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SENATE BILL NO. 1424

Offered January 13, 2021

A BILL to amend and reenact §§ 54.1-2800 and 54.1-2810 of the Code of Virginia, relating to funeral service establishments; manager of record.

 Patron—Cosgrove

 Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2800 and 54.1-2810 of the Code of Virginia are amended and reenacted as follows:
§ 54.1-2800. Definitions.

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

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

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

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

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

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

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

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

"Embalming" means the process of chemically treating the dead human body by arterial injection and cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth of microorganisms to temporarily retard organic decomposition.

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

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

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

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

"Manager of record" means a person who manages and handles all operations of a licensed funeral service establishment. Any funeral service licensee and any funeral director who was issued and has maintained a valid license since December 31, 1975, may serve as manager of record for any funeral service establishment. A funeral director issued a license after December 31, 1975, may serve as manager of record only for a funeral service establishment that does not provide embalming and does not provide a charge for embalming on its general price list in connection with the care and disposition of the body of a deceased person pursuant to § 54.1-2812.

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

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

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

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

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SB1424

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

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

63 **§ 54.1-2810. Licensure of funeral service establishments.**

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

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

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

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

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

88 When licensing funeral *service* establishments, the Board may grant a hardship waiver from the
89 requirement for a full-time manager ~~licensed for the practice of funeral service of record~~ or
90 ~~appropriately~~ licensed as a funeral director, allowing the operation of two funeral *service* establishments
91 having in charge one full-time ~~person licensed for the practice of funeral service~~ *manager of record* or
92 one ~~appropriately~~ licensed funeral director who divides his time between the two funeral *service*
93 establishments *that meet the same requirements for that manager of record*. Prior to granting a hardship
94 waiver, the Board shall find that (i) the two establishments have been in operation for at least three
95 years; (ii) the combined average number of funeral calls at the two establishments, as submitted in
96 monthly reports to the Division of Vital Records and Health Statistics of the Virginia Department of
97 Health, over the previous three years is no more than 135 per year; and (iii) the distance between the
98 two establishments is 50 miles or less.

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