

**REPORT OF THE  
BOARD FOR PROFESSIONAL AND  
OCCUPATIONAL REGULATION ON**

**STUDY OF THE REGULATION  
OF CEMETERIES**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**

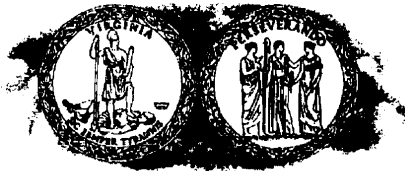


**SENATE DOCUMENT NO. 7**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1999**



# COMMONWEALTH OF VIRGINIA



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November 16, 1998

TO: The Honorable James S. Gilmore, III, Governor of Virginia  
Members of the Virginia General Assembly

SUBJECT: Study of the regulation of cemeteries, SB 700 and HB 1077

The Board for Professional and Occupational Regulation respectfully submits the enclosed report pursuant to Senate Bill 700 and House Bill 1077 which directed the board to determine the appropriate level of regulation of cemetery companies and related trust funds.

The board determined that some regulation of sales personnel is necessary, and recommends a mandatory registration program. The board is concerned about the forty percent pre-need trust fund requirement, but believes the statutory requirements for filing financial reports with the Cemetery Board gives the Cemetery Board the responsibility of determining when adjustments in trusting requirements may be necessary.

This report, approved November 16, 1998, outlines the boards findings, conclusions and recommendations. Members of the Board for Professional and Occupational Regulation would be pleased to answer any questions.

Respectfully submitted,

Morris A. Nunes  
Chairman, Board for Professional and  
Occupational Regulation



*BOARD FOR PROFESSIONAL AND  
OCCUPATIONAL REGULATION*

**Report on the Need for  
the Licensure  
of Cemeteries**

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## TABLE OF CONTENTS

I.	Introduction	
	A.	Background and Purpose of Report..... 1
	B.	Methodology..... 2
II.	Findings	
	A.	Profile of the cemetery industry..... 3
	B.	Existing federal and state regulation..... 4
	C.	Regulation by other states ..... 5
	D.	Public Harm ..... 6
	E.	Public Comment ..... 7
	F.	Survey of for-profit cemeteries ..... 8
III.	Conclusions and Recommendations.....	8
IV.	APPENDIX A .....	11





## **I. Introduction**

### **A. Background and Purpose of Report**

The Board for Professional and Occupational Regulation (Board) has the statutory authority for evaluating the need for regulation of occupations and professions, and making recommendations to the General Assembly. In making such determinations, the Board refers to Section 54.1-100 of the *Code of Virginia*, which states:

The right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is clearly found that such abridgment is necessary for the preservation of the health, safety and welfare of the public.

No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety, or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;
2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;
3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and
4. The public is not effectively protected by other means.

No regulation of a profession or occupation shall conflict with the Constitution of the United States, the Constitution of Virginia, the laws of the United States, or the laws of the Commonwealth of Virginia. Periodically and at least annually, all agencies regulating a profession or occupation shall review such regulations to ensure that no conflict exists.

The 1998 Session of the Virginia General Assembly adopted Senate Bill 700 and House Bill 1077. This enacted legislation creates a Cemetery Board responsible for the licensing of for-profit cemeteries beginning July 1, 2000. The legislation also directed the Board for Professional and Occupational Regulation to determine the appropriate level of regulation of cemetery companies and related trust funds. In addition, the legislative language requested the Board determine the approximate costs to regulants, the affected businesses and the impact on consumers.

## **B. Methodology**

The Board for Professional and Occupational Regulation used the following methods to study the necessary level of regulation for this occupation:

- Review of "Study of Competition in the Funeral Industry in Virginia Pursuant to House Joint Resolution 553," a 1998 report of the Virginia Department of Health Professions and the Virginia Board of Health Professions;
- Review of "Local Government Issues Related to Neglected or Abandoned For-Profit Cemeteries," a 1998 report of the Commission on Local Government;
- Review of "Complying with the Funeral Rule," a 1995 business guide produced by the Federal Trade Commission;
- Review of the Virginia Statutes and Registration Materials relating to registration of cemeteries by the Office of Consumer Affairs, Department of Agriculture and Consumer Services;
- Review of cemetery regulations in other states;
- Survey of cemeteries currently registered with the Office of Consumer Affairs;
- Two public hearings and the solicitation of written comments;
- Consultation with the Office of Consumer Affairs regarding the complaints filed from 1995-1998 against registered cemeteries;
- Consultation with the North American Cemetery Regulators Association;
- Consultation with the International Cemetery and Funeral Association.

