERAL HOME FACILITIES

A. Facilities and Staff for visitation/viewing \$_____

B. Facilities and Staff for funeral ceremony \$_____

C. Facilities and Staff for memorial service \$_____

D. Equipment and Staff for graveside service \$_____

(NOTE TO FUNERAL HOME: If you have additional charges such as facilities and staff for home/church viewing, or a charge for additional staff person or through calculation of manhours, etc., add here as extra items. If you have a charge for equipment for interment, add here.)

III. EMBALMING

A. Normal remains \$_____

B. Autopsy remains \$_____

IV. OTHER PREPARATION OF THE BODY \$_____

(NOTE: List all items that you placed under Other Preparation on your General Price List.)

V. IMMEDIATE BURIAL \$_____

VI. DIRECT CREMATION \$_____

VII. TRANSFER OF REMAINS TO FUNERAL ESTABLISHMENT \$_____

VIII. FORWARDING REMAINS TO ANOTHER FUNERAL HOME \$_____

IX. RECEIVING REMAINS FROM ANOTHER FUNERAL HOME \$_____

X. AUTOMOTIVE EQUIPMENT

A. Hearse \$_____

B. Limousine \$_____

(NOTE: List all others that you placed on General Price List.)

XI. FUNERAL MERCHANDISE

A. Casket (*describe)_____ \$_____

B. Outer Burial Container(*describe)_____ \$_____

C. List any others_____ \$_____

Supplies Purchased

Clothing \$_____

Temporary marker \$_____

Acknowledgment cards \$_____

Register/attendance books \$_____

Memorial folders \$_____

Other \$_____

SUBTOTAL COSTS OF (GUARANTEED) SUPPLIES PURCHASED: \$_____

XII. PACKAGE PRICES

(NOTE: List all package prices by name.)

SUBTOTAL COSTS OF (GUARANTEED) SUPPLIES PURCHASED: \$_____

Nonguaranteed Goods and Services Purchased

The actual prices of goods and services below are NOT GUARANTEED. These items may include, but not be limited to, obituary notices, death certificates, cemetery fees, flowers, sales tax, etc. The prices are estimated and the estimates will be included in the Grand Total Contract Price. The differences between the estimated prices below and the actual cost will be settled with your family or estate at the time of need:

SUBTOTAL ESTIMATED COSTS OF NONGUARANTEED ITEMS: \$_____

GRAND TOTAL FOR PRENEED ARRANGEMENTS

1. Total cost of (guaranteed) services purchased \$_____

2. Total cost of (guaranteed) supplies purchased \$_____

3. Total estimated cost of nonguaranteed items \$_____

GRAND TOTAL \$_____

The only warranties, express or implied, granted in connection with the goods sold in this preneed funeral contract, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE are extended by the (funeral home) _____.

II. GENERAL INFORMATION

In order that the Buyer may understand the relationship of all parties involved in this preneed arrangement and contract, the following is provided:

A. Buyer:

B. Funeral Home Providing Services:

C. Contract seller:

Employed by: (Funeral Home)

Virginia Funeral Director License Number:

Method of Funding

A. Insurance

B. Trust

1. Amount to be trusted:

2. Name of trustee:

3. Disposition of Interest:

4. Fees, expenses, taxes deducted from earned interest:

5. Buyer's responsibility for taxes owned on interest:

The following information will be given if an insurance policy or annuity contract is used to fund this agreement:

A. Buyer:

B. Insurance Company:

C. Insurance Agent:

Employed by: (Insurance Company)

Licensed Funeral Director in Virginia: ___yes ___no

Funeral Director License Number (If Applicable):

Employed by Funeral Home (If Applicable):

D. The life insurance or annuity contract provides either that:

_____ The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or

_____ A benefit payable at death under such contract that will be equal or exceed the sum of all premiums paid for such contract plus thereon at the annual rate of at least 5.0%, compounded annually.

III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by Chapter 28 (§54.1-2800 et seq.) of Title 54.1 of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to:

The Board of Funeral Directors and Embalmers

9960 Mayland Drive, Suite 300

Richmond, Virginia 23233

Telephone Number 804-367-4479

Toll Free Number 1-800-533-1560

IV. DISCLOSURES

The disclosure statements will be available for your review. The General Price List shall be furnished to you by the contract seller. These contain information that you must receive by law and/or the authority of the Board of Funeral Directors and Embalmers. You are entitled to receive all information in clear and simple language including the language of the funding agreement for this preneed arrangement.

