

STATE OF WEST VIRGINIA

**AUDIT REPORT
OF**

***WEST VIRGINIA BOARD OF EMBALMERS
AND FUNERAL DIRECTORS***

FOR THE PERIOD

MARCH 29, 1989 - JANUARY 31, 1998



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

FOR THE PERIOD

MARCH 29, 1989 - JANUARY 31, 1998

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theodore L. Shanklin, CPA, Director
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CHARLESTON, WEST VIRGINIA 25305-0610

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Board of Embalmers and Funeral Directors.

Our examination covers the period March 29, 1989 through January 31, 1998. The results of this examination are set forth on the following pages of this report. However, only the financial statements for the period ended January 31, 1998 and years ended June 30, 1996 and June 30, 1997 are included in this report. The financial statements covering the period March 29, 1989 through June 30, 1995 are included in our audit work papers.

Respectfully submitted,

A handwritten signature in cursive script, reading "Theodore L. Shanklin".

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/cal, gkc

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

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WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

EXIT CONFERENCE

We held an exit conference on November 9, 1998 with the Executive Director of the West Virginia Board of Embalmers and Funeral Directors and all findings and recommendations were reviewed and discussed. The above official's responses are included in italics in the Summary of Findings, Recommendations and Responses and after our recommendations in the General Remarks section of this report.

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

INTRODUCTION

The West Virginia Board of Embalmers and Funeral Directors was created under Chapter 49 of the Acts of the Legislature during the First Extraordinary Session of 1933. The Board consists of seven members who are appointed for a term of four years by the Governor with the advice and consent of the Senate. Six of the Board members must be licensed embalmers and practicing funeral directors with a minimum of five consecutive years' experience in West Virginia immediately preceding their appointment and the seventh Board member shall be a lay person.

The Board selects a president, secretary and treasurer from its own members. The West Virginia Board of Embalmers and Funeral Directors is granted by Chapter 30, Article 6 of the West Virginia Code, the powers and privileges to regulate the business or profession of embalming and business or profession of funeral directing in the State of West Virginia. The Board is authorized to examine applicants and to license as embalmers, funeral directors or apprentice embalmers and funeral directors those found qualified and to revoke licenses for cause.

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

BOARD MEMBERS AND ADMINISTRATIVE STAFF

JANUARY 31, 1998

The Board members and the expiration date of their terms are as follows:

Joseph F. Ford, III, President
Marion County, June 30, 1999 Fairmont

Raymond S. Tomassene, Secretary, Lay Member
Ohio County, June 30, 1999 Wheeling

Charles Greco
Hancock County, June 30, 1998 Weirton

R. Brent Parker
Kanawha County, June 30, 2001 Charleston

Robert Carpenter
Cabell County, June 30, 2001 Huntington

William Bowles
Raleigh County, June 30, 2001 Beckley

Robert D. Stevens
Kanawha County, June 30, 2001 Malden

ADMINISTRATIVE STAFF

Sherri Douglass Executive Director
(December 8, 1997 - Present)

Sharron Knotts Executive Director
(July 1, 1991 - November 30, 1997)

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

Failure to Request Legislative Approval for Certain Fees

1. We learned the Board was charging a \$50.00 fee for the Apprentice Program Manual, a \$50.00 application fee to providers of continuing education programs and a \$25.00 fee to applicants for reciprocal licenses, none of which were authorized in the West Virginia Code or the Board's legislatively approved rules and regulations.

We recommend the Board comply with Chapter 30, Article 6, Sections 3 and 16 of the West Virginia Code, as amended.

Board's Response

We will comply with the audit recommendation. (See pages 11-13.)

Inspection Contract Obtained Without Three Written Bids

2. The Board awarded a contract for inspection of funeral establishments which called for payments of \$833.33 per month not to exceed \$10,000 per year; however, the Board did not obtain three written bids as required by the purchasing regulations of the West Virginia Department of Administration.

