



State of Vermont
Office of the Secretary of State

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Office of Professional Regulation
National Life Bldg., North FL2
Montpelier, VT 05620-3402

Christopher D. Winters, Director

MEMORANDUM

January 22, 2014

TO: Representative Janet Ancel
Chair, House Ways and Means Committee

FR: Christopher Winters, Esq.
Director of Professional Regulation

RE: Proposed Changes to Professional Licensing Fees - 2014 – Follow up

Attached please find some of the documentation I provided to the Board of Funeral Service, starting in November, with respect to their budget. This may help answer some of the questions raised by yesterday's testimony.

In particular, I draw your attention to the first page with a table in the packet. This represents the exercise the OPR undertakes every year to ensure that each profession is paying its own way and that no one profession is subsidizing the costs of another profession.

If you take the Board's budget in two year chunks so that you have an accurate picture of the total revenue through a full renewal cycle, you will see that we project approximately \$100K in revenue every two years with the existing fee structure.

The Board's expenses, built as their share of the total operating cost of the OPR, plus inspections, investigations, and prosecutions, average over the last four fiscal years to be approximately \$70K, or \$140K every renewal cycle (2 years).

Ultimately, the Board is operating with an annual budget of \$70K and bringing in only \$50K annual in revenue or an annual deficit of \$20K.

The Fund Balance in the far right column reflects the ups and downs you see when revenue only comes in every other year. While it is currently a deficit of more than \$50K, we project that will jump to more than \$80K in two years and \$120K two years after that (FY2017).

Statutorily, the Board must pay its own way, so a fee increase is necessary. By raising an additional \$55K per renewal cycle with these fee increases, the Board will cover that biennial \$40K shortfall and have an excess \$15K or so to reduce its deficit and pay its own way.

 VERMONT

Behind that spreadsheet you will find the calculations we use to allocate the Board's share of administration, inspection, investigation and prosecution costs.

The inspections are costly, but are an important public protection measure that is worth the investment. In my 16 years at OPR, I have seen at least three funeral directors mismanage and steal client prepaid funeral monies. We also had an outbreak of improper investments by a large number of funeral directors that jeopardized those funds. Our inspection program is professional, fair, thorough and well documented. I have attached the inspection cost allocation as well. Ultimately, it costs about \$1K per inspection when all is said and done. I would not want to go backwards with this important public protection measure.

With respect to the suggestion of tapping the funeral services trust account, I refer you to the language of the statute at 26 V.S.A. §1272(9):

(9) Establishment of a funeral services trust account. For purposes of funding the funeral services trust account, the board or the office of professional regulation shall assess each funeral or crematory establishment a per funeral, burial, or disposition fee of \$6.00. The account shall be administered by the secretary of state and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment defaults on its obligations under the contract. The account shall consist of all fees collected under this subdivision and any assessments authorized by the general assembly. The principal and interest remaining in the account at the close of any fiscal year shall not revert but shall remain in the account for use in succeeding fiscal years. Notwithstanding the foregoing, if the fund balance at the beginning of a fiscal year is at least \$200,000.00, no fees shall be imposed during that fiscal year. Payments on consumer claims from the fund shall be made on warrants by the commissioner of finance and management, at the direction of the board of funeral services. When an investigation reveals financial discrepancies within a licensed establishment, the director may order an audit to determine the existence of possible claims on the funeral services trust account. In cases where both a funeral and crematory establishment are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.

While there is a small surplus above the minimum we are required to maintain, I cannot support using those funds for anything other than reimbursing consumers. Fortunately, we have only had to use those funds twice, but they should be preserved for future problems.

This is not an easy discussion, especially for those licensed professionals who are going to be affected. In the attached documents I have also provided you with my recommendation that the Board become an advisor profession to keep their fees more stable, which they rejected. I do understand how the Board felt they had no good choices in this matter, but the statutory obligation is clear, and I do not see much room for reducing expenses or this board given their inspection obligations and serious consumer protection issues at stake.



