

MINUTES
BOARD OF FUNERAL, CEMETERY, AND CONSUMER
SERVICES RULES COMMITTEE MEETING
(ANDREW CLARK, CHAIR – SANJENA CLAY – CHRIS JENSEN – DARRIN WILLIAMS)
SEPTEMBER 25, 2026 – 10:00 A.M.

A. Call to Order, Preliminary Remarks, and Roll Call

Mr. Andrew Clark – Good morning, everyone. Thank you for joining us. I will call the meeting to order, and then I'll turn it over to Ms. Schwantes.

Ms. Mary Schwantes – Good morning. My name is Mary Schwantes. I'm the Division Director for the Division of Funeral, Cemetery, and Consumer Services. Today is Friday, September 25, 2026, and it is approximately 10:03 AM. This is a public meeting of the Rules Committee for the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held via video conference. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for the meeting and the meeting materials have been made available for all interested persons. Both the link and call-in number are on the agenda, which has also been published on the Division's website and made available to the public. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

The purpose of the meeting is to conduct the business of the Rules Committee. The first main part of the meeting will involve follow-up discussion on four (4) rules that were impacted by the passage of Senate Bill 598, which was titled Funeral, Cemetery, and Consumer Services 2026. The purpose of that portion of the meeting will be to review and discuss proposed language for these four (4) rules. During the next part of the meeting, we will begin the Annual Rule Review of thirty-five (35) rules that will be conducted pursuant to Section 120.5435, Florida Statutes.

As a general rule, please do not utilize your video camera for the meeting unless you are a Committee member, Board counsel, or an authorized Division employee. At this meeting, public comments will be taken during the review of each rule being discussed. Comments should be limited only to that particular matter at that time and ultimately only to the issues which are listed in the agenda, or which may be further discussed by the Committee. Do not use the waive hand or the chat feature of GoTo Meet to make comments or be recognized by the Committee Chair. Instead, please turn your video camera option on when we reach the agenda item on which you want to be heard and raise your physical hand to be called upon, then turn your video camera option off again as soon as your matter has been addressed by the Committee. After comments have been received from those attending with video cameras, we will ask if there are any public comments from those attending by phone. In this way, we hope that all who want to be heard on an issue can be recognized by the Committee Chair to express their concerns.

As always, we need everyone on the call who is not speaking to place their phone or audio feed on mute. The ambient noise coming from someone's phone or audio which is not muted causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff and as a result, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smart phone for your audio feed, please remember to speak directly into the microphone on your device. To do otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Committee Chair, Andrew Clark, runs the meeting. Persons desiring to speak should initially ask the Chair for permission and make sure that they are recognized and acknowledged by Chair Clark before they speak. At this time, I'll call the roll. Committee Chair Andrew Clark?

Chair Clark – Here.

Ms. Schwantes – Committee member Sanjena Clay?

Ms. Sanjena Clay – Present.

Ms. Schwantes – Committee member Chris Jensen?

Mr. Christian Jensen – Present.

Ms. Schwantes – Committee member Darrin Williams?

Mr. Darrin Williams – Present.

Ms. Schwantes – Mr. Chair, there is a quorum for the business of the Committee. For our records, I also need to do roll call of other members of the Board to confirm if they are attending the meeting in the audience. Jill Peeples?

Ms. Jill Peeples – Present.

Ms. Schwantes – Thank you, ma'am. David Chapman? Hearing none. Todd Ferreira? Hearing none. Ken Jones? Hearing none. Janis Liotta? Hearing none. Bill Quinn? Hearing none. Mr. Chair, would you like me to continue on to the next item on the agenda?

Chair Clark – Yes, please. Thank you.

Ms. Schwantes – Thank you, sir.

B. Action on Minutes and Report and Recommendations

(1) August 6, 2026

Ms. Schwantes – These are the minutes from the August 6, 2026, Rules Committee meeting. Committee action is required on this item, and assuming the Committee approves the minutes, they will be presented to the Board at its October meeting for review and Board action. Mr. Chair?

Ms. Clay – Mr. Chair?

Chair Clark – Ms. Clay?

MOTION: Ms. Clay moved to approve the minutes. Mr. Jensen seconded the motion, which passed unanimously.

(2) Report and Recommendations for Rules Committee Meeting August 6, 2026

Ms. Schwantes – This is the Report and Recommendations for the Rules Committee meeting of August 6, 2026. Again, Committee action is required on the item and assuming the Committee approves the report, it will be presented to the Board at its October meeting for review and Board action.

Ms. Clay – Mr. Chair?

Chair Clark – Ms. Clay?

MOTION: Ms. Clay moved to approve the Report and Recommendations to be presented to the Board at its October meeting. Mr. Jensen seconded the motion, which passed unanimously.

Chair Clark – Thank you.

C. Overview of Reference Materials Provided to Committee

Ms. Schwantes – This is the overview of reference materials that have been provided to the Committee for use during this meeting. You've seen many of these items before.

- (1) *Senate Bill 0598ER*
- (2) *Section 120.54, Florida Statutes*
- (3) *Section 120.5435, Florida Statutes*

Ms. Schwantes – Basically, the first three (3) are Senate Bill 598, and then a couple of statutes that relate to our Annual Rule Review. Are there any questions regarding the first three (3)? Hearing none.

(4) Workbooks for Rules Committee Meeting September 25, 2026

Ms. Schwantes – I would like to focus on the two (2) workbooks that have been designed for the Committee's use during the meeting today. And I'd like to take a closer look at those items.

(a) Workbook #1 – SB598 Follow-up Rule Discussions

Ms. Schwantes – This is the workbook that we will use for the first portion of the meeting where we talk about the five (5) rules that will require discussion that were impacted by 598 because it does include in addition the proposed new rule that Mr. Grabowski submitted. For each of the rules on today's agenda the workbook contains the following: the full rule as it's currently published. The full statute changed by Senate Bill 598, which has now been published; before when you saw it, it had yellow highlights. The yellow highlights are in the long present because you're seeing the fully published rule. Review notes from the June 12th and August 6th Committee meetings. Space for review notes from today's meeting. And reference to any written comments that were received. All written comments to these rules are contained in Addendum A or Addendum B to the workbook. Please note that Addendum B of the workbook contains only the comments from WRW Legal that are relevant to the rules that are being discussed during this part of the meeting. Are there any questions about Workbook #1 at this time? Hearing none.

(b) Workbook #2 - 2026 Annual Rule Review

Ms. Schwantes – There are thirty (30) Board Rules and five (5) Shared Rules or total of thirty-five (35) rules to be covered during this year's Annual Rule Review. For each of these rules, the workbook contains the following: the full rule as it's currently published and space for review notes from today's meeting, including a chart showing questions that must be asked during the initial phase of the rule review under section 120.5435.

(5) WRW Legal Rules Revisions for 2026 09 25.pdf

Ms. Schwantes – WRW Legal provided written comments on the rules that we're discussing were impacted by Senate Bill 598. Although not requested, WRW Legal also commented on some of the rules on which we will begin the Annual Rule Review today. This is the full document that was submitted by WRW Legal containing all comments. Please note that we took the comments relating to Senate Bill 598 and also attached those as Addendum B to Workbook 1. Any questions? Okay. Mr. Chair, are you ready to move on?

Chair Clark – That'd be great. Thank you.

D. SB598 Follow-up Rule Discussions

(1) Rule 69K-18.002, F.A.C. - Funeral Director Intern Training Program

Ms. Schwantes – This rule is found on Page 3 of the workbook. The relevant statute is 497.375, found on Page 8. Written comments regarding the rule were received from both Karen Coles and WRW Legal. Comments from Karen Coles are found on Page 1 of Addendum A to the workbook, which is Page 24 of the full workbook PDF. And comments from WRW Legal are found on Page 2 of Addendum B to the workbook, which is Page 27 of the full workbook PDF. The Department's recommendation on 18.002 is one (1) of the rules in 69K-18 that we're going to be

reviewing as part of the Annual Rule Review, again, required by section 120.5435, and we believe this and the next rule that are impacted by Senate Bill 598 are going to require lengthy consideration. Additionally, after the deadline for submitting written comments, we heard from at least two individuals who would like additional time for consideration of the intern programs and because of these factors the Department is recommending discussion of what has been submitted so far. We actually would like to see kind of an outline of what the Committee is interested in changing, and then not finalizing the recommendation on the language today but bringing it back before the Committee at the next meeting again and that will also give us opportunity to discuss all of the intern programs, which are all under 69K-18 as part of the Annual Rule Review today. We'll get a little bit further in all of our discussions. Mr. Chair, I'll turn it over to the Committee for discussion.

Ms. Clay – Mr. Chair?

Chair Clark – Thank you, Ms. Schwantes. Ms. Clay, go ahead.

Ms. Clay – Just before we get started, Ms. Schwantes, is there a timeline in which we must have all of that that you just articulated, completed by?

Ms. Schwantes – Yes, ma'am. For the ones that were impacted by Senate Bill 598, we need to have proposed language in play in the rulemaking process, I believe it will be by January 1st. Does that sound right, Ms. Munson?

Ms. Rachelle Munson – Yes.

Ms. Schwantes – She's agreeing.

Ms. Clay – Okay, thank you.

Ms. Schwantes – And so because these rules also involve the Annual Rule Review to accomplish all of them, both portions of that review will get us a lot further along towards that January 1st deadline. We also have a January 1st deadline for the next reports that are due under the Annual Rule Review under Senate Bill 108.

Ms. Clay – And just another question in terms of that January 1st deadline, this Committee is expected to have a meeting every month up until January, correct?

Ms. Schwantes – Yes ma'am. It's going to take that, we believe, in order to get the language on the internship and the endorsement statutes firmed up. Those are the last of the ones we looked at that are impacted by Senate Bill 598. And also, again, we have a January 1st deadline regarding Section 120.5435, but regarding the Annual Rule Review. And so, it's probably going to take that long, too, to get to that point for what's due on that. And everything we do in the Committee then has to go before the Board for approval.

Ms. Clay – Okay. Thank you.

Ms. Schwantes – Thank you.

Chair Clark – Great question. Thank you, Ms. Schwantes. For the Committee, I know Ms. Wiener submitted some thoughts, but any initial thoughts before I turn it over to Ms. Wiener? Hearing none? Ms. Wiener?

Ms. Wendy Wiener – Thank you for the opportunity to present today. If you refer to your workbook on Page 27, the substantive rules that follow, with the exception of the new rule proposed by Mr. Grabowski, do contain comments from both IFDF, SCI, FCCFA, and FSI. So those comments sort of cover the waterfront. Mr. Grabowski is on today, so he can of course jump in. But you'll note that the strikethroughs or changes, strikethroughs or additions in blue are those proposed by IFDF, and the strikethroughs that are in red are those proposed by everyone that I represent in this matter, which would be today, FCCFA, SCI and Funeral Services, Incorporated. So, if you just look at Page 27, there's a proposed strike-through there just because we will be updating that effective date. Substantively, the next

change occurs on Page 30 of your workbook. As directed by the Senate Bill and by this Committee, we took a hard look at these rules and tried to eliminate language that was literally directly from the law. As Ms. Munson I think will agree, if it says it in the law, it does not need to simply repeat it in an administrative rule. The rules are supposed to be supplementary too, or to build on what's in the law as limited by their statutory authority, but there are a couple of places where we have suggested striking because things are not in the law. We left the comments in so that you could see why we were suggesting strike throughs, which we thought would make this process go more quickly. Striking (b) as this is literally directly from the law. But we propose to strike subsection (d) because that language is not supported by the law. The law does not say that an applicant in order to renew their internship has to be enrolled in the original course of study that they started out in. And so that is just simply not supported by the law, and we would recommend a strike. For instance, I start out at Miami Dade and I transfer to Cincinnati. There is nothing in the rule, in the law that says that I cannot renew my internship.

Mr. Williams – I have a question.

Ms. Wiener – Of course.

Mr. Williams – So, Ms. Wiener, to your point of subsection (d), the information that was put in here, can you give us some background of why it was put in there? Like, is it something administratively of why it was put in? Just for reference, to kind of get a better picture.

Ms. Wiener – Sure. These rules are very old. They actually came over from the prior regulator, the Board of Funeral Directors and Embalmers. When they came over to Chapter 497, they were addressed and a handful of changes were made, but frankly, there just weren't a lot of changes made. So, this is a wonderful opportunity to actually modernize these rules and bring them into keeping with the statute. There are a few things that we found in these rules which have become established that simply are not supported by the legislation that gives the Board and the Division the power to make the rules in the first place. So, and this is among them. I don't know exactly why this language was here from the beginning but there it was and it should go because it's not supported in our statute. And you're going to come across a lot of that, which may surprise you because quite frankly, when I was working with Lisa Coney on these, and then also with Mr. Grabowski, we all worked together on these rules, we were all actually a little bit surprised that a couple of the things that we think are just part of what's happening here in Florida are not actually supported by the statute and should come out of the rule. So that's what happened to (d). And you're going to see that a handful of times here.

For instance, on the next Page 31 in subsection (f), it says, which we propose to strike, the application to renew the internship must be filed before the initial internship period ends. No renewal shall be granted if the application to renew is not filed before the end of the initial internship period. An application to renew may not be filed earlier than the 10th month of the initial internship period. That is not in the law at all. But that is a standard to which we have been holding prospective renewal applicants for many, many years. It's not in the law. What if I am an intern and I am in a car accident and I'm in a coma for two (2) months and I miss those time frames? Under our rules right now, I'm not able to renew my internship. That is unsupported by Florida Law. Then with regard to subsection (h), the renewal shall be for an additional one-year period to commence immediately upon the end of the initial internship period. Also not established for 4(b) situations. That language does appear with regard to a different type of internship, but it does not apply to the type of internship in this particular subsection of the rules. So, we tried to get as granular as we can to make the rules as honest to the statutes as we possibly could.

Ms. Munson – If I may?

Ms. Wiener – Yes, ma'am.

Ms. Munson – So with that particular change, is there any guidance that's being presented as to how long it can take for the additional one period to begin? Or is that not a concern of the industry or the Department?

Ms. Wiener – Well, I will say that in my experience, when people are seeking to renew their license, they usually do

mean for it to begin as quickly as it can at the end of their internship because usually if they stop their internship activities, they stop getting paid the salary that they're getting paid. So, I don't think that this is a concern. This language does remain with regard to the internship to which the law actually has it applicable, which you'll see as we go forward, but it's just simply not here. I would guess that this will not be an issue. And if it is, then we can certainly all agree to address it legislatively as would be necessary in order for it to support a rule of this nature.

Ms. Munson – But in follow up to that, to be clear, the purpose of part of this rulemaking is to also give consideration to unintended consequences. And that's where a lot of our kinks come in because we don't think it will ever happen and then it happens and then three (3) years later, somebody wants to continue or renew their additional one-year period. I guess then with that change, I guess it would be the position of the Board that of course, anyone representing that particular applicant, of course, there is nothing stopping you from doing that. And I'm just going to point out possible unintended consequences to make sure everyone is on the same page.

Ms. Wiener – Ms. Munson, I couldn't agree with you more. That said, no matter what, we can't have a rule that's not supported by the legislation that gives it its authority. So, we've got to get rid of this language. If it is a problem or it becomes a problem, then I definitely think this would be an area where you would find agreement in the industry for legislation. Nobody, the business owners, the funeral homes, the people that are employing these interns aren't going to want people that are so out of date that they don't have the skills anymore. They're not really able anymore. So, but this is a thing that needs to come out of the rule. And if we need to address it, then we should make a change to the law. I suspect it was an unintended consequence of a prior change to the law when we made more than one pathway to internship and that language is only attached to the other pathway, not to this pathway. Also on that page, there is nothing in our statute whatsoever about when you have to file your application to renew. So earlier than the 10th month, can't file, just simply not in the law. At the very bottom of Page 6, going on to Page 7, that's a similar change, the same change as is above because the law doesn't establish the time that the renewed internship can begin.

Also, on Page 32, or starting on Page 32, the shift from direct to general supervision. The ability to restrict the move from direct to general for only one type of internship is absolutely also not supported by the law. Any intern can shift from direct to general. And frankly, my guess is profession and industry is not aware of this nuance anyway. But because I'm not aware of the distinction that has been drawn. Those of you who have employed interns, Mr. Clark or Mr. Jensen, if you're aware of a distinction that has been drawn between the shift from direct supervision to general supervision, I would be surprised, but that's also not supported by the law. The capacity to shift from direct to general applies to all interns under the statute. And so, we also suggest a strike in subsection (d), and that is simply to "true up" the language or to eliminate that reference to a statute that would not apply.

Moving to Page 33, this is the one that floored Lisa, Luke, and myself. We have always contended, we, the whole profession, and everybody has just taken it at everybody's word that you can only have one (1) internship per person allowed in any lifetime. You will not find that in the law. That is absolutely not supported. If I was an intern and then I went off and I became a lawyer and I had a whole other career and I did a whole other thing and I decided to come back to the profession, if I wanted to do another internship, our law supports that. It does not prohibit it. But we have had people over the years jumping through hoops like crazy over this issue. Back in the day, those of you who remember Jasmin Richardson, who I really, really like, she used to tell people that the only way for them to come in if they had not finished their internship and they hadn't renewed it and they couldn't get it done was to go get license in another state and then come in by endorsement. But that is not supported by our statute, and I invite you to try and find a reference to it. It's just not there. And those are all of the comments that we have with regard to rule 18.002. And of course, I'm happy to answer questions. Yes?