We recommend the Board comply with Section 2.1.3 of the West Virginia Department of Administration, Purchasing Division's Agency Purchasing Procedures Manual.

Board's Response

We will comply with the audit recommendation. (See pages 13-15.)

Per Diem Compensation and Expenses of Board Members

3. During the period July 1, 1996 through January 31, 1998, Board member were overpaid a total of \$2,050.00 for per diem compensation and \$98.70 for travel expense reimbursements.

We recommend the Board comply with Chapter 30, Article 1, Section 11 and Chapter 30, Article 6, Section 3, as amended of the West Virginia Code.

Board's Response

We will comply with the audit recommendation. (See pages 15-17.)

Disposition of Administrative Fine

4. On February 5, 1997, the Board levied a \$500.00 administrative fine against a funeral establishment which upon receipt was deposited in the Board's operating account rather than the State General Revenue Fund as required by State law.

We recommend the Board comply with Chapter 30, Article 1, Section 8 of the West Virginia Code, as amended, and we also recommend the Board transfer \$500.00 from Fund 8504 to the State General Revenue Fund.

Board's Response

We will comply with the audit recommendation in the future; however, we disagree with the recommendation to transfer \$500.00 to the State General Revenue Fund. (See pages 17 and 18.)

Individual Licensed Without Paying Proper Fees

5. We believe the Board renewed one embalmer/funeral director's license for fiscal year 1997 without the licensee paying a \$50.00 penalty and a \$50.00 reinstatement fee assessed by the Board on August 6, 1996, for the licensee's failure to renew his license by the July 30, 1996 deadline.

We recommend the Board comply with Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended.

Board's Response

We will comply with the audit recommendation. (See pages 18 and 19.)

Inventory

6. The Board did not file an annual inventory with the Purchasing Division. Also, the Board does not properly identify equipment items with State identification tags.

We recommend the Board comply with Chapter 5A, Article 3, Section 35 of the West Virginia Code. Also, we recommend the Board comply with the Inventory Management and Surplus Property Disposition Policies and Guidelines as promulgated by the Purchasing Division of the West Virginia Department of Administration.

Board's Response

We are now in compliance with the audit recommendation.

(See pages 19-21.)

Payment of Miscalculated invoice

7. Based on the Board's records, we believe the Board overpaid \$70.00 to a vendor as a result of the vendor's miscalculation on the invoice submitted to the Board for payment.

We recommend the Board comply with Chapter 12, Article 3, Section 9 of the West Virginia Code. Also, we recommend the Board seek reimbursement of \$70.00 overpaid to the vendor.

Board's Response

We will comply with the audit recommendation. (See pages 21 and 22.)

Lack of Proper Payroll Records and Leave Balance Misstatements

8. We were unable to locate sick and annual leave records for the period July 1, 1993 - November 30, 1997 and W-4 forms for the former Executive Director. Also, we believe the two former employees' sick and annual leave balances had minor errors.

We recommend the Board comply with Chapter 21, Article 5C, Section 5 of the West Virginia Code. We also recommend the Board notify the State agency, to which the former Board employees transferred their sick and annual leave balances, of the leave balance misstatements.

Board's Response

We are now maintaining the records mentioned in the audit; however, we disagree that we are required by State law to maintain them. (See pages 23-25.)

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Board of Embalmers and Funeral Directors. The audit covered the period March 29, 1989 through January 31, 1998.

SPECIAL REVENUE ACCOUNT

All revenues generated from fees established by the Board and expenditures required for the general operation of the West Virginia Board of Embalmers and Funeral Directors are accounted for through the following special revenue fund:

<u>FUND NUMBER</u>	<u>DESCRIPTION</u>
8504-099	Unclassified
8504-640	Departmental & Miscellaneous Income

LICENSE FEES

The following fee was established by Chapter 30, Article 6, Section 5 of the West Virginia Code, as amended:

Annual Fee for Courtesy Card \$50.00

The following fees were established by Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended:

Annual fee for:

Funeral Director	\$30.00
Embalmer	\$30.00
Apprentice Funeral Director	\$25.00
Apprentice Embalmer	\$25.00

The following fees were established by Chapter 30, Article 6, Section 13 of the West Virginia Code, as amended:

Annual Fee for Funeral Establishments:

Main	\$125.00
Branch	\$75.00

The following fees were established by Chapter 30, Article 6, Section 16 of the West Virginia Code, as amended:

Initial Fee for Reciprocal License:

Embalmer/Funeral Director	\$60.00
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Subsequent renewals provided for by Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended:

Funeral Director	\$30.00
Embalmer	\$30.00

EXAMINATION FEES

The following examination fees were established by Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended:

Embalmer/Funeral Director	\$150.00
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PENALTIES

The following penalties were established by Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended:

Failure to Renew Within 30 Days After Expiration:

Funeral Director	\$50.00
Embalmer	\$50.00
Apprentice Funeral Director	\$50.00
Apprentice Embalmer	\$50.00

Failure to Renew Within 60 Days After Expiration:

Funeral Director	\$100.00
Embalmer	\$100.00

REINSTATEMENT FEES

The following reinstatement fees were established by Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended:

Failure to Renew Within 30 Days After Expiration:

Funeral Director	\$50.00
Embalmer	\$50.00
Apprentice Funeral Director	\$50.00
Apprentice Embalmer	\$50.00

Failure to Renew Within 60 Days After Expiration:

Funeral Director	\$100.00
Embalmer	\$100.00

COMPLIANCE MATTERS

Chapter 30, Articles 1 and 6 of the West Virginia Code, as amended, generally govern the West Virginia Board of Embalmers and Funeral Directors. We tested applicable sections of the above and applicable chapters, articles and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are discussed below.

Failure to Request Legislative Approval for Certain Fees

Chapter 30, Article 6, Section 3 of the West Virginia Code, as amended, states in part,

"... The board shall have the power and it shall be its duty to make and enforce all necessary rules and regulations not inconsistent with this article, for the examination and licensing of funeral directors

and the general practice of funeral directing;
the examination and licensing of embalmers and
the general practice of embalming and the
registration and regulation of apprentices;..."

We learned during our audit, the Board was charging three fees which were not authorized in the West Virginia Code or the Board's legislatively approved rules and regulations.

Specifically, the Board voted unanimously during their meeting of April 13, 1994 to begin assessing a \$50.00 fee effective July 1, 1994 relating to making available upon request a copy of the Apprentice Program Manual to apprentice embalmers/funeral directors. Our observations indicated the vast majority of newly registered apprentices were purchasing the manual in the first year they were licensed, some registrants purchased an updated copy of the manual in subsequent years while others did not. The decision to purchase the manual was voluntary on the part of the apprentices and not required by the Board for licensure.

Also, the Board began assessing a \$50.00 application fee from providers of continuing education programs effective upon unanimous vote of the Board during their meeting of October 14, 1993. We found no mention of this application fee in the provisions of Chapter 30, Articles 1 and 6 of the West Virginia Code or the Board's rules and regulations.

Lastly, we noted the Board was charging individuals seeking licensing under the reciprocity provisions of Chapter 30, Article 6, Section 16 of the West Virginia Code, an additional \$25.00 fee not authorized by State law or Board rule which appeared

to be an administrative fee to pay the Board for contacting the applicant's home State to obtain information needed to process the individual's application for a reciprocal license in West Virginia. Chapter 30, Article 6, Section 16 of the West Virginia Code, as amended, states in part,

"The Board may recognize licenses issued to funeral directors or embalmers from other states, and, upon presentation of such license, may, upon the payments of the sum of sixty dollars to the director of the board, issue to the lawful holder thereof, the funeral director's or embalmer's license provided for in this Article: Provided, that such recognition shall not be extended to funeral directors or embalmers holding licenses from other states unless reciprocal rights are provided by such other states to holders of funeral director's or embalmer's licenses granted in this state...."