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November 15, 2013

MEMORANDUM

TO: Board of Funeral Service
FROM: Christopher D. Winters, Director
RE: Options to address the deficit

Thank you for the informative discussion on Tuesday regarding the Board's budget and your excellent questions. With help from the business office, I have prepared some of the information you have requested and have some options for you to consider:

Fee Option if Remaining as a Board

Attached is a spreadsheet and projected numbers for raising fees and remaining under the Board model of regulation. These increases raise about \$55K in additional revenue each renewal cycle. As requested, I have capped the removal personnel fee at \$125 and have weighted the increase more heavily upon the establishments than the individuals:

Funeral Directors and Embalmers:	\$300 → \$450	(197@ \$150=\$29,500)
Establishments:	\$540 → \$900	(64@ \$360=\$23,040)
Removal Personnel:	\$85 → \$125	(59@ \$40=\$2,360)

Total revenue increase: \$54,950

At these rates, the board should have a surplus for each of the next three renewal cycles, but that surplus will be small and getting smaller each year as we account for 2% growth each year (\$15K, \$10K, \$5K). Most likely, this will not completely bring the board out of debt. We would probably be looking at another smaller fee increase for FY2018.

Advisor Model Options

You also asked for some information about the advisor model and what fees would look like under such a scenario.

1. *Advisor fee structure.* The going rate for initial applications and renewals for advisor profession are \$100 for initial application and \$200 for renewals. However, there are some exceptions found in 3 V.S.A. section 125 for some of the larger professions. They are charged lower fees (clinical social workers, physical therapists and occupational

therapists). Because there are approximately 5,000 licensees in the advisor pool, the cost of regulation is spread across licensees and is lower.

2. *Advisor savings.* There would no longer be board members and there would be 2-3 advisors who come into the office less often, so direct expenses will be lower. As part of the allocation formula, the office charges an approximate \$10K per board because boards require more administrative support. That cost would be eliminated, lowering the annual expenses for the profession by roughly \$15K annually.

3. *Existing deficit.* It is not unprecedented that your deficit would be retired and spread across all OPR advisor professions with a transition to the advisor model. If remaining as a board, you would need to carry that deficit forward and reduce it more slowly over several years with higher fee increases.

4. *Inspection costs.* This profession has an ongoing inspection obligation and cost that is not found in other advisor professions with the exception of electrology and tattooing, which have limited random inspections but no mandatory inspections. I think that does require a higher fee for funeral licensees than other advisor professions to help offset this unique cost among advisor professions. As such, I believe we can forego a fee increase, keep charging the existing rates, and be comfortable that the deficit has been retired and the profession is continuing to pay its own way.

5. *Future fee increases.* The advisor professions require fee increases on a much less frequent basis, and those increases are generally in much smaller increments. Advisor renewal fees were last raised from \$175-\$200 in 2005.

My recommendation to you would be to move to the advisor model of regulation while retaining the current fee structure. This would lower administrative costs, eliminate the deficit, and ensure that existing fees continue to cover the cost of regulating the profession.



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November 18, 2013

Good Morning Bob,

I have attached the sheets that will hopefully make this a bit clearer for you. It is definitely not easy follow.

Indirect expenses are determined from an allocation formula to spread the cost of the operation of the OPR across all professions. I think the **inspection** costs, per **investigation** costs, and per **prosecutions** costs are fairly straightforward. The rest that fall into the **licensing administration** category which are a bit trickier to explain.

The **licensing administration** costs include a portion of the overall costs of the Secretary of State's administrative services for things like IT, business office, personnel, reception, and the other centralized functions handled for the entire office by the staff at 128 State Street.

First, we take all of those OPR expenses assigned the "Licensing Administration" code. Those are things like OPR staff salaries, OPR rent, OPR IT contracts, office supplies, etc. Those indirect expenses total about \$2.6M for the entire office.

Next, we have to add in the "Admin Allocate," which is what we call the portion of the Secretary of State's Administrative Services chargeable to OPR as the largest division of the Secretary of State's Office. The Administrative expenses are shared across divisions based upon the percentage of spending of the division. OPR's share of the administration is \$825,544, which you can see in the first sheet I have attached. OPR's share is then spread again across the four areas of spending based upon percentage of the OPR budget to licensing admin, investigation, prosecution and inspection:

Admin Allocate	\$825,544	With Admin Allocate
Licensing Admin	\$1,780, 364	\$2,337,725
Investigation	\$536,928	\$705,019
Prosecution	\$248,906	\$326,829
Inspection	\$70,817	\$92,987
Total	\$3,462,559	\$3,462,559

The \$2.337M **licensing administration** total is spread across the professions weighted so that boards carry a bit more of the load because they generally take more effort and cost

more to support. We do this by taking 10% of the total and charging it off as a **per board** cost and the remaining 90% is charged off as a **per capita** cost. We divide this 10% piece by 23, which is 19 boards, plus the advisor professions, which we treat as equal to 4 boards even though there are about 26 advisor professions.