Mr. Williams – Yes, thank you for that Ms. Wiener. So just want to maybe get Ms. Schwantes' opinion at least on that, if she has some background of reasoning why we may have that in place. Even though I know Ms. Wiener, you're saying it's not supported by statute or by law, just want to kind of get the Division standpoint of. You know, is that something we still need to look at and possibly, you know, we want to have that or have some parameters around that. What is your take, Ms. Schwantes?

Ms. Schwantes – Mr. Chairman?

Chair Clark – Go right ahead.

Ms. Schwantes – Mr. Williams, I was not here with this Division back in 2005 when it merged between DBPR and our Department, but I do know from looking through the historical records and certainly my experience here has shown that, as Ms. Wiener said, so many of these rules are old, and have not been changed, the fees haven't been changed either. I mean you get the idea. I think that my take on it is what happened is that it had to be joined so quickly that things were put in, things were missed. It ended up being a conglomeration, best that could be done at time we've been living with it since, to a great extent. We've made a lot of changes over the last years, you know, in a lot of the rules. This does, as Ms. Wiener pointed out, give us a great opportunity to clean a lot of this up. And I'm not in disagreement with this rule anyway, with a lot of what she has commented on. I do, as I said before, think that we need to provide additional opportunity for further review to allow others to submit written comments and just again a final review cleanup plus we will have more information from our Annual Rule Review of all of the internship rules. This also frankly may give those who are on the call or others' ideas of legislative changes that they want to make down the road, and it may be at some point that we want to firm something up legislatively that says, you can only have one in a lifetime. I think so based on what I've seen and what I've seen go through the Board, but it could happen. So that's kind of our take on it.

Ms. Wiener – And Ms. Schwantes is 100% correct. I was actually around in 2005, and I was participating on the Rules Committee at that time. One of the limitations that we had is that what you may not know just for orientation purposes is Chapter 497 was the cemetery law originally. In 1993, the preneed law, which was part of the Insurance Code, Chapter 639, merged into Chapter 497. So, the regulator, the Board, was the Board of Cemeteries and Preneed. Then, in 2005, when Doug Shropshire was in Mary Schwantes' position, all of what we called the Practice Act, which was Chapter 470, Funeral Directors and Embalmers and Professions, merged into 497. What you ended up with, though did add funeral directors to the Board, what you ended up with was basically, for those first number of years, the cemetery and preneed regulators, all of a sudden became in charge of regulating funeral homes and crematories. And when that happened, there was not a lot of top-of-mind awareness of business and how things went. So, the rules from the 470 Board just kind of came over and we were like, let's give them all numbers. And so, we just sort of dumped them all in and they were where they were. So that's how it happened. I was here in '93 when we did the first rules when we first brought over preneeds. So sad, but true.

Ms. Lisa Coney – I was here then, too. We actually did a Glitch Bill back then trying to do a bunch of these kinds of changes. So over that course of time after the gathering, first the gathering was a hot mess, but there were a series of cleanup bills following the coming together of the boards that tried to capture this. There was a Coalition Committee appointed by then Governor Bush, and we met extensively to try to capture all of this. And I think when there was a change in the government, there was a change in that Board, and we never really finished because everyone went to different direction when that coalition went to different direction. At that time, we were having not only Rules Committee meetings, but Rules Committee meetings broken down by topic. We had a Financials Rules Committee, a Disciplinary Rules Committee, and those Committees would come with changes and all of that went away. So, the need to clean this up didn't go away, but all of the processes that aided us in that did. So, this is a huge opportunity. And in preparing for this, there were, again, extensive work sessions trying to just figure out how something was here that we never was never in the law, so that in no way is anyone being opposed to it being in the law, but if it's not there, it doesn't seem appropriate to have it in the rule. So, we can always look at legislative needs that come out of this process, and the associations are always happy to take the lead on those.

Chair Clark – Thank you, Ms. Coney. Ms. Wiener, I have a couple of maybe comments or questions. I completely agree on (b) and the other thing that came to mind as we see mortuary students having a hard time finishing school where they're at maybe. So, I think that makes sense to be able to kind of free folks to go find the class, the final classes that they need. For (h), I mean, if they don't run it in regard to commence immediately upon the end of the, if they wait, they're unlicensed to your point, right? So, the employer, if they can't do intern work, I mean, the interns should still be motivated to renew as quickly as they should. When Ms. Munson talked about unintended consequences, you know, one of the things we've talked about, we talked about in our initial, when we first started this project, was the students aren't motivated to take their National Boards till the very, very end. And then they fail and then they're out of time right. So that's the only thing that as I read through your recommendations that if there's

any way that they'll keep pressure on the students that you need to take your tests because we just we see so many that wait till the very end and they fail it and then now they have to retake it that takes time and their internships to expire. So, I mean in thinking of unintended consequences any of these changes, I guess we can't do it legislatively but do any of these changes demotivate students to take their tests because we they really need to take them and that's part of the problem is waiting.

Ms. Wiener – I would hope not, but to your point, legislative session is coming up. If we can amend the statute to do the kinds of things that this Committee and then with the recommendations to the Board wants to do, you know, it doesn't benefit anybody to have less structure around these internship requirements. Everybody wants it to be clear. Do this. Don't do this. Do it in this timeframe. So, I don't think you're going to get any problem. You will get cooperation from the profession, as Lisa said, through the associations in cleaning that up. Where we're limited today as a group of people talking about the rules is rules can't do things that statutes don't give them the power to do. And these rules do give, do contain things that the laws don't give them the power to do. So, I think we do need to look as a group at some legislative changes. Every year there's a Department bill. They're doing something always with Insurance or Fire Marshall or whatever, but I think we can all work together to try and get those things that need to be tightened up, tightened up. You know, alternatively, it's hard to get people together to get things done. We can get these rules revised and but be communicating to people. People should be motivated by their own self-preservation. I mean, they just stopped getting paid what they were getting paid. And if they're trying to be funeral directors, you'd think that they would get their acts together. So, I think everybody would be open to legislative changes, and that's what Lisa and I and Luke, all, we were like, well, this reveals possibly some fissures in the statutory scheme.

Chair Clark – Yes. I appreciate that. And I agree. I know, I took the test as soon as I could, right? And we're just seeing the exact opposite now. Folks were waiting till the 11th hour. Mr. Jensen probably took it early, too. Then the last question I have on only one internship, and I just thought of it now and I can't find it, so if you can clarify this for me. I agree, doesn't make sense. But if they don't finish, like in your example, they leave to be a lawyer, they come back, they would start over from the beginning or do they pick up where they left off?

Ms. Wiener – I think it depends. If they had done an internship and were a practicing funeral director and left and then came all the way back and decided that they wanted to do another internship, in theory, they could do so. Now, because the statute does not prohibit them from doing so, they could also, in theory, apply to renew their internship license and finish out their internship. So, if that is something that the profession feels we should restrict or clarify, then we've got to do it in the statute in order to enable the Board to adopt a rule that will make that manifest.

Chair Clark – That makes sense. That's the way I was thinking about it. I know with my tenure on the Board there's so many that we either we didn't renew, so is this going to open the door for folks that you know ten (10) years ago they did six (6) months' worth they left the industry and now oh we've opened a door for them to come back and say, "Oh I can just renew"? That's just something I'm thinking about.

Ms. Wiener – It would open such a door but it's not possible to keep that door closed and where rules exceed the statutory and legislative authority and exceed the laws that are implemented by them and those rules are enforced against applicants, those outcomes are the basis for an award of attorney's fees by an applicant's lawyer when they challenge that because your rules simply can't exceed. People have to go through hoops to get that done, but in this situation, I suspect we probably don't see as many changes to the protocol of the way that people are getting things done. I don't know how in tune folks are with how this process all works until they're actually coming upon it and trying to engage with it. So, I don't think it's something that's going to be just widely, like open a flood gate of applications.

Chair Clark – Yes, and I guess they would still have to pass all their tests, right?

Ms. Wiener – Of course. Yes, absolutely.

Chair Clark –And we still leave in there's only one renewal granted in one lifetime. There was no changes to that. So, anyway, just thinking out loud. Thank you, Ms. Wiener. Ms. Peeples, I saw you first. Would you like to address the

Committee?

Ms. Jill Peeples – Thank you, Mr. Chair. As a former 470 Board member, I kind of have come from that particular environment to here and I agree with her assumption that a lot of the 470 rules were just brought over, have been here, and I agree we do need to do some cleanup to it. The concern I have as Chair of the Board is I feel like that we have an open-ended process now and as a long-time licensee, funeral director and embalmer, I had one (1) year to complete my internship. Y'all heard me say this before at Board meetings and I think we need specifics because people are looking for specifics so I think the legislative option, Ms. Wiener and Mr. Grabowski, would be great to go to so that we get more specifics that you get your first initial internship then you can renew it for one (1) year and we don't leave an open-ended that you can leave for ten (10) years and come and try to complete an internship. We need specifics on this and this is the time and the process we need to go through to get that cleaned up. Thank you for recognizing me, Mr. Chair.

Chair Clark – Thank you, Ms. Peeples. Ms. Coney, I saw your hand up.

Ms. Coney – It triggered for me that when you're applying for internship you can clip over classes. If you've taken college courses that can apply to your mortuary science college, you can clip them over. And it doesn't matter if there's a date involved with that necessarily. It matters that they're germane to the courses that you're going to take today. So, I think that to Director Schwantes' point, I mean, this is all fruitful conversation, but I think that we would be led by some of the already in place statutory guidance that get on that for how we fix this. You know, we have a five-year work history for endorsement, so maybe it's a five-year cap that you would have to reimplement no later than that, you know, so that we're consistent with our language, so that there's a clear direction. But for this process, regardless, I think that we have to use the statutory language that is available to us now and have a separate legislative workshop that creates law changes that would be necessary to, you know, stop any potential unintended consequences. I think the biggest unintended consequences; I'm not going to get paid. So, I really don't think that we're going to have a problem. And I think that our training supervisors should be, you know, if it's my livelihood, I'm getting the test done. Our training supervisors have to file quarterly reports with their interns. It'd be their responsibility to say, hey, get this done. So, I don't, I personally don't see that becoming a problem. We created that bridge just for the timing of the testing, and that was what, ninety (90) days. So, I don't think that we would have much of a problem outside of that. But I do think, like the situation we saw with a victim of domestic violence who moved from another state to flee a dangerous situation and has to restart her internship here, I don't want people like that that have legitimate circumstances to be penalized for having to start over either. So, there's got to be a clean process and at least in what's been proposed today, the process that's proposed today is what the law supports.

Chair Clark – Thank you, Ms. Coney. Ms. Munson?

Ms. Munson – This is just quickly because I know we have Rules Committee, which are also Board members. It's just to a point to clarify something that Chair Clark indicated in his comments about when these applicants come before you and now you have decision making. Do they have to start their internship all over or can they start from a certain point? Understand that's going to be factual considerations for the Board because when you have vague information set forth in statute, like it just tells you things, but it doesn't tell you, it doesn't go far enough. So, then you're going to have situations that are going to come before you where maybe one applicant is going to be told to start over and maybe another applicant is going to be told they can continue and the decisions are going to be based on the facts of that situation. Counsel for those applicants may come and say the law doesn't say that they have to do this and they have to do that. Those types of discussions are going to take place because there's law that may not go far enough. So, if this is an opportunity, we're talking about legislation to hone this up or shore this up with as much detail as possible because it looks like this language may have existed, and I'm not going to say not in an unsupported fashion, but if it existed in an unsupported fashion, by statute, it was to create guardrails and parameters because the way the statute reads is just not necessarily as helpful as it needs to be to provide guidance when the applications come before you for review. So, you get a lot of different answers, based on facts, scenarios, and I'm just bringing that up because I know when we come out of Rules Committee work, we think we have answers and we do have answers and clarifications, but be mindful that it may not be enough. So, where legislation is needed, I would say that this is definitely an area for really core consideration.

Ms. Wiener – Yes, we're all in agreement on that. I think you're exactly right. The more clarity we can provide to applicants and interns and applicants to renew and applicants to extend and applicants for whatever, the better we are. I love to be able to give somebody an answer from the law. So, yes, totally agree. Ms. Munson makes an excellent argument.

Chair Clark – Thank you. Ms. Schwantes?

Ms. Schwantes – Thank you, Mr. Chair. We have had a good bit of discussion from those who are on cameras, public comment from those who are on cameras. You may want to consider opening up public comments to any who are on the phone at this time.

Mr. Jensen – If I may, Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – I was just going to mention, the same concern I have with everything I read here, everything looks fine to me, except what you mentioned. And I am a little concerned about that because I do think that if they were in the middle of an internship for six (6) months and decide to do something different or whatever, they need to start fresh. So that's really my only comment.

Chair Clark – Thank you, Mr. Jensen. And yes, I would just add, I agree with Ms. Peeples too. I want to make sure these interns are motivated to get their license. And Ms. Coney, I agree they should be motivated by the opportunity to earn more, but I just want to make sure we're taking less pressure off of, oh, I'll leave, go do something else, and then come back. So, I agree. Mr. Jensen, I have the same concern. Any other public comments for the Funeral Director Intern Training Program? Hearing none. So, Ms. Schwantes, you need Committee action, correct?

Ms. Schwantes – I do, yes, sir. And that action could just be to decide to take written comments on these again and bring it back up for discussion at the next meeting, should that be what the Committee wants to do.

Chair Clark – Thank you, Ms. Schwantes.

Mr. Williams – Mr. Chair?

Chair Clark – Go ahead, Mr. Williams.

Mr. Williams – Quick question. Any feedback from the various colleges or institutions of higher learning in reference to how they feel about that? Just curious.

Chair Clark – I did see Mr. Brown on earlier. I don't see him now. The only thing I would reference is Mr. Beckham, when he has spoke previously to this Committee about, you know, he's the leader of a funeral service program. He tells the students, take it right after your practicum, but they're not doing it. And that's part of what's formed my thoughts, but that they tell students to take their tests, but they're not doing it. So, Ms. Schwantes?

Ms. Schwantes – Yes, thank you, sir. I actually, when I talked earlier, I referred to two (2) individuals who've asked for some more time to look at this. Howard Beckham was one of those. And so, I do expect that allowing this additional opportunity for written comments to bring in comments from at least one of the educators.

Ms. Munson – Is there a hand raised by Brown? I saw a hand raised, so I didn't know.

Mr. Gary Brown – Yes, thank you very much. Firstly, yes, we need to be very cognizant of students putting off taking their NBE. This is something we have had an issue with. We beg them to take the NBE very quickly after they finish their coursework, but they put it off sometimes on an entire year. So, we need to be cognizant of that. The other thing that I'd like to bring up, and I don't know if this is the appropriate time or not, but it sounds like it's close to that time,

is that currently the rules do not permit students from embalming unless they are registered apprentices. Is there any way that we can put into the rules that if they are in an ABFSE accredited program, they can embalm without being an apprentice?

Chair Clark – Thank you, Mr. Brown. That's a great question. And for the record, in fact, Ms. Wiener, you mentioned 2005, I was hanging out with Mr. Brown in Mortuary School back in 2005. So, thank you, Mr. Brown. Thank you for that feedback. And Mr. Williams, hopefully that was the feedback you were looking for. Obviously, he leads the program in St. Pete. Anything else from the Committee?

Mr. Jensen – Mr. Chair, I don't quite know how to do this. I would prefer you to make the motion of however you wish. I think I'm on the same page with you as my thoughts. So other Committee members may have other thoughts.

Chair Clark – That's right. I think that Ms. Schwantes' direction, it would be appropriate to make a motion. I'll make a motion to continue accepting written feedback on this rule, 69K-18.002, and for the Committee to review those written submissions at a future meeting. Is that right, Ms. Schwantes?

Ms. Schwantes – Yes, sir. And the only thing I would add to that, just so that everybody's clear on this call, because I know a lot of people here will want to make additional comments, the deadline would need to be Monday, October 5th, in order for us to have packets ready and mailed out for the October 19th Rules Committee meeting. The deadline for written comments would need to be October 5th.

AMENDED MOTION: Chair Clark moved to table this matter to allow for others to comment and that those comments be submitted to staff by October 5th to be reviewed at the next Rules Committee meeting. Mr. Williams seconded the motion, which passed unanimously.

(2) Rule 69K-18.003, F.A.C. - Concurrent Internships

Ms. Schwantes – This rule is found on Page 10 of the Workforce Development Statute, in Section 497.375(2), which is found on Page 12. Written comments regarding the rule were received from both Karen Coles and WRW Legal. Comments from Karen Coles are found on Page 1 of Addendum A to the Workbook, which is Page 24 of the full Workbook PDF. And comments from WRW Legal are found on Page 9 of Addendum B to the Workbook, which is Page 34 of the full Workbook PDF. The Department's recommendation is the same as the last one. We believe that the internship rules need to be reviewed in conjunction with the Annual Rule Review that we're doing of all of 69K-18, and that it would be appropriate for written comment on these rules, additional written comment taken for October 5th, and the full matter discussed again at the next meeting, which is October 19th.

Chair Clark – Thank you, Ms. Schwantes. Ms. Munson, go ahead.

Ms. Munson – You guys are going to absolutely strangle me, so please be graceful. I'm just going to squeeze back to that last rule, just because I know it had such robust discussion, and I know that everyone's going to go scary and try to figure out what else they need to do to make changes to it, and this may apply to other rules. So, in 497.375(2), when the statute gave the Board authority to, and I'm just going to -- basically it just gave the Board authority to adopt rules, and it was very general regarding criteria. And I am thinking that's where that one-year criteria came from, and when we say there was no statutory authority for that because it's not in law in any specific language, those type of general capped language usually creates the type of language that you saw with this one year and the whole thing, and other details that may pop up in these other rules. It just gives general authority to create criteria, and I just wanted the Board to be mindful, the Committee to be mindful, and for those who are looking to provide public comments, to be mindful of that statutory language, and I kind of thought this would be a good place to insert that comment because it may impact other things that are said, and I thank you for that.