## **II. Findings**

### **A. Profile of the cemetery industry**

Studies requested by the 1997 General Assembly regarding competition in the funeral industry, and neglected or abandoned for-profit cemeteries, are evidence that consumers and their elected representatives are concerned about some cemetery practices and the state's regulation thereof. The information provided in the previous study reports was most helpful to the board in understanding the current climate of the cemetery industry including death demographics, conglomerates, etc. The board saw no reason to revisit the issues reviewed in those studies, but sought to obtain information that may be helpful to the Cemetery Board in their creation of the regulatory program for cemeteries and cemetery salespersons.

Through the public hearing process, solicitation of written comments, and responses from surveys sent to cemeteries, the board recognized the competition and on-going tensions among the various players in the death care industry.

The Association of Independent Funeral Homes in Virginia believes that because funeral homes are regulated at the state and federal level, a similar regulatory scheme should be created for cemeteries in order to "level the playing field." Members of the funeral home industry expressed concern that cemetery salespersons use tactics that could be described as capping and steering. These practices are prohibited in regulations promulgated by the Board of Funeral Directors and Embalmers. This association also supports increased trusting requirements for cemetery pre-need contracts. Currently, the law requires a cemetery to place forty percent of the money from the sale of a pre-need burial contract into a trust fund. Conversely, the Virginia Cemetery Association's position is that there is "no level playing field" because cemeteries do not sell caskets, and funeral directors are not required to submit audited trust account reports.

The retail monument companies are also concerned about what they perceive as unfair competition from cemeteries. Monument companies oppose what they consider as arbitrary rules some cemeteries impose on the placement of monuments and markers in an apparent effort to discourage consumers from utilizing independent monument providers. The Monument Builders of North America similarly expressed concern about practices of cemetery salespersons.

Another major concern echoed by several is the national trend toward business combinations in the death care industry. Some fear that local monopolies may result. Others suggest there may be initial benefits to such mergers -- greater security for trust accounts backed by a corporate entity, the consolidation of functions which could result in more efficient and cost-effective services to consumers, and broader product lines for consumers.

It is worth noting that some of the foregoing concerns are both well beyond the purviews of the Board and subject to remedy by other federal and Virginia laws and

agencies. Nonetheless, the factionalism is a potentially important part of the backdrop to this study.

The Board for Professional and Occupational Regulation initially questioned the need for the creation of a new regulatory board when the relatively small regulant population of 112 cemeteries could be combined with the Board for Funeral Directors and Embalmers. However, given the varied interests of the cemetery and funeral industry, the General Assembly created a separate board with jurisdiction over for-profit cemeteries.

## **B. Existing federal and state regulation**

The Federal Trade Commission's Funeral Rule requires "funeral providers" to comply with certain regulations. A funeral provider is anyone who sells or offers to sell both funeral goods and funeral services to the public. Funeral goods are all products sold directly to the public in connection with funeral services. Funeral services are services used to care for and prepare bodies for burial, cremation, or other final disposition; and services used to arrange, supervise or conduct the funeral ceremony or final disposition of human remains. Cemeteries, crematories, and other businesses can also be "funeral providers" if they market both funeral goods and services. The Funeral Rule applies to at-need and pre-need funeral arrangements except those entered into prior to April 30, 1984 and unmodified since that time.

The keystone of the Funeral Rule is the General Price List (GPL). It must contain identifying information, itemized prices for the various goods and services sold, and other important disclosures. Of the twenty-nine cemeteries who completed the board's survey, sixty-three percent responded that they currently provide a written general price list of all services and merchandise to potential purchasers. The new cemetery statute requires every licensed cemetery to furnish a written general price list and a written itemized statement of charges in connection with burial services provided by the cemetery company.

The Virginia Department of Agriculture and Consumer Services, Division of Consumer Protection, Office of Consumer Affairs, Regulatory Program Unit has been charged with the registration of cemeteries in Virginia. The Office of Consumer Affairs received and investigated consumer complaints against cemeteries. For-profit cemeteries were required to file the fiduciary information regarding trust accounts with their Local Commissioners of Revenue. Effective July 1, 2000, the Cemetery Board at the Department of Professional and Occupational Regulation will take over responsibility for this regulatory program.