We believe the Board of Embalmers and Funeral Directors would not be able to lawfully assess this \$25.00 fee based on the current provisions of State law or the Board's rules and regulations.

We recommend the Board comply with Chapter 30, Article 6, Sections 3 and 16 of the West Virginia Code, as amended.

Board's Response

The Board will comply with the recommendations.

Inspection Contract Obtained Without Three Written Bids

We performed an examination of contract agreements entered into by the Board and located an agreement which we believe was not handled in accordance with the procedures outlined in Section 2.1.3 of the West Virginia Department of Administration, Purchasing Division's Agency Purchasing Procedures Manual. The

contract whose purpose was to procure the services of a Board inspector to inspect funeral establishments for compliance with State law and the Board's rules and regulations stated, "the rate of pay shall be \$833.33 per month not to exceed \$10,000" and was in effect during fiscal years 1996, 1997, and 1998. According to the contract, the inspector was expected to perform "Inspection of all funeral establishments in West Virginia, including, but not limited to, sanitary facilities, preparation rooms, compliance with §30-6 and §6CSR1, and forwarding complaints and suggestions to the Agency."

The West Virginia Department of Administration, Purchasing Division's Agency Purchasing Procedures Manual Section 2.1.3 states,

"\$5,001 to \$10,000: Obtain a minimum of three (3) written bids. Form WV-43, Request for Quotations, or TEAM-Generated RFP/RFQ (See Appendix A) should be used for documenting and making these requests. State Agencies must, in all cases, attempt to obtain at least three (3) written bids for a product or services. A "No Bid" is not considered a bid. A written purchase order (WV-88 or Team generated Purchase Order) is required."

During our review of the Board's minutes, we noted the Board approved the initial agreement at the rate of \$833.33 per month not to exceed \$10,000 in effect for the year ended June 30, 1996, and subsequent renewals of the contract were noted for fiscal years 1997 and 1998. Since the Board did not solicit written bids, we believe the Board did not comply with these procedures in awarding the inspection agreement and the Board's actions may have

precluded other qualified bidders from participating in the bidding process.

We recommend the Board comply with Section 2.1.3 of the West Virginia Department of Administration, Purchasing Division's Agency Purchasing Procedures Manual.

Board's Response

The Board will comply with the recommendations for future inspectors' contracts.

Per Diem Compensation and Expenses of Board Members

During the period July 1, 1996 through January 31, 1998, Board members were overpaid a total of \$2,050.00 for per diem compensation and \$98.70 for travel expense reimbursements. These overpayments occurred because the Board incorrectly interpreted changes in the general provisions in State law pertaining to all licensing boards in terms of their applicability to the Board of Embalmers and Funeral Directors.

On June 7, 1996, Chapter 30, Article 1, Section 11 of the West Virginia Code which is part of these general provisions was amended as follows:

"Each member of every board which is referred to in this Chapter shall receive compensation and expense reimbursement which shall not exceed the amount paid to members of the Legislature for their interim duties...."
(Emphasis added).

Also, our audit indicates Chapter 30, Article 6, Section 3 of the West Virginia Code, as amended, regarding per diem

compensation and expenses for members of the Board of Embalmers and Funeral Directors, states in part,

"... Each member shall be reimbursed for his traveling expenses, incident to his attendance upon the business for the board, and in addition thereto, the sum of fifty dollars per day for each day actually spent by such member upon the business of the board...."

On November 1, 1996, the Board began paying members \$100.00 (the amount paid legislators for interim duties) for each day spent on board business; however, we believe the \$50.00 per diem noted above should have continued to be paid to these Board members because Chapter 30, Article 1, Section 1 of the West Virginia Code states in part,

"Unless otherwise specially provided, every board of examination or registration referred to in this chapter... shall conform to the requirements prescribed in the following sections of this article."