Chair Clark – Thank you, Ms. Munson. Now I'll turn it over to Ms. Wiener to address your submission.

Ms. Wiener – Thank you. Just a comment on Ms. Munson's comment. I do agree that a general grant of rulemaking

authority to an agency to establish criteria does give some fairly broad authority. I think that criteria for an internship differs from limiting the number of internships one might have. In my professional opinion, I think we would struggle to support that. I don't know that that generality is enough to support the "only one per." I mean, you can –

Ms. Munson – It's arguable is all I'm saying, and that's what it does. If it says you can have ten (10) internships, it could have, the rule could have said you could have ten (10). If it says one (1), it could say one (1). It's the criteria, right?

Ms. Wiener – Yes.

Ms. Munson – So that's arguable, but I just wanted that to be kept before there is any broad discussion about there is no authority in the law for this language. You cannot overlook that general provision that provides broad authority. That's all I want to say.

Ms. Wiener – Very good.

Ms. Munson – Yes.

Ms. Wiener – All right. Turning my attention to 18.003. Here, again, strikethroughs in blue come to you, courtesy of Mr. Grabowski on behalf of IFDF. The first sentence is stricken simply because it is repetitive to the actual idea of what a concurrent internship is. On Page 34, the first red strikethrough is literally stricken because it is just repetitive to the sentence that precedes it immediately before. So, it is purposeless. There is no statutory authority we could find for "the embalmer portion may not be renewed Board pursuant to 375(4)(b)." And we have the highlighter on this concept of unless extended due to personal injury or illness. That has long been a standard that has been applied by this Board in renewing internships. And I will admit that everyone in the profession has gone along with that as a concept. You will not find any limitation for the reasons for the extension of the internship that limit them to personal injury or illness of the intern. There are lots of other reasons that someone may need to extend. But to Ms. Munson's point, pursuant to the general rulemaking authority, I think it might be within your -- and this is why we have this on a highlighter rather than just a pure red strikethrough. We think it would be within your authority as a Rules Committee to establish criteria for the extension but limiting it to personal injury or illness seems out of touch with why someone might need to extend their internship. So, we would recommend that the Board take this up and we can recommend language. We wanted to first make this point and then we can recommend language for how this could be adjusted. And I think the Board has now twenty-one (21) years of experience as to why people come to the Board. This is a rule and rules can be waived. And I have been successful many, many times at having this rule waived because the reason for many of those extensions has been "I lost a loved one." "I had a domestic violence situation in my life." "My child was injured." Things that are outside of these two limited criteria, personal injury or illness. So, I think minimally we should consider either expanding that definition or perhaps giving the Board discretion to consider when an extension is appropriate. We're not going to be able to limit or to describe every potential situation. But there are situations that go well beyond personal injury or illness, which someone might validly extend an internship. So, we have the highlighter on that for that reason.

Mr. Williams – Mr. Chair?

Chair Clark – Go ahead, Mr. Williams.

Mr. Williams – Thank you, Mr. Chair. So, to Ms. Wiener's point, I just want to make sure I'm comprehending what she says. It says unless it's extended due to personal injury or illness, the intern as specified in Rule 69K. So, do you have a bone of contention if we leave it, to your point, to the Board discretion so that we don't get into a listing of various exceptions?

Ms. Wiener – No, I think -- now Ms. Munson might tell me that JAPC would have a problem with that, but maybe not. I think that we could do one of two things. You as a Rules Committee could adopt sort of a list and then a catch-all at the end that says, in the Board's discretion, it may grant. Or you could simply say, in the Board's discretion, it

may grant. Nope, can't do either of those? Ms. Munson says no.

Ms. Munson – And if I may, Chair Clark?

Chair Clark – Go ahead, Ms. Munson.

Ms. Munson – I'm not saying that you can't. I won't recommend it because the purpose of a petition for variance in the waiver of a rule is just that.

Ms. Peeples – Thank you.

Ms. Munson – So, if you have a rule, that highlighted section that's been suggested to be stricken, if the Board decides to strike it, strike it. Because the remaining portion of the rule will say the embalmer portion of a concurrent internship should terminate after da-da-da-da. And if someone wants to petition that rule, that by showing a substantial hardship or something, because that's the purpose of a petition. Any rule that exists, if you feel that rule is creating a hardship on you just by following the letter of that rule and show the basis for it, you will do, as Ms. Wiener and other attorneys and other applicants have done on many of these rules. They present a petition to say why this rule should not apply to me. So rather than create a list of situations that could impact it, which could create a greater pool of problems or maybe some unadopted rule policy type of considerations, maybe just leaving the rule and giving parties an opportunity to just petition it the way it is. They can petition it with the way it is now and say, I think that unless you can also apply to me for my particular situation, or I can just read the way it reads without that clause and have someone petition it if they feel they want an extension.

Chair Clark – Thank you, Ms. Munson.

Ms. Wiener – I'm so incredibly in favor of people paying lawyers to do things, but by striking the highlighted language and making everyone that has any reason to get an extension have to file a petition for waiver, which you can do yourself. The State actually gives applicants my form and tells them to fill it in themselves, which sometimes they do successfully and sometimes they don't. But it does create an administrative and an expense burden on applicants there. So, Ms. Munson, could we not say the embalmer portion shall terminate 365 days after issuance of the concurrent license issuance unless extended by the Board? So that would at least give someone the capacity to write a letter and say, like, that language seems like it would get past JAPC? And it does the same thing, but it doesn't make them have to go through the formal petition for waiver. The petition for waiver, as you know, and as those who have not applied for waiver may not know, is a hassle. Like, you have to send it to the State. The State has to review it and then publish it in the Florida Administrative Register. There's all these timeframes associated with it. This seems like I'm making an argument to you that would keep people from hiring me. So, it seems like we would give applicants a path, at least.

Ms. Peeples – Mr. Chair?

Chair Clark – Go ahead, Ms. Peeples.

Ms. Peeples – Thank you, Mr. Chair. That's the reason the petition for waiver and variance is there. Everyone, if they want to have any kind of consideration, needs to go through the process. I don't think we need to have a list of items. I don't think we need to -- it needs to be, if they have a reason, they need to come before us, and we need to review it as a Board group. And then we need to go forward. So, Ms. Munson kind of took the words out of my mouth of what I was going to say. So, I don't agree with -- I'm agreeing with the highlighted area maybe being stricken, but I don't think we need a list. And I think if anybody wants to go through or have a consideration for a petition of waiver, they need to. Thank you, Mr. Chair.

Chair Clark – Thank you, Ms. Peeples. I tend to agree, and I'm curious, Ms. Wiener. Why doesn't the language just match (c)? The funeral director portion of concurrent internship shall terminate at the end of the 365th day after the internship began, unless renewed by the Board. Why don't we just match that language?

Ms. Wiener – Well, that was what I was proposing, unless extended by the Board. But Ms. Munson -- either way, I mean, my thought was just that right now there is, under this rule, the capacity for someone to, if they had a personal injury or an illness, write a letter to the Board and say, I was in cancer treatment, can you extend? And the Board goes, yes, because the rule allows it to do so. But if they say my husband beat me and I was, you know, unable to go to work, then the Board has to say, no, unless they hire me and I file a petition for waiver and send it to the State, the State publishes it and the whole thing. My thought was just to make it easier on applicants who have valid reasons for extension that have to come to the Board anyway. They have to get there one way or the other. They would either come by way of, I wrote a letter and I said what my circumstances are, and then the Board is considering it. Or if we take that language away, then we are forcing people into the petition for waiver variance.

Chair Clark – Yes, I think I probably wasn't clear. I'm just curious, why is the embalmer portion different than the funeral director's one?

Ms. Wiener – It is different in the law.

Ms. Munson – That's why.

Chair Clark – That was my point, though. Like, why?

Ms. Wiener – Yes. Let's clean up this whole set of laws. 100%. Let's do it.

Chair Clark – Thank you. Mr. Jensen, go ahead.

Mr. Jensen – Yes, I'd like to hear from Ms. Munson. I'm pretty well in agreement with what Ms. Peebles and Ms. Wiener are saying, unless the whole Board grants it. Can we just not add that little bit? And that way, because there are other extenuating circumstances just beside the two (2) that are listed. And I agree we don't need a whole list, but I think it should go before the purview of the entire Board.

Ms. Munson – So to be clear, Ms. Wiener and Ms. Peebles are saying two (2) different things. Ms. Wiener is saying compile a list, which you don't necessarily agree with, but you just want it to come before the Board. It will come before the Board if that “unless” clause is deleted, because there will be no authority to move forward with it unless it comes before the Board. You just want it to come before the Board. And you're trying to put language to make sure that if they don't do this by the 365th day, it comes before the Board.

Mr. Jensen – Well, and yes, ma'am, I think that's correct. The legalese is confusing me a little bit, but just put this in some, you know, we're kind of South Alabama here. Just put this in simpler terms that everyone can understand, and that's what we're trying to do is make it simple. And I do agree that there are other circumstances, and there should be some sort of catch-all that where, okay, if you have something real serious, you've got cancer diagnosis, and you've been on the therapy for it, and you were just bedridden and just couldn't do it but want to be in the profession, then there should be an avenue for that, I believe, that they've already completed all their schooling and everything. There should be an avenue for that, and I think it needs to be taken on a case-by-case basis.

Ms. Munson – And I think everyone is in agreement on that. I think as Ms. Peebles was indicating, that avenue would be by a petition of the rule, and Ms. Wiener is indicating that they shouldn't have to do a petition if the rule had language that says let the Board renew. And if the language was just “unless renewed by the Board,” that means it has to come before the Board, and it's going to come before the Board as if it were a petition, but it's not a filed petition. So, because the same type of discussion is going to take place as to the staff can't renew it by itself because the language would say Board, so they're going to have to place it on the agenda to come before the Board, and the Board is going to ask them, why do you want -- why didn't you do this by a certain number of days, and then the Board is going to have to do their analysis. And if it was a petition, it would say the same thing without, I guess, Ms. Wiener's comment, the cost of a filing.

Ms. Wiener – Mr. Chair?

Chair Clark – Yes, go ahead.

Ms. Wiener – Ms. Munson, can you explain to the Rules Committee the difference in those two processes, like what it takes to file a petition and the process that the State actually has to go through versus just writing a letter and sending it to the Board?

Ms. Munson – Well, yes, there's the filing fees attached to publication in the Florida Administrative Register apply, and the process of staff actually, there are man hours and the costs involved in putting those packets together, apply. But again, that is the process for like every rule. Pulling this one out of it, I mean, if you have a special circumstance that you feel displaces you from the rule the way it exists, the legal process is to petition it. So again, if you want to do that for this and not any other rules, remove a petition avenue, that would be a call of the Board, right? But I'm just noting that the petition to a rule is the legal process to present special circumstances for any individual applicant to maybe not have the rule apply to him or her. That's just the process. But if you want to do unless renewed by the Board, unless covered, you can do that with every existing rule to bypass the petition process.

Chair Clark – Mr. Jensen, I agree with you, and that's why I pointed out for the funeral director portion, it says unless renewed by the Board.

Ms. Munson – I don't know why the legislature didn't add a clause (5) that talked about embalmer portion. It just did the sub (4). I don't know why it did that.

Mr. Jensen – Yes, and Mr. Clark, may I?

Chair Clark – Go ahead.

Mr. Jensen – Yes, and also to piggyback on what Ms. Wiener said, that she's made enough money in this and they don't need to pay lawyers anymore, I'm all for that. I mean, we need to make it easier for these people to get their licenses and not have to go through the -- you know, it's very confusing to people the way some of these things are. I don't know if we need to add that to everything, but, you know, let the Board do its job, you know, and let them hear. If they want to hire a lawyer to state their case, that's fine. I know speaking for myself as a Board member, I appreciate it when somebody shows up to speak their case. And, you know, I think it should be a case-by-case basis. I just don't know how to put all that in a legalese that's going to work for everybody, but I think we're kind of all on the same Page. Oh, and one other note, Mr. Clark, Mr. Beckham sent me a text message just for the record that he is listening, and we'll get his comments in in a timely manner on the last issue we discussed.

Chair Clark – Thank you so much, Mr. Jensen. Go ahead, Ms. Coney.

Ms. Coney – So I feel like this would be the same group that our Director said would come before us again because they're all related to internships, so there's an opportunity for us to, hearing all this information, you know, have another work session and propose language for exactly how that would be considered. I completely agree for the ease of our sense that a formal petition process seems unnecessary when they could simply request consideration by the Board as is done for the other intern license type. So, copying language that already exists from funeral director to embalmer makes perfect sense to me, and if we are going to continue this to the next meeting, it could be part of a work session product for the next meeting to consider.

Chair Clark – Thank you, Ms. Coney. Ms. Wiener, do you want to continue?

Ms. Wiener – Yes. However, I would ask Mr. Grabowski to jump in because the next series of strikes are blue, and those belong to him, and I will let him speak to them. The only other change we had is that a similar strike to no person shall be issued more than one (1) in their lifetime, which we've discussed in great detail, and I understand we're looking for more comments on that. And I think Mr. Grabowski -- he was here.

Ms. Munson – He was.

Ms. Wiener – Did he go away?

Ms. Munson – Well, perhaps he's muted.

Ms. Wiener – Luke, you there?

Chair Clark – While we're waiting for him, any other public comments?

Ms. Wiener – Well, let me just touch on the comments that are his strikethroughs in blue. So, you'll see some strikethroughs and a couple of additions of his that are all in blue. Those literally were clean up. He has stricken language that is unnecessary pursuant to the law, and then he has just cleaned up a little bit of the language in subsection (4) that is related to what kind of a degree you have to have. A two-year college degree or higher in any field is the language from the statute. I know Mr. Jensen had a question about that language during the last Rules Committee meeting, but that is actually the language of the law, which means as long as you have a two-year degree, you could then have a four-year degree or a master's degree, or you could be a rocket scientist or whatever, but two (2) years or higher. And that language does come from the statute. And then the language at the bottom, in blue, "submit evidence demonstrating" that begins there, that is necessary because we've no longer recognized that concept of type one and type two (2) licensees. So really his comments are very much needed in terms of cleanup, and those are the comments of Mr. Grabowski, who must be away from his keyboard or I don't know where.

Mr. Jensen – So, Mr. Chair, a question for Ms. Wiener there. I mean, I agree they can have any kind of degree they want, but they still have to have the -- you know, that was the route I took, but I still had to take all the funeral portion and embalming portion. I lost what page you're on, Ms. Wiener.

Ms. Wiener – I'm on Page 35, sir.

Mr. Jensen – Okay.

Ms. Wiener – Yes, Type 1 and Type 2 doesn't have anything to do with embalmer. I don't know if you remember this, but way back in the day, we had Type 1 and Type 2 course of study. One was going to be like the funeral director only versus funeral director/embalmer. Right when we first separated those out in our statutory scheme, we don't really use that nomenclature anymore, so those aren't necessary. And now Mr. Grabowski is back. There you are.

Mr. Grabowski – I apologize. Technical issues. I restarted. It looks like it's working. Y'all can hear me now?

Chair Clark – Yes, sir. Go ahead. Thank you.

Mr. Grabowski – Yes. I think most of this language that I struck was just to "sure it up" with the new statute and keep things clean. I wasn't really trying to complicate anything or reinvent the wheel here. Sounds like Ms. Wiener was explaining that.

Ms. Wiener – You bet.

Chair Clark – Thank you, Mr. Grabowski. Mr. Jensen, did you have any other questions?

Mr. Jensen – No, I think that cleared it up. As long as it's not taken out that you need a mortuary science degree if you're going to do both or just a funeral certificate if you're just going to do funeral director. You know, I just want to stay in line with pretty much what we have without eliminating the schooling part. That was all. Thank you.

Chair Clark – Thank you, Mr. Jensen.

Ms. Clay – Mr. Chair, given the robust conversations that have been had regarding this, would it be appropriate for us to make the same motion as we did for the previous matter on the agenda and to have comments and that they've

been sent to the office by, I think it was October 2nd?

Ms. Schwantes – October 5th.

Ms. Clay – October 5th. Would that be appropriate at this moment?

Chair Clark – Would you like to make that a motion, Ms. Clay?

MOTION: Ms. Clay moved to table this matter to allow for others to comment and that those comments be submitted to staff by October 5th to be reviewed at the next Rules Committee meeting. Mr. Jensen seconded the motion.

Mr. Jensen – I do have a question.

Chair Clark – Go ahead, Mr. Jensen.

Mr. Jensen – I'm a little nervous about kicking the can down the road on all these things, but I do understand. I want to give everybody time to input. Is Ms. Schwantes and Ms. Wiener and Mr. Grabowski, you know, is this your opinion as well?

Chair Clark – Mr. Schwantes?

Ms. Schwantes – Yes, actually, we made the recommendation on this. We think that we have enough other interest outside of today's meeting from people that want to submit comments and also, frankly, we, after having full discussion on this, need further time to review and double-checks the laws and such like that. Also, we're not wanting to take it down the road much further because, as you said, we need to get it before the Board and be approved by the Board in time to file proposed language before January 1st.

Mr. Jensen – Yes, and that was my concern, Mr. Chair, because we're kind of, you know, I want to get this done and over with as well as the Department and all the attorneys and everybody. So, we've got to keep up. We've got to get this done. So, I will affirm my second. Thank you.