If any law, cemetery, or crematory requires the purchase of any of those items listed in Part I, the requirements will be explained in writing.

By signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents.

V. TERMINATION OF CONTRACT

This person who funds this contract through a trust agreement may terminate this preneed contract at any time prior to the furnishing of the services or supplies contracted for:

Within 30 days

If you terminate this preneed contract within 30 days of the date of this contract, you will be refunded all payments of whatever type you have made, plus any interest or income you may have earned.

More than 30 days

If you terminate this preneed contract more than 30 days after the date on this contract, you will be refunded whatever amount was required to be placed in a revocable trust fund, plus any interest or income it has earned.

Any person who funds this contract through a trust fund which is irrevocable or through an insurance/annuity policy or through the transfer of real estate/personal property may not be eligible for a refund.

VI. STATEMENT OF GUARANTEE

By signing this contract, (Funeral Home) _____ agrees to the statement checked below (check one):

_____ Prefinancing guarantees that no additional payment will be required from the family or estate for guaranteed services and supplies provided the Grand Total of these arrangements is paid in full and the interest is allowed to accumulate in your account (see page _____ for Grand Total amount). Payment of the difference will be required for the nonguaranteed estimated items if they increase in price.

_____ The prices for items under supplies and services are not guaranteed.

VII. AGREEMENT

In witness whereof, the Buyer and the Funeral Home have executed this contract, intending its terms to be in accordance with the Code of Virginia and any regulations implementing the Code. By signing this contract you acknowledge that you have been provided access to and the opportunity to read the Disclosure Statements.

(Designee of Funeral Home) (Buyer)

(Funeral Home) (Contract Date)

VIII. PENALTIES OR RESTRICTIONS

The (funeral home) _____, has the following penalties or restrictions on the provisions of this contract.

1. (Insert geographic restrictions);
2. (Insert an explanation of the Funeral Home's inability to perform the request(s) of the Buyer);
3. (Insert a description of any other circumstances which apply);
4. (Insert information that if particular goods and services specified in the contract are unavailable at the time of need):

A. The funeral home shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship; and

B. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Addendum to Preneed Contract

APPOINTEE AGREEMENT

I appoint _____ of (address) _____ to assist with the preneed arrangements in my behalf. The relationship of my appointee to me is _____.

Contract Beneficiary: _____ Date: _____

I accept the request of (contract beneficiary) _____ to assist with his/her preneed arrangements.

Appointee: _____ Date: _____

The foregoing was acknowledged before me this _____ day of _____, 19____

Notary: _____

Date Commission Expires: _____

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

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

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

PRENEED CONTRACTS

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

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

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

-- What are my protections?

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

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

CANCELLATION

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

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

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

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

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund after 30 days following its execution except in accordance with § 64.2-729 of the Code of Virginia.

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

PAYMENT

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

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

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

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

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

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

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

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

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

GENERAL FUNDING INFORMATION

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

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

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

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

situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

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

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

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

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

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

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

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

(Funeral home shall place answer here)

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

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

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

(Funeral home shall place answer here)

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

(Funeral home shall place answer here)

TRUST ACCOUNT

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

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

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

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

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

Some trust accounts cannot be cancelled.

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

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

(Funeral home shall place answer here)

CLAIMS AGAINST THIS CONTRACT

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

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

-- Can the money or property be taxed?

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

GENERAL GOODS AND SERVICES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRICING

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

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

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

At the time of your death, your family or estate will be given an itemized statement which will list all of the specific charges.

-- What is meant by guaranteed and nonguaranteed prices?

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

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

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

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

CASKETS AND CONTAINERS

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

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

-- Is a casket required?

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

-- Do certain cemeteries and crematoriums have special requirements?

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

EMBALMING

-- Is embalming always required?

