



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **18 VAC 65-20 – Regulations of the Board of Funeral Directors and Embalmers Department of Health Professions**

May 10, 1999

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The Board of Funeral Directors and Embalmers proposes to amend its regulations in order to establish a registration program for crematories, which includes application and renewal fees and a registration schedule. The proposed regulations also specify that a crematory providing services directly to the public must be additionally licensed as a funeral service establishment or as a branch of an establishment.

### **Estimated Economic Impact**

Prior to July 1998, crematories in Virginia were required to register with the Division of Vital Records within the Department of Health. No fee was charged for this service. Recent growth in the process of cremations led interested groups to pursue legislation that would allow

for greater oversight of these services.<sup>1</sup> That legislation, contained in Chapter 28 of Title 54.1 of the Code of Virginia, transferred registration authority from the Department of Health to the Department of Health Professions (DHP), which also has regulatory authority for the licensure of funeral service establishments. Since many funeral service establishments now have a branch that provides cremation services to the public, it seemed logical to have all such services under one regulatory umbrella. In addition, DHP is better able to provide any necessary oversight as the agency already has a substantial regulatory licensure infrastructure in place.

As a special fund agency, the Board of Funeral Directors and Embalmers must generate sufficient revenue from the renewal and application fees it charges its licensees to cover its expenditures for the necessary functions of regulation. The proposed regulations would require a \$100 initial application fee and \$100 annual renewal fee for crematory registration with the Board of Funeral Directors and Embalmers. In addition, crematories providing services directly to the public must also be licensed as a funeral service establishment, or as a branch of a licensed establishment, at an initial application and annual renewal cost of \$225. Since enactment of this legislation, 41 crematories have registered with the Board of Funeral Directors and Embalmers. Of those 41 crematories, 23 provide services directly to the public. All 23 of this latter group obtained additional licensure as branches of a funeral service establishment.

The provision requiring licensure as a funeral service establishment for crematories that provide services directly to the public is based on the Board's interpretation of the statutory definition of "practice of funeral services." Section 54.1-2800 of the Code of Virginia defines the practice of funeral services as:

*"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."*

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<sup>1</sup> The National Funeral Directors Association reports that, within the last ten years, the process of cremations by the general public rose 50 percent and will continue to rise as consumers seek more affordable means of final disposition.

DHP states that there has been some opposition to their interpretation of the statutory definition, but it is the opinion of the Board's counsel that the Board has interpreted the statute correctly. The majority of cremation services are performed under contract with a licensed funeral service establishment whereby the public is protected by the extensive laws and regulations governing disclosures, pricing, sales of pre-need packages, facility standards, and infection control. These laws and regulations are based on the opinion that individuals are likely to be more vulnerable at the time of a death. If that is the case, then the public would benefit by requiring a crematory dealing directly with the public to hold a license and follow those same laws and regulations.

The most burdensome requirement of funeral service establishment licensure for entities that only process cremations is likely to be the preparation room. According to DHP, preparation rooms serve not only as a holding room prior to any final disposition, but also as a safeguard against the spread of infectious disease and blood-borne pathogens and the embalming process. Embalming is sometimes required, even for a cremation, in cases where the family members want to have a viewing or are delayed in making a decision on disposition. A licensed funeral service establishment may operate one or more branch establishments without a preparation room. Since all 23 crematories currently affected by this provision have obtained additional licensure as *branches* of a funeral service establishment, this requirement should not negatively affect them. In the future, however, there may be instances where a crematory does not obtain branch licensure and incurs some additional compliance costs. Even in these cases, if the licensure requirements provide some protection and security to persons who may be more vulnerable at the time of a death, then the compliance costs of the crematory are likely to be outweighed by the benefits to consumers.

## **Businesses and Entities Affected**

There are currently 41 crematories registered with the Board of Funeral Directors and Embalmers that are affected by this regulation. Of those 41 crematories, 23 provide services directly to the public.

## **Localities Particularly Affected**

The proposed regulation is not expected to uniquely affect any particular localities.

## **Projected Impact on Employment**

The proposed regulation is not expected to have any significant impact on employment in Virginia.

## **Effects on the Use and Value of Private Property**

The proposed regulation is not expected to have any significant effects on the use and value of private property in Virginia.