Chair Clark – Thank you, Mr. Jensen. Ms. Schwantes?

Ms. Schwantes – Yes, sir. Just to finalize things for the record, I think we need to ask public comment for those on the phone.

Chair Clark – I thought I did, but yes, we could definitely. Any further public comment on concurrent internships? Hearing none.

Ms. Schwantes – Thanks, sir.

Chair Clark – You're welcome. We have a motion for written comments to be submitted by October 5th and to be reviewed by this Committee at our next meeting. It's been seconded by Mr. Jensen. All in favor, say Aye.

Committee members [Unison] – Aye.

Chair Clark – Any opposed? And that motion carries. Ms. Schwantes, at this time we'll take a quick restroom break, and we will resume the meeting at 11:40.

Ms. Schwantes – Thank you.

*****BREAK*****

Ms. Schwantes – Mr. Chair, are you calling the meeting back to order?

Chair Clark – Yes, I will call the meeting back to order. Thank you. Ms. Schwantes, I'll turn it over to you.

Ms. Schwantes – Thank you. Let me just double check. Do we have Mr. Williams still as well? Thank you, sir. I just want to make sure we had -- we already had quorum, but I wanted to make sure he was on the phone with this. And Ms. Munson? I need Ms. Munson. Ms. Munson, are you there? Okay, Mr. Chair, I would recommend waiting another minute.

Chair Clark – Yes, fine.

Mr. Jensen – Mr. Chair?

Chair Clark – Go ahead, sir.

Mr. Jensen – Yes, while we're waiting, just something for Ms. Wiener to consider when she's looking over the last thing that we were on, embalmer and so forth. So, say someone has their technical certificate and they're a funeral director and then they decide to go back and get their embalmer and get an associate of science degree, will they then have to go through the internship again? The full internship?

Ms. Wiener – Yes, sir. They would have to do an embalming internship, yes sir. Because the funeral directing internship doesn't train on embalming, so yes, they would.

Mr. Jensen – Okay, very good. I just wanted to clarify that and make sure that is addressed.

Ms. Wiener – Yes, that's in our law and what we were talking about when everyone, the Board member or the Rules Committee members were rejoining is that the rule on the embalmer internship is 18.001. It's not on our list for discussion today, but given the comments that have been made, it may have to be something for later.

Ms. Schwantes – Point of clarification, it is on the discussion today, but under the Annual Rule Review.

Ms. Wiener – Yes, correct. In the other category, yes.

Ms. Schwantes – And Mr. Chair, Ms. Munson is back, so if you would like for me to go on to the next agenda item.

Chair Clark – Yes, please. Thank you.

Ms. Schwantes – Thank you, sir.

(3) Rule 69K-25.001, F.A.C. - Licensure by Endorsement; Embalmers

Ms. Schwantes – This rule is found on Page 15 of the workbook. The relevant statute is section 497.369, which is found on Page 15. Written comments from WRW Legal are found on Page 11 of Addendum B to the workbook, which is Page 36 of the full workbook PDF. The Department's recommendation on this rule and actually on the next rule as well is that even with the changes from Senate Bill 598, there are still two (2) paths to obtaining Florida licensure through endorsement. One is the education and internship path, and the other is the experience path. And the statutory changes made by Senate Bill 598 eliminated the National Board only for those using the experience path. I think that in drafting these rules or revising these rules, the focus has still been on, because we have so many people coming in this way, on the experience path, but the rules still need to address both paths. And so, again, with these rules, we recommend discussion today, additional guidance from the Committee, and then coming back for further discussion on these at the October meeting. We have sufficient time to do that, Mr. Jensen, since you asked that question earlier. And, again, we will be taking written comment by October 5th.

Chair Clark – Thank you, Ms. Schwantes. Ms. Wiener, would you like to go through your submitted changes?

Ms. Wiener – Certainly. And, again, these are changes from both Mr. Grabowski with IFDF and from my group. I don't think that either Mr. Grabowski or I contemplated the dichotomy of paths here, so I suspect he and I and Ms. Coney will end up getting back together on that. But we fully support the changes that -- he's on now, so it looks like he will talk about with us. We did have one change, which I believe Mr. Grabowski was in agreement with on behalf of IFDF, which was to change, may to shall for the five-year employment history path. And then we have the highlighter turned on to subsection (2) just really not to make a change per se, but to highlight a greater issue, and one that we may want to consider dealing with legislatively because a lot of what's on the local laws and rules, the Chapter 497 laws and rules, does not relate to embalming, doesn't really test on embalming like it tests on the laws and rules. So that's just for a broader discussion. I'll hand it to Mr. Grabowski to address his comments.

Chair Clark – Thank you. Mr. Grabowski?

Mr. Grabowski – Yes, thank you, Mr. Chair. Yes, as Ms. Wiener said, there are these two (2) separate paths as drafted, that's not really addressed. Having said that, I think the language that's been proposed here works for the experience path, and frankly, we could probably address that by indicating that this only applies to an application under 497.369(1)(b)(1), just to make that clear. And then obviously we'll have to come up with some language on the separate path under (1)(b)(2). But this is really just designed to be very clear that under the new statute, the only requirement is the state and local examination. So that's really what we tried to accomplish here is really just if that National Board, if that experience is there, that is the only requirement for licensure by endorsement based on experience.

Chair Clark – Thank you, Mr. Grabowski. Ms. Peeples?

Ms. Peeples – Thank you, Mr. Chair. Mr. Grabowski, on 69K-25.001(3), there's a blue strikeout line after the word effective, after the form number was listed that said 0524. Is that date, do you suggest a different change, or do you suggest striking out the word effective?

Mr. Grabowski – No, that was just to update the effective date of the rule. That was just more for clarity, but obviously, that's going to have to be changed once the rule is adopted.

Ms. Peeples – So whatever that current rule is, it'll be that effective date, correct?

Mr. Grabowski – Yes, once it's adopted.

Ms. Peeples – Thank you, sir.

Ms. Wiener – I think what he means is once we amend the rule, the form will have to be updated because right now the application for embalmer by endorsement contemplates that you have to have the National Boards. So, we're going to have to update applications. First, we have to get the rule language in place and then the Division staff will have to update some application forms. And that effective date would be what would go in there once that's done.

Mr. Grabowski – Yes.

Ms. Peeples – Thank you, Ms. Wiener and Mr. Grabowski for the clarification. Thank you, Mr. Chair.

Chair Clark – Thank you, Ms. Peeples. Ms. Munson, did you have a comment?

Ms. Munson – I just wanted to note that just so when you see it, when it's updated, it's not just the date that's going to change. That reference information is going to change for the duration for the rest of that rule. So, it just highlights that one effective date, but that other stuff will change, too, because it has to all be updated when the new is imported. I did have a question about the addition to subparagraph (1). It's such a long sentence, so if we're bringing

this back for review, I would like to think about a way that we can break that up into two (2) so that -- it's just a very long seven-line sentence. And I just think for rulemaking purposes, it's easier for lay to follow if we can break it into two (2).

Mr. Jensen – Ms. Munson, what Page is that?

Ms. Munson – 36.

Chair Clark – Thank you, Ms. Munson. Ms. Schwantes?

Ms. Schwantes – I was just going to clarify that the Department will be reviewing and revising forms as necessary. And we've talked about that before, and I think that's what Ms. Wiener was alluding to as well.

Ms. Wiener – Yes, ma'am.

Chair Clark – At this time, I'd like to open up for any other public comments as it relates to licensure by endorsement for embalmers.

Mr. Jensen – Yes, Mr. Chair, I do have a question.

Chair Clark – Go ahead, Mr. Jensen.

Mr. Jensen – Yes, I'm looking at this. And so, to ask maybe Ms. Wiener or Mr. Grabowski, I'm just curious. Just because they have got five (5) years of experience, they still have to have pass classes that are equivalent or more stringent to what Florida requires, correct?

Ms. Wiener – No. We eliminated that from law three (3), four (4), five (5) years ago. They have to have been licensed in good standing. They have to be licensed in good standing in another state, and they have to have been engaged in five (5) years' worth of full-time licensed work as a, in this case, embalmer.

Mr. Jensen – And that is no reference to what the requirements -- because there are some states out there that just don't require anything. So, they go be a funeral director in that state for five (5) years writing obituaries. All of a sudden, they can be a funeral director in Florida?

Ms. Wiener – Yes.

Mr. Jensen – I mean, that's crazy. But that's a Senate bill you're saying?

Ms. Wiener – No, that was the change to the law from about five (5) years ago. And I would note that the licensees that have come in by endorsement, by and large, you have seen virtually no trouble out of any of the applicants that I represented that have come in by endorsement. They are all out doing their jobs, not causing trouble, not the subject of disciplinary matters.

Mr. Jensen – Yes, but I'm actually recalling one case where you were the representative, where the person was licensed in Mississippi, and they put down that their experience was writing obituaries. So, I'm just, you know –

Ms. Wiener – Among other things.

Mr. Jensen – Well, very limited experience in the funeral directing field. So, this is where my concern is. And I mean, that's a concern. Thank you, Mr. Chair.

Chair Clark – Thank you, Mr. Jensen. Any other public comment? Hearing none. Back to the Committee. We'll get to take action on this.

Ms. Wiener – This would be the same action, wouldn't it, Ms. Schwantes? Aren't you asking for the Committee to extend the time period for comments to 9/5?

Ms. Schwantes – Written comments to come in by October 5th and bring the matter back again would be the recommended motion.

MOTION: Mr. Williams moved to table this matter to allow for others to comment and that those comments be submitted to staff by October 5th to be reviewed at the next Rules Committee meeting. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you.

(4) Rule 69K-25.002, F.A.C. - Licensure by Endorsement; Funeral Directors

Ms. Schwantes – This rule is found on Page 18 of the workbook. The relevant statute is section 497.374, which is found on Page 18. Written comments from WRW Legal are found on Page 12 of Addendum B to the workbook, which is Page 37 of the full workbook PDF. And the Department's recommendation is the same as before. The rule needs to address both the education path and the experience path. The only exemption from the National Board exam was for the experience path. Both paths, of course, need to take the Florida rules. So we are, again, recommending that this be discussed today as needed and then written comments by October 5th with the matter coming back for additional discussion at the next Committee meeting.

Mr. Jensen – Mr. Chair?

Chair Clark – Hold on one moment. I do want to give Ms. Wiener, Mr. Grabowski, and the public a chance to comment.

Ms. Wiener – These are really the same comments that -- these are the same changes that we made to the endorsement application. And I think Mr. Grabowski and I understand our assignment. We'll get together along with Lisa Coney for FCCFA and get an updated proposal by the 5th so you can see the rule on two (2) paths.

Chair Clark – Thank you, Ms. Wiener. I just wanted to have that for the record. Any other public comments on licensure by endorsement for funeral directors? Hearing none.

MOTION: Mr. Jensen moved to table this matter to allow for others to comment and that those comments be submitted to staff by October 5th to be reviewed at the next Rules Committee meeting. Chair Clark seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you.

(5) Proposed NEW RULE – 69K-9.005. Exclusive Provider Agreements

Ms. Schwantes – This is a proposed new rule. It was proposed and submitted as part of the written comments from Luke Grabowski at the last meeting. And then the Committee decided to bring it up today. This is on exclusive provider agreements. The rule is found on Page 21 of the workbook. Relevant statute is section 497.164, which is found on Page 22. No written comments were requested on this proposed new rule and so none were received. The Department recommendation on this is that we do not believe that this rule is necessary. Also, parts of it would be more appropriately addressed through legislation. And those are our comments regarding this rule for now. Mr. Chair?

Chair Clark – Thank you, Ms. Schwantes. We'll put it up for the Committee. Any questions? If not, we'll turn it over, open it up for public comments. Mr. Grabowski, I saw you come off mute. Would you like to address the Committee?

Mr. Grabowski – Yes, thank you, Mr. Chair. As Ms. Schwantes says, this is designed to address new changes in the statute regarding exclusive provider agreements. We believe that the rule is necessary to interpret and implement that change. Now, obviously, this was a working draft that we put together with some input from some of our members. Ms. Wiener, Ms. Coney, and I have discussed this to some extent and have, I think, some similar ideas about how to go about this without implementing an entirely new rule. So, I imagine we'll be dealing with that in the coming weeks. But I think, generally, this is kind of self-explanatory as to what we're trying to accomplish and really just, again, implement that change and give the Division the tools it needs to work with in order to do so.

Chair Clark – Thank you, Mr. Grabowski. Ms. Munson, go ahead.

Ms. Munson – Yes, I just think it would be a good opportunity for comments to identify what the rule is outlining different from that which the statute outlines for consideration whether or not it is necessary.

Ms. Wiener – Luke, are you going to take that?

Mr. Grabowski – Yes, Mr. Chair, if I may. Yes, I think the idea is that the change in the statute is essentially one (1) line. And it basically prohibits exclusive or sole provider agreements. But we don't really know what those agreements are. Is that a written agreement, an understanding, a business practice? And that's where most of this rule is aimed, is identifying what exactly an exclusive or sole provider agreement is and how that's going to be enforced.

Ms. Munson – So, this is my side note, the Board will vote what it determines is necessary or unnecessary. But this is my side note, that what the rule does is develop and insert details, expanding upon what that additional language in the statute is. And if someone were to read a section of the rule and don't find a match in the statute, someone can circle back and say, like, there isn't clear statutory authority for that, this is what it means, or something like that. So, I know that the task before this Committee and the Board will be to determine -- the Department has presented its position, whether or not it's necessary. So, the Board and the rule will need to determine whether it is necessary in consideration of the additional language being presented, like, to what benefit does it provide and does it specifically extend any information in the statute that's not already made available to understand. So that may sound like a very general comment, but this is what you do when you have a statute and you take a rule and you kind of expand and elaborate a little bit to develop criteria, better understanding, guardrails, that type of stuff. So again, I'm just making it for that. I don't know why the Department necessarily said it's not necessary. But these are the things you'll consider in making that decision, independently of what the Department suggests. That was it.

Chair Clark – Thank you, Ms. Munson. Ms. Coney?

Ms. Coney – I think the legislation that ultimately was accepted was watered down enough to not be as effective as we hoped. But for our consumer members that may not be familiar, this whole thing was contemplated because of predatory practices where single licensees were essentially stealing calls, going on a removal, and maybe the person had preneed with another licensee, but they were saying, oh, we have your mom, so we picked her up at hospice, so we have her now, so we'll do your funeral, and not respecting someone else's pre-arrangements or the direction to hospice by the now decedent of where they wanted to go for. For many family complaints, we had many, many different licensees, not just my firm. We had this experience, but I know several licensees had the experience of lost calls and the inability to serve contracts that they had with families. And there's been a lot of conversation among all the associations for how to fix this. The legislation doesn't perfectly fix that, but Luke and I have been working around crafting some rule with teeth to the Division to implement that new rule, because cases where complaints were held against predatory practices, nothing happened. It fell very short of taking action against predatory practices. So, Luke created this knowing that there was a problem that needed to be fixed. I don't agree with everything in this exactly the way it's proposed here, but I do think some structure and some ability for the rule to allow the State specific investigation powers, forms, you know, how this could be interpreted, giving them teeth to investigate those kinds of problems specifically related to that new legislation is absolutely necessary, because if we aren't specific about it, it's not going to go away. So that was the birth of this and it's a bigger deal than a one line. And we do have laws about at-need solicitation that apparently did not capture this. We do have laws about financial

arraignments that apparently did not capture this. And there isn't any specific reference to the Division's ability to further inspect this exact issue of these arrangements. And those arrangements are referenced in that law, in that new legislation. So how you would examine those arrangements seems germane to me.

Chair Clark – Thank you, Ms. Coney.

Ms. Coney – Thank you.

Chair Clark – Mr. Jensen?

Mr. Jensen – Yes, I sort of am seeing and hearing two (2) different things here. One is, I do think the law is necessary in the sense of exclusive provider agreements with organizations, like hospice or something like that. I think we do need to -- we can't have those. But along the lines of what Ms. Coney was saying, I do think it can also be interpreted as a family has a preneed at one funeral home and decides they want to use another, just because they have a financial agreement at one funeral home should not restrict them. I don't want to go that far. And I don't know if Ms. Coney was trying to say that.

Ms. Coney – Absolutely not.

Mr. Jensen – I didn't think you were. And I think this rule needs better, you know, lawyering on it to define exactly what the -- and I do think it is a problem in our industry, Ms. Coney, of getting exclusive provider, you know, with organizations.

Ms. Coney – Yes, absolutely.

Mr. Jensen – But I don't want to be vague enough to where that can be interpreted by a good lawyer as to go to the consumer. I want to respect the consumer first.

Ms. Coney – No, I agree 100%. You're 100% right. And when we do courtesy removals for hospitals or hospice, if the family indicates that it's going here, there, anywhere, that's where it goes. And somebody's released, and there's a collegial atmosphere around that. What we're trying to do is prevent the practice that we've only seen in -- I don't want to say that we've only seen, but that we have seen so much of in recent history.

Mr. Jensen – Yes.

Ms. Coney – And it's become enough of a problem that there were multiple State complaints, that there are multiple licensees involved. There were dozens that I know of families that were enticed to stay where they were and to not use their arrangements or to not go where, you know, grandpa went. And that kind of practice is unacceptable. I thought in filing at least one of those complaints myself that at-need solicitation would have addressed that issue to do that. It's been a conversation with all the associations that I know. Luke just took the lead for IFDF in crafting this as a first round of how we can provide a framework for that.