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

ASSISTANCE

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

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

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

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233

Telephone Number (804) 367-4479

Toll Free Number 1-800-533-1560

Fax: (804) 527-4413

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**REGULATIONS
FOR THE
FUNERAL SERVICE INTERNSHIP
PROGRAM**

**VIRGINIA BOARD OF
FUNERAL DIRECTORS AND EMBALMERS**

Title of Regulations: 18 VAC 65-40-10 et seq.

**Statutory Authority: § 54.1-2400 and Chapter 28
of Title 54.1 of the *Code of Virginia***

Revised Date: September 26, 2013

9960 Mayland Drive, Suite 300
Richmond, VA 23233-1463

(804) 367-4479 (TEL)
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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 that has agreed to serve as a location for a funeral service internship and has been approved by the board.

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

18VAC65-40-40. Fees.

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

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

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

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

18VAC65-40-90. Renewal of registration.

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

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

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.

18VAC65-40-100. [Repealed]

18VAC65-40-110. Reinstatement of expired registration.

A. A funeral service intern whose registration has expired may be reinstated within one year following expiration by payment of the current renewal fee and the late renewal fee.

B. A funeral service intern whose registration has been expired for more than one year shall apply for reinstatement by submission of an application and payment of a reinstatement fee. The board may consider reinstatement of an expired registration for up to three years following expiration.

C. When a registration is not reinstated within three years of its expiration date, a new application for registration shall be filed and a new internship begun.

18VAC65-40-120. [Repealed]

Part II. Funeral Service Internship Requirements.

18VAC65-40-130. Funeral service internship.

A. The internship shall consist of at least 3,000 hours of training to be completed within no less than 12 months and no more than 48 months. For good cause shown, the board may grant an extension of time for completion of an internship.

B. The funeral service intern shall be assigned a work schedule of not less than 20 hours nor more than 60 hours per week in order to receive credit for such training. For good cause shown, the board may waive the limitation on an intern's work schedule.

C. A funeral service intern shall receive training in all areas of funeral service.

18VAC65-40-140 to 18VAC65-40-170. [Repealed]

18VAC65-40-180. Intern application package.

A. Any person who meets the qualifications of §54.1-2817 of the Code of Virginia may seek registration with the board as a funeral service intern by submission of an application package, which shall include documentation of the qualifications and signatures of any supervising licensees.

B. Applicants shall submit school transcripts as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.

18VAC65-40-190 to 18VAC65-40-200. [Repealed]

18VAC65-40-201. Failure to register.

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

18VAC65-40-210. Training sites.

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

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

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

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

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.

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

18VAC65-40-250. Requirements for supervision.

- A. Training shall be conducted under the direct supervision of a licensee or licensees approved by the board. Credit shall only be allowed for training under direct supervision.
- B. The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who have a full and unrestricted Virginia funeral license, have at least two consecutive years in practice and are employed full time in or under contract with the establishment, 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.

18VAC65-40-260 to 18VAC65-40-270. [Repealed]

18VAC65-40-280. Supervisor application package.

- A. A licensee seeking approval by the board as a supervisor shall submit a completed application and any additional documentation as may be required to determine eligibility.
- B. The application for supervision of a funeral service intern shall be signed by the establishment manager and by the persons who will be providing supervision for embalming and for the funeral services.

18VAC65-40-290. through 18VAC65-40-310. [Repealed]

18VAC65-40-320. Reports to the board: six-month report; partial report.

- 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 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 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.

18VAC65-40-330. Failure to submit training report.

If the intern, supervisor, or establishment manager fails to submit the reports required in 18VAC65-40-320, the intern may forfeit all or partial credit for training or disciplinary action may be taken against the intern, supervisor and establishment manager.

Part III. Internship: Funeral Supervisors' Responsibilities.

18VAC65-40-340. Supervisors' responsibilities.

- A. The supervisor shall provide the intern with all applicable laws and regulations or sections of regulations relating to the funeral industry.
- B. The supervisor shall provide the intern with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.
- C. The supervisor shall provide the intern with instruction in all aspects of funeral services and shall allow the intern under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals.
- D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the intern under direct supervision to perform a minimum of 25 embalmings.
- E. The supervisor shall provide the intern with instruction in making preneed funeral arrangements and instruction on the laws and regulations pertaining to preneed funeral contracts and disclosures.
- F. The supervisor shall provide instruction on cremation and on the laws and regulations pertaining to cremation.
- G. If a training site does not offer preneed funeral planning or cremation services, the supervisor shall arrange for such training at another licensed funeral establishment that does.