### **C. Regulation by other states**

Regulatory programs vary greatly among those states that currently regulate the cemetery industry. The Board notes that the national media attention brought to this issue has apparently resulted in additional regulation in some states such as the 1997 creation of the Maryland Advisory Council on Cemetery Oversight.

Placement of regulatory programs varies substantially among the states. Examples of variation include placement of cemetery regulation under the Arizona Department of Real Estate, the Arkansas Security Department, the Kentucky Office of the Attorney General, the New Hampshire Department of Health and Human Services, the Texas Department of Banking, and the Wyoming Insurance Department.

The requirements for salespersons in the several states are also quite diverse. Wisconsin, for example, has a registration program for cemetery authorities, cemetery salespersons, and cemetery pre-need sellers. Each cemetery authority has the responsibility for the acts of its salespersons while acting on the authority's behalf. (Note that an authority includes any sort of entity operating a cemetery not otherwise exempt). Florida, which has extensive regulatory authority in the funeral and cemetery services industry, also requires registration of pre-need sales agents, who must be affiliated with a certificate holder (licensed cemetery) in order to work as pre-need sales agents. The regulations establish minimal entry requirements; the applicant must be eighteen years of age, in good standing with the board, and have no felony or misdemeanor convictions that relate to the activity regulated. Iowa also regulates pre-need salespersons and the licensed cemetery is liable for the acts of its agents. State regulators in Iowa reported that a full time auditor is employed to review reports filed by cemeteries to look at aggregate numbers, solicitation methods, changes in the cemeteries' practices, etc. All of these states have the regulatory authority to investigate, fine, suspend, or revoke permits.

The initial registration fee and annual renewal fees for salespersons also vary. North Carolina's eight hundred licensed salespersons pay ten dollars annually, while Florida's annual licensing fee is one hundred dollars.

The Board also reviewed the trust fund requirements of other states. Iowa, for example, requires eighty percent be escrowed on pre-need contracts for most items. Florida's regulations establish a trusting requirement of seventy percent of the purchase price collected for all services sold and facilities rented, one hundred percent of the purchase price collected for all cash advance items sold; thirty percent of the purchase price collected or one hundred ten percent of the wholesale cost, whichever is greater, for all merchandise sold. North Carolina has a pre-need trusting requirement of sixty percent of the retail price.

Florida has also created a Pre-need Funeral Contract Consumer Protection Trust Fund that requires cemeteries and funeral homes to remit an amount ranging from \$2.50 to \$10.00 based on the amount of the pre-need contract. These funds are for the purpose

of providing restitution to pre-need contract purchasers and their estates due to a licensee's failure to provide the benefits of the contract.

Information provided by the International Cemetery and Funeral Association included Federal Trade Commission (FTC) intervention letters commenting on the potential anti-competitive effects of high trust deposit requirements for pre-need sales. In a letter to the Pennsylvania House of Representatives, the FTC offered this comment:

We are concerned, though, that a 100-percent trusting approach may unintentionally retard the introduction and development of innovative forms of competition and lower cost alternatives. If all funds must remain in trust, the seller cannot recover its overhead, selling or administrative expenses and make a profit until an unknown and possibly distant future date. Some sellers and potential sellers may choose not to offer pre-need contracts because of the higher costs that those contracts would entail. If a 100-percent trust requirement increased the costs of serving the pre-need market, consumers could be denied the lowest prices and full array of pre-need alternatives and pricing options.

#### **D. Public Harm**

An analysis by the Office of Consumer Affairs showed that one hundred seventy two cemetery complaints had been filed since the summer of 1995. Eighty-seven of those complaints were filed against a cemetery in Galax, Virginia in 1997. The average number of complaints has been twenty-five per year with a gradual increase in the past year.

The complaints were divided into three categories: 1) poor maintenance and perpetual care issues; 2) contractual issues such as delivery of monuments and failure to fulfill certain promises; and 3) costs and dissatisfaction with expenses. Consumer complaints have increased dramatically in the third category.

One of the cost issues of most concern is the opening and closing of graves. Until recently, this service could not be pre-paid. Consumers who purchased pre-need contracts were later told the contract did not include the costs of opening and closing the grave. The cost of this service ranges from five hundred to one thousand dollars.