Mr. Jensen – Yes. Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – Yes, just to finish my comments on that. So, I understand where you're going, but I think we need to limit that to organizations. But two (2) things we need to do is protect the consumer. I think the reason that the at-need solicitation might not cover that is, I mean, you can literally, another funeral home can go in and take the body off the embalming table if the family chooses, you know, without any repercussions. So, you know, the consumer has all the cards here, and I want to keep it that way. Another thing we need to address is how would that affect the counties? A lot of funeral homes are on indigent programs or something like that, and a lot of funeral homes don't want to be on the indigent program. So, we need to define that, too, when everyone's putting the language together

to make sure, you know, because the counties require a contract. So, I would think that would fall under a specific provider agreement, so to speak. So that's another thing, you know, maybe Ms. Wiener and Mr. Grabowski can make a note of that, that that needs to be defined to where we're not -- you know, they're not getting in trouble for having that agreement. Thank you, Mr. Chair.

Chair Clark – Thank you, Mr. Jensen, and I completely agree. Those are going to be my comments. I think, first and foremost, a family should have say on what happens to their loved one. And so, if they have either prearranged or selected a funeral home, they should be allowed to use them for all services that they want. And if you have these exclusive agreements, the family's not getting what they want. And so, I do think there needs to be work there. I also was going to bring up county cremations. I mean, most counties are the bidding process. Everybody submits an application. You give your price and you get the, you're awarded the contract. So, I think more work needs to be done on this, as Ms. Coney said. I guess my only question is, is this the right way to do it? I think Ms. Schwantes' opening comments was maybe the better route would be legislative. But that's what I'm trying to figure out. We have work that needs to be done, certainly, as submitted. Directionally, I think it's really good, but it still needs a lot of work. But I just don't know if this is the best way to handle that. Ms. Munson?

Ms. Munson – If the Rules Committee votes to take this language under further consideration, just a quick clarification. What does an oral contract look like in situations such as this?

Chair Clark – It could be like law enforcement. Like if my Clark Funeral Home is the fastest to respond, they may say, we're going to call you every time the family doesn't know who to choose. That could be -- you just have an agreement.

Ms. Munson – So, an oral contract is just a verbal agreement with the party, the other party. Okay.

Chair Clark – Could be.

Ms. Munson – I just want to know, if you take it under consideration, I'm just homing in on things to specifically consider. Okay.

Chair Clark – Thank you.

Mr. Jensen – And Ms. Munson -- if I may, Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – Ms. Munson, I've also heard of kickbacks going in that very same thing. Hey, you call me, I'll give you a little kickback. So, you know, I don't know how to address this properly, but it is becoming a problem in a lot of places. You know, even workers, nurses that are at hospitals that are in charge of releasing the deceased. You know, I do know of one where they have a little verbal agreement with a funeral home. Everybody you send me, you know, we're going to take care of you. So, you know, we need to address that. It just needs to be fair for everybody.

Ms. Munson – It's just that a verbal agreement by law is not the same as a contract. So, I was just curious what it meant. Thank you.

Chair Clark – Yes. Ms. Coney, did you have your hand up?

Ms. Coney – I do believe that the county contract issue is completely already removed by Luke's language because the paragraph specifically refers to it being end-of-life providers, hospice, hospital, health care, palliative care. And the county doesn't provide any of those, so they're not for this. And as it {inaudible} to arrangement, it's already a rule. Your miscellaneous financial arrangements would discuss referred payments, license. So, I'm going to just for clarity say those things were considered as part of this process.

Chair Clark – Thank you, Ms. Coney. Go ahead, Mr. Jensen.

Mr. Jensen – Yes. What Ms. Coney said was exactly what I was getting at, other end-of-life care to the general public. And the general public is technically, you know, when you apply to the county, the county may have one place doing the removal, and they may take them to a funeral home that's agreed to do a hold for them. And, you know, that particular individual needs to get to wherever the county has a contract once they're approved through the county. So, it's a multi-step process. And I was just a little worried because if the funeral home is doing, say, the cremation for them, you know, or maybe they have a contract to do the military burials or whatever the case is, and the person's indigent, then I don't know if they need to be held. Because everybody has the right to bid on that contract. So, you know, that's a matter of public record. So that was the one sentence at the very end that, you know, because that other end-of-life care to the general public, I know it sort of defined some things ahead of that, but, you know, could the county contract be considered end-of-life? Because if somebody calls our funeral home, you know, and says, hey, you know, I don't have a lot of money and so forth, you have to refer them to the county first to see if they're approved before we can actually honor that. So, there are more steps there.

Chair Clark – Yes, thank you, Mr. Jensen. Any other public comments for this discussion? Hearing none.

Ms. Wiener – So not a comment, just a question. So, are we working on a revised proposal or are we deciding it's not necessary? Or is that what's going to happen next?

Chair Clark – I think that's what's going to happen. I think there's a couple of Committee members that are saying something. Yes, we want to make -- I'll speak for myself. I think a family should be able to use whatever funeral home they want and having an exclusive agreement that prevents a family to fulfill their wishes is a problem. So, I do think there should be some work here. I just don't know if this is the right route or if it's legislative is better. That's what I don't know. I think as written it still needs a lot of work. I think directionally, again, I think it's good, but I think it needs a lot of work. That's just my opinion. Ms. Munson, do you want to help us? Or Ms. Schwantes? I know, Ms. Schwantes, that you said legislative would be the better route. Can you just maybe help the Committee understand the difference?

Ms. Schwantes – Ms. Munson, were you going to say something?

Ms. Munson – Yes, sure. I can. I mean, legislatively is totally outside of the purview of whatever this Rules Committee or Board can do. That's totally outside of where your arms can reach. Rulemaking is it for you if you feel that the rule is necessary -- because when you look at the comprehensive rules review, the question is, is the rule necessary, right? And if you find that this is not necessary, then there's probably going to be a reason not to do the rule, right? So, I was just pointing that out. The information that you are here to determine today is whether or not you want to move forward with consideration. Maybe you're not ready to decide yet whether that is necessary or not because you need more information. The language presented to you is not compelling enough to show that it's necessary. And you can rule to put it back on the table to see if any language is presented that can present a more compelling argument for it to be necessary. The Department has indicated that it is not and does not support it. So that's the vote you're going to take today. That's what Ms. Wiener is trying to figure out. Should she take this and try to workshop it some more or is this off the table? So, your authority has nothing to do with the legislature. I don't know if and when this detailed consideration will ever get before consideration for the legislature. It may never. So, if that's something you may want to figure out, is this type of consideration well placed somewhere else, even if it's not through the Legislature? But the question that you are considering is whether this rule does what you're trying to make it do. And in thinking so, the rule seems to address this one issue. Are there other issues that are impacted by this that the rule does not address? And so, what are we doing with that as well? So again, for your consideration.

Chair Clark – Thank you, Ms. Munson. Ms. Coney?

Ms. Coney – Given the history that led to this legislation and the contemplation of this rule, I would respectfully request the Committee return this for more public comment or request that the brain trust come back with another revision for your consideration. But I would hate for it to just go away.

Chair Clark – Thank you, Ms. Coney. Mr. Jensen, did you have your hand up?

Mr. Jensen – I was going to make a motion when you're ready, Mr. Chair.

Chair Clark – Ok. I just want to see if Ms. Schwantes had anything further before we consider the motion.

Ms. Schwantes – Yes, sir. I have a little bit of a difficult time in trying to figure this out as well. If I say written comment on this proposal is due by October 5th like we have the others because it's a newly proposed rule that hasn't been published anywhere in order to publish it, publish the request for written comments, I almost have to publish the rule. I'm not sure how that works. Ms. Munson may be able to guide me on that, but it would not be as part of the rulemaking process yet. And so –

Ms. Munson – Yes, this falls outside of your whole rulemaking process, comprehensive rules review, what we've been doing with existing rules. This is a new rule. So, you can look at it now or you can look at it next December. I mean, there's no timeline associated in getting it published, except to the point where you feel that time is of the essence to making sure that this issue is covered by rule with more detail. But you can table it for now and pick it up again in a few months. It doesn't have to hit an October 5th deadline or anything like that because it's not in the packet. It doesn't exist. So, it doesn't fall within any window of time consideration, except for what some may feel constitutes an urgent matter.

Chair Clark – Ms. Schwantes?

Ms. Schwantes – Mr. Chair, thank you. The other comment that I wanted to make is that we don't have any experience yet with how the new will operate, which makes it difficult to a degree to propose rules regarding it. And again, some of this, and reviewing this particular proposal, some of it seems like it would be better enacted through legislation such as the definitions.

Chair Clark – Thank you, Ms. Schwantes. Ms. Wiener?

Ms. Wiener – Ms. Schwantes' comments make my comment moot, so never mind.

Chair Clark – Mr. Jensen, do you want to take your motion now?

Mr. Jensen – Yes, I mean, I can. I'm very confused on this. I don't know exactly how to word it, but the motion I want to make is I do think the rule is absolutely necessary. But by what Ms. Munson said, I also think time is of the essence here. So, I don't know how one does that. And I understand what Ms. Schwantes is saying. Well, how do you get comments on a rule that's not even published? But I do think we need more comments or at least, you know, let the folks or the brain trust, as Ms. Coney said, workshop it a little more and figure out how to word it correctly based on the comments that were said here today.

Ms. Munson – And that, if I may, Mr. Clark. And that would be probably the most logistical, feasible way of doing so. Just table it for future discussion as to when the, I want to say, authors of this presentation may want to present additional information for the Rules Committee to consider. I mean, you can discuss it as many times as you feel there is a need for discussion until you have something concrete to make a decision on, right? But we are not bound by deadlines of having to get something in by October 1 because it's a new rule. So, if you want to continue to talk about this, you can continue to talk about it. They can present it at the next Rules Committee if that's what you are asking them to do because you feel it's worth additional discussion. I mean, that timeline is going to be based on how this Committee chooses to move forward with it. But procedurally speaking, technically we're talking about workshoping it, we don't really have any language that's ready for publication. So, we're just in a position of hearing from the parties that are presenting it and anyone else, Rules Committee members, and anyone else who may want to. This is language that we think should be considered and give us an opportunity to come back and tweak it. And that could be something that happens for the next three (3) or four (4) Rules Committee meetings, depending on how this goes. So, the urgency of it is pretty much guided by some type of language development that we feel is at a

point of publication, right? And if we can't get there, that means you can table it until you think there is something worthy of publication.

Chair Clark – Thank you, Ms. Munson. Ms. Schwantes?

Ms. Schwantes – Thank you. Given all of the comments, I have a suggestion. This Committee and the Board have a lot to get through before January 1st, which is when the next reports are due. First, we have four (4) rules that we have to have to propose language on prior to January 1st, because they were impacted specifically by Senate Bill 598, and we opened up notices of rule development on those rules. That's kind of what started the timeline on that. In addition, we have the Annual Rule Review, and we have to be through that enough to be able by January 1st to report to JAPC what our intent is with regard to each of those thirty-five (35) rules, whether they're going to be repealed, left alone, opened, what kind of changes might be needed. That's the next phase of what we're looking at today, and that's just the start of that process. I know the Committee remembers well how long it took last time. So, given all of that and given the fact that we don't have a deadline on this proposed rule, may I suggest that it get tabled to the December meeting? That gives everybody plenty of time to look at it, to really consider what's needed, and also, frankly, for the associations to consider. I know they're in development of potential legislation right now, and it gives them opportunity to decide what their path is going to be on these different issues as well and then come back. If I have a proposed rule, basically two weeks in advance of the December meeting, we can make sure it gets in the packet.

Chair Clark – Mr. Jensen, I don't know if you made an official motion, but how does that sound to you? I mean, I will just say, I think folks work on it behind the scenes to get a tighter alignment of what we think should be in bounds and out of bounds would be very helpful as a Committee member. And then that allows us to react and share our thoughts. But I hear what Ms. Schwantes is saying, and I think to add an extra month to get it right, give the folks time, I'm comfortable with it. So, it sounded like, Mr. Jensen, you agree something needs to be done. There's a sense of urgency, but would you like to make a motion, an official motion, based on what Ms. Schwantes said?

MOTION: Mr. Jensen moved to table this matter to allow for others to comment and that those comments be reviewed at the December Rules Committee meeting. Chair Clark seconded the motion, which passed unanimously.

Chair Clark – Ms. Schwantes?

Ms. Schwantes – Thank you, sir. Give me one minute, please.

Chair Clark – Sure.

Ms. Schwantes – I have to switch books around, and I would suggest that the Committee members do the same thing.

E. 2026 Annual Rule Review per section 120.5435, F.S.

Ms. Schwantes – There are a couple of things I would like for you to go ahead and pull and have ready. The first, of course, is Workbook #2, which has all of the rules that we would be looking at during this Annual Rule Review. And then the other item was under C, and that is WRW's comments regarding all of the rules. Again, remember, we only asked for written comments regarding the four (4) that were impacted by Senate Bill 598, but WRW Legal submitted comments on almost all of the rules that are under review today under the Annual Rule Review. I know that Ms. Wiener is likely to have public comments and point to that as to why a rule should be open, for example. But to focus the Committee right now, the initial phase is just responding to the ten (10) or twelve (12) required questions that are necessary for us to ask on each rule. When we get to the point where we're ready to look at proposed language, which frankly is not likely to be until the December meeting or next year even, that would be the time when we really focus on any of the written proposals, including those that Ms. Wiener has submitted today.

A couple more points on this, if you note in the workbook itself, it contains Rule 69K-7.001, Care and Maintenance

Trust Fund Deposits. With apologies, this rule was apparently inadvertently left off of the agenda. While it appears in the workbook, we can't address it today because it's not listed on the agenda and we will bring it up again at the next meeting where we will appropriately place it on the agenda for initial review. We have to skip 7.001 today. The other thing that I would like to do with permission of the chair is to reorder these slightly in terms of our discussion. We've already had, as has been said, robust discussion on the internship, some of the internship rules. We know that those rules we need to have proposed language on by January 1st. My recommendation to the Committee, if it's approved, is to go ahead and take these out of order. I would like to discuss the Shared Rules first, which will bring into play all of 69K-18, which are all of the internship rules. Let's get those, in the interest of time, taken care of so we know what the Committee's wishes are on the other related 18s and go from there. That's my request.

Chair Clark – Yes, I would like to do that. So, we will start with (2)(a), and I believe that begins on Page 66 of the workbook.

Ms. Schwantes – Yes and let me turn to that.

(2) SHARED RULES

(a) Rule69K-18.001 - Embalmer Intern Training Program

Ms. Schwantes – This is the rule that Ms. Wiener earlier referred to, was not one of the ones that was reviewed and determined to be changed as Senate Bill 598. This Committee may decide that it needs to be changed for different purposes. And if you turn to Page 66 in the workbook, comments on this from WRW are on Page 52 of that document. Actually, there were no comments provided on 18.001. Page 66 of the workbook starts 18.001, and the notes section for all of the items that we need to address are on Page 67. That begins the table that we ask questions for. If you don't mind, I'm just going to go through these questions on the table like we did last year, and we'll go ahead and indicate on these what the Committee recommends. Does this rule need to be repealed, yes or no? Any comments?

Mr. Jensen – Tell me again what page you're on. I'm confused.

Ms. Schwantes – Okay, the rule itself is on Page 66.

Mr. Jensen – Yes.

Ms. Schwantes – If I say something wrong, correct me. Page 66 and the checklist that we're using to answer the questions that are required by section 120.5435 begins on Page 67, and then following that are places for notes in the meeting. We would want to answer the questions that are in that table and then open it up for public comment and then figure out what the Committee's recommendations will be regarding this rule. And the recommendations, as we did last year anyway, are basically repeal, open, or leave alone.

Chair Clark – Again, just for the Committee's reference, we did get some feedback from Ms. Wiener, no recommended changes from Ms. Wiener.

Ms. Wiener – Well, so my comments are not amendments. We didn't go through the process of amending. We understood that this process was going to be whether we considered whether to open or not open. And I was saving any comment here for the prior discussion of the concurrent internship, which actually drags this one in. Inasmuch as we are going to be receiving more comments on the concurrent internships, it feels to me as though we should open this rule, too, because if we make a change to the concurrent internship, that could have, as Ms. Munson said earlier, somehow an unintended consequence, because that actually ties directly to the embalmer internship rule. So, it feels like this should ride along with the rest of those rules and certainly should not be repealed, but should be opened for consideration, particularly because this is where that reference to personal injury or illness comes from. If you noted in the rule about concurrent internships, it talks about extension for personal injury or illness as referred to in 18.001. So, I do think we need to bring all of this together inasmuch as we're going to get all of these internship capacity rules and everything clarified.

Mr. Jensen – Mr. Chair, a question on that for Ms. Wiener?

Chair Clark – Go ahead, Mr. Jensen.

Mr. Jensen – Yes, so Ms. Wiener, I do agree with you, and I think this will be covered under 18.001. But I'm still confused. Do we vote to repeal this? Ms. Schwantes said the question before us right now is repealing the rule or not.

Ms. Wiener – Well, that's just her first question. If you say no, she's got a whole other series of questions, including should we open the rule? And so, I think your answer is no to repeal, yes to open. If you say no to repeal and yes to open, she can move this one along and it'll go to open this one for rulemaking, because originally it was not in our first set of open for rulemaking. But taking everything that's happened today with the other ones, I suspect that she's going to ask you a whole series of other questions and you'll move this one into that category.

Mr. Jensen – So just to clarify, Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – Ms. Wiener, are you saying that we could probably incorporate some of this stuff into 18.001 and just have one rule rather than having two (2) different ones, or no?

