

989105701

SENATE BILL NO. 526

Offered January 26, 1998

A *BILL to amend and reenact §§ 2.1-1.6, 2.1-20.4, 9-6.25:2, 32.1-45.1, 32.1-127.1:03, 54.1-2402, 54.1-2410, 54.1-2503, 54.1-2800, 54.1-2802, 54.1-2803 and 54.1-2804, 54.1-2806, 54.1-2812, 54.1-2819, and 54.1-2821 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 28 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-2830 through 54.1-2857; and to repeal Article 3.2 (§§ 57-35.11 through 57-35.35) of Chapter 3 of Title 57 of the Code of Virginia relating to the regulation of for-profit cemeteries.*

Patron—Marye

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 2.1-20.4, 9-6.25:2, 32.1-45.1, 32.1-127.1:03, 54.1-2402, 54.1-2410, 54.1-2503, 54.1-2800, 54.1-2802, 54.1-2803 and 54.1-2804, 54.1-2806, 54.1-2812, 54.1-2819, and 54.1-2821 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 28 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-2830 through 54.1-2857, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for

Aging, Advisory Board on the

Agriculture and Consumer Services, Board of

Air Pollution, State Advisory Board on

Alcoholic Beverage Control Board, Virginia

Apple Board, Virginia State

Appomattox State Scenic River Advisory Board

Aquaculture Advisory Board

Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for

Art and Architectural Review Board

Athletic Board, Virginia

Auctioneers Board

Audiology and Speech-Language Pathology, Board of

Aviation Board, Virginia

Barbers, Board for

Branch Pilots, Board for

Bright Flue-Cured Tobacco Board, Virginia

Building Code Technical Review Board, State

Catoclin Creek State Scenic River Advisory Board

Cattle Industry Board, Virginia

Cave Board

Certified Seed Board, State

Chesapeake Bay Local Assistance Board

Chickahominy State Scenic River Advisory Board

Child Abuse and Neglect, Advisory Board on

Chippokes Plantation Farm Foundation, Board of Trustees

Clinch Scenic River Advisory Board

Coal Mining Examiners, Board of

Coal Research and Development Advisory Board, Virginia

Coal Surface Mining Reclamation Fund Advisory Board

Conservation and Development of Public Beaches, Board on

Conservation and Recreation, Board of

Contractors, Board for

Corn Board, Virginia

Correctional Education, Board of

Corrections, State Board of

Cosmetology, Board for

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60 Criminal Justice Services Board
61 Dark-Fired Tobacco Board, Virginia
62 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
63 Dentistry, Board of
64 Design-Build/Construction Management Review Board
65 Education, State Board of
66 Egg Board, Virginia
67 Emergency Medical Services Advisory Board, State
68 Farmers Market Board, Virginia
69 Fire Services Board, Virginia
70 Forestry, Board of
71 Funeral Directors and, Embalmers *and Cemeteries*, Board of
72 Game and Inland Fisheries, Board of
73 Geology, Board for
74 Goose Creek Scenic River Advisory Board
75 Health Planning Board, Virginia
76 Health Professions, Board of
77 Health, State Board of
78 Hearing Aid Specialists, Board for
79 Hemophilia Advisory Board
80 Historic Resources, Board of
81 Housing and Community Development, Board of
82 Irish Potato Board, Virginia
83 Juvenile Justice, State Board of
84 Litter Control and Recycling Fund Advisory Board
85 Marine Products Board, Virginia
86 Medical Advisory Board, Department of Motor Vehicles
87 Medicare and Medicaid, Advisory Board on
88 Medicine, Board of
89 Mental Health, Mental Retardation and Substance Abuse Services Board, State
90 Migrant and Seasonal Farmworkers Board
91 Military Affairs, Board of
92 Mineral Mining Examiners, Board of
93 Minority Business Enterprise, Interdepartmental Board of the Department of
94 Networking Users Advisory Board, State
95 Neurotrauma Initiative Advisory Board, Commonwealth
96 North Meherrin State Scenic River Advisory Board
97 Nottoway State Scenic River Advisory Board
98 Nursing, Board of
99 Nursing Home Administrators, Board of
100 Occupational Therapy, Advisory Board on
101 Oil and Gas Conservation Board, Virginia
102 Opticians, Board for
103 Optometry, Board of
104 Peanut Board, Virginia
105 Personnel Advisory Board
106 Pesticide Control Board
107 Pharmacy, Board of
108 Physical Therapy to the Board of Medicine, Advisory Board on
109 Plant Pollination Advisory Board
110 Polygraph Examiners Advisory Board
111 Pork Industry Board, Virginia
112 Poultry Products Board, Virginia
113 Private College Advisory Board
114 Private Security Services Advisory Board
115 Professional and Occupational Regulation, Board for
116 Professional Counselors, Board of
117 Professional Soil Scientists, Board for
118 Psychiatric Advisory Board
119 Psychology, Board of
120 Public Buildings Board, Virginia
121 Public Broadcasting Board, Virginia

- 122 Radiation Advisory Board
- 123 Real Estate Appraiser Board
- 124 Real Estate Board
- 125 Reciprocity Board, Department of Motor Vehicles
- 126 Recreational Fishing Advisory Board, Virginia
- 127 Recreation Specialists, Board of
- 128 Reforestation Board
- 129 Rehabilitation Providers, Advisory Board on
- 130 Rehabilitative Services, Board of
- 131 Respiratory Therapy, Advisory Board on
- 132 Rockfish State Scenic River Advisory Board
- 133 Safety and Health Codes Board
- 134 Seed Potato Board
- 135 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 136 Shenandoah State Scenic River Advisory Board
- 137 Small Business Advisory Board
- 138 Small Business Environmental Compliance Advisory Board
- 139 Small Grains Board, Virginia
- 140 Social Services, Board of
- 141 Social Work, Board of
- 142 Soil and Water Conservation Board, Virginia
- 143 Soybean Board, Virginia
- 144 State Air Pollution Control Board
- 145 Substance Abuse Certification Board
- 146 Surface Mining Review, Board of
- 147 Sweet Potato Board, Virginia
- 148 T & M Vehicle Dealers' Advisory Board
- 149 Teacher Education and Licensure, Advisory Board on
- 150 Transportation Board, Commonwealth
- 151 Transportation Safety, Board of
- 152 Treasury Board, The, Department of the Treasury
- 153 Veterans' Affairs, Board on
- 154 Veterinary Medicine, Board of
- 155 Virginia Board for Asbestos and Lead
- 156 Virginia Coal Mine Safety Board
- 157 Virginia Correctional Enterprises Advisory Board
- 158 Virginia Cotton Board
- 159 Virginia Employment Commission, State Advisory Board for the
- 160 Virginia Geographic Information Network Advisory Board
- 161 Virginia Horse Industry Board
- 162 Virginia Manufactured Housing Board
- 163 Virginia Retirement System, Board of Trustees
- 164 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
- 165 Virginia Sheep Industry Board
- 166 Virginia Veterans Cemetery Board
- 167 Virginia Waste Management Board
- 168 Visually Handicapped, Virginia Board for the
- 169 Voluntary Formulary Board, Virginia
- 170 War Memorial Foundation, Virginia, Board of Trustees
- 171 Waste Management Facility Operators, Board for
- 172 Water Resources Research Center Statewide Advisory Board, Virginia
- 173 Waterworks and Wastewater Works Operators, Board for
- 174 Well Review Board, Virginia.
- 175 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 176 referred to as boards:
- 177 Compensation Board
- 178 State Board of Elections
- 179 State Water Control Board
- 180 Virginia Parole Board
- 181 Virginia Veterans Care Center Board of Trustees.
- 182 § 2.1-20.4. Bodies receiving compensation.