18VAC65-40-350 to 18VAC65-40-630. [Repealed]

Part IV. Refusal, Suspension, Revocation, and Disciplinary Action.

18VAC65-40-640. Disciplinary action.

The board may refuse to issue or renew a license, registration, or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license, registration, or approval, or reprimand any person, or place his license or registration on probation with such terms and conditions and for such time as it may designate or impose a monetary penalty for failure to comply with the regulations of the Board of Funeral Directors and Embalmers.

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DEPARTMENT OF HEALTH
VITAL RECORDS - REGULATIONS

PART III. Data required on vital statistics certificates

12VAC5-550-110. Death certificate items.

The certificate of death to be used shall be the Certificate of Death, Commonwealth of Virginia, and shall contain the following items: full name of decedent; place of death; usual residence; date of death; sex; hispanic origin, if any, and race; education; date of birth; age; birthplace; citizenship; usual occupation and industry; veteran status; social security number; father's name; mother's maiden name; marital status and name of spouse, if married or widowed; informant's name; medical certification of cause of death; autopsy; if female, was there a pregnancy during past three months; and supplementary data concerning death due to external causes; certification of attending physician or medical examiner, including title, address, and date signed; disposition of the body; signature of funeral director or person legally filing this certificate; name and address of funeral home; date received by registrar; registrar's signature; registration area and certificate numbers; and state file number.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §3.2; eff. April 1, 1995.

12VAC5-550-120. Fetal death or induced termination of pregnancy report items.

The record of fetal death or induced termination of pregnancy to be used shall be:

1. The Report of Fetal Death Commonwealth of Virginia, and shall contain the following items for spontaneous fetal deaths: place of occurrence; usual residence of patient (mother); full maiden name of patient; medical record number and social security number of patient; hispanic origin, if any, and race of patient; age of patient; education of patient; sex of fetus; patient married to father; previous deliveries to patient; single or plural delivery and order of plural delivery; date of delivery; date of last normal menses and physician's estimate of gestation; weight of fetus in grams; month of pregnancy care began; number of prenatal visits; when fetus died; congenital malformations, if any; events of labor and delivery; medical history for this pregnancy; other history for this pregnancy; obstetric procedures and method of delivery; autopsy; medical certification of cause of spontaneous fetal death; signature of attending physician or medical examiner including title, address and date signed; method of disposal of fetus; signature and address of funeral director or hospital representative; date received by registrar; registrar's signature; registration area and report numbers.

2. The Report of Induced Termination of Pregnancy, Commonwealth of Virginia, and shall contain the following items for induced terminations of pregnancy: place of occurrence; usual residence of patient; patient identification number; age of patient; hispanic origin, if any, and race of patient; education of patient; patient married to father; date of pregnancy termination; pregnancy history of patient; date of last normal menses and physician's estimate of gestation; type of termination procedures; pregnancy terminated because of genetic defect; signature, title, and address of person completing this report; registration area and report numbers.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §3.3; eff. April 1, 1995.

Part IV
Preparation of Certificates

12VAC5-550-150. Requirements for completion.

All certificates and records provided for in the statutes governing vital event registration shall be prepared on a typewriter with a black ribbon whenever possible or shall be printed legibly in black ink. All signatures required shall be entered in black ink. No certificate shall be considered as complete and correct and acceptable for filing:

1. That does not supply all items of information called for thereon or satisfactorily account for their omission.
2. That contains alterations or erasures.
3. That does not contain original signatures.
4. That is marked "copy" or "duplicate."
5. That is a carbon copy.
6. That is prepared on an improper form.
7. That contains obviously improper or inconsistent data.
8. That contains any data relative to the putative father of a child born out of wedlock without his written consent or unless determined by a court of competent jurisdiction as required by §32.1-257 of the Code of Virginia.
9. That contains an indefinite cause of death denoting only symptoms of disease or conditions resulting from disease.
10. That is not prepared in conformity with these regulations or instructions issued by the State Registrar.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §4.01; eff. April 1, 1995.