Ms. Wiener – No, and it is 18.001 she's asking you about at the moment. And so, 18.001 is embalmer intern, 18.002 is funeral director intern, 18.003 is concurrent, so both. We already took up today and discussed in detail 18.002 about funeral directors, and then we discussed in detail concurrent.

Mr. Jensen – Right.

Ms. Wiener – What we didn't have an opportunity to discuss in detail was 18.001 about embalmers. So, you need to get it all together so that we can get it all straight.

Mr. Jensen – And that's what I was saying. I'm just not that eloquent. But, yes, is there some way to compress this to where we're not having all these different rules and still cover the same basis?

Ms. Schwantes – Mr. Chair?

Chair Clark – Ms. Schwantes, go ahead.

Ms. Schwantes – Yes, thank you. Mr. Jensen, again, we know that this is confusing. Between the two bills that passed at different years and all the different requirements now that by the new statutes that are in play, we have to, under the Annual Rule Review, even though we've already discussed some of these rules, because changes were made by Senate Bill 598, we still, as part of the Annual Rule Review, have to go back and ask all these questions that are in that table on each one. And so that's part of that Annual Rule Review process. It's the initial phase in that process, so if the vote on this rule, for example, is to open it, I still have some more questions that I need to ask about what kind of changes might need to be made, et cetera, and then we just mark it as being open. We don't look at the proposed language on it at this time. We come back at a later date to look at potential proposed language. The only thing we're trying to get through at this point on all of these thirty-five (35) rules is to determine whether they need to be open, and if so, why. The information is needed for that January 1st Report that's required on the Annual Rule Review. And unfortunately, we have a lot going on with these rules all at the same time for multiple different reasons with multiple different statutory requirements, some of which just happen to end up on that same January 1st deadline. For these purposes now, we're not looking at proposed language. We're only looking at the general, generally what the Committee is recommending to do. And everything we do here has to go back before the Board. The plan is to take everything that we're discussing regarding the Annual Rule Review to the Board at its November meeting so that we can finalize matters and December meeting at the latest. Finalize matters and then get it before the January 1st Report is due. Does that help?

Chair Clark – Thank you, Ms. Schwantes.

Mr. Jensen – It didn't really help me.

Chair Clark – Mr. Jensen?

Mr. Jensen – No, so I guess on -- I mean, I agree with what Ms. Schwantes is saying, you know, but the question is repeal, so I would say no to that. And change, yes, possible change because we may come back and repeal it if we can include it under the other. So, I don't know. I don't know.

Chair Clark – I think you're right, Mr. Jensen. And the good news is today we're just identifying; does it need change or not? There's some, if you remember last time, some we said, yes, we think we should change. And then after we went through the exercise, we said, no, it was fine.

Mr. Jensen – Yes.

Chair Clark – So I think we're clearer now. And yes, she's going to go through that chart on Page 67, and we'll let her do that now.

Ms. Schwantes – Yes. And as we go through the chart, like we did last year, I know we're going to find ways to abbreviate this process. And that's an excellent thing in my book, too. Is the rule a valid exercise of delegated legislative authority? I would recommend yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Does the rule have current statutory authority? That's almost always a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Does the rule reiterate or paraphrase statutory material?

Chair Clark – I don't believe so. No.

Mr. Jensen – Yes. That's kind of where I'm getting on this about, you know, it's kind of -- yes.

Ms. Schwantes – Is the rule in proper form? That's almost always a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent pertaining to the specific provisions of law which the rule implements? That's almost always a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Okay. Then the main thing that I would want to know for you all is what kind of update you are looking for if it's open? A substantive update regarding policy changes?

Committee members [Unison] – Yes.

Ms. Schwantes – And then I don't know if there are any technical updates that need to be made to it. But for right now, we can say no.

Chair Clark – I don't think so.

Ms. Schwantes – Updated references to statutory citations? I don't know if that's needed. But for right now, if the Committee is okay with it, we can say no. That will be double-checked by council before we file.

Committee members [Unison] – Yes.

Ms. Schwantes – And the updated reference to incorporated materials, I would say the same thing as the other.

Committee members [Unison] – Correct.

Ms. Schwantes – Okay. Essentially, without going through all of these, I can go back through them very quickly. And then if the Committee will vote about the rule review results, then we can move on to the next one. So right now, I'm just going to go over the ones that you said yes to. The Committee wants a change, that it is an exercise of delegated legislative authority. There is current statutory authority. It does not reiterate or paraphrase statutory material. It is in proper form. It is consistent with expressed legislative intent pertaining to the specific provisions of law. And then the change that is desired is a substantive update. Do we have, I guess, a motion to approve that?

MOTION: Mr. Jensen moved to accept the recommended changes with regards to this rule. Ms. Clay seconded the motion, which passed unanimously.

Ms. Schwantes – And then with that, I would mark on the table that the Committee's decision was to open this rule for potential development.

MOTION: Mr. Jensen moved to open this rule for potential development. Ms. Clay seconded the motion.

Ms. Schwantes – And that takes care of that.

Chair Clark – Thank you. Do we need a vote on that?

Ms. Munson – If that's the question, you need a vote. You need to vote if that was a question that was posed. I had a motion and a second. So, whenever there's that, you need a vote.

Chair Clark – Is it redundant to what we just did?

Ms. Munson – Then you shouldn't have done the motion is all I'm saying.

Chair Clark – Okay.

Ms. Munson – Before we move on, we vote on the motion, yes.

Chair Clark – Okay. We have a motion to open this rule and it's been seconded. All in favor say aye.

Committee members [Unison] – Aye.

Chair Clark – Any opposed? And that motion carries.

(b) Rule 69K-18.002 - Funeral Director Intern Training Program

Ms. Schwantes – This is one of the ones that we just discussed in great detail. We know that there will be changes as a result of 598. So that actually may make the answers to the table a little bit easier. And that table is on Page 74. If I go through the same questions on this, and hopefully, like I said, this will start getting easier. We do not want to repeal it, correct?

Committee members [Unison] – Correct.

Ms. Schwantes – So that next answer would be there's no change. We know it's being open, so that would be a change. Okay. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form? That would be a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with the express legislative intent pertaining to the specific provisions of law?

Committee members [Unison] – Yes.

Ms. Schwantes – And what kind of updates are needed to the rule? Technical update? Substantive update?

Committee members [Unison] – Substantive.

Ms. Schwantes – Okay. Updated references to statutory citations?

Chair Clark – I would put no. The last two were always under review once we make changes, correct?

Ms. Schwantes – Correct.

Chair Clark – Yes. So, I put no for now.

Ms. Schwantes – Okay. And no to the incorporated materials as well?

Committee members [Unison] – Correct.

Ms. Schwantes – So, what I've got here is that the Committee wants a change. It is a valid exercise of delegated legislative authority. We do have current statutory authority. It does not reiterate or paraphrase statutory material. It's in proper form. It is consistent with express legislative intent, and the change that is needed is the substantive update. We have a vote in favor of those review results.

Ms. Munson – If I may?

Chair Clark – Go ahead, Ms. Munson.

Ms. Munson – I don't know if this is helpful or not, Chair Clark, or Ms. Schwantes. Those last two (2) questions about updated references to statutory authority or incorporated materials, I think that questionnaire just normally asks, is it a technical update, substantive update, or no changes? And I don't know if we need those other two (2) questions, because we won't have answers to them until we look at them more closely.

Ms. Schwantes – I am fine taking those out of the table. It speeds things up, and it's not something that we necessarily need, I'm fine taking them out. This table, to be honest, was based on, you remember last year when Senate Bill 108

came up, and nobody really quite knew what it was going to end up looking like, and we had to report it in January. And the Department's questions and interpretation of that bill were slightly different, because we were doing the Shared Rules at the same time the Department was doing rules. We used that same format in terms of the questions, but I'm perfectly happy not even addressing those.

Ms. Munson – Yes.

Ms. Schwantes – I think that's something that counsel generally looks at anyway, and so we can just delete those from the table that we're reviewing, particularly with Board counsel advice.

Ms. Munson – Yes, I'm nodding because you really can't answer that until you actually look at the language, right?

Ms. Schwantes – Okay. We'll take that part out. Again, going back to it, and I can even shorten it even further. If I have answers from Committee members, and I hear several of you saying yes or no as we go through these things, we can shorten it even further and just take a vote that you've decided to open this and that it requires substantive changes.

Chair Clark – That would be great if we could do that.

Ms. Schwantes – I agree. I do need a vote of some sort. I guess a motion and a second to open for development.

MOTION: Chair Clark moved to open this rule for development. Ms. Clay seconded the motion, which passed unanimously.

Ms. Schwantes – Okay. So going forward, I'm not going to ask if the Committee voted in favor of the results from the table. I'm just going to ask for the end result for a motion and action on the final results of what the Committee wants to recommend. Okay. Moving on.

Chair Clark – Okay.

(c) Rule 69K-18.003 - Concurrent Internships

Ms. Schwantes – This rule is found on Page 75 of the workbook. There were no written comments received on this rule. It is one of the ones that we just discussed during the Senate Bill 598 conversations. If you turn to the table on Page 77, I believe we said that it needed to be opened. Is that correct?

Chair Clark – Yes.

Ms. Schwantes – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority? That's a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Sorry. No?

Committee members [Unison] – No.

Ms. Munson – So, we can say no on this, but that's a specific question off that form. And when you answer no to, does it reiterate or paraphrase statutory material? I don't know what they do with these forms. We didn't create them. You know this is all new stuff. But those types of responses give consideration as to whether or not you need the rule, right? So, if all of it doesn't paraphrase or reiterate, if some of it doesn't do that, I would say no. But if all of it does, I'm not saying I would say, but I think the recommendation would be a yes. Because if you say that the rule reiterates or paraphrases statutory authority, as Ms. Wiener indicated, that's not the goal of what this process is. We don't want a rule to repeat the statute necessarily. So, if you say yes, it might be a reason to strike the rule. If portions of it don't, then I would say no, because all of it doesn't. I would just be careful in that response.

Ms. Schwantes – And that is consistent with what we did last year as well.

Ms. Munson – Yes. But this time you guys said, yes, it does. So, you're saying all of it does.

Ms. Schwantes – I think I just heard no.

Ms. Wiener – Yes, I heard no.

Ms. Munson – Okay. I thought I heard a yes, and that's the reason why I commented. So, I apologize if I heard no.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And the kind of change that you want would be a substantive update?

Committee members [Unison] – That's correct.

Ms. Schwantes – I'm not asking any of the rest of those. We need Committee action. You all basically in answering those questions are requesting that this be open for development. We'll need a motion and second for that Committee action.

MOTION: Ms. Clay moved to open the rule for development. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you.

(d) Rule 69K-18.004 - Intern Training Agencies

Ms. Schwantes – This is not one that was just discussed regarding Senate Bill 598, but because it all involves 69K-18, it's always good to take a look at these at the same time. The table, the rule is down on Page 78, the table is down on Page 79. Since this is not one that was discussed already. Let me ask the first question. Do you want to open it for change, no change or repeal?

Chair Clark – Ms. Wiener?

Ms. Wiener – Thank you. We did have some comments on this particular rule. They're not super substantive. There is language that if it doesn't -- it just is unnecessary language that we think this rule could be cleaned up. Inasmuch as you're looking at all things internship, my recommendation would be that while that's all fresh in everyone's mind, that if you're going to take a look at this rule substantively, now is a good time to do it.

Ms. Schwantes – Agreed.

Chair Clark – Thank you, Ms. Wiener. I agree. So yes, I think it would be yes for substantive changes if we could go through the questions.

Ms. Schwantes – Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material? Again, we're looking at the rule as a whole when we ask that question.

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And the result that I have here would be opening it for change, for substantive update. The rest of the questions were answered appropriately. And so, we will need a motion and second and action on opening this for development.

Chair Clark – Thank you, Ms. Schwantes.

MOTION: Mr. Jensen moved to open the rule for development. Ms. Clay seconded the motion, which passed unanimously.

(e) Rule 69K-24.042 - Inspection Criteria for Centralized Embalming Facilities

Ms. Schwantes – This rule is found on Page 81. The written comments that were submitted by Ms. Wiener are on Page 45 of the WRW document. And the table for this, going back to the workbook, is on Page 83. I'll ask the questions. Does it need to be repealed, changed, or no change?

Chair Clark – And for the Committee, I would just note that Ms. Wiener did submit written comment for this rule.

Ms. Schwantes – And again, that's on Page 45.

Ms. Coney – Which workbook are we in now?

Ms. Schwantes – We're in Workbook #2 on Page 83. But I am referring back to Ms. Wiener's comments, which were presented as part of C, they're C(5) on the agenda. And we're looking at Page 45.

Ms. Wiener – Mr. Chair, if I might, and again, we've discussed these proposed changes with Mr. Grabowski as well. We all suspected that if this rule were brand new today, it probably would not get past JAPC because the language "large enough to store at any given time" is just not language that is particularly helpful. What does that actually mean? And so, we thought that this should be opened for consideration for language that might be better tailored. On the other hand, maybe it's okay because in theory, whoever is inspecting is taking into account what any given time actually means. But we thought it was worth at least a brief discussion.

Chair Clark – Thank you, Ms. Wiener.

Mr. Jensen – Discussion, Mr. Chair?

Chair Clark – All right, Mr. Jensen.

Mr. Jensen – Yes, so, I mean, wouldn't all this be covered with a body needs to be refrigerated and embalmed or, you know, within the first twenty-four (24) hours? I mean, we don't even really need this. I know you got listed here as too broad, COVID versus regular, but, I mean, even if it's COVID, you know, there were people bringing in the refrigerator trucks and things of that nature. So, I don't really understand. Is it even needed? Wouldn't it be covered –

Ms. Wiener – I don't think so. I think you have rules on the inspection criteria for all of your various licensees. And so, I think this is just one among them. This is for centralized embalming facilities, and it does establish all of the things that are needed to pass an inspection, which is incredibly helpful. Our question was with regard to this literally number (1), where it describes that the refrigeration equipment has to be large enough to store all dead human bodies in the facility at any given time. That language is just very broad. Does that mean I've got a 20-person cooler at my centralized embalming facility, but now it's COVID, and so there's 100 people? And do my refrigeration trucks count, or is it sufficient? It's not -- this is low stakes, in my opinion. I think you could leave it how it is, but it felt a little broadly worded, and we wondered if you just leave it alone, and Ms. Munson can answer this question, if we just say no, it doesn't need to be open, does it even make its way to JAPC for further attention or no?

Ms. Munson – So yes, it could make it to JAPC, because JAPC just does not review proposed language. Their requirement is to review all existing rules. So JAPC could look at any of these rules at any time and ask what it means. If this language is not inaccurate or not overly ambiguous with all the other rulemaking going on, I probably would leave this alone.

Ms. Wiener – Then I would say, let's leave it alone.

Mr. Jensen – Well, I can see one ambiguous thing here where it says store all dead human remains found in the facility. Embalmed body doesn't have to be refrigerated. So, you know, is that considered by an inspector as a body found in the facility?

Ms. Munson – For application purposes, you guys can answer that. I mean, is that confusing or ambiguous to inspectors?

Mr. Jensen – Yes, that's what I don't know. I mean, because we don't acknowledge we don't have any inspector, that's a funeral director or embalmer.

Ms. Coney – Certainly ambiguous.

Mr. Jensen – Okay.

Ms. Schwantes – Just to clarify, Mr. Jensen, we do have inspectors who are or have been licensed funeral directors and embalmers. We do have some. Just to clarify that. No current inspector may be currently licensed. That would be a conflict.

Mr. Jensen – Okay, yes, I guess I misunderstood, but I can see where that would be ambiguous on embalmed bodies. There's my statement.

Ms. Schwantes – Which section are you looking at, please, sir?

Ms. Munson – Section (1) of the rule. Paragraph (1). Is it going to be worthy enough for the cost of the government and the Board to undergo making that change? Or is it low-lying fruit enough for it to be left alone?

Ms. Schwantes – All I can tell you is I have not seen any issues on this come up.

Ms. Wiener – So I would withdraw our comment and say, let it be.

Mr. Jensen – So moved, Mr. Chair.

Chair Clark – Well, we have to go through the questions.

Mr. Jensen – Whatever we got to do, let's get through it.

Chair Clark – The Committee is recommending no change.

Ms. Schwantes – Thank you. I'm hearing that. Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent? That would be yes.

Committee members [Unison] – Yes.

Ms. Schwantes – And then all the other questions about what kind of updates would be needed would be none because you're indicating that you don't want to change. And so, I need a motion, second, and action on the no change recommendation.

Ms. Clay – Mr. Chair?

Ms. Schwantes – I apologize, Ms. Clay. Mr. Chair, I do need to remind you to ask for public comment, too, because although we're getting the screeners' comments, I want to make sure there's nobody else.

Chair Clark – Thank you, that's a good point. Any? How about we address this one and then -- I mean, do I need to go back?

Ms. Schwantes – I don't think we need to go back just at this point because nobody else has said anything. We've all had opportunity to comment on the others already.

Chair Clark – Thank you, Ms. Schwantes. Any public comments on inspection criteria for centralized embalment facility? Hearing none. Ms. Clay?

MOTION: Ms. Clay moved that no changes are needed with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you Committee members. I know that that closed the workbook or seemed to. And I'm sorry, but I have to ask you to turn to the beginning of the workbook now. But that did take care of the 69K-18s and puts us in a better posture for when we discuss those in regard to Senate Bill 598 next month. Turning back to the beginning of Workbook #2. 7.001, Care and Maintenance Trust Fund Deposits will be opened for discussion and review at the next meeting and appropriately agenda. And let me just make a note.