183 A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be
184 those which receive compensation from state funds pursuant to § 2.1-20.3:
185 Accountancy, Board for
186 Agriculture and Consumer Services, Board of
187 Air Pollution Control Board, State
188 Airports Authority, Virginia
189 Apprenticeship Council
190 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
191 Athletic Board, Virginia
192 Auctioneers Board
193 Audiology and Speech-Language Pathology, Board of
194 Aviation Board, Virginia
195 Barbers, Board for
196 Branch Pilots, Board for
197 Building Code Technical Review Board, State
198 Charitable Gaming Commission
199 Chesapeake Bay Local Assistance Board
200 Coal Mining Examiners, Board of
201 College Building Authority
202 Commonwealth Competition Council
203 Commonwealth Transportation Board
204 Conservation and Development of Public Beaches, Board on
205 Conservation and Recreation, Board of
206 Contractors, Board for
207 Correctional Education, Board of
208 Corrections, Board of
209 Cosmetology, Board for
210 Criminal Justice Services Board
211 Deaf and Hard-of-Hearing, Advisory Board for the
212 Dentistry, Board of
213 Education, State Board of
214 Education Loan Authority, Virginia - Board of Directors
215 Elections, State Board of
216 Environment, Council on the
217 Fire Services Board, Virginia
218 Funeral Directors ~~and~~, Embalmers *and Cemeteries*, Board of
219 Game and Inland Fisheries, Board of
220 Geology, Board for
221 Health, State Board of
222 Health Professions, Board of
223 Hearing Aid Specialists, Board for
224 Higher Education, State Council of
225 Historic Resources, Board of
226 Housing and Community Development, Board of
227 Information Management, Council on
228 Juvenile Justice, State Board of
229 Marine Resources Commission
230 Medical Assistance Services, Board of
231 Medical Complaint Investigation Committee
232 Medicine, Board of
233 Mental Health, Mental Retardation and Substance Abuse Services Board, State
234 Milk Commission
235 Mineral Mining Examiners, Board of
236 Motor Vehicle Dealer Board
237 Nursing, Board of
238 Nursing Home Administrators, Board of
239 Occupational Therapy, Advisory Board on
240 Oil and Gas Conservation Board, Virginia
241 Opticians, Board for
242 Optometry, Board of
243 Pesticide Control Board
244 Pharmacy, Board of

245 Physical Therapy, Advisory Board on
 246 Port Authority, Board of Commissioners of the Virginia
 247 Professional and Occupational Regulation, Board for
 248 Professional Counselors, Board of
 249 Professional Soil Scientists, Board for
 250 Psychology, Board of
 251 Public Defender Commission
 252 Public School Authority, Virginia
 253 Purchases and Supply Appeals Board
 254 Real Estate Appraiser Board
 255 Real Estate Board
 256 Recreation Specialists, Board of
 257 Rehabilitative Services, Board of
 258 Respiratory Therapy, Advisory Board on
 259 Safety and Health Codes Board
 260 Seed Potato Board
 261 Social Services, Board of
 262 Social Work, Board of
 263 State Health Department Sewage Handling and Disposal Appeal Review Board
 264 Substance Abuse Certification Board
 265 Surface Mining Review, Board of
 266 Treasury Board
 267 Veterans' Affairs, Board on
 268 Veterinary Medicine, Board of
 269 Virginia Board for Asbestos Licensing
 270 Virginia Health Planning Board
 271 Virginia Manufactured Housing Board
 272 Virginia Veterans Care Center Board of Trustees
 273 Virginia Waste Management Board
 274 Visually Handicapped, Virginia Board for the
 275 Waste Management Facility Operators, Board for
 276 Water Control Board, State
 277 Waterworks and Wastewater Works Operators, Board for
 278 Well Review Board, Virginia.
 279 B. Individual members of boards, commissions, committees, councils, and other similar bodies
 280 appointed at the state level and receiving compensation for their services on January 1, 1980, but who
 281 will not receive compensation under the provisions of this article, shall continue to receive compensation
 282 at the January 1, 1980, rate until such member's current term expires.
 283 § 9-6.25:2. Policy boards, commissions and councils.
 284 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the
 285 following policy boards, commissions and councils:
 286 Apprenticeship Council
 287 Athletic Board
 288 Auctioneers Board
 289 Blue Ridge Regional Education and Training Council
 290 Board for Accountancy
 291 Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects
 292 Board for Barbers
 293 Board for Contractors
 294 Board for Cosmetology
 295 Board for Geology
 296 Board for Hearing Aid Specialists
 297 Board for Opticians
 298 Board for Professional and Occupational Regulation
 299 Board for Professional Soil Scientists
 300 Board for Waterworks and Wastewater Works Operators
 301 Board of Agriculture and Consumer Services
 302 Board of Audiology and Speech-Language Pathology
 303 Board of Coal Mining Examiners
 304 Board of Conservation and Recreation
 305 Board of Correctional Education

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| 306 | Board of Dentistry |
| 307 | Board of Directors, Virginia Student Assistance Authorities |
| 308 | Board of Funeral Directors and , Embalmers <i>and Cemeteries</i> |
| 309 | Board of Health Professions |
| 310 | Board of Historic Resources |
| 311 | Board of Housing and Community Development |
| 312 | Board of Medical Assistance Services |
| 313 | Board of Medicine |
| 314 | Board of Mineral Mining Examiners |
| 315 | Board of Nursing |
| 316 | Board of Nursing Home Administrators |
| 317 | Board of Optometry |
| 318 | Board of Pharmacy |
| 319 | Board of Professional Counselors |
| 320 | Board of Psychology |
| 321 | Board of Recreation Specialists |
| 322 | Board of Social Services |
| 323 | Board of Social Work |
| 324 | Board of Surface Mining Review |
| 325 | Board of Veterinary Medicine |
| 326 | Board on Conservation and Development of Public Beaches |
| 327 | Chesapeake Bay Local Assistance Board |
| 328 | Child Day-Care Council |
| 329 | Commission on Local Government |
| 330 | Commonwealth Transportation Board |
| 331 | Council on Human Rights |
| 332 | Council on Information Management |
| 333 | Criminal Justice Services Board |
| 334 | Design-Build/Construction Management Review Board |
| 335 | Disability Services Council |
| 336 | Farmers Market Board, Virginia |
| 337 | Interdepartmental Council on Rate-setting for Children's Facilities |
| 338 | Library Board, The Library of Virginia |
| 339 | Marine Resources Commission |
| 340 | Milk Commission |
| 341 | Pesticide Control Board |
| 342 | Real Estate Appraiser Board |
| 343 | Real Estate Board |
| 344 | Reciprocity Board, Department of Motor Vehicles |
| 345 | Safety and Health Codes Board |
| 346 | Seed Potato Board |
| 347 | Southside Virginia Marketing Council |
| 348 | Specialized Transportation Council |
| 349 | State Air Pollution Control Board |
| 350 | State Board of Corrections |
| 351 | State Board of Elections |
| 352 | State Board of Health |
| 353 | State Board of Juvenile Justice |
| 354 | State Health Department, Sewage Handling and Disposal Appeal Review Board |
| 355 | State Library Board |
| 356 | State Mental Health, Mental Retardation and Substance Abuse Services Board |
| 357 | State Water Control Board |
| 358 | Substance Abuse Certification Board |
| 359 | Treasury Board, The, Department of the Treasury |
| 360 | Virginia Aviation Board |
| 361 | Virginia Board for Asbestos and Lead |
| 362 | Virginia Fire Services Board |
| 363 | Virginia Gas and Oil Board |
| 364 | Virginia Health Planning Board |
| 365 | Virginia Manufactured Housing Board |
| 366 | Virginia Parole Board |
| 367 | Virginia Public Broadcasting Board |

368 Virginia Soil and Water Conservation Board
 369 Virginia Voluntary Formulary Board
 370 Virginia Waste Management Board
 371 Waste Management Facility Operators, Board for.
 372 § 32.1-45.1. Deemed consent to testing and release of test results related to infection with human
 373 immunodeficiency virus or hepatitis B or C viruses.