While the statute requires all cemetery contracts to include the name, address, and toll free telephone number of the Office of Consumer Affairs, it was suggested during the public hearings and through written comments that many consumers do not know where to file their complaints against cemeteries. In addition, the Office of Consumer Affairs has no disciplinary authority other than to investigate complaints and ultimately rescind registration.

The board recognizes the need for consumers to receive information regarding the process for filing complaints. Section 54.1-2328 of the cemetery statute requires all pre-need burial contracts to be on forms prescribed by the Cemetery Board. The law further states that such forms shall include the telephone number of the board for filing consumer complaints.

#### **E. Public Comment**

The Board conducted two public hearings to gather information and opinions on potential regulation of cemeteries and cemetery salespersons. The Board notes that the Cemetery Board will conduct public hearings on proposed regulations as they are drafted in the coming months. The study mandate to this Board was to determine the appropriate level of regulation of cemetery companies and related trust funds. The Board tried, therefore, to focus public comments on those issues.

On May 15, 1998, twenty-eight individuals attended a public hearing in Roanoke. In their testimony, independent funeral home representatives urged stronger regulatory control over the practice of cemetery sales agents, increased pre-need trusting requirements and disclosure on license applications if the cemetery has direct or indirect interests with a funeral home. A representative of the Monument Builders of Virginia and West Virginia expressed concern that cemeteries place unnecessary rules and fees on the placement of monuments by outside companies. The organization was also concerned that consumers do not know where to file complaints. An owner of a vault and monument company requested representation of the vault and monument industry on the cemetery board. Public hearing comments also included a consumer whose cemetery lot had been sold twice.

Cemetery representatives defended the current trust fund requirements. While speakers did not object to a licensing program, they urged the board to be cautious in creating a burdensome regulatory scheme, which would force small, private cemeteries out of business, or into the hands of major conglomerates.

Written comments were received from several sources. The Virginia Cemetery Association supported the forty percent trust requirement on pre-need contracts as sufficient to cover the cost of merchandise in the case of a default by the seller. The association believes that raising the pre-need trusting levels would discourage pre-need sales. The association also raised concerns with the new law including the composition of the board, the mandatory lot transfer requirement, and the Cemetery Board's ability to provide a meaningful review of trust fund reports.

A Commissioner of Revenue submitted that their offices do not have the personnel to effectively audit trust fund accounts, and suggested that pre-need and perpetual care funds should be turned over entirely to the State Auditor's Office.

A burial vault business noted that people who purchase gravesites should have the right to hire outside companies to dig the grave, furnish and install their headstone or

marker, etc. Likewise, a monument company in Richmond expressed concern about the cemetery charges for monument dealers to install grave markers and monuments.

Monument Builders of North America urged the board to reconsider the make-up of the Cemetery Board. The association suggested that the consumers should have more representation on the board, and that cemetery representatives should not have control over policing of their own industry.

The Board conducted a second public hearing in Fairfax on August 3, 1998. Speakers included members of the cemetery industry, consumer advocacy groups, and funeral home directors. Staff to the Office of Consumer Affairs outlined concerns with the new statute and the need for clarifying regulations, and also presented a history and analysis of the consumer complaints filed. Persons claiming the role of consumer advocates supported the need for enforcement of regulations, and the need for additional consumer representation on the Cemetery Board.

Representatives of the cemetery industry supported the filing of trust fund reports with the Cemetery Board opining that the Cemetery Board should conduct a more thorough review of the cemetery, the amount of space left, the projected amount in the fund when it is time to cease operations, and a determination regarding the adequacy of the trust fund. The point was also made that while funeral directors require ninety to one hundred percent trusting requirements, most pre-need funeral contracts are allegedly written by insurance contracts. Cemeteries use a portion of the pre-need revenue to pay sales commissions and provide for the maintenance of the cemetery.

#### **F. Survey of for-profit cemeteries**

A survey was sent to all for-profit cemeteries in Virginia. Only thirty-one completed surveys were returned. Ninety percent of those responding currently hire a Certified Public Accountant to ensure that the required deposits have been made to the perpetual care trust fund. The respondents estimated the yearly costs of the CPA's services to be as follows: 66.7% paid \$1,000 to \$5,000 per year; 29.6% paid \$5,000 to \$10,000 and 3.7% paid over \$10,000. When asked whether their company was bonded, 44.0% responded yes. The cemeteries were also asked to identify five problems or concerns in their industry. The most frequent responses included over regulation and, secondly, conflict with funeral directors. (See Appendix A for a copy of the survey results.)