Since the provisions of Chapter 30, Article 6, Section 3 specifically call for Board members to be paid \$50.00 per day, which is less than the \$100.00 per day paid members of the West Virginia Legislatures then any amounts paid above and beyond \$50.00 per day for Board members' per diem would be an unlawful expenditure of State funds. On the other hand, since Chapter 30, Article 6 of the West Virginia Code dealing with the Board of Embalmers and Funeral Directors does not specify limits with respect to reimbursement of Board members' travel expenses, the provisions of Chapter 30, Article 1, Section 11 which were effective June 7, 1996, limited such reimbursements to those

amounts received by the legislators. However, until November 1, 1996, the Board continued to follow the Governor's Travel Regulations to reimburse Board members' expense resulting in overpayments totaling \$98.70.

We recommend the Board comply with Chapter 30, Article 1, Section 11 and Chapter 30, Article 6, Section 3, as amended, of the West Virginia Code.

Board's Response

Due to an incorrect interpretation of §30-1-11, the Board members have been receiving per diem equivalent to that of state legislators. Since this error has been pointed out, the Board will comply with the recommendations in the future.

Disposition of Administrative Fine

Our examination of Board minutes showed an administrative fine was levied against a funeral establishment during the Board meeting held on February 5, 1997 and the fine when collected was deposited in the Board's Operating Account-Fund 8504. Specifically, the February 5, 1997 Board minutes stated in part,

" . . . The Complaint Review Committee's recommendation to the Board is that: . . . 2) there be an administrative fine of \$500.00 for violation of §6-1-5 of the Legislative Rule of the West Virginia Board of Embalmers and Funeral Directors; . . ."

Chapter 30, Article 1, Section 8 of the West Virginia Code, as amended, states in part,

"(a) Every board referred to in this chapter is authorized to suspend or revoke the licenses of any person who has been convicted

of a felony or who has been found to have engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct. Where any person has been so convicted of a felony or has been found to have engaged in such conduct, practices or acts, every board referred to in this chapter is further authorized to . . .levy fines not to exceed one thousand dollars per day per violation, . . . any fine which is levied shall be deposited in the state treasury's general revenue fund..." (Emphasis added)

We believe the Board should have deposited this fine in the State General Revenue Fund, rather than the Board's own operating account as called for in Chapter 30, Article 1, Section 8 of the West Virginia Code, as amended.

We recommend the Board comply with Chapter 30, Article 1, Section 8 of the West Virginia Code, as amended, and we also recommend the Board transfer \$500.00 from Fund 8504 to the State General Revenue Fund.

Board's Response

The Board will comply with this recommendation regarding future fines. However, it disagrees with the recommendation of transferring the fine noted above into the State General Revenue Fund, as the Board believes that this money was to cover administrative costs of disciplinary action of the licensee.

Individual Licensed Without Paying Proper Fees

We believe the Board renewed one embalmer/funeral director's license for fiscal year 1997 without the licensee paying

a \$50.00 penalty and a \$50.00 reinstatement fee assessed by the Board on August 6, 1996 for the licensee's failure to renew his license by the July 30, 1996 deadline.

Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended, states in part,

" . . . Any person duly licensed as a funeral director or as an embalmer under the laws of this state, but who fails to renew his license within thirty days after the expiration date of renewals, may file an application for a renewal of his license, without examination, upon payment of a penalty of fifty dollars, a reinstatement fee of fifty dollars and the required renewal fee"

The Executive Director stated she was not employed at the Board when the licensee renewed his embalmer/funeral director's license and did not know why the licensee was issued his fiscal year 1997 license without paying the required \$50.00 penalty and \$50.00 reinstatement fee.

We recommend the Board comply with Chapter 30, Article 6, Section 6 of the West Virginia Code, as amended.

Board's Response

The Board will comply with the recommendation.

Inventory

Chapter 5A, Article 3, Section 35 of the West Virginia Code states,

"The head of every spending unit of state government shall, on or before the fifteenth day of July of each year, file with the director an inventory of all real and personal property, and of all equipment, supplies and

commodities in its possession as of the close of the last fiscal year, as directed by the director."