374 A. Whenever any health care provider, or any person employed by or under the direction and control
 375 of a health care provider, is directly exposed to body fluids of a patient in a manner which may,
 376 according to the then current guidelines of the Centers for Disease Control, transmit human
 377 immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the
 378 exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus
 379 or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such
 380 test results to the person who was exposed. In other than emergency situations, it shall be the
 381 responsibility of the health care provider to inform patients of this provision prior to providing them
 382 with health care services which create a risk of such exposure.

383 B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any
 384 person employed by or under the direction and control of a health care provider, in a manner which
 385 may, according to the then current guidelines of the Centers for Disease Control, transmit human
 386 immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the
 387 exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus
 388 or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such
 389 test results to the patient who was exposed.

390 C. For the purposes of this section, "health care provider" means any person, facility or agency
 391 licensed or certified to provide care or treatment by the Department of Health, Department of Mental
 392 Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, or the
 393 Department of Social Services, any person licensed or certified by a health regulatory board within the
 394 Department of Health Professions except for the Boards of Funeral Directors ~~and~~, Embalmers *and*
 395 *Cemeteries* and Veterinary Medicine or any personal care agency contracting with the Department of
 396 Medical Assistance Services.

397 D. "Health care provider," as defined in subsection C of this section, shall be deemed to include any
 398 person who renders emergency care or assistance, without compensation and in good faith, at the scene
 399 of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital,
 400 medical clinic or doctor's office during the period while rendering such emergency care or assistance.
 401 The Department of Health shall provide appropriate counseling and opportunity for face-to-face
 402 disclosure of any test results to any such person.

403 E. Whenever any law-enforcement officer is directly exposed to body fluids of a person in a manner
 404 which may, according to the then current guidelines of the Centers for Disease Control, transmit human
 405 immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the
 406 exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus
 407 or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such
 408 test results to the law-enforcement officer who was exposed. In other than emergency situations, it shall
 409 be the responsibility of the law-enforcement officer to inform the person of this provision prior to the
 410 contact which creates a risk of such exposure.

411 F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer in a
 412 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
 413 human immunodeficiency virus or hepatitis B or C viruses, the law-enforcement officer whose body
 414 fluids were involved in the exposure shall be deemed to have consented to testing for infection with
 415 human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer shall also be
 416 deemed to have consented to the release of such test results to the person.

417 G. For the purposes of this section, "law-enforcement officer" means a person who is both (i)
 418 engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any
 419 adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or
 420 department under the direction and control of the Commonwealth or any local governing body that
 421 employs persons who have law-enforcement authority.

422 H. If the person whose blood specimen is sought for testing refuses to provide such specimen, any
 423 person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the
 424 employer of such person, may petition the general district court of the county or city in which the
 425 person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city
 426 where the health care provider or law-enforcement agency has its principal office, for an order requiring
 427 the person to provide a blood specimen or to submit to testing and to disclose the test results in
 428 accordance with this section. At any hearing before the court, the person whose specimen is sought or

his counsel may appear. The court shall be advised by the Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

§ 32.1-127.1:03. Patient Health Records Privacy.

A. There is hereby recognized a patient's right of privacy in the content of a patient's medical record. Patient records are the property of the provider maintaining them, and, except when permitted by this section or by another provision of state or federal law, no provider, or other person working in a health care setting, may disclose the records of a patient.

Patient records shall not be removed from the premises where they are maintained without the approval of the provider, except in accordance with a court order or subpoena consistent with § 8.01-413 C or with this section.

No third party to whom disclosure of patient records was made by a provider shall redisclose or otherwise reveal the records of a patient, beyond the purpose for which such disclosure was made, without first obtaining the patient's specific consent to such redisclosure. This redisclosure prohibition shall not, however, prevent any provider who receives records from another provider from making subsequent disclosures permitted under this section.

B. As used in this section:

"Agent" means a person who has been appointed as a patient's agent under a power of attorney for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.)

"Guardian" means a court-appointed guardian of the person.

"Health services" includes but is not limited to examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind.

"Parent" means a biological, adoptive or foster parent.

"Patient" means a person who is receiving or has received health services from a provider.

"Provider" shall have the same meaning as set forth in the definition of "Health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered providers for the purposes of this section. Provider shall also include all individuals who are licensed or certified by any of the health regulatory boards within the Department of Health Professions, except individuals regulated by the Board of Funeral Directors and Embalmers and Cemeteries or the Board of Veterinary Medicine.

"Record" means any written, printed or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to the patient.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act; or

2. Except where specifically provided herein, the records of minor patients.

D. Providers may disclose the records of a patient:

1. As set forth in subsection E of this section, pursuant to the written consent of the patient or in the case of a minor patient, his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969; also, in emergency cases or situations where it is impractical to obtain the patient's written consent, pursuant to the patient's oral consent for a provider to discuss the patient's records with a third party specified by the patient;

2. In compliance with a subpoena issued in accord with subsection H of this section, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a provider or the provider's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a provider's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by any other provision of law including contagious disease, public safety, and suspected child or adult abuse reporting requirements, including but not limited to those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-276.5, 32.1-283, 32.1-283.1, 37.1-98.2, 53.1-40.10, 54.1-2403.3, 54.1-2906, 54.1-2907, 54.1-2966, 54.1-2966.1, 54.1-2967, 54.1-2968, 63.1-55.3 and 63.1-248.11;

7. Where necessary in connection with the care of the patient;

8. In the normal course of business in accordance with accepted standards of practice within the health services setting;

9. When the patient has waived his right to the privacy of the medical records;

10. When examination and evaluation of a patient is undertaken pursuant to judicial or administrative law order, but only to the extent as required by such;

11. To the guardian ad litem in the course of a guardianship proceeding of an adult patient authorized under §§ 37.1-128.1, 37.1-128.2 and 37.1-132;

12. To the attorney appointed by the court to represent a patient in a civil commitment proceeding under § 37.1-67.3;

13. To the attorney and/or guardian ad litem of a minor patient who represents such minor in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the provider of such order;

14. With regard to the Court Appointed Special Advocate (CASA) program, a minor's records in accord with § 9-173.12;

15. To an agent appointed under a patient's power of attorney or to an agent or decision maker designated in a patient's advance directive for health care or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

16. To third-party payors and their agents pursuant to the deemed consent provisions of §§ 37.1-226 and 37.1-227 when the patient has requested the provider to submit bills to the third-party payor for payment under a contract or insurance policy;

17. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided;

18. Upon the sale of a medical practice as provided in § 54.1-2405;

19. In accord with § 54.1-2400.1 B, to communicate a patient's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

20. To the patient, except as provided in subsections E and F of this section and subsection B of § 8.01-413;

21. In the case of substance abuse records when permitted by and in conformity with requirements of federal law found in 42 U.S.C 290dd-2 and 42 C.F.R. Part 2;

22. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

23. Records of a deceased or mentally incapacitated patient to the personal representative or executor of the deceased patient or the legal guardian or committee of the incompetent or incapacitated patient or if there is no such person appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased patient in order of blood relationship; and

24. Pursuant to a medical temporary detention order as set out in subsection M of § 37.1-134.5.

E. Requests for copies of medical records shall (i) be in writing, dated and signed by the requester; (ii) identify the nature of the information requested; and (iii) include evidence of the authority of the requester to receive such copies and identification of the person to whom the information is to be disclosed. Within fifteen days of receipt of a request for copies of medical records, the provider shall do one of the following: (i) furnish such copies to any requester authorized to receive them; (ii) inform the requester if the information does not exist or cannot be found; (iii) if the provider does not maintain a record of the information, so inform the requester and provide the name and address, if known, of the provider who maintains the record; or (iv) deny the request (a) under subsection F, (b) on the grounds that the requester has not established his authority to receive such records or proof of his identity, or (c) as otherwise provided by law. Procedures set forth in this section shall apply only to requests for records not specifically governed by other provisions of this Code or of federal law.