### **III. Conclusions and Recommendations**

Unlike other studies that are conducted for the purposes of determining the need for state regulation of an occupation or profession, the General Assembly has already established a licensing program for the regulation of for-profit cemeteries. The Board also realizes that the Cemetery Board is charged with proposing and adopting regulations for cemeteries and the enforcement thereof. The Board believes the statutory framework



provides the Cemetery Board with the ability to develop a comprehensive set of regulations covering such issues as: disclosure requirements on pre-need contracts, itemized statements and general price lists of burial fees, consumer notification of complaint filing information, and Cemetery Board audits of trust funds.

Upon review of the information obtained, the Board concludes and recommends:

1. Given the limited regulatory authority of the Office of Consumer Affairs, the agency should be commended for its work with consumers and cemeteries to administer the law and to resolve conflicts. Likewise, we have every reason to believe the Commissioners of Revenue were diligent in their review of trust fund accounts. Although the Board acknowledges that there were problems in some areas, the existing program has provided consumer protection in the least restrictive form of government regulation.

The Board encourages the Cemetery Board to involve the Office of Consumer Affairs and the Commissioners of Revenue in its public hearings regarding the regulations for this industry. The experience of these bodies could be most beneficial.

2. Some regulation of cemetery sales personnel is necessary. The board recommends a mandatory registration program. Minimal entry requirements should be established, but no examination or work experience should be required. Registration should be revocable and deniable when salespersons are found to have engaged in unlawful conduct. Conjointly, standards of conduct should be established for sales personnel to adhere to and to be judged against. The Standards of Conduct promulgated by the Virginia Real Estate Board for real estate brokers, agents and rental agents might serve as a useful model.
3. Pre-need contracts have been effective for consumers, as consumers seem to make more cost-efficient decisions in pre-need situations. The state should not create barriers that could prevent or discourage the availability or use of pre-need contracts.

The Board is concerned that the forty-percent pre-need trust fund requirement may be lower than requirements in some states, and that there is no actuarial data supporting the forty-percent requirement. However, the statutory requirements of Sections 54.1-2324 and 54.1-2333 will result in cemeteries filing detailed reports with the Cemetery Board. The responsibility should then rest with the Cemetery Board to determine standards and procedures for setting (and perhaps adjusting) trusting requirements.

4. The statutory composition of the Cemetery Board is appropriate. The Board sees no precedent for requiring related occupations to be appointed

to a regulatory board for the profession or occupation. The Board is convinced that the majority of cemetery representatives are committed to maintaining the integrity of the industry. The Board also notes that like all other regulatory boards at the Department of Professional and Occupational Regulation, two citizen members will be appointed.

The Board for Professional and Occupational Regulation appreciates the opportunity to be of service in the study of this issue. The Board looks forward to working with the Cemetery Board in providing assistance as requested.

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**(1) What is the total number of full time employees at your place of business?**

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19.4%	4	9.7%	0	9.7%	12	6.5%	5	19.4%	Other
12.9%	8	9.7%	2	6.5%	3	6.5%	20		

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- 14
  - 22
  - 13
  - 7
  - 1
  - 6
- 

**(2) How many sales personnel are employed by your cemetery company on a full time basis?**

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45.2%	0	19.4%	1	16.1%	2	6.5%	3	12.9%	Other
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- 5
  - 12
  - 6
  - 7
- 

**(3) How many sales personnel are employed by your cemetery company on a part time basis?**

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72.0%	0	16.0%	1	12.0%	Other
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- 9
  - 4
  - 2
- 

**(4) What qualifications do you require of sales personnel?**

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9.5%	good personality and honesty	85.7%	Other
9.5%	honest, empathetic, eager		

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- people-oriented, honest, compassionate, ethical, good listeners
- high school/GED
- personal insights profile
- personal values and interests
- three weeks of training
- on the job experience
- prefer college background and do background checks
- high school graduate, high interpersonal skills, previous sales experience desirable but not required.
- integrity, compassion, and communication skills
- integrity, compassion and communication skills
- hard working, honest, enthusiastic, integrity
- good appearance and ethical standards. We ask them not to sell services which people cannot pay for.
- experience
- require sales persons to be familiar with goods and services they are selling.
- require sales persons to be familiar with the goods and services they are selling.
- knowledge of the cemetery, pleasant personality, knowledge of regulations, high school degree
- knowledge of cemetery, pleasant personality, knowledge of rules and regulations of cemetery and high school degree.
- knowledge of cemetery
- reputable and knowledgeable

- highest ethics to help the family with services and products.
- to know business operations of the cemetery

(5) How are sales personnel compensated?