(1) BOARD RULES

(a) Rule 69K-7.0012 - Care and Maintenance Trust Fund Withdrawals

Ms. Schwantes – This rule is found on Page 5 of the workbook. Wendy Wiener made comments on Page 13 of the WRW document, which was C(5).

Ms. Wiener – And we withdraw those comments. I don't think -- that was literally just cleaning up unnecessary language. But this is such a substantive rule with such an impactful application that could lead to just forever and ever. I don't personally think it's worth making the suggested changes that we offered.

Chair Clark – Thank you, Ms. Wiener.

Ms. Schwantes – Mr. Chair, what is your preference at this point? Do you want to ask for other public comments before we go through the table?

Chair Clark – I was going to. Yes, that's what I was thinking. Yes. Do we have any other public comments? Hearing none. Ms. Schwantes?

Ms. Schwantes – Okay. Does the Committee want to repeal, change or change this rule?

Chair Clark – No change.

Ms. Schwantes – Is it a valid exercise of delegated legislative authority? That's a yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current status?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – Okay. And because there are no changes being requested, then the answers to the updates would be no. And we need Committee action on the recommendation to leave it alone.

MOTION: Chair Clark moved that no changes are needed with regards to this rule. Ms. Clay seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you.

(b) Rule 69K-7.002 - Percentage Deposits Required on Turf Tops, Lawn Crypts, Etc.

Ms. Schwantes – This rule is found on Page 12 of the workbook. And Wendy's comments are found on Page 20 of the WRW document.

Ms. Clay – Ms. Schwantes, would you repeat the rule, please?

Ms. Schwantes – Yes, ma'am. It is Rule 7.002 found on Page 12.

Ms. Clay – Thank you.

Ms. Schwantes – Mr. Chair, did you want to take a question?

Chair Clark – Ms. Weiner, do you want to address your comments?

Ms. Wiener – Certainly. This literally is a reiteration of the law. And we thought this is a rule that is right for repeal.

Chair Clark – Thank you, Ms. Wiener. Any other public comments? Hearing none. Any questions for Ms. Wiener? We're recommending repeal.

Mr. Jensen – Question?

Chair Clark – Yes, sir.

Mr. Jensen – So, Ms. Wiener, are you recommending repeal of the whole rule or just that one thing? And looking at your comments, I'm a little confused.

Ms. Wiener – No, it's the entire rule. The comment is actually linked to the title. Westminster is underlined because, for whatever reason, Word didn't recognize that spelling. Sometimes it doesn't recognize professional terms. So, the whole rule can go. It's in the law.

Mr. Jensen – Yes. And I would agree with that, Mr. Chair. Thank you.

Chair Clark – I agree as well. Ms. Schwantes?

Ms. Schwantes – Okay. I'm hearing that this is one for repeal. I have to go through the questions. Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – This is one to consider because we're looking at the whole rule. Does it reiterate or paraphrase statutory material? I believe your answer is yes.

Committee members [Unison] – Yes.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And you want no updates to the rule?

Committee members [Unison] – Correct.

Ms. Munson – May we identify the statute, I'm sorry, that it's reiterating?

Ms. Wiener – It is 497.268, I believe.

Ms. Munson – I wanted to make sure that I wasn't misreading anything.

Chair Clark – Is that acceptable, Ms. Munson?

Ms. Munson – Well, I want to confirm. I want to make sure because I don't want us to just vote based on discussion. I want you to look at the statute and confirm that you feel it just reiterates it, because a lot of the rules contain statutory language.

Mr. Jensen – Ms. Wiener, doesn't it kind of mention it there in 267(5) under 497 and also 268 and 269?

Ms. Coney – Yes, it's withdrawal methods under 497.267, 267(5) and 268.

Ms. Munson – Those other statutes are not referenced in the law implemented version of the rule. 268 is. So, when you look at law implemented for 69K-7.002, it's referenced back to 268. And I think that this body is saying it repeats 268.

Ms. Coney – Yes.

Ms. Munson – And it repeats 268 in the following paragraphs? I'm just wanting to match them up.

Ms. Coney – Well, (1)(a) is specific to payments received.

Ms. Munson – And in 7.002, (1)(a) matches?

Ms. Coney – It's hard to look at all these at the same time.

Ms. Munson – It is. But for the exercise of what we're doing, I just want to make sure everyone was on the same page.

Ms. Coney – And of course, I went to the wrong workbook.

Ms. Munson – And Ms. Wiener I know it's your recommendation, so I just want to give you the opportunity to just confirm. So, I guess it paraphrases materially enough, which a lot of the rules do so, but I want it again to make sure that's what this intent was.

Chair Clark – That's the only one that I can't seem to match up.

Ms. Wiener – That is actually covered in another rule.

Ms. Munson – So, the law implemented reference authority is incorrect?

Ms. Wiener – Yes. Partly the law is incorrect because that is actually covered in in a different rule.

Ms. Munson – Different rule or statute?

Ms. Wiener – I'm sorry, in a different law.

Ms. Munson – Okay. And again, that's what this exercise is about. So, I know we've been here for a minute, but if you're going to do it, I want to make sure our record is going to be supportive.

Ms. Coney – So, the percentages in the opening is what's repetitive to 268.

Ms. Munson – And what section of 268, Ms. Coney?

Ms. Coney – (1)(a).

Ms. Munson – So (1)(a) of 268 talks about 10% of all payments received?

Ms. Coney – Yes.

Ms. Munson – And 7.002 talks about -- where's that?

Ms. Coney – Well, the percentages required are the same regardless of the type of burial. So, it's unnecessary, I guess, is what we would say, that turf tops, lawn crypts, Westminster, similar types aren't computed at a different rate.

Ms. Munson – Again, a lot of rules do what this is doing, but I just wanted to make sure we were clear on what we were saying.

Ms. Coney – And, Wendy, is this {inaudible} that basically no one ever knew existed, these retaining walls, base of a triangle?

Ms. Wiener – Yes. The other reason, and I recall now from our discussion, which I should have put in my note, the other reason for repeal is that this doesn't actually implement just 497.268. This base of a triangle scenario, raise your hand if you've run a cemetery and you know anything at all about this rule, because you don't. You knew about this rule, about the base of a triangle and –

Ms. Munson – Don't be surprised, Ms. Wiener. Don't be surprised.

Mr. Jensen – Ms. Wiener, I have heard of that rule.

Ms. Wiener – I am surprised.

Mr. Jensen – However, I do agree with you that it is very unknown and not followed.

Ms. Munson – Those are two (2) different things for consideration now.

Ms. Wiener – I'm searching the entire statute. I'm searching all of Chapter 497, and you're not going to find the word triangle in the whole thing anywhere.

Ms. Coney – Right.

Ms. Wiener – So not only is this not covered by statutory authority of 497.268, but the part that is, is already set forth in the law. It's 10 percent, no matter what kind of internment rate you sell, burial rights, get trusted at 10 percent.

Ms. Schwantes – Ms. Coney, we've heard you in the background. Can I ask you to identify yourself and ask the Chair going forward for our records?

Chair Clark – And if you can help me with the camera, because I'm flipping through a lot of screens. Thank you.

Ms. Munson – And if I may, Chair Clark? If we are recommending repeal of this rule, the basis for it, and we'll go through the questions, because pulling a rule back is a big deal, right? No statutory authority is the most basic reason to do so. But if you're pulling it back because it's paraphrasing, because if something doesn't apply, you would strike that section. We don't necessarily repeal the full rule. So, I just wanted to be clear what we were doing and why. Because it seems to do what other rules are doing. It's just some parts of paraphrasing. But I don't know if that's what we're saying.

Ms. Wiener – It will be duplicative to the rule that we're not taking up because somehow it was left out of the notice 7.001, which is about deposits to care and maintenance. So, reason number one. Reason number two, even parts of that rule and the first section of this rule are unnecessary because they are covered in the law as it exists now.

Ms. Munson – Or not supported by statute.

Ms. Wiener – And one, two, and three have no basis in law whatsoever.

Ms. Munson – And that would be a reasoning, because if we're making notes of this, because when I looked at it, it didn't flesh out necessarily as clearly as that. Thank you. Thank you, Chair Clark.

Chair Clark – Yes.

Ms. Schwantes – Okay, where we left off would be we need Committee action on this for repealing it.

Chair Clark – Anybody?

Ms. Schwantes – We need a motion and a second to repeal.

Chair Clark – I'm not hearing anything. What's the desire of the Committee? Maybe I answered the questions wrong.

Mr. Jensen – All right. I'll make that motion because I think it's redundant.

MOTION: Mr. Jensen moved to repeal the rule. Ms. Clay seconded the motion, which passed unanimously.

Ms. Munson – I would only ask, Chair Clark, that the minutes reflect those reasons for the repeal that was just very clearly outlined on this record.

(c) Rule 69K-7.006 -Wholesale Purchase Price

Ms. Schwantes – This rule is found on Page 14 of the workbook. There were no written comments received on this rule. What is the Committee's pleasure? Do you want to repeal, change it, or leave it alone?

Chair Clark – I would say no change. Committee, do you have any different feeling?

Mr. Jensen – One question I have here, Mr. Chair.

Chair Clark – Go ahead.

Mr. Jensen – I don't even know if this is a concern, but I know right now we're facing higher fuel costs and a lot of other things. So, you know, the wholesale price of the merchandise has obviously gone up an entire amount. Is that

something worth addressing or anything? I don't even know if it's a factor. I've heard of somewhere, you know, they're preneeds that they're having a problem servicing because the price has gone up so much. So, I don't know if this needs adjustment or not. I may ask Ms. Wiener, Ms. Coney, and Mr. Grabowski, is there any feedback from your organization?

Ms. Wiener – The only time that wholesale purchase price actually comes into play is when calculating the deposit to the merchandise trust, which is always the greater of 30% of retail or 110% of wholesale. So long as you are keeping your wholesale purchase prices updated, you know which deposit to make. So, I don't know if there's anything else in our statute that really addresses that situation, especially on a preneed fulfillment situation where that is a guaranteed price. I mean, you're getting what you're getting from your trust because you guaranteed the price on that. I would also note that you are not obligated to guarantee the price of services or merchandise. You can offer non-guaranteed price contracts. And we do see some clients now because of the variability resulting from both tariffs and now oil prices changing from guaranteeing the price of certain items to changing that to non-guaranteed, which would allow you to come back on the back end and charge the family the same way you would on a cash advance item. But does that do anything or relate in any way to this rule? I don't think so.

Mr. Jensen – Wow. I didn't even know that was legal. So, thank you for the clarification.

Ms. Wiener – It's on the FSI contracts, actually, and many contracts.

Mr. Jensen – Yes. So that solves it, Mr. Chair.

Chair Clark – Are we recommending no change?

Mr. Jensen – Correct.

Chair Clark – Any other public comments? Let me get that in there. Hearing none. Go ahead, Ms. Schwantes.

Ms. Schwantes – Thank you, sir. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – We've said no to all of the changes, and I'll need Committee action on no change.

MOTION: Mr. Jensen moved that no changes are needed with regards to this rule. Chair Clark seconded the motion, which passed unanimously.

(d) Rule 69K-7.007 - Merchandise Trust Funds - Status of Accounts

Ms. Schwantes – This rule is found on Page 16 of the workbook. There were no written comments provided on this rule.

Chair Clark – Any public comments? Hearing none.

Ms. Clay – Mr. Chair, I recommend no change.

Mr. Jensen – I agree.

Ms. Schwantes – Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And I've already marked that you want no changes to it, and so we just need action at this point on the Committee's decision for no change recommended.

MOTION: Ms. Clay moved that no changes are needed with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(e) Rule 69K-7.008 - Preneed Trust Funds -Withdrawal of Income Earned Thereon

Ms. Schwantes – It's on Page 18 of the workbook. Written comments were provided by Ms. Wiener on Page 20 of the WRW document.

Chair Clark – Thank you, Ms. Schwantes. Ms. Wiener?

Ms. Wiener – Any rule that -- literally this rule, in essence, says you can't commit fraud. I don't know if that's a valid use of rulemaking authority. A preneed licensee may not use any formula or make it the evaluation if such formula is used as a guise to make unauthorized withdrawals or results in accelerated or excessive withdrawals. I don't even know what that's trying to get at. But it says you can't commit fraud, and our law is already very clear on how you withdraw income and that it is very clearly established in both 497.458 and 497.464 that income stays with principle until disbursement. This rule is not only odd, but unnecessary and unsupported by the statute, particularly the one that it purports to implement, 497.458.

Chair Clark – Thank you, Ms. Wiener. So, you would say it doesn't reiterate whatever our question was?

Ms. Wiener – I would say it reiterates the law in the first sentence, and then the second sentence is not supported by statutory authority.

Mr. Jensen – Ms. Wiener, can you give those statutes again, please?

Ms. Wiener – The capacity to withdraw is found in 497.458 and 497.464. Those are the 70/30 trusts and the 90/10 trusts, respectively. And that's where the law lives that says what you can and when you can withdraw income. This rule, I suspect, hearkens all the way back to the old cemetery law under 458 because it was new as of 1985. In 1985, preneed was not regulated under Chapter 497. I was graduating high school, and the preneed law did not exist for funeral homes.

Mr. Jensen – Yes, I appreciate that. I was just trying to get ahead of Ms. Munson because she's going to ask why we want to repeal this, and I need to be able to quote the statutes. Thank you.

Chair Clark – Any other public comments? Hearing none. Ms. Schwantes, I think we would agree that we would be recommending repeal.

Ms. Schwantes – I am hearing that. Let me go through the rest of these questions. Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Chair Clark – Based on Ms. Wiener's feedback, I would say partially no or no.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And I'm hearing no changes?

Chair Clark – No, repeal.

Ms. Schwantes – Apologies. I'm hearing the answer would be no to whether you want a technical update or a substantive update.

Chair Clark – Correct.

Ms. Schwantes – That's why I would say no. But yes, the action would be repeal, and we need Committee action on that recommendation.

MOTION: Chair Clark moved to repeal the rule. Ms. Clay seconded the motion.

Mr. Jensen – Do we need to quote the statutes, Ms. Munson?

Ms. Munson – On that form, we would probably quote the statutes, which is why these minutes are going to be very helpful, the detail of the minutes.

Mr. Jensen – May I offer a friendly amendment based on statute 497.458 and statute 497.464 is why it needs to be repealed.

Chair Clark – Yes, I will amend my motion, and Ms. Clay, will you amend your second?

Ms. Clay – Sure.

Chair Clark – All right. All those in favor, say aye.

Committee members [Unison] – Aye.

Ms. Clay – And any opposed? That motion carries. Ms. Schwantes, I've got 1:29. Can we, we'll take another break, and we'll come back at 1:40 p.m.?

Ms. Schwantes – Thank you, sir.

*****BREAK*****

Ms. Schwantes – Mr. Chair, we still have quorum.

Chair Clark – I'd like to call a meeting back to order. The Committee members were just talking about, obviously, we want to be respectful of everyone's time. We know we have some momentum. Just wanted to see if y'all had any feelings of should we power through and wrap up? Should we look to wrap up early and then address the other items that we didn't get to? Any thoughts?

Mr. Jensen – My thought is we're here. Let's do it.

Chair Clark – Ms. Schwantes, does that work for you and your team?

Ms. Schwantes – I'm fine. We're here at your pleasure for this. Just wanted to make sure that everybody was going to be able to continue, particularly the Committee members are going to be able to continue on the call. We have twenty-five (25) more rules to go. If at any time that changes for any of you, just let us know. We can continue discussions on these this part of the phase of the review to October 19th. By the way, the meeting's on October 19th. I said it wrong earlier, but I would have corrected it later.

Chair Clark – Thank you, Ms. Schwantes.

Ms. Schwantes – Can I go on?

Chair Clark – Yes, please.

(f) Rule 69K-7.016 - Duties and Powers of Trustee; Authorized Investments

Ms. Schwantes – This rule is found on Page 19 of the workbook and written comments provided by Ms. Wiener are on Page 21 of the WRW document.

Chair Clark – Ms. Wiener?

Ms. Wiener – This language literally is a cut and paste from 497.458 and the rule should be repealed.

Chair Clark – Thank you, Ms. Wiener. Any other public comments? Hearing none.

Ms. Clay – Mr. Chair, I recommend repeal.

Chair Clark – Thank you, Ms. Clay. Ms. Schwantes?

Mr. Jensen – Are we to that point or do we have to answer some questions?

Chair Clark – I think it helps indicate that, yes, that we want to repeal it. So, we'll let Ms. Schwantes do her questions and then we'll take action.

Ms. Schwantes – And I wish there was an easier way to do this. Is the rule a valid exercise of delegated legislative authority? That's yes, correct?

Chair Clark – Yes.

Ms. Schwantes – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory materials?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with express legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And you do not want any updates to the rule. We're not talking about repeals here.

MOTION: Ms. Clay moved to repeal the rule. Mr. Jensen seconded the motion.

Chair Clark – Ms. Munson, do we need to cite that it's 497.458? I mean, we've already referenced it, but I don't know. Does the statute need to be a part of the motion? Ms. Munson?

Ms. Munson – Again, I am just using this additional review to mirror it. It says it's a complete repeat. I don't know if it's exactly, but I think it's para. Is that what I'm understanding, Ms. Wiener?

Ms. Wiener – Much of the language is verbatim from the law, and the rest of it literally just paraphrases the law in its entirety. There's nothing added from the rule.