F. Except as provided in subsection B of § 8.01-413, copies of a patient's records shall not be furnished to such patient or anyone authorized to act on the patient's behalf where the patient's attending physician or the patient's clinical psychologist has made a part of the patient's record a written statement that, in his opinion, the furnishing to or review by the patient of such records would be injurious to the patient's health or well-being. If any custodian of medical records denies a request for copies of records based on such statement, the custodian shall permit examination and copying of the medical record by another such physician or clinical psychologist selected by the patient, whose licensure, training and experience relative to the patient's condition is at least equivalent to that of the physician or clinical psychologist upon whose opinion the denial is based. The person or entity denying the request shall inform the patient of the patient's right to select another reviewing physician or clinical psychologist

552 under this subsection who shall make a judgment as to whether to make the record available to the
553 patient. Any record copied for review by the physician or clinical psychologist selected by the patient
554 shall be accompanied by a statement from the custodian of the record that the patient's attending
555 physician or clinical psychologist determined that the patient's review of his record would be injurious to
556 the patient's health or well-being.

557 G. A written consent to allow release of patient records may, but need not, be in the following form:

558
559 CONSENT TO RELEASE OF CONFIDENTIAL HEALTH CARE

560
561 INFORMATION

562
563 Patient Name.....

564
565 Provider Name.....

566
567 Person, agency or provider to whom disclosure is to

568
569 be made.....

570
571 Information or Records to be disclosed.....

572
573 As the person signing this consent, I understand that I am giving

574
575 my permission to the above-named provider or other named third party

576
577 for disclosure of confidential health care records. I also understand

578
579 that I have the right to revoke this consent, but that my revocation

580
581 is not effective until delivered in writing to the person who is in

582
583 possession of my records. A copy of this consent and a notation

584
585 concerning the persons or agencies to whom disclosure was made shall

586
587 be included with my original records. The person who receives the

588
589 records to which this consent pertains may not redisclose them to

590
591 anyone else without my separate written consent unless such recipient

592
593 is a provider who makes a disclosure permitted by law.

594
595 This consent expires on (date).....

596
597 Signature of Patient Date

598
599 H. 1. No party to an action shall request the issuance of a subpoena duces tecum for an opposing
600 party's medical records unless a copy of the request for the subpoena is provided to opposing counsel or
601 the opposing party if they are pro se, simultaneously with filing the request. No party to an action shall
602 request the issuance of a subpoena duces tecum for the medical records of a nonparty witness unless a
603 copy of the request for the subpoena is provided to the nonparty witness simultaneously with filing the
604 request.

605 In instances where medical records being subpoenaed are those of a pro se party or nonparty witness,
606 the party requesting the issuance of the subpoena shall deliver to the pro se party or nonparty witness
607 together with the copy of the request for subpoena, a statement informing them of their rights and
608 remedies. The statement shall include the following language and the heading shall be in boldface
609 capital letters:

NOTICE TO PATIENT

The attached Request for Subpoena means that (insert name of party requesting subpoena) has asked the court to issue a subpoena to your doctor or other health care providers (names of health care providers inserted here) requiring them to produce your medical records. Your doctor or other health care provider is required to respond by providing a copy of your medical records. If you believe your records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court to quash the subpoena. You may contact the clerk's office to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, it must be filed as soon as possible before the provider sends out the records in response to the subpoena. If you elect to file a motion to quash, you must notify your doctor or other health care provider(s) that you are filing the motion so that the provider knows to send the records to the clerk of court in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum for a patient's medical records shall include a Notice to Providers in the same part of the request where the provider is directed where and when to return the records. Such notice shall be in boldface capital letters and shall include the following language:

NOTICE TO PROVIDERS

IF YOU RECEIVE NOTICE THAT YOUR PATIENT HAS FILED A MOTION TO QUASH (OBJECTING TO) THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, SEND THE RECORDS ONLY TO THE CLERK OF THE COURT WHICH ISSUED THE SUBPOENA USING THE FOLLOWING PROCEDURE: PLACE THE RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT WHICH STATES THAT CONFIDENTIAL HEALTH CARE RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING THE COURT'S RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT.

3. Health care providers shall provide a copy of all records as required by a subpoena duces tecum or court order for such medical records. If the health care provider has, however, actual receipt of notice that a motion to quash the subpoena has been filed or if the health care provider files a motion to quash the subpoena for medical records, then the health care provider shall produce the records to the clerk of the court issuing the subpoena, where the court shall place the records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge. In the event the court grants the motion to quash, the records shall be returned to the health care provider in the same sealed envelope in which they were delivered to the court. In the event that a judge orders the sealed envelope to be opened to review the records in camera, a copy of the judge's order shall accompany any records returned to the provider. The records returned to the provider shall be in a securely sealed envelope.

4. It is the duty of any party requesting a subpoena duces tecum for medical records to determine whether the patient whose records are sought is pro se or a nonparty. Any request for a subpoena duces tecum for the medical records of a nonparty or of a pro se party shall direct the provider (in boldface type) not to produce the records until ten days after the date on which the provider is served with the subpoena duces tecum and shall be produced no later than twenty days after the date of such service.

In the event that the individual whose records are being sought files a motion to quash the subpoena, the court shall decide whether good cause has been shown by the discovering party to compel disclosure of the patient's private records over the patient's objections. In determining whether good cause has been shown, the court shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

The provisions of this subsection have no application to subpoenas for medical records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a provider's conduct. The provisions of this subsection apply to the medical records of both minors and adults.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

Providers may testify about the medical records of a patient in compliance with §§ 8.01-399 and 8.01-400.2.

§ 54.1-2402. Citizen members on health regulatory boards.

Citizen members appointed to boards within the Department of Health Professions after July 1, 1986,

shall participate in all matters. Of the citizen members first appointed to boards with two citizen members, one shall be appointed for a term of two years and one for the maximum term established for members of the respective board. On boards with one citizen member, the citizen member initially appointed shall be appointed for the maximum term established for members of that board. The provisions of this section relating to terms of citizen members on such boards shall not apply to the Board of Medicine or to the Board of Funeral Directors ~~and~~, Embalmers *and Cemeteries*. For the purposes of this section, "citizen member" shall have the meaning provided in § 54.

§ 54.1-2410. Definitions.

As used in this chapter or when referring to the Board of Health Professions regulatory authority therefor, unless the context requires a different meaning:

"Board" means the Board of Health Professions.

"Community" means a city or a county.

"Demonstrated need" means (i) there is no facility in the community providing similar services and (ii) alternative financing is not available for the facility, or (iii) such other conditions as may be established by Board regulation.

"Entity" means any person, partnership, firm, corporation, or other business that delivers health services.