57.1% commission                      28.6% other                      14.3% salary

(6) List the product/services you sell.

7.4% bronze markers  
 7.4% burial sites, burial vaults, grave markers, opening and closing services  
 92.6% Other

- in-ground burial sites, mausoleum crypts and cremation niches, columbarium niches, cremation benches, bronze memorials, personal crypts, liners, interment services
- granite markers and monuments
- concrete, steel and polypropylene outer burial containers
- graves
- mausoleum
- land spaces, lawn crypts, mausoleum crypts, niches, cremations and memorializations
- cemetery lots, memorials, monuments, burial vaults, interment fees and flower vases
- burial lots, memorial bronze, mausoleum spaces
- burial plots, monuments and vaults
- interment/entombment rights
- cemetery lots and bronze markers
- interment rights, vaults, markers, niches, mausoleums
- lots, lawn crypts, mausoleums, memorials, vaults
- burial lots and headstones
- lots, markers, vaults, vases, scrolls, opening/closing grave services
- lots, markers, vaults, vases, scrolls, opening and closing grave services
- entombment, interment and interment services, bronze memorials and installation services, urns, flower vases, ground burial spaces, crypts, and niches
- gravesites, monuments and grave markers, concrete grave liners and burial vaults, and opening and closing services.
- vaults, makers, spaces, opening and closing services
- burial plots
- cemetery lots, mausoleum crypts, cremation niches, memorials, monuments, burial vaults, interment fees and flower vases
- graves, vaults, markers, lawn crypts, mausoleum, niches, flowers, grave opening and closing, maintenance.
- none
- interment rights, vaults and bronze memorials
- vaults and concrete liners
- plots, concrete outside containers, bronze memorials and opening and closing services
- grave plots, vaults, head markers and care of the plots
- lots, opening and closing of graves, foundation replacement

(7) Do you provide a written general price list of all services and merchandise to potential purchasers?

62.1% Yes                                      37.9% No

(8) How many grave sites are in your cemetery?

10.7% 40,000                                      89.3% Other

- 
- 300,000
  - 15,183
  - 50,000
  - 9,000
  - Two to three acres
  - 70,000
  - 21,000
  - 70,600
  - 35,391
  - 1,944
  - 31,285
  - 13,117
  - 23,069
  - 5,500
  - 19,000
  - 1.850
  - 100,000
  - 11,640
  - 7,000
  - unknown
  - 6,000
  - 30,000
  - 7,462
  - 7168
  - 15,000

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(9) What are your annual maintenance costs?

6.9% \$30,000

93.1% Other

- 
- \$336,143
  - \$172,010
  - \$95,000
  - \$2,000
  - \$950,000
  - \$74,137
  - \$209,839
  - \$100,000
  - \$850
  - \$189,000
  - \$81,000
  - \$582,571
  - \$12,000
  - \$750,000
  - \$65,000
  - \$2,800
  - \$27,000
  - \$400,000
  - \$163,801
  - \$158,812
  - \$3,330
  - \$6,000
  - 29,000
  - \$256,289
  - 128,500

- \$50,000
- \$268,762

(10) How much do you collect to fund perpetual care?

38.7%	10% of sales price
25.8%	10%
6.5%	10% of lot sales price and 10% of memorial installation service
29.0%	Other

- \$96,572
- \$200 to \$300 monthly
- 1/4 of the price of a grave
- \$31,782
- \$48,279
- \$50 for each grave sold
- \$2,000
- \$7,633
- 20%

(11) Approximately how much money is currently held in escrow?

7.1%	\$100,000	7.1%	\$675,000	85.7%	Other
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- \$750,000
- \$1,207,630
- \$575,000
- \$125,000
- \$325,000
- \$251,000
- \$1,084,624
- \$1,469,548
- \$14,000
- \$96,000
- \$545,000
- \$3,399,114
- \$86,842
- \$70,600
- \$112,000
- \$180,000
- \$1,000,000
- \$535,313
- \$641,259
- \$51,439
- \$50,000
- \$350,000
- \$369,958
- \$1,376,753

(12) How do you determine how much to collect for perpetual care?

