



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 65-30 – Board of Funeral Directors and Embalmers/Department of Health Professions Regulations for Preneed Funeral Planning May 8, 2002

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 proposed changes will clarify the definition of two terms used in pre-need funeral planning regulations and delete the requirement for pre-need contracts to contain a contract number.

Estimated Economic Impact

Funeral services may be bought and sold on pre-need or at-need basis. These regulations contain rules for solicitation, sale, and content of pre-need contracts for funeral services, rules for record-keeping, reporting, disclosure of information, and funding mechanisms, rules for transfer, cancellation, and termination of pre-need contracts. Pre-need funeral planning rules aim to provide consumer protection.

The terms "appointee" and "designee" are used throughout the pre-need funeral planning regulations and in the required disclosures and forms, but are not clearly defined. The contract

beneficiary may appoint an individual to arrange a pre-need funeral plan and designate another person to arrange the burial or final disposition of the remains. Appointee refers to the individual who provides assistance in funeral planning on pre-need basis while designee refers to the individual who provides assistance in funeral planning on at-need basis. Department of Health Professions (the department) indicates that the two closely related but essentially different terms have been the source of some confusion for funeral service providers. However, the department is not aware of any significant problems caused by the lack of clear terms that currently exists.

The proposed regulations will add a definition for the term “appointee” and revise the definition of the term “designee.” It seems that the clarification of the difference between the two terms has the potential to reduce the confusion currently exists. This may provide small benefits for funeral service providers and the department in terms of avoided communication costs to clarify the confusion.

Another proposed change will remove the requirement for the contracts to contain a contract number. In the past, failure to provide a contract number has been one of the most commonly encountered deficiencies uncovered by the inspections.¹ Currently, the department believes that a contract number is not needed. A contract number is required to match a pre-need agreement with the list of such contracts the provider is required to generate and submit to the department for inspection purposes. There are rules in place that the list must be generated chronologically and each contract must contain a date. Chronological order is believed to be sufficient to produce a one-to-one matching between a dated contract and the reported list. Over the past year the Board of Funeral Directors and Embalmers has been instructing inspectors to not cite funeral establishments for not having a number on the pre-need contracts.

The department indicates that the requirement for the contract number is currently creating confusion for funeral service providers. The department has been receiving questions about which number is to be used, as there may be more than one numbering scheme. For example, there have been questions on whether to use the number issued by the insurance company or the number issued by the trust company. Provided removing the requirement to number pre-need contracts does not undermine inspections, the proposed changes will likely

¹ Source: Department of Health Professions

eliminate the confusion experienced by the funeral service providers and produce small benefits for regulants and the department in terms of avoided communication costs associated with clarification of the current requirement.

Businesses and Entities Affected

There are about 163 licensed funeral directors, 1,446 licensed funeral service providers, and about 495 licensed funeral establishments in the Commonwealth. However, the number of these entities that provide pre-need contracts is not known.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed changes are not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property

No significant effect on the use and value of private property is expected.