"Group practice" means two or more health care practitioners who are members of the same legally organized partnership, professional corporation, not-for-profit corporation, faculty practice or similar association in which (i) each member provides substantially the full range of services within his licensed or certified scope of practice at the same location as the other members through the use of the organization's office space, facilities, equipment, or personnel; (ii) payments for services received from a member are treated as receipts of the organization; and (iii) the overhead expenses and income from the practice are distributed according to methods previously determined by the members.

"Health services" means any procedures or services related to prevention, diagnosis, treatment, and care rendered by a health care worker, regardless of whether the worker is regulated by the Commonwealth.

"Immediate family member" means the individual's spouse, child, child's spouse, stepchild, stepchild's spouse, grandchild, grandchild's spouse, parent, stepparent, parent-in-law, or sibling.

"Investment interest" means the ownership or holding of an equity or debt security, including, but not limited to, shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments, except investment interests in a hospital licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1.

"Investor" means an individual or entity directly or indirectly possessing a legal or beneficial ownership interest, including an investment interest.

"Office practice" means the facility or facilities at which a practitioner, on an ongoing basis, provides or supervises the provision of health services to consumers.

"Practitioner" means any individual certified or licensed by any of the health regulatory boards within the Department of Health Professions, except individuals regulated by the Board of Funeral Directors ~~and~~, Embalmers *and Cemeteries* or the Board of Veterinary Medicine.

"Referral" means to send or direct a patient for health services to another health care practitioner or entity outside the referring practitioner's group practice or office practice or to establish a plan of care which requires the provision of any health services outside the referring practitioner's group practice or office practice.

§ 54.1-2503. Boards within Department.

In addition to the Board of Health Professions, the following boards are included within the Department: Board of Audiology and Speech-Language Pathology, Board of Dentistry, Board of Funeral Directors ~~and~~, Embalmers *and Cemeteries*, Board of Medicine, Board of Nursing, Board of Nursing Home Administrators, Board of Optometry, Board of Pharmacy, Board of Professional Counselors, Board of Psychology, Board of Recreation Specialists, Board of Social Work and Board of Veterinary Medicine.

§ 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 *and Cemeteries*.

"Cemetery" means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

"Cemetery company" means any person engaged in the business of (i) selling or offering for sale any grave or entombment right in a cemetery and representing to the public that the entire cemetery, a single grave, or entombment right therein will be perpetually cared for or (ii) selling property or

services used in connection with interring or disposing of the remains or commemorating the memory of a deceased human being, where delivery of the property or performance of the service may be delayed later than 120 days after receipt of the initial payment on account of such sale. Such property or services include but are not limited to burial vaults, mausoleum crypts, garden crypts, lawn crypts, memorials, and marker bases, but shall not include graves or incidental additions such as dates, scrolls, or other supplementary matter representing not more than ten percent of the total contract price.

"Compliance agent" means a natural person who owns or is employed by a cemetery company to ensure the compliance of the cemetery company with the provisions of this article.

"Cost requirement" means the total cost to the seller of the property or services subject to the deposit requirements of § 54.1-2841 required by that seller's total contracts.

"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 or the act of embalming is performed.

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

"Garden crypt" means a burial receptacle, usually constructed of reinforced concrete, installed in quantity on gravel or tile underlay. Each crypt becomes an integral part of a given garden area and is considered real property.

"General funds" means the sum total of specific funds put together in a single fund.

"Grave" means a below-ground right of interment.

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

"Interment" means all forms of final disposal of human remains including, but not limited to, earth burial, mausoleum entombment and niche or columbarium inurnment. The sprinkling of ashes on church grounds shall not constitute interment.

"Lawn crypt" means a burial vault with some minor modifications for the improvement of drainage in and around the receptacle and is considered personal property.

"Marker base" means the visible part of the marker or monument upon which the marker or monument rests and is considered personal property.

"Mausoleum crypt" means a burial receptacle usually constructed of reinforced concrete and usually constructed or assembled above the ground and is considered real property.

"Memorials, markers or monuments" means the object used to identify the deceased and is considered personal property.

"Next of kin" means any of the following: legal spouse, child over eighteen years of age, custodial parent, noncustodial parent, siblings over eighteen years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over eighteen years of age and paternal siblings over eighteen years of age, or any other relative in the descending order of blood relationship.

"Perpetual care" means the maintenance of cemetery grounds and graves in keeping with a properly maintained cemetery, including (i) cutting the grass on cemetery plots at reasonable intervals; (ii) raking and cleaning of cemetery plots at reasonable intervals; (iii) pruning shrubs and trees; (iv) procuring, maintaining, and keeping in workable condition the machinery, tools, and equipment needed for maintenance purposes, and replacing the machinery, tools, and equipment when necessary; and (v) keeping in repair and preserving the drains, water lines, roads, building, fences, and other structures, including cemetery owned statues and embellishments of a general character applicable to the cemetery as a whole or a particular area.

"Perpetual care trust fund" means a fund created to provide income to a cemetery to provide for the perpetual care and administration of the cemetery.

"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 burial contract" means a contract for the sale of property or services used in connection with interring or disposing of the remains or commemorating the memory of a deceased human being,

794 *where delivery of the property or performance of the service may be delayed for more than 120 days*
 795 *after the receipt of initial payment on account of such sale. Such property or services include but are*
 796 *not limited to burial vaults, mausoleum crypts, garden crypts, lawn crypts, memorials, and marker*
 797 *bases, but shall not include graves or incidental additions such as dates, scrolls, or other supplementary*
 798 *matter representing not more than ten percent of the total contract price.*

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

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

804 "Resident trainee" means a person who is preparing to be licensed for the practice of funeral services
 805 under the direct supervision of a practitioner licensed by the Board.

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

808 "Specific trust funds" means funds identified to a certain contract for personal property or services.

809 § 54.1-2802. Board; appointment; terms; vacancies; meetings; quorum.

810 The Board of Funeral Directors, ~~and~~ Embalmers and Cemeteries shall consist of ~~nine~~ seventeen
 811 members as follows: seven funeral service licensees of the Board with at least five consecutive years of
 812 funeral service practice in this Commonwealth immediately prior to appointment; ~~six cemetery operators~~
 813 ~~who have operated a for-profit cemetery in the Commonwealth for at least five consecutive years~~
 814 ~~immediately prior to appointment; and two~~ four citizen members ~~two of whom shall be representatives~~
 815 ~~of local governments. Of the cemetery operators initially appointed to the Board, two shall be appointed~~
 816 ~~for a term of four years, two shall be appointed for a term of three years and two shall be appointed~~
 817 ~~for a term of two years.~~ The terms of office shall be for four years from July 1. Appointments shall be
 818 made annually on or before June 30 as the terms of the members respectively expire. Appointments to
 819 the Board should generally represent the geographical areas of the Commonwealth. The Board shall
 820 annually elect a president, a vice-president and a secretary-treasurer.

821 The Board shall hold at least two meetings each year at which examinations shall be given. In
 822 addition, the Board may meet as often as its duties require. ~~Five~~ Nine members shall constitute a
 823 quorum.

824 § 54.1-2803. Specific powers and duties of Board.

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

827 1. To establish standards of service and practice for the funeral service profession ~~and the operation~~
 828 ~~of for-profit cemeteries in this Commonwealth.~~

829 2. To regulate and inspect funeral service establishments ~~and for-profit cemeteries~~, their operation
 830 and licenses.

831 3. To require licensees and resident trainees to submit all information relevant to their practice or
 832 business.

833 4. To enforce the relevant regulations of the Board of Health.

834 5. To enforce local ordinances relating to funeral service establishments.

835 6. To determine the qualifications for inspectors serving as its agents.

836 7. To establish, supervise, regulate and control, in accordance with the law, programs for resident
 837 trainees.

