

Chris Winters
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Hello Members of the Committee,

I understand you would like to proceed with taking the \$37K that is in the funeral services trust account to help reduce the funeral board's accumulated deficit. I should have placed more emphasis on it in my testimony earlier today, but think the language of the statute may be a barrier to such action. From 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.*

As stated in my testimony earlier today, a typical funeral can easily cost several thousand dollars so the existing fund would be enough to cover perhaps 30 clients if their funeral director went under or absconded with the money. Most funeral homes are likely to have many more than 30 clients. Accordingly, the Secretary of State's Office does not support this option.

In summary:

- The statute requires that each profession pay its own way (advisor professions being the exception);
- By law, we must charge the fees necessary to support regulation of the profession;
- The inspection program is an effective and critical part of funeral establishment regulation which must be preserved in its current form to ensure consumers are protected;
- The OPR is confident that these fee changes are necessary; and
- The profession must bear these costs through the proposed fees or become an advisor profession.

I think the committee should seriously consider the advisor model of regulation as I initially recommended to the board. Our business office has concluded that the funeral fees could remain

unchanged under this model. The Board rejected this option over a perceived lack of control even though the evidence of other professions that have followed this path does not bear out their concerns. I have attached one of my memos to the Board about the advisor model and the differences between board and advisor profession. As you may recall, multiple professions have gone from the board model to the advisor model with no real change in how the profession operates (opticians and nursing home administrators have followed this path).

Once again, I thank you for your efforts in trying to make this difficult decision.

Sincerely,

Chris
Christopher D. Winters, Director
Vermont Secretary of State's Office
Office of Professional Regulation
802.828.2458 (phone)
802.828.2368 (fax)
www.vtprofessionals.org