Part X
Procedures for Filing Death Certificates

12VAC5-550-350. A proper and complete medical certification of cause of death defined.

A complete and properly executed medical certification of cause of death shall mean the entry by a physician or medical examiner of a definite medical diagnosis of the underlying cause of death and related conditions following the instructions indicated on the death certificate. This may be variously:

1. Supported by clinical findings of the physician who attended the deceased for the illness or condition that resulted in death;
2. Supported by tentative clinical findings that may or may not be supported by the gross findings of an autopsy; or
3. Supported by autopsy findings where necessary to establish a definite medical diagnosis of cause of death.

In cases where an autopsy is to be performed, the physician or medical examiner shall not defer the entry of the cause of death pending a full report of microscopic and toxicological studies. In any case where the autopsy findings significantly change the medical diagnosis of cause of death, a supplemental report of the cause of death shall be made by the physician or medical examiner to the

registrar as soon as the findings are available. (As examples: If it is clear that a patient dies of "cancer of the stomach," report the cause while a determination of the histological type is being carried out. Similarly, if it is clear that a death is from "influenza," do not delay the medical certification while a laboratory test is being carried out to determine the strain).

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.1; eff. April 1, 1995.

12VAC5-550-360. Responsibility of the attending physician.

When a patient shall die, the physician in charge of the patient's care for the illness or condition shall be responsible for executing and signing the medical certification of cause of death as follows:

1. If the physician is present at or immediately after the death, he shall execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.
2. In an case where an autopsy is scheduled and the physician wishes to await its gross finding to confirm a tentative clinical finding, he shall give the funeral director notice that he attended the patient and when he expects to have the medical data necessary for the certification of cause of death. If the provisions of 12VAC5-550-350 cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the physician shall, over his signature, forward the cause of death to the registrar.
3. If the physician is unable to establish the cause of death or if a death is within the jurisdiction of the medical examiner, he shall immediately report the case to the local medical examiner and advise the funeral director of this fact. If the medical examiner does not assume jurisdiction, the physician shall sign the medical certification.
4. An associate physician who relieves the attending physician while he is on vacation or otherwise temporarily unavailable may certify to the cause of death in any case where he has access to the medical history of the case, provided that he views the deceased at or after death occurs and that death is from natural causes. In all other cases in which a physician is unavailable, the funeral director shall contact the medical examiner.
5. When the attending physician shall have given the person in charge of an institution authorization in writing, the person in charge of such institution, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official medical records and the death is due to natural causes. In such instances, the signature shall be that of a physician.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.2; eff. April 1, 1995.

12VAC5-550-370. Responsibility of the medical examiner.

When a medical examiner assumes jurisdiction in a death or when death occurs without medical attendance, the medical examiner shall be responsible for executing and signing the medical certification of cause of death as follows:

1. The medical examiner shall, at the time of releasing a body to a funeral director or person who first assumes custody of a dead body, or as soon as practicable thereafter, execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar.

2. In any case where an autopsy is scheduled and the medical examiner wishes to await its gross findings to confirm a tentative clinical finding, he shall give the funeral director notice as to when he expects to have the medical data necessary for the certification of cause of death. If the provisions of 12VAC5-550-350 cannot be adhered to, he shall indicate that the cause is "pending" and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the medical examiner shall, over his signature, forward the cause of death to the registrar.

3. In any case where a death has been referred to the medical examiner because a physician in attendance is deceased or physically incapacitated and there was no associate physician, the medical examiner shall prepare and sign the medical certification of cause of death.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.3; eff. April 1, 1995.

12VAC5-550-380. Responsibility of the hospital or institution.

When a patient shall die in a hospital or institution, and the death is not under the jurisdiction of the medical examiner, the person in charge of such institution, or his designated representative, shall where feasible and where the cause of death is known, aid in the preparation of the death certificate as follows:

1. Place the full name of the deceased on the death certificate form and obtain from the attending physician the medical certification of cause of death.
2. If authorized in writing by the attending physician, the person in charge, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official hospital records and the death is due to natural causes. The signature shall be that of a physician.
3. Present the partially completed death certificate identified by the name and the complete medical certification to the funeral director.
4. In a case of long-term residence by a patient in a state institution, a death certificate including personal particulars of the deceased may be prepared for presentation to the funeral director.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.4; eff. April 1, 1995.