838 8. To establish standards for and approve schools of mortuary science or funeral service.

839 9. To adopt a common seal.

840 10. To regulate preneed funeral contracts and preneed funeral trust accounts as prescribed by this
 841 chapter, including, but not limited to, the authority to prescribe preneed contract forms, disclosure
 842 requirements and disclosure forms and to require reasonable bonds to insure performance of preneed
 843 contracts.

844 11. To regulate preneed burial contracts and perpetual care trust fund accounts including, but not
 845 limited to, the authority to prescribe preneed contract forms, disclosure requirements and disclosure
 846 forms and to require reasonable bonds to ensure performance of preneed contracts;

847 12. To regulate sales personnel employed by a cemetery company.

848 § 54.1-2804. Licensing authority.

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

853 § 54.1-2806. Refusal, suspension or revocation of license.

854 The Board may refuse to admit a candidate to any examination, refuse to issue a license to any
 855 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 *or to operate a for-profit cemetery*;
 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 *and Cemeteries* or the Board of Health;
 21. Failure to comply with the reporting requirements as set forth in § 54.1-2817 for registered funeral trainees;
 22. Failure to provide proper and adequate supervision and training instruction to registered funeral trainees 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; and
 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.
- § 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~~ *shall* 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,

917 preparation of the body, other professional services used and disclosure statements required by the
918 Federal Trade Commission, which shall be set forth in a clear and conspicuous manner.

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

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

927 § 54.1-2819. Registration of surface transportation and removal services.

928 Any person, private business or funeral service establishment, except a common carrier engaged in
929 interstate commerce, the Commonwealth and its agencies, shall apply for and receive a registration as a
930 transportation and removal service in order to be authorized to engage in the business of surface
931 transportation or removal of dead human bodies in this Commonwealth.

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

935 The Board of Funeral Directors ~~and~~, *Embalmers and Cemeteries* shall promulgate regulations for
936 such registration including proper procedures in the handling of all dead human bodies being
937 transported, application process for registration, and establishment of registration fees. These regulations
938 shall not require the use of a casket for transportation. Any licensed funeral service establishment shall
939 receive such registration as part of its funeral service establishment license without the necessity of
940 additional application or fee. However, such establishment shall be subject to the regulations pertaining
941 to transportation and removal services.

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

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

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

951 § 54.1-2821. Exemptions.

952 This article shall not apply to the preneed sale of cemetery services or supplies regulated under
953 Article 3.2 (§ 57-35.11 et seq.) of Chapter 3 of Title 57 6 of this chapter.

954 Article 6.

955 *Cemetery Operators, Perpetual Care Trust Funds and Preneed Burial Contracts.*

956 § 54.1-2830. Cemetery operators required to register with Board.

957 No person shall engage in the business of a cemetery company in the Commonwealth without first
958 having registered with the Board. The cemetery company shall renew its registration as required by the
959 Board. Such registration and such renewal of registration shall (i) be on forms prescribed by the Board
960 and shall include the name and address of each cemetery in Virginia in which the cemetery company
961 has a business interest, the name and address of all officers and directors of the cemetery company, the
962 registered agent for the cemetery company, the compliance agent, and any other information as the
963 Board may require consistent with the purposes of this article and (ii) include a fee as prescribed by the
964 Board for each cemetery in Virginia in which the cemetery company has a business interest. The
965 cemetery company shall notify the Board of any change in the information required to be filed within
966 thirty days after the change. A new registration shall be required if there is a change in the ownership
967 of the cemetery company or if there is a change in the compliance agent designated by the cemetery
968 company. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special
969 fund of the Board to be used in the administration of this article.

970 § 54.1-2831. Exemptions.

971 A. The provisions of this article shall not apply to cemeteries wholly owned and operated by a
972 county, city or town; a church; or a nonstock corporation not operated for profit if the corporation (i)
973 does not compensate any officer or director except for reimbursement of reasonable expenses incurred
974 in the performance of his official duties, (ii) does not sell or construct or directly or indirectly contract
975 for the sale or construction of vaults or lawn, garden or mausoleum crypts and (iii) uses proceeds from
976 the sale of all graves and entombment rights for the sole purpose of defraying the direct expenses of
977 maintaining the cemetery.

978 B. The provisions of this article shall not apply to any community cemetery not operated for profit if

the cemetery (i) does not compensate any officer or director except for reimbursement of reasonable expenses incurred in the performance of his official duties, (ii) uses the proceeds from the sale of the graves and mausoleum spaces for the sole purpose of defraying the direct expenses of maintaining its facilities, and (iii) was chartered by the Commonwealth prior to 1850 A.D.

C. The provisions of this article regarding preneed burial contracts shall not apply to prearranged funeral plans regulated under Article 5 of this chapter.

§ 54.1-2832. Certain representations unlawful; perpetual care trust fund required.

It shall be unlawful to sell or offer for sale in the Commonwealth any grave or entombment right in a cemetery and, in connection therewith, to represent to the public in any manner, express or implied, that the entire cemetery or any grave or entombment right therein will be perpetually cared for, unless adequate provision has been made for the perpetual care of the cemetery and all graves and entombment rights therein as to which such representation has been made.

Each cemetery company shall establish in a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth an irrevocable trust fund in the amount of at least \$25,000 before the first lot, parcel of land, burial or entombment right is sold. This fund shall be designated the perpetual care trust fund.

§ 54.1-2833. Who may serve as trustee of perpetual care trust fund.

A. The trustee of the perpetual care trust fund shall be appointed by the person owning, operating, or developing a cemetery company. If the trustee is other than a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth, the trustee shall be approved by the Board.

A trustee that is not a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth shall apply to the Board for approval, and the Board shall approve the trustee when he has become satisfied that the applicant:

1. Employs and is directed by persons who are qualified by character, experience, and financial responsibility to care for and invest the funds of others;

2. Will perform its duties in a proper and legal manner and the trust funds and interest of the public generally will not be jeopardized; and

3. Is authorized to do business in the Commonwealth and has adequate facilities to perform its duties as trustee.

B. If the trustee is other than a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth, the trustee shall furnish a fidelity bond with corporate surety thereon, payable to the trust established, which shall be designated "Perpetual Care Trust Fund for (name of cemetery company)," in a sum equal to not less than 100 percent of the value of the principal of the trust estate at the beginning of each calendar year, which bond shall be deposited with the Board.

C. If the trustee is other than a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth and if it appears that an officer, director or employee of the trustee is dishonest, incompetent, or reckless in the management of a perpetual care trust fund, the Board may bring an action in the appropriate court to remove the trustee and to impound the property and business of the trustee as may be reasonably necessary to protect the trust funds.

§ 54.1-2834. Application of Title 26.

Trustees appointed pursuant to this article shall be governed in their investment of trust funds by §§ 26-40 through 26-45.1 of Chapter 3 of Title 26, except as provided otherwise herein.

§ 54.1-2835. Deposit in perpetual care trust fund required upon sale of graves, etc.

Each cemetery company shall deposit a minimum of ten percent of the receipts from the sale of graves and above-ground crypts and niches, excluding below-ground burial vaults, in cash in the perpetual care trust fund within thirty days after the close of the month in which such receipts are paid to it. If payment is made on an installment or deferred payment basis, the cemetery company shall have the option of paying ten percent of the amount of principal in each payment received into the perpetual care trust fund.

§ 54.1-2836. Additional deposit not required upon subsequent sale of same grave, crypt or niche.

If ten percent of the sales price of a grave or above-ground crypt or niche has been deposited in a perpetual care trust fund, no deposit shall be required on subsequent sales of the same grave, crypt or niche.