45.2%	state law	38.7%	Other
16.1%	10% of grave sales price		

- 10% of site and mausoleum sales price
- Company's Board of Directors' actions
- 10% of the grave sales price

- State law
- one-half of cost for grave; one fourth for perpetual care and one fourth for reserve fund
- Designated by original trust indenture of 1979
- Company Board of Director's policy
- 10% of the grave, lawn crypts and mausoleum sales, and .29 per square inch of the memorial base
- 10% of grave, lawn crypt and mausoleum sales plus \$.29 per square in each monument or memorial base.
- Set by cemetery board of directors
- 10% for plots and memorials and a percentage of installation costs
- Agreed upon by stockholders
- 20%

(13) Do you engage a certified public accountant to audit and provide assurance that your fiscal reports are accurate?

86.7% Yes 13.3% No

(14) Do you engage a CPA to ensure that the required deposits have been made to the perpetual care trust fund?

90.0% Yes 10.0% No

(15) What is the estimated yearly cost of the CPA's services to your cemetery?

66.7% \$1,000 to \$5,000 29.6% \$5,000 to \$10,000 3.7% over \$10,000

(16) Do you have a written contract or deed for internment rights?

100.0% Yes 0.0% No

(17) Which of the following best describes your cemetery?

72.4% corporate-owned 10.3% other 0.0% limited liability company  
10.3% sole proprietorship 6.9% partnership

(18) How many other cemeteries do you own or are owned by any affiliate of yours?

65.5% None 27.6% 1-10 3.4% 50-100 3.4% over 100 0.0% 10-50

(19) Is your company licensed to operate in any other state?

89.3% No 10.7% Yes

(20) If yes, what other states?

66.7% Most of the U.S. 33.3% Other

- North Carolina

(21) Is your company bonded?

56.0% No 44.0% Yes

(22) Please list any professional certifications or designations you have received?

30.8% none 15.4% licensed real estate broker  
15.4% licensed funeral director in VA and NC 53.8% Other

- 
- International Cemetery & Funeral Association, Southern Cemetery Association, VA Cemetery Association, Cremation Association of North America
  - misc. cemetery related seminar training
  - State Cemetery Association
  - International Cemetery & Funeral Association, Southern Cemetery Association, Virginia Cemetery Association
  - licensed funeral director and embalmer
  - licensed life and health insurance agent
  - licensed life and health insurance agent in VA
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(23) In your opinion, what are the top five problems or concerns in your industry?

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- fighting with funeral directors
- fighting with funeral directors
- allowing creation of a new program when there are so few complaints
- over regulation of the industry which will increase costs to consumers
- inadequate enforcement of existing law instead of creating new ones.
- corporate buyouts
- remaining profitable in face of regulations
- fighting with funeral directors
- over regulation
- fighting with funeral directors
- shortage of qualified laborers
- over regulation, consumer complaints will not be resolved under the new system without economic impact to the consumers themselves.
- human resources, negative impression of the overall industry due to unscrupulous operators.
- over regulation
- over regulation, misunderstanding by public of cemetery operations and obligations, lack of public understanding that there is a distinctive difference between funeral homes and cemeteries
- high costs to consumers due to over regulation, misunderstanding by public of cemetery operations and obligations, lack of public understanding that there is a distinctive difference between funeral homes and cemeteries.
- over regulation at the cost of taxpayers and consumers and state wide interference from funeral directors.
- conglomerate corporations which are ruining both the funeral and cemetery industries. They pay too much for these companies and then take advantage of the consumers to recover their costs.
- soon to be a hands on government run business at the expense of the taxpayer. This will help big three companies and private companies will be history.
- cemetery business is being taken over by corporations. Many cemetery owners and operators are not thoroughly familiar with applicable laws. Regulation is fragmented. De facto monopolies when the only funeral service and cemetery in a given area is owned by the same entity.
- cemetery business is being taken over by corporations. Many cemetery owners are not thoroughly familiar with applicable laws. Regulation is fragmented. De facto monopolies when the only funeral service and cemetery in a given area are owned by the same entity.
- over regulation and turf battles with allied industries
- shortage of qualified/dependable laborers
- outside monument/memorial dealers who are interested only in sales and don't want to conform to the regulations of the cemetery.
- outside monument/memorial dealers who are only interested and sales and don't want to conform to regulations.
- remaining independent
- maintaining a fair lot price to purchaser, maintaining the beauty, perpetual care since costs keep rising and running out of space.
- large funeral home corporations buying up cemeteries and overcharging the public
- state and local regulations which aren't warranted.
- over regulation of small cemeteries with little or no sales force. Large corporations hurting our