12VAC5-550-390. Responsibility of the funeral director.

Each funeral director who has been authorized to take custody of a dead human body shall exercise the following responsibilities with respect to the preparation and filing of the death certificate:

1. When he arrives to take custody of the body, he shall first ascertain whether an attending physician or local medical examiner has established the cause of death as follows:
 - a. If a physician was present at or after the death, he shall obtain the medical certification of cause of death from such physician if the death is from natural causes. An associate physician or person in charge of an institution may prepare the medical certification as outlined in 12VAC5-550-360.

b. If a physician attended the deceased but did not complete the medical certification of cause of death, the funeral director shall immediately contact such physician in person or by telephone to be certain that he was the attending physician and to ascertain whether the physician is to assume responsibility for the medical certification or to refer the case to the medical examiner.

c. When a medical examiner assumes jurisdiction in a death, or when death occurs without medical attendance, or when a physician in attendance is incapacitated, the funeral director shall obtain the signed medical certification of cause of death from the medical examiner as required by subdivision 3 of 12VAC5-550-370.

2. The personal history of the deceased and the facts of the death shall be obtained from the best source possible. This source may be variously: a member of the immediate family of the deceased who possesses the necessary information; a hospital records custodian whose records contain the necessary information; or the local medical examiner having jurisdiction over a case. The name of the informant shall be entered on the death certificate. The facts required as to the manner and place of disposal of the body or its removal from the Commonwealth shall be entered over the signature of the funeral director. He shall personally sign the certificate and print or type the name of his firm.

3. Except as outlined in 12VAC5-550-410, a satisfactory death certificate shall be filed with the city, county, or special registrar in the city or county where death occurred, or a dead body is found, prior to final disposal of the body or its removal from the Commonwealth, and within three days. In cases where a completed medical certification is not available when the funeral director takes possession of a body, he shall not move the body from the place of death until so authorized by the local medical examiner or until the attending physician has advised him that death is from natural causes and the physician is able to prepare the medical certification of cause of death. In every case, the removal of a dead human body from the city or county of death is unlawful unless notice is give the city, county, or special registrar by telephone or in person. Such notice shall consist of the name of the deceased, date and place of death, and the name of the attending physician or of the medical examiner, as the case may be, and, if the body is to be removed, the destination within the Commonwealth. Such notification shall be made during the next available business hours of the registrar following the time of death. After business hours, in independent cities and in designated counties, such notification shall be made immediately on assumption of custody of the deceased to the registrar's representative.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.5; eff. April 1, 1995.

12VAC5-550-400. Out-of-state transit permits.

A. The body of any person whose death occurs in Virginia or whose body shall be found dead therein shall not be removed from the Commonwealth unless an out-of-state transit permit on a form prescribed by the State Registrar has been issued by the city, county, or special registrar of the city or county where the death occurred or the body was found except as outlined in 12VAC5-550-410.

B. No out-of-state transit permit shall be issued until a proper certificate of death is filed except as outlined in 12VAC5-550-410.

C. A certificate of death shall be considered to be properly filed:

1. When all items thereon have been answered in the manner prescribed by the State Registrar; and

2. When the certificate has been presented for filing with the city, county, or special registrar of the city or county where the death occurred or the body was found, or, in emergency cases, with the city or county registrar of the area to which removal was made within the Commonwealth.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.6; eff. April 1, 1995.

12VAC5-550-410. Emergency cases: Filing of death certificates elsewhere.

A. Under the conditions of §32.1-266 of the Code of Virginia, the following situations are declared to be proper reasons for emergency extensions of time periods for filing a completed death certificate:

1. A completed or "pending" medical certification is unavailable.
2. Personal data concerning the deceased is temporarily unavailable.
3. The body must be moved immediately out of the Commonwealth.

B. If one or more of the above situations exists and the conditions of subdivision 3 of 12VAC5-550-390 have been complied with by the funeral director when the body is to be moved, any authorized registrar, or registrar's representative, may issue an out-of-state transit permit. Such permit shall be issued upon application by a funeral director and the presentation by the funeral director, over his signature only, of a death certificate form complete in as many known details as possible.