§ 54.1-2837. Recovery of original perpetual care trust fund deposit.

The trustee shall allow the cemetery company to recover its original deposit by withholding the money that would otherwise be required to be deposited in the perpetual care trust fund until the amount of the original deposit is recovered if the cemetery company has (i) deposited in the perpetual care trust fund a sum equal to twice the amount of the original deposit, exclusive of the original deposit

1040 and (ii) notified the trustee and the Board thirty days in advance of its intent to recover the original
1041 perpetual care trust fund deposit. The notification shall include certification by the cemetery company
1042 that the recovery of the initial deposit has not previously been made from the perpetual care trust fund.
1043 Once the cemetery company has recovered an amount equal to the original deposit, deposits to the
1044 perpetual care trust fund shall be resumed.

1045 § 54.1-2838. Use of income from perpetual care trust fund.

1046 The income from the perpetual care trust fund shall be used solely and exclusively for the perpetual
1047 care of the cemetery.

1048 § 54.1-2839. Financial records required.

1049 The cemetery company shall maintain within this Commonwealth detailed accounts of all
1050 transactions, receipts and accounts receivable subject to the trust requirement and of all expenditures of
1051 income from the perpetual care trust fund. Records shall be subject to examination by the Board.

1052 § 54.1-2840. Financial report and written assurance required for perpetual care trust funds.

1053 A. Within four months after the close of its fiscal year, the cemetery company shall report the
1054 following information to the Board:

1055 1. The total amount of principal in the perpetual care trust fund.

1056 2. The securities in which the perpetual care trust fund is invested and the amount of cash on hand
1057 as of the close of the fiscal year.

1058 3. The income received from the perpetual care trust fund, and the sources of such income, during
1059 the preceding fiscal year.

1060 4. An affidavit executed by the compliance agent that all applicable provisions of this article relating
1061 to perpetual care trust funds have been complied with.

1062 5. The total receipts subject to the ten percent trust requirement.

1063 6. All expenditures from the perpetual care trust fund.

1064 7. If the trustee is other than a bank, savings institution or other federally insured investment
1065 financial institution doing business in the Commonwealth, proof that the required fidelity bond has been
1066 secured and that it is in effect.

1067 8. A separate total of expenses incurred for the perpetual care of cemeteries.

1068 B. The cemetery company shall employ an independent certified public accountant to audit and
1069 provide assurance that, with regard to the total of all receipts subject to § 54.1-2835, the report of the
1070 owner, operator or developer is true and correct and that the required deposits to the perpetual care
1071 trust fund have been made on a timely basis. Such audit shall provide full disclosure of any transactions
1072 between the perpetual care trust fund and any directors, officers, stockholders, employees, or relatives
1073 thereof, and shall include a description of the transactions, the parties involved, the dates and amounts
1074 of the transactions, and the reasons for the transactions.

1075 C. The information required to be filed hereunder with the Board shall be exempt from the Privacy
1076 Protection Act (§ 2.1-377 et seq.).

1077 § 54.1-2841. Deposit in preneed trust required upon sale of property or services not to be delivered
1078 within 120 days.

1079 A. Each cemetery company shall deposit into a trust fund the receipts from the sale of property or
1080 services purchased pursuant to a preneed burial contract, when the delivery thereof will be delayed
1081 more than 120 days from the initial payment on said contract. The cemetery company shall establish a
1082 special trust fund in a bank, savings institution or other federally insured investment financial institution
1083 doing business in the Commonwealth. The trust shall bear the legend "Preneed Trust Account." Deposits
1084 are required to be made by the cemetery company within thirty days after the close of the month in
1085 which said receipts are paid to it.

1086 B. If the purchaser's payment is made on an installment or deferred payment basis, the seller shall
1087 have the option of paying each payment received into the preneed trust account.

1088 § 54.1-2842. Who may serve as trustee of preneed trust fund.

1089 A. The trustee of the preneed trust fund shall be appointed by the person owning, operating, or
1090 developing a cemetery company. If the trustee is other than a bank, savings institution or other federally
1091 insured investment financial institution doing business in the Commonwealth, the trustee shall be
1092 approved by the Board.

1093 A trustee that is not a bank, savings institution or other federally insured investment financial
1094 institution doing business in the Commonwealth shall apply to the Board for approval, and the Board
1095 shall approve the trustee once the Board is satisfied that the applicant:

1096 1. Employs and is directed by persons who are qualified by character, experience, and financial
1097 responsibility to care for and invest the funds of others;

1098 2. Will perform its duties in a proper and legal manner and that the trust funds and interest of the
1099 public generally will not be jeopardized; and

1100 3. Is authorized to do business in the Commonwealth and has adequate facilities to perform its duties
1101 as trustee.

B. If the trustee is other than a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth, the trustee shall furnish a fidelity bond with corporate surety thereon, payable to the trust established, which shall be designated "Preneed Trust Fund for (name of cemetery company)," in a sum equal to but not less than 100 percent of the value of the principal of the trust estate at the beginning of each calendar year, which bond shall be deposited with the Board.

C. If the trustee is other than a bank, savings institution or other federally insured investment financial institution doing business in the Commonwealth and if it appears that an officer, director or employee of the trustee is dishonest, incompetent, or reckless in the management of a preneed trust fund, the Board may bring an action in the appropriate courts to remove the trustee and to impound the property and business of the trustee as may be reasonably necessary to protect the trust funds. The cemetery company shall notify the Board of any change in the trustee within thirty days of such change.

§ 54.1-2843. Itemized statement and general price list of burial expenses to be furnished; solicitations prohibited.

Every cemetery company registered pursuant to the provisions of this article shall furnish a written general price list and a written itemized statement of charges in connection with burial services provided by the cemetery company.

Individuals inquiring in person about burial arrangements or the prices of property or services shall be given the general price list. Upon beginning discussion of burial arrangements or the selection of any property or services, the general price list shall be offered by the cemetery company.

The itemized statement shall include, but not be limited to, the following charges: burial vaults or other burial receptacles, facilities used, and other professional services used, which shall be set forth in a clear and conspicuous manner.

Further, there shall be included a statement of all anticipated case advances and expenditures requested by the person contracting for the burial services and such other items as required by regulation of the Board. The statement shall be furnished to the person contracting for burial services 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 burial expenses shall comply with forms prescribed by regulation of the Board. All regulations promulgated herewith shall promote the purposes of this section.

No cemetery company registered pursuant to the provisions of this chapter shall make any solicitation at-need or preneed solicitation using in-person communication by the cemetery company, his agents, assistants or employees. However, general advertising and preneed solicitations, other than in-person communication, shall be allowed.

§ 54.1-2844. Requirements of preneed burial contracts.