Ms. Munson – Many rules do that. We're picking and choosing which rules we're going to say this about, but that's up to the Committee. And that's a part of this exercise. Because there are going to be some rules on the book that are going to do this and we're not going to repeal them.

Ms. Wiener – Agreed. I think this rule differs because like it is all either verbatim or it is just a rephrasing of the law itself, the whole rule.

Ms. Munson – I'm just making that distinction for Committee members because when they present the information to

the Board, I want them to understand what they were saying or presented. So, you can see for yourself how it mirrors and how it doesn't, how it paraphrases and how it doesn't.

Chair Clark – And Ms. Munson, just so I'm clear, would you prefer that our motions include reference to statute in the motion or the fact that we just discussed it is sufficient?

Ms. Munson – I think when we're talking about a repeal, because it is a major thing to repeal a rule, that you would identify the basis for the repeal and that would be the statute. So, I think you should include the statute.

Chair Clark – Ms. Clay, would you like to amend your motion to repeal as it reiterates 497.458?

Ms. Clay – Sure. I move that this rule be repealed based on statute 497.458.

Chair Clark – Thank you. A motion to repeal based on current statute. It's been seconded. All those in favor say aye.

Committee members [Unison] – Aye.

Chair Clark – Any opposed? And that motion carries.

(g) Rule 69K-7.017 -Trust Fund Deposits; Funeral and Burial Services and Merchandise Preneed Contract Payments

Ms. Schwantes – This rule is found on Page 21 of the workbook. The table is found on Page 22 of the workbook, and written comments were provided by Ms. Wiener on Page 21 of the WRW document.

Chair Clark – Thank you, Ms. Schwantes. Ms. Wiener?

Ms. Wiener – We all agreed this was also a target for repeal as it would appear to be unnecessary. Though it doesn't verbatim restate the law, everything that is set forth in this rule comes directly from the law. And so there doesn't appear to be anything supplemental. It is possible that you could just open it for consideration because much of it could certainly go. The portion about the monthly reports being maintained and deposits to trust that exceed the amount required by the contract being able to be withdrawn, those may actually be in violation of the statute. I don't know if our statute actually supports that. So it would be, I think, at a minimum, it would be open for consideration, substantive change.

Ms. Schwantes – Mr. Chair?

Chair Clark – Thank you, Ms. Wiener. Ms. Schwantes?

Ms. Schwantes – I recommend opening this for development as opposed to just repealing it. There's enough here, I definitely would want staff to look at this very closely, particularly with regard to any exams or anything of that nature.

Ms. Wiener – I don't disagree.

Chair Clark – I agree. Any other public comments? And for the Committee, I'll make a recommendation to open if we're comfortable with that.

Committee members [Unison] – Yes.

Ms. Schwantes – Is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material? Remember, we're talking about whether the rule as a whole does that.

Chair Clark – Then I would say no, not as a whole.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – Okay. And we're looking at a substantive update?

Committee members [Unison] – Yes.

Ms. Schwantes – And then I need the Committee action on this. I need a motion, a second.

Mr. Jensen – Question, Mr. Chair?

Chair Clark – Mr. Jensen?

Mr. Jensen – Yes. So, we're proposing to open this so the Department can have a closer look just to make sure that it's okay for repeal. Or it may just need changes. Is that what we're talking about here?

Ms. Schwantes – May I?

Chair Clark – Go ahead, Ms. Schwantes.

Ms. Schwantes – Thank you. Right now, we're saying we want to open it for development. If during the course of that it is determined that no changes are needed, it can be left alone. If it's determined that it needs to be repealed, it can be repealed. But this, at least, has us all looking at it again as an answer for that January 1st Report.

Mr. Jensen – Very good.

Ms. Schwantes – What does the Committee want to do?

MOTION: Chair Clark moved to open the rule for development. Ms. Clay seconded the motion, which passed unanimously.

Ms. Schwantes – Thank you.

(h) Rule 69K-7.020 - Treatment of Trusts Under Chapters 497 and 639, F.S.

Ms. Schwantes – This rule is found on Page 23 of the workbook with the table found on Page 25. Ms. Wiener had comments on Page 23, but those comments refer to 69K-7.015, which was reviewed last year and is not part of the agenda, so I did not understand that.

Ms. Wiener – The reason for that is because when you type 7.020 into the Florida Administrative Code online, it comes up as 7.015. So, I included it just because it was there. And I had that 7.015 was on the list of the rules to be taken up. It was one of the rules I thought was in green. But be that as it may, with regard to 7.020, this is such an old rule, probably unnecessary. But I certainly would not recommend repeal because it is possible that there is still someone out there with a Legacy 639 Trust that has not brought it forward into Chapter 497. And if so, this rule is applicable to that process.

Chair Clark – Thank you, Ms. Wiener. Any other public comments? Hearing none. What would the Committee like to do? I think Ms. Wiener is right. There are a lot of references to contracts prior to 1993.

Ms. Wiener – And just for the orientation of those on the call that weren't around prior to '93, prior to 1993, when you deposited money into a preneed trust every single month, you could sweep the earnings. Take them. Enjoy them. Have them. Use them. We stopped that in 1993 when the new law came into effect, but if you still have pre-1993 contracts in a 639 trust, you can continue to sweep the earnings off of that trust. Now, most contracts entered into prior to 1993, because preneed contracts have an average lifespan of between five (5) and ten (10) years, have long since either been, all the money's been swept and it's not really growing or they've been fulfilled. So, this probably impacts very few licensees, but there are still some out there. And if they wanted to bring them into 497, they would have to comply with this rule. I would recommend you just leave it as is. Let it be used in the infrequent occasion that it might be used, it is necessary and useful.

Chair Clark – Thank you, Ms. Wiener. So, we're recommending no change? Committee?

Ms. Schwantes – That's what I'm hearing.

Mr. Jensen – We have to answer questions first before we –

Chair Clark – Yes. I want to answer that first one. I think the first one is no change, Ms. Schwantes.

Ms. Schwantes – That's what I'm hearing from the discussion.

Chair Clark – Yes, I agree. No change.

Ms. Schwantes – Okay. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And we're saying no changes?

Committee members [Unison] – Correct.

Ms. Schwantes – And then you need Committee action on the no change.

Chair Clark – I did see a hand before we take that vote. Ms. Coney?

Ms. Coney – I found the same thing as Wendy with the rule reference number. So, I'm just wondering if our minutes should reflect that we need to look at just the numbering of it for correctness, not the content of it.

Ms. Munson – If we're talking about a rule reference in the content of the rule, that is --

Ms. Coney – We're talking about the actual numbering of the rule title.

Ms. Wiener – Oh, I think it was probably just a glitch in the Florida Administrative Code database. So, I think the rule number is probably fine.

Ms. Coney – Okay.

Ms. Wiener – But it just happened to me. I tried it five, six times, and it kept happening that it brought 7.015 up. So, I think we're fine.

Ms. Coney – Okay.

Ms. Schwantes – Just for the record, I pulled it up the same way and got 7.020. I don't know what happened. But that's how I copied these.

Chair Clark – Thank you, Ms. Coney. Is it appropriate for us to make a motion for no change?

MOTION: Mr. Jensen moved that no changes are needed with regards to this rule. Chair Clark seconded the motion, which passed unanimously.

(i) Rule 69K-8.002 - Cancellation of Contracts

Ms. Schwantes – The rule is found on Page 26 of the workbook, as is the table. Ms. Wiener made comments on Page 24 of the WRW document.

Chair Clark – Ms. Wiener?

Ms. Wiener – This is another rule that simply reiterates what's in 497.459. I don't believe it contains any language or anything supplemental to what is in 497.459.

Chair Clark – Any other public comments? Hearing none. How does the Committee want to answer Ms. Schwantes' first question?

Ms. Schwantes – The first question is do you want to open it, have no change, or repeal it?

Mr. Jensen – I vote for repeal, Mr. Chair.

Chair Clark – I agree.

Ms. Schwantes – Next questions I'll go through. And while I'm doing that, please be thinking of the reasons for repeal for Ms. Munson.

Mr. Jensen – I already wrote it down. 497.459, Ms. Munson.

Ms. Schwantes – Thank you, sir. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with express legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And the rest of the questions we've answered no to, in that you do not want any kind of substantive or technical updates. I don't know if you asked for public comments at the public comments account.

Chair Clark – Yes, I did.

Ms. Schwantes – Thank you, sir. At this point, then, we need Committee action on it.

Chair Clark – Mr. Jensen?

MOTION: Mr. Jensen moved to repeal the rule based on redundant language that is mentioned in 497.459. Chair Clark seconded the motion, which passed unanimously.

Chair Clark – And just for the attendees' reference, there are, I think, folks that have some obligations this afternoon, so we're going to continue until 2:30, and whatever we don't get to, we will address at our next meeting. Ms. Schwantes?

Ms. Schwantes – Thank you, sir.

(j) Rule 69K-8.003 - Cancellation of Preneed Contracts; Reasonable Time Defined

Ms. Schwantes – The rule is found on Page 28 of the workbook, as is the table. Ms. Wiener submitted comments, which are on Page 25 of the WRW document.

Chair Clark – Ms. Wiener?

Ms. Wiener – So, we all, FCCFA, IFDF, SCI, FSI, all believe that this rule needs the attention of the Division or the Board. We think it should be open for substantive changes, because the 24-hour requirement may no longer be an appropriate time frame. This rule dates back to 1994, and things are quite different now on what we think of as a society as a reasonable time since 1994. It was only amended once in '01, and my recollection about that amendment was that it may only have changed to update statutory references. So, I would ask that the Board open this one for consideration of substantive changes.

Chair Clark – Thank you, Ms. Wiener. Are there any other public comments? Hearing none.

Mr. Jensen – Mr. Chair?

Chair Clark – Go ahead, Mr. Jensen.

Mr. Jensen – Yes, so Ms. Wiener, your only issue here is, if somebody has a casket on a preneed, you want more time than twenty-four (24) hours to have that casket delivered to the appropriate funeral home? Is that what you're saying?

Ms. Wiener – Maybe. Not necessarily, but perhaps. And it also depends. This was, luckily, one of the rules that was suspended during COVID, because that wasn't possible during so much of COVID, so that was suspended. But there's also a requirement to keep a log on this. I don't know that many people are even aware of that requirement. Does it still need to be on a log? Is it reviewed when the logs are inspected? It seemed to the three (3) of us, Luke, Lisa, and me, that this rule could use attention. Maybe it gets open and everybody decides it's all fine. But in answering the question, would we think this one needed to be open for potential substantive changes? We thought the answer was yes.

Chair Clark – Mr. Jensen, does that answer your question?

Mr. Jensen – Well, somewhat. I'm trying to find an instance, because, I mean, it's always been, you know, casket the next day. If I have a preneed and they go to another funeral home, I've got the right to deliver that merchandise. And if I can't get it there within twenty-four (24) hours, then I've got to give them their money back. I don't really see a problem with that. I'm curious how the Department feels about that.

Ms. Schwantes – Mr. Chair, if I may? The Department has not looked at this as an issue yet. The only thing that was in Ms. Wiener's comments before was it needs attention. We didn't have any idea of what the concerns were. But now that we do, we open it again. And next time we look at it for development purposes, we will have some thoughts to it.

Mr. Jensen – And that helps me, Mr. Chair. Thank you.

Chair Clark – So, we're going to answer her questions. Are we leaning towards at least opening it to give everybody a chance to look at it? We don't have to take action, but what do you think, Mr. Jensen?

Mr. Jensen – Yes, I would like to hear, you know, from others if this has become an issue or not. It hasn't been for me, but it could be for others, and I want to be respectful to everyone out there. If we need to define this time frame as different, then, you know, perhaps we need some more inquiry into that.

Ms. Schwantes – Mr. Chair?

Chair Clark – Thank you, Mr. Jensen. Ms. Schwantes?

Ms. Schwantes – Mr. Jensen, what will happen is an opening for development. And all that means for now is that the January 1st Report that we submit to JAPC will show that we're opening it for development. And then when we actually ask for written comments on this or discuss it further for substantive changes, that's the time when we will hear from other people. You probably won't hear anything about this again for a couple of months, but then it will come back on the agenda, if that's the way that the Committee decides to go.

Mr. Jensen – And I'd like to never hear it again, but, you know, if we have to hear it, we hear it.

Ms. Schwantes – Understood. I heard change or open or development anyway. Should I go through the questions, Mr. Chair?

Chair Clark – Yes, please.

Ms. Schwantes – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory materials?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And I'm hearing that we want a substantive update potentially?

Committee members [Unison] – Correct.

Ms. Schwantes – And then at this time, Committee action would be appropriate.

MOTION: Mr. Jensen moved to open the rule for development. Chair Clark seconded the motion, which passed unanimously.

(k) Rule 69K-8.004 - Preneed Contracts; Miscellaneous Provisions

Ms. Schwantes – The rule is found on Page 30 of the workbook. The table is found on Page 31. Ms. Wiener did not provide comments. She just provided a copy of the rule.

Ms. Wiener – Correct. We didn't have comments on this one.

Chair Clark – Thank you, Ms. Wiener. Any other public comments? Hearing none. Committee, I'm not aware of anything that needs to change, but what do you think?

Mr. Jensen – Agree.

Chair Clark – We can do our questions. No change.

Ms. Schwantes – Next question. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory materials?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – Is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And you are proposing no changes, no updates?

Committee members [Unison] – Correct.

Ms. Schwantes – Okay. Committee action would be needed.

MOTION: Ms. Clay moved that no changes are needed with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(I) Rule 69K-8.005 - Preneed Contracts Funded by Life Insurance

Ms. Schwantes – The rule is found on Page 32 of the workbook. Again, Ms. Wiener provided a copy of the rule, but no comments on it. The table for this is now on Page 33 of the workbook.

Chair Clark – Thank you, Ms. Schwantes. Any public comments? Hearing none. I don't believe there needs to be any changes unless the Committee feels different.

Mr. Jensen – May I, Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – Yes. So, most of this stuff is probably covered in 497 as to do with insurance. I mean, basically it's all the same. Even if you fund it by insurance, you still got to follow the preneed laws, correct?

Ms. Wiener – Not exactly. This rule is necessary. Florida law doesn't actually in its statutory scheme, interestingly, recognize funding of a preneed contract by insurance. This is actually a shortcoming in many states' statutory schemes. The origin of that is that preneed law in Florida came into existence in 1987. Prior to 1987, and even up until this regulator, 497 regulator, took over preneed, insurance-funded preneed was not considered preneed. And it didn't have to be -- Chris, you remember this.

Mr. Jensen – Yes.

Ms. Wiener – We called it a pre-arrangement insurance policy. It didn't have to be reported. It's why so many, for years up until not that long ago, so many old-time funeral directors sold insurance-funded preneed, didn't even realize that they were supposed to have a preneed license. When we brought it in in '93, it still wasn't considered in the law. We brought in the definition of preneed in '95 to swoop in any arrangement whereby a preneed contract was made so that you had to get a preneed license to sell insurance. So, I think this is necessary. It is a necessary requirement. I drafted the language of this rule way back when it was implemented anew in '96. There was a lot of industry input about it, and I believe it works as intended, and we don't have a lot of problems with it. So that was the reason we didn't comment on it and would recommend that we just leave it as it is.

Mr. Jensen – Quick follow-up, Mr. Chair?

Chair Clark – Go ahead.

Mr. Jensen – Yes, so, Ms. Wiener, just looking at this, my only concern is, and I agree with you in principle, but I know from your perspective as basically representing bigger companies, you know, can the independent funeral director understand this? Do we need to open it for any more clarification, or do you think it's pretty self-explanatory, I guess, is the crux of what I'm asking?

Ms. Wiener – I think it's fine, and the reason I would say is because whether you're a big company or whether you are a small company, when you sell insurance-funded preneed, the preneed contracts come from the insurance company. They go to the Board, they're approved, NGL has a contract, FDLIC has a contract, Homesteaders has a contract, everybody has a contract, and then they provide you, the seller, whether you're big or small, with that contract that has been approved by the Board to utilize. And so, I think compliance with it is regular, and I represent most of the insurers in the space, I'm not aware of any significant systemic problems in Florida with compliance with this law, either at the location level or at the insurance company level.

Mr. Jensen – And Mr. Chair, really, Ms. Wiener, where I'm going with this is, is I do notice like someone goes to XYZ Funeral Home and does a preneed and they fund it with insurance. Now, all of a sudden, once a lot of the consumers out there don't realize, hey, you basically just bought life insurance and now you have to deal with the life insurance company. So, do we need any further clarification on this? Because I have heard of issues where the consumer is, you know, they don't even know they bought life insurance and, and that's in fact what they have. They really didn't buy a preneed, so to speak. And people would argue me on that, but at the bottom of most of those contracts, it has a life insurance company listed. And that's why the preneed people are required to have a life insurance license as well. So, in my mind, it's a little deceptive to the consumer as to, one, what they're buying and, two, who they're buying it from. I know it shouldn't be, but that is an issue that I've seen come up and I didn't know if we need to clarify this any further.

Ms. Wiener – The rule is quite robust in its requirements that the seller of preneed, the funeral home, disclose that the preneed contract will be funded by a life insurance policy. That's what all of those requirements are about in subsection (4). They've got to disclose that no money is going into trust. They've got to disclose that a life insurance policy has been purchased to fund the monies needed and the purchase price will be used to fund at the time of death. There are a lot of robust requirements, and I have submitted many a contract to the Board for approval on behalf of my insurance company clients, and they all meet these requirements. So, if consumers don't realize