C. The incomplete death certificate form originally furnished to the registrar as outlined in subsection B of this section is to be placed by the funeral director with a completed death certificate as soon as the missing data become known or the medical certification is obtained, or within 10 days, whichever occurs first.

D. Under emergency provisions and the conditions of subdivision 1 c of 12VAC12-550-390, the death certificate may be filed with a registrar other than the registrar at the place of death. When a registrar of an area other than the place of death receives a completed death certificate, he shall not sign nor number the certificate, but shall make a notation in the left-hand margin indicating his name and whether or not an out-of-state permit has been issued. The registrar receiving the death certificate shall immediately forward the death certificate to the city or county registrar at the place of death.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.7; eff. April 1, 1995.

12VAC5-550-420. Forwarding "pending cause" death certificates.

A death certificate received by a city or county registrar which contains a signed medical certification of cause of death, but the cause is not complete by reason of a pending inquest, investigation, or autopsy should be sent to the State Registrar on the regular reporting date with completed records. If the cause of death is completed by the presentation of a second and complete certificate before the original certificate is sent to the State Registrar, the original incomplete certificate should be marked "VOID." The completed death certificate should be processed as a current certificate and should be forwarded to the State Registrar. If the cause of death is completed by a properly signed query form or other statement, the cause of death information may be added to the incomplete death certificate by the State Registrar.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.8; eff. April 1, 1995.

12VAC5-550-430. Disinterment permits.

A. Unless so ordered by a court of competent jurisdiction, a body shall not be disinterred for removal or transportation until an application for disinterment has been submitted to the city or county registrar or to the State Registrar.

B. The city or county registrar at the place from which disinterment is to be made shall issue a disinterment permit in triplicate. One copy shall be retained by the funeral director to whom issued, one copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made, and one copy to be used during transportation and filed with the sexton or person in charge of the cemetery of reinterment. The State Registrar may issue a letter of authorization in lieu of individual permits when numbers of bodies are to be moved in one operation from the same place of disinterment to the same place of reinterment.

C. A disinterment permit shall not be required if a body is to be disinterred and reinterred in the same cemetery; however, the sexton or other person in charge of the cemetery shall establish a record relative to the facts of disinterment and reinterment within the cemetery.

D. A body kept in a receiving vault shall not be regarded as a disinterred body until after expiration of 30 days.

Statutory Authority

§32.1-273 of the Code of Virginia.

Historical Notes

Derived from VR355-29-100 §10.9; eff. April 1, 1995.

Part XI Correction and Amendment

12VAC5-550-440. Applications for correction.

A. After 30 days from the date of filing, no change or alteration in any birth or death certificate on file with the State Registrar or on file in any city or county of this Commonwealth shall be made except upon application to the State Registrar.

1. To change or alter a birth certificate, such application shall be made by the reporting source, one of the parents, guardian, or legal representative of the child, or, if the person whose certificate is involved is 18 years of age or over, by the person himself.

2. To change or alter a death certificate, such application shall be made by the surviving spouse or the next of kin of the deceased, attending funeral director, or other reporting source. Changes or alterations of the medical certification of cause of death may be requested only by the attending physician or by the medical examiner.

B. Within 30 days from the date of filing, missing data or corrected information may be entered on a birth or death certificate by the State Registrar or by the city or county registrar when the original record is in his possession.

1. Applications for changes or alterations may be made by persons outlined in subdivision A 1 or A 2 of this section.

2. Missing or corrected data may be obtained at the initiative of the city or county registrar by personal call, telephone, or query form from the reporting source responsible for filing the birth or death certificate. Data so obtained by the registrar shall not be deemed an amendment.

C. Marriage and divorce or annulment records on file with the State Registrar may be amended only by notification from the clerk of court in which the original record is filed. Such notification to the State Registrar shall indicate what items have been amended on the original record and shall indicate that the State Registrar's copy should be amended accordingly. Evidence required for amending marriage and divorce or annulment records shall be determined by the court in which the original record is filed.

Statutory Authority

§32.1-273 of the Code of Virginia.

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