A. It shall be unlawful for any person residing or doing business with the Commonwealth, to make, either directly or indirectly by any means, a preneed burial 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, contract buyer and person for whom the contract is purchased if other than the contract buyer;

3. Contains a complete description of the property or services purchased;

4. Clearly discloses whether the price of the property or services bought is guaranteed;

5. States for funds required to be trusted pursuant to § 54.1-2841, the amount to be trusted; the name of the trustee; the disposition of interest; the fees, expenses and taxes which may be deducted from the interest; and a statement of the buyer's responsibility for taxes owned 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 property or supplies contracted for; if the purchaser terminates the contract within thirty 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 thirty days, purchaser shall be refunded any amounts required to be deposited under § 54.1-2841, together with any interest or income accrued thereon;

8. Provides that if the particular property 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 size and style and at least equal in quality of material and workmanship and that the representative of the deceased shall have the right to choose the property or services to be substituted;

9. Discloses any additional costs that the purchaser may be required to pay at-need;

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

1163 11. Be executed in duplicate and a signed copy given to the buyer.
1164 If the contract seller will not be furnishing the property and services to the purchaser, the contract
1165 seller shall attach to the preneed burial contract a copy of the seller's agreement with the provider.
1166 § 54.1-2845. Identification of specific funds.
1167 Specific funds deposited in the trust account shall be identified in the records of the seller by the
1168 contract number and by the name of the buyer. The trustee may commingle the deposits in any preneed
1169 trust account for the purposes of the management thereof and the investment of funds therein.
1170 § 54.1-2846. Specific funds and income to remain in preneed trust account; exception.
1171 Specific funds shall remain intact until the property is delivered or services performed as specified in
1172 the contract. The net income from the preneed trust account, after payment of any appropriate trustee
1173 fees, commissions, and costs, shall remain in the account and be reinvested and compounded. Any
1174 trustee fees, commissions, and costs in excess of income shall be paid by the cemetery company and not
1175 from the trust. However, the trustee shall, as of the close of the cemetery company's fiscal year, upon
1176 written assurance to the trustee of a certified public accountant employed by the seller, return to the
1177 seller any income in the seller's account which, when added to the specific funds, is in excess of the
1178 current cost requirements for all undelivered property or services included in the seller's preneed burial
1179 contracts. The seller's cost requirements shall be certified in its records by an affidavit sworn by the
1180 compliance agent and shall be determined by the seller as of the close of the cemetery company's fiscal
1181 year.
1182 § 54.1-2847. Disbursement of trust funds upon performance of contract.
1183 A. Upon performance of the preneed burial contract, the seller shall certify to the trustee by affidavit
1184 the amount of specific funds in the trust, identified to the contract performed, which the trustee shall
1185 pay to the seller. The seller may in its records itemize the property or services and the consideration
1186 paid or to be paid therefor, to which the deposit requirements of this article apply. In such case the
1187 seller may, upon certification to the trustee of performance or delivery of such property or services and
1188 of the amount of specific trust funds identified in its records to such items, request disbursement of that
1189 portion of the specific funds deposited pursuant to the contract, which the trustee shall pay to the seller.
1190 B. If the preneed contract provides for two or more persons, the seller may, at its option, designate
1191 in its records the consideration paid for each individual in the preneed burial contract. In such case,
1192 upon performance of that portion of the contract identified to a particular individual, the seller may
1193 request, by certification in the manner described above, the disbursement of trust funds applicable to
1194 that portion of the contract, which the trustee shall pay to the seller.
1195 § 54.1-2848. Seller required to keep records.
1196 Each seller of a preneed burial contract shall record and keep within the Commonwealth detailed
1197 accounts of all contracts and transactions regarding preneed burial contracts, and the records shall be
1198 subject to examination by the commissioner of revenue.
1199 § 54.1-2849. Financial report and written assurance required for preneed trust accounts.
1200 A. The cemetery company shall report the following information to the Board within four months
1201 following the cemetery company's fiscal year:
1202 1. The total amount of principal in the preneed trust account;
1203 2. The securities in which the preneed trust account is invested;
1204 3. The income received from the trust and the source of that income during the preceding fiscal
1205 year;
1206 4. An affidavit executed by the compliance agent that all provisions of this chapter applicable to the
1207 seller relating to preneed trust accounts have been complied with;
1208 5. The total receipts required to be deposited in the preneed trust account;
1209 6. All expenditures from the preneed trust account; and
1210 7. If the trustee is other than a bank, savings institution or other federally insured investment
1211 financial institution doing business in the Commonwealth, proof that the required fidelity bond has been
1212 secured and that it is in effect.
1213 B. The cemetery company shall employ an independent certified public accountant to audit and
1214 provide assurance that all of the cash receipts from the sale of preneed property or services not to be
1215 delivered or performed within 120 days after receipt of the initial payment on account has been
1216 deposited in the account within thirty days after the close of the month in which the payment was
1217 received. Such audit shall provide full disclosure of any transactions between the preneed trust account
1218 and any directors, officers, stockholders, employees, or relatives thereof, and shall include a description
1219 of the transactions, the parties involved, the dates and amounts of the transactions, and the reasons for
1220 the transactions.
1221 C. The information required to be filed hereunder with the Board shall be exempt from the Privacy
1222 Protection Act (§ 2.1-377 et seq.).
1223 § 54.1-2850. Inclusion of property and services to be delivered within 120 days.
1224 Nothing in this article shall be deemed to prohibit the sale within the preneed burial contract of

property or services to be delivered within 120 days after the receipt of the initial payment on account of such sale. Contracts may specify separately the total consideration paid or to be paid for preneed property or services not to be delivered or provided within 120 days after receipt of initial payment. If a contract does not so specify, the seller shall deposit forty percent of the total consideration for the entire contract.

§ 54.1-2851. Breach of contract by seller; trust to be single purpose trust.

If, after a written request, the seller fails to perform its contractual duties, the purchaser, executor or administrator of the estate, or heirs, or assigns or duly authorized representative of the purchaser shall be entitled to maintain a proper legal or equitable action in any court of competent jurisdiction. No other purchaser need be made a party to or receive notice of any proceeding brought pursuant to this section relating to the performance of any other contract.

The trust shall be a single purpose trust, and the trust funds shall not be available to any creditors as assets of the seller.

§ 54.1-2852. Trustee may rely on certifications and affidavits.

The trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this article and shall not be liable to any person for such reasonable reliance.

§ 54.1-2853. Transfer of trust funds to another trustee.

The seller may, upon notification in writing to the trustee, and upon such other terms and conditions as the agreement between them may specify, transfer its account funds to another trustee qualified under the provisions of this article. The trustee may, upon notification in writing to the seller, and upon such other terms and conditions as the agreement between them may specify, transfer the trust funds to another trustee qualified under the provisions of this article.

§ 54.1-2854. Use of trustee's name in advertisements.

No person subject to the provisions of this article shall use the name of the trustee in any advertisement or other public solicitation without written permission of the trustee.

§ 54.1-2855. Construction and development of mausoleums and garden crypts.

Within four years after the date of the first sale, a cemetery company or other seller of mausoleums and garden crypts shall be required to start construction or development of that undeveloped ground or section of a mausoleum or garden crypt in which sales, contracts for sales, or agreements for sales are being made. The construction or development of such undeveloped mausoleum section or garden crypt shall be completed within five years after the date of the first such sale. Completed construction shall be deemed performance for purposes of this article.

§ 54.1-2856. Waiver of article void.

Any provision of any contract which purports to waive any provision of this article shall be void.

§ 54.1-2857. Violation a misdemeanor.

It shall be unlawful for any person to violate any of the provisions of this article. Any such violation shall be deemed a Class 1 misdemeanor and any person convicted of such violation shall be punished in accordance with the provisions of § 18.2-11.

2. That Article 3.2 (§§ 57-35.11 through 57-35.35) of Chapter 3 of Title 57 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on January 1, 1999, except that § 54.1-2802 shall become effective in due course.

4. That the Board of Funeral Directors, Embalmers and Cemeteries shall adopt final regulations in accordance with Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 on or before January 1, 1999.

5. That provisions of Article 3.2 (§ 57-35 et seq.) of Chapter 3 of Title 57 shall remain in effect until January 1, 1999, when the Board for Funeral Directors, Embalmers and Cemeteries shall regulate cemetery companies and implement its regulations in accordance with Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1.

6. That the Board for Funeral Directors, Embalmers and Cemeteries shall study the adequacy of current trusting requirement for perpetual care trusts and report their findings and recommendations to the Governor and General Assembly on July 1, 2000.