The per board cost this year was \$10,164 (advisors charged \$40,656).

We then take the remaining 90% and dividing it by the number of licensees. The per capita cost this year was \$38.97.

Funeral board licensing administration costs come out to \$22,479 this year based upon $\$10,164 + \$12,315$ (316 licensees @ \$38.97).

I hope this makes some sense. Please let me know if you have any questions.

Board: FUNERAL SERVICE

Fiscal Year: 2014

Period: BUDGET

Fiscal Year	Receipts	Direct Expenses	Indirect Expenses	Total Expense	Fund Balance
FY 2009	\$4,800	\$3,597	\$50,672	\$54,270	\$1,413
FY 2010	\$91,396	\$3,940	\$34,211	\$38,151	\$54,658
FY 2011	\$6,185	\$4,074	\$94,825	\$98,899	(\$38,055)
FY 2012	\$100,280	\$3,227	\$43,630	\$46,857	\$15,368
FY 2013	\$5,000	\$4,000	\$69,960	\$73,960	(\$53,592)
FY 2014	\$95,900	\$4,000	\$56,110	\$60,110	(\$17,802)

PROJECTIONS

FY 2015	\$5,000	B16	\$69,956.45	(\$82,758.45)
FY 2016	\$95,900	B18	\$71,355.58	(\$58,214.03)
FY 2017	\$5,000	B16	\$72,782.69	(\$125,996.72)
FY 2018	\$95,900	B18	\$74,238.35	(\$104,335.07)

ASSUMPTIONS

Receipts projected on FY 2013 and FY 2014 base.
 Estimated expenses increase 2%/year.
 Base is average of last three years actual spending and current year projected spending.

Does revenue exceed spending for FY 2015-2016 biennial budget?	NO
Does revenue exceed spending for FY 2017-2018 biennial budget?	NO
Is fund balance sufficient to meet expenses through FY 2018?	NO
FY 2018 ratio fund balance to expenses	(1.41)
PY Ratio	(1.59)

RECOMMENDATION

**Biennial budgets in deficit.
 Fund balance insufficient.
 Consider fee increase in 2014.**

This worksheet rolls up all the totals and summarizes the total allocated costs						
		Licensing Admin	Investigation	Prosecution	Inspection	Total Indirects
29205	Accountancy	\$62,699	\$8,586	\$2,985	\$0	\$74,270
29215	Architects	\$52,644	\$19,080	\$0	\$0	\$71,725
29230	Barber/Cosmetology	\$189,478	\$41,023	\$31,340	\$0	\$261,841
29240	Chiropractic	\$19,673	\$1,908	\$1,492	\$0	\$23,074
29245	Dental	\$92,358	\$39,115	\$16,416	\$0	\$147,889
29315	Engineers	\$174,902	\$10,494	\$2,985	\$0	\$188,381
29250	Funeral	\$22,479	\$7,632	\$0	\$33,878	\$63,990
29255	Land Surveyors	\$18,699	\$8,586	\$1,492	\$0	\$28,778
29360	Allied Mental Health	\$69,948	\$15,264	\$4,477	\$0	\$89,690
29265, 29370	Nursing	\$917,843	\$271,895	\$161,176	\$0	\$1,350,914
29290	Optometry	\$14,724	\$1,908	\$4,477	\$0	\$21,109
29295	Osteopath	\$16,634	\$3,816	\$8,954	\$0	\$29,404
29300	Pharmacy	\$151,402	\$32,437	\$19,401	\$45,309	\$248,548
29310	Private Investigator	\$47,305	\$13,356	\$11,939	\$0	\$72,600
29320	Psychology	\$37,796	\$10,494	\$0	\$0	\$48,290
29340	Radiologic Technology	\$41,966	\$1,908	\$2,985	\$0	\$46,859
29335	Real Estate Appraiser	\$28,442	\$8,586	\$7,462	\$0	\$44,490
29330	Real Estate Commiss	\$122,523	\$138,332	\$31,340	\$0	\$292,195
29350	Veterinarians	\$32,145	\$11,448	\$0	\$0	\$43,593
	Advisor Professions	\$224,063	\$59,149	\$17,908	\$13,800	\$314,920
	Total	\$2,337,725	\$705,019	\$326,829	\$92,987	\$3,462,559