- reputation.
- the few unethical individuals who cause the rest of us to pay dearly. Letting the public know how much we are already regulated.
- having well kept park and reasonably priced plots and services
- high pressure sales, auditing of cemetery trust funds and sale of lots cheaply to get customers to buy other services

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(24) How could state standards for cemeteries be more effective in protecting the public?

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- 8.3% Prosecute with stiff penalties those who violate the law.
  - 91.7% Other
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- Continue as is without increasing costs which will be passed on to the consumers.
- Require Commonwealth's Attorneys and Commissioners of the Revenue to more aggressively pursue enforcement of existing laws.
- Put a cap (like Tennessee) on installation charges for markers sold by an outside company.
- What must we protect the public from?
- Cemetery Board should have limited authority over the industry.
- A board will give the public a sense of security in knowing that all cemeteries operate under uniform laws and there is a place to settle disputes.
- There are sufficient statues of the books to adequately protect the public.
- cost of perpetual care trust funds
- No industry should be allowed to set regulations for another industry.
- You cannot mandate ethical or moral standards.
- The state should stay out of the business.
- Require sales personnel to disclose all cost and fees for outside contractors, etc.
- Regulations should be written by people who are thoroughly familiar with the way the cemetery business is actually conducted.
- Regulations should be written by people who are thoroughly familiar with the cemetery business.
- What must we protect the public from? Current laws are adequate and they work.
- Increase the state perpetual care requirement to 26% of grave, mausoleum and lawn crypt sales. Permit cemeteries to have exclusive rights to sales of monuments and memorials on their properties.
- Increase the state perpetual care requirement to 20% of grave, lawn crypt and mausoleum price. Permit cemeteries to have exclusive rights to sell monuments and memorials in their properties.
- Require large corporations that own cemeteries to put all of their funds for preneed sales into a trust fund instead of only a limited amount.
- More regulations only increase prices and cause below grade service.
- Regulations already instituted should be adequate. There aren't enough laws to regulate those that are going to intentionally defraud and deceive.
- The public is protected in our cemetery.
- Prohibit give away programs that lock the customer into buying everything from one cemetery.

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(25) Other comments or suggestions regarding the regulation of cemeteries and cemetery salespersons.

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- Current program works fine.
- Industry reports conclude that increased regulation of cemeteries is good for the acquisition companies. Small, independent owned companies will give up and sell to larger companies who can handle the regulations. There is very little consumer benefit to more regulation. There is no level playing field because cemeteries don't sell caskets and funeral directors don't have to submit audited trust account reports.
- The 40% merchandise trusting requirement is sufficient and should be left alone.
- New regulations are unfortunate for honest small business owner.
- New law is intended to restrict operation of cemeteries more than to protect the consumer.
- License sales people and require a background check.
- I oppose regulation of salespersons who are employees. These individuals come and go on a frequent basis as it is a very low paying and difficult sales position.

- We have few legitimate complaints for which we could not achieve an acceptable solution. The cemeteries have the public's trust and request that government not over react with regulations which would not be in the people's interest.
- This cannot help but make the price of burial higher.
- Input from consumers is important.
- There should be specific guidelines regarding accounting standards and reporting should be to one agency. There should be a process whereby the cemetery can report its problem to the board and then proceed to rectify the situation under supervision of the appropriate authority.
- I am unaware of any complaints against cemeteries that couldn't be solved with communication. If you can't talk to the cemetery or state cemetery association, there is the court of law.
- It should be a misdemeanor for cemetery salespeople to sell or solicit the sales of caskets and funeral services.
- It should be a misdemeanor for cemetery salespeople to solicit or sell caskets and funeral services. Too many people are being pressured.
- Please remember the small family business with a good reputation. Two thousand dollars for a CPA report and a three hundred dollar annual licensing fee are huge regulations for a small cemetery.
- Will we be paying yearly registration (taxes) to DPOR and to Consumer Affairs?