We noted the Board did not submit an annual inventory of all the equipment items in the Board's possession to the Purchasing Division on or before July 15 of each year. The current Executive Director stated she was unaware that an annual inventory listing was to be filed by the Board.

In addition, as noted in our prior audit, equipment items were not properly tagged with identifying State tag numbers. Sections 3.6 and 3.11 of the Inventory Management and Surplus Property Disposition Policies and Guidelines promulgated by the Purchasing Division of the West Virginia Division of Administration state in part,

"3.6 **Reportable Property:** The Purchasing Division has established a capitalization figure of \$1,000 and a useful life of one (1) year or more. This means that any item which has an original acquisition cost of \$1,000 or more and a useful life of one (1) year or more should be placed into the agency's inventory. An agency may, however, include property or equipment costing less than \$1,000 in the report submitted to the Purchasing Division....

3.11 **Identification Tags:** All equipment over \$1,000 will have a numbered tag and that equipment will be placed into the agency's inventory system. Agencies will be responsible for obtaining and placing the proper tags on all equipment under their jurisdiction. Tags are to be placed on all items of property/equipment in such manner that it may easily seen and read. . . ."

Based on these provisions, the Board was required to tag and report any equipment items costing \$1,000.00 or more and the Board had the

option to tag and report items costing less than \$1,000.00. We believe the Board should record and tag any equipment which could be readily converted to personal use.

The equipment listing provided by the Board did not contain cost figures for the equipment items, however, we were able to determine the cost of the items purchased during the period July 1, 1995 - January 31, 1998. The Executive Director stated she is not sure why the inventory items were not tagged with State identification tag numbers. The annual inventory can be a useful tool within the agency for control of property. Also, without proper tagging and identification of State property, items could be lost or converted to personal use.

We recommend the Board comply with Chapter 5A, Article 3, Section 35 of the West Virginia Code. Also, we recommend the Board comply with the Inventory Management and Surplus Property Disposition Policies and Guidelines as promulgated by the Purchasing Division of the West Virginia Department of Administration.

Board's Response

The Board has already complied with this recommendation and has reported and tagged all inventory with a value of \$1000 or more. The Board will continue to comply.

Payment of Miscalculated Invoice

Based on the Board's records, we believe the Board overpaid \$70.00 as a result of a vendor's miscalculation contained

on an invoice submitted to the Board for payment. The invoice showed five examinations conducted on November 7, 1997 at \$35.00 each, equaled \$245.00 plus shipping charges of \$15.00 for a total amount due of \$260.00. However, we calculated the amount due for the five examinations at \$35.00 each to be \$175.00, rather than the aforementioned \$245.00. As a result, the Board overpaid \$70.00 for the five examinations.

Chapter 12, Article 3, Section 9 of the West Virginia Code states:

"Every board or officer authorized by law to issue requisitions upon the auditor for payment of money out of the state treasury, shall, before any such money is paid out of the state treasury, certify to the auditor that the money for which such requisition is made is needed for present use for the purposes for which it was appropriated; and the auditor shall not issue his warrant to pay any money out of the state treasury unless he is satisfied that the same is needed for present use for such purposes."

We recommend the Board comply with Chapter 12, Article 3, Section 9 of the West Virginia Code. Also, we recommend the Board seek reimbursement of \$70.00 overpaid to the vendor.

Board's Response

The Board will comply with the recommendation and will seek reimbursement or credit toward future purchases from the vendor.

Lack of Proper Payroll Records and Leave Balance Misstatements

We were unable to locate sick and annual leave records for the period July 1, 1993 - November 30, 1997 and W-4 forms for former Executive Director of the Board. Also, we believe two former employee's sick and annual leave balances were misstated.

Chapter 21, Article 5C, Section 5 of the West Virginia Code states,

"Every employer subject to the provisions of this article shall make or cause to be made, and shall keep and preserve at this place of business for a period of two years, a written record or records of the name and address of each of his employees as herein defined, his rate of pay, hours of employment, payroll deductions, and amount paid him for each pay period."

First, based on the records made available to us, the former Executive Director's June 30, 1993 annual leave balance was overstated by two hours. We were unable to determine if the two hour annual leave overstatement had been corrected by the Board after June 30, 1993, because we were unable to locate this employee's sick and annual leave records for the period July 1, 1993 - November 30, 1997. The former Executive Director ended her employment with the Board on November 30, 1997.

Second, the former Office Assistant's January 16, 1998 annual leave balance was overstated by four hours and the sick leave balance was understated by four hours. The Executive Director stated she did not know why the W-4 Forms were not in the personnel files nor the sick and annual leave records for the period July 1, 1993 - November 30, 1997 for the former Executive Director.

Finally, as a result of the W-4 Forms not being completed, we were unable to determine if the correct amount of State and Federal income taxes were withheld from the two former employees' gross pay.

We recommend the Board comply with Chapter 21, Article 5C, Section 5 of the West Virginia Code. We also recommend the Board notify the State agency, to which the former Board employees transferred their sick and annual leave balances, of the leave balance misstatements.

Board's Response

While current employees do maintain time sheets that include leave balances, it is the Board's stance that it is not subject to the provisions of WV Code §21-5C-5. This particular section of code quoted in this report does not state that an employer must maintain leave balances. In addition, administrative and executive staff are not subject to this provision as stated in WV Code §21-5C-1f.6. Moreover, WV Code §21-5C-1e states the definition of "employer" is in part

"...the State of West Virginia, its agencies, departments and all its political subdivisions, any individual, partnership, association, public or private corporation, or any person or group of persons acting directly or indirectly in the interest of any

employer in relation to an employee; and who employs during any calender week six or more employees as herein defined..."

This Board currently employs one person. In the past and during renewal season, there are two employees. In the near future, the Board does not expect to employ six or more individuals.

In the Exit Conference with auditors, it was stated that other areas of WV Code could apply to this matter. However, these areas were not presented to the Board for discussion. In addition, it was stated by auditors that because the Board has opted to give its employees annual and sick leave, "by proxy" the Board has agreed to follow the Division of Personnel policies. The Board strongly disagrees with this statement, as generally all constitutional offices and other exempt agencies do provide leave for their employees. The law does not provide that if exempt agencies utilize the Division of Personnel policies or rules as guidelines for establishing its own policies, they are statutorily subject to the Division of Personnel policies.

As addressed in the report, the Board disagrees with the recommendation based on WV Code §21-5C-1f.6. However, if the Legislative Auditors could prove that the Board must maintain leave balances based on other statutes, rules, or regulations, it would reconsider its stance on this compliance matter.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of revenues, expenditures and changes in cash balance of the West Virginia Board of Embalmers and Funeral Directors for the period ended January 31, 1998 and the years ended June 30, 1997 and June 30, 1996. The financial statement is the responsibility of the management of the West Virginia Board of Embalmers and Funeral Directors. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues collected and expenses paid of the West Virginia Board of Embalmers and Funeral Directors for the period January 31, 1998 and the years ended June 30, 1997 and June 30, 1996 on the basis of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for purposes of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Sincerely,



Theoford L. Shanklin, CPA, Director
Legislative Post Audit Division

June 23, 1998

Auditors: Michael E. Sizemore, CPA, Supervisor
Rhonda L. Combs

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

STATEMENT OF REVENUES, EXPENDITURES AND

CHANGES IN CASH BALANCE - BUDGET AND ACTUAL

	<u>Period Ended January 31, 1998</u>		
	<u>Budget</u>	<u>Actual</u>	<u>(Over)Under Budget</u>
Revenues:			
Fees and Licenses	\$94,200.00	\$88,442.50	\$ 5,757.50
Expenditures:			
Personal Services	40,400.00	24,209.66	16,190.34
Employee Benefits	8,100.00	4,192.28	3,907.72
Current Expenses	45,650.00	22,436.24	23,213.76
Repairs and Alterations	50.00	0.00	50.00
Equipment	0.00	0.00	0.00
Payment of Claims	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
	<u>94,200.00</u>	<u>50,838.18</u>	<u>43,361.82</u>
 Revenues Over/(Under) Expenditures	 0.00	 37,604.32	 (37,604.32)
 Beginning Balance	 <u>0.00</u>	 <u>9,231.13</u>	 <u>(9,231.13)</u>
 Ending Balance	 <u>\$ 0.00</u>	 <u>\$46,835.45</u>	 <u>(\$46,835.45)</u>

See Notes to Financial Statement

<u>Year Ended June 30, 1997</u>			<u>Year Ended June 30, 1996</u>		
<u>Budget</u>	<u>Actual</u>	<u>(Over)/Under Budget</u>	<u>Budget</u>	<u>Actual</u>	<u>(Over)/Under Budget</u>
\$ 94,200.00	\$96,409.00	(\$2,209.00)	\$ 93,252.00	\$96,306.50	(\$3,054.50)
40,300.00	42,899.92	(2,599.92)	40,004.00	41,803.92	(1,799.92)
7,910.00	7,637.98	272.02	7,910.00	7,578.60	331.40
54,741.00	45,757.48	8,983.52	52,122.00	43,739.57	8,382.43
750.00	928.00	(178.00)	500.00	0.00	500.00
770.00	225.00	545.00	3,028.00	3,050.00	(22.00)
<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>176.64</u>	<u>(176.64)</u>
<u>104,471.00</u>	<u>97,448.38</u>	<u>7,022.62</u>	<u>103,564.00</u>	<u>96,348.73</u>	<u>7,215.27</u>
(10,271.00)	(1,039.38)	(9,231.62)	(10,312.00)	(42.23)	(10,269.77)
<u>10,271.00</u>	<u>10,270.51</u>	<u>0.49</u>	<u>10,312.00</u>	<u>10,312.74</u>	<u>(0.74)</u>
<u>\$ 0.00</u>	<u>\$ 9,231.13</u>	<u>(\$9,231.13)</u>	<u>\$ 0.00</u>	<u>\$10,270.51</u>	<u>(\$10,270.51)</u>

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

NOTE TO FINANCIAL STATEMENT

Note A - Accounting Policies

Accounting Method: The cash basis of accounting is followed. Therefore, certain revenues and the related assets are recognized when received rather than when earned and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

SUPPLEMENTAL INFORMATION

WEST VIRGINIA BOARD OF EMBALMERS AND FUNERAL DIRECTORS

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

	<u>For the Period Ended</u> <u>January 31, 1998</u>	<u>Year Ended June 30,</u> <u>1997</u>	<u>1996</u>
<u>Board of Embalmers and Funeral Directors-</u>			
<u>Fund 8504-099/640</u>			
Cash Receipts:			
Fees and Licenses	\$88,442.50	\$96,409.00	\$96,306.50
Disbursements:			
Personal Services	24,209.66	42,899.92	41,803.92
Employee Benefits	4,192.28	7,637.98	7,578.60
Current Expenses	22,436.24	45,757.48	43,739.57
Repairs and Alterations	0.00	928.00	0.00
Equipment	0.00	225.00	3,050.00
Payment of Claims	<u>0.00</u>	<u>0.00</u>	<u>176.64</u>
	<u>50,838.18</u>	<u>97,448.38</u>	<u>96,348.73</u>
 Cash Receipts Over/(Under) Disbursements	 37,604.32	 (1,039.38)	 (42.23)
 Beginning Balance	 <u>9,231.13</u>	 <u>10,270.51</u>	 <u>10,312.74</u>
 Ending Balance	 <u>\$46,835.45</u>	 <u>\$ 9,231.13</u>	 <u>\$10,270.51</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report of audit appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 16th day of November,
1998.



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the West Virginia Board of Embalmers and Funeral Directors; Each member of the Board; Attorney General; Governor; and, State Auditor.