In this sheet we take the total cost of investigation and we allocated it based on the number of complaints received in the prior fiscal year for each board and advisor groups

The equation is total cost divided by number of complaints equals unit cost to be allocated

The total cost of investigation comes from the Phase One worksheet

Total \$705,019

Unit cost \$954

	# Complaints		Investigation Allocation
Accountancy	9	←INPUT	\$8,586
Architects	20	←INPUT	\$19,080
Barber/Cosmetology	43	←INPUT	\$41,023
Chiropractic	2	←INPUT	\$1,908
Dental	41	←INPUT	\$39,115
Engineers	11	←INPUT	\$10,494
Funeral	8	←INPUT	\$7,632
Land Surveyors	9	←INPUT	\$8,586
Allied Mental Health	16	←INPUT	\$15,264
Nursing	285	←INPUT	\$271,895
Optometry	2	←INPUT	\$1,908
Osteopath	4	←INPUT	\$3,816
Pharmacy	34	←INPUT	\$32,437
Private Investigator	14	←INPUT	\$13,356
Psychology	11	←INPUT	\$10,494
Radiologic Technology	2	←INPUT	\$1,908
Real Estate Appraiser	9	←INPUT	\$8,586
Real Estate Commiss	145	←INPUT	\$138,332
Veterinarians	12	←INPUT	\$11,448
Advisor Professions	62	←INPUT	\$59,149
Total	739		\$705,019

In this sheet we take the total cost of Prosecution
and we allocated it based on the number of prosecutions filed
in the prior fiscal year for each board and advisor groups

The equation is - total cost divided by number of prosecution equals unit cost to be allocated

The total cost of prosecution comes from the Phase One worksheet

Total \$326,829

Unit cost \$1,492.37

	# prosecution		\$ allocation
Accountancy	2	←INPUT	\$2,985
Architects	0	←INPUT	\$0
Barber/Cosmetology	21	←INPUT	\$31,340
Chiropractic	1	←INPUT	\$1,492
Dental	11	←INPUT	\$16,416
Engineers	2	←INPUT	\$2,985
Funeral	0	←INPUT	\$0
Land Surveyors	1	←INPUT	\$1,492
Allied Mental Health	3	←INPUT	\$4,477
Nursing	108	←INPUT	\$161,176
Optometry	3	←INPUT	\$4,477
Osteopath	6	←INPUT	\$8,954
Pharmacy	13	←INPUT	\$19,401
Private Investigator	8	←INPUT	\$11,939
Psychology	0	←INPUT	\$0
Radiologic Technol	2	←INPUT	\$2,985
Real Estate Appraise	5	←INPUT	\$7,462
Real Estate Commis	21	←INPUT	\$31,340
Veterinarians	0	←INPUT	\$0
Advisor Professions	12	←INPUT	\$17,908
Total	219		\$326,829

In this sheet we allocate the total inspection cost

The total inspection cost is retrieved from Phase1 sheet

Total= \$92,987

INSPECTION COST METHODOLOGY

Costs for FY 13 will be allocated based on the projected inspection plan developed by Dan Vincent

The projection is include in a July 13,2012 memo from Vincent

	effort	#	sum	% of total	
Crematories		3	10	30	0.038217
Funeral Est.		8	32	256	0.326115
Retail Pharm		3.5	75	262.5	0.334395
institu/wholesale phar		20	6	120	0.152866
electrology		5	3	15	0.019108
tattoo/bp shop		29	3.5	101.5	0.129299
				785	1
					1.00

Step Three Allocate Inspection Total on this percentage basis

Accountancy	\$0
Architects	\$0
Barber/Cosmetology	\$0
Chiropractic	\$0
Dental	\$0
Engineers	\$0
Funeral	\$33,878
Land Surveyors	\$0
Allied Mental Health	\$0
Nursing	\$0
Optometry	\$0
Osteopath	\$0
Pharmacy	\$45,309
Private Investigator	\$0
Psychology	\$0
Radiologic Technology	\$0
Real Estate Appraiser	\$0
Real Estate Commiss	\$0
Veterinarians	\$0
Advisor Professions	\$13,800
total	\$92,987

roughly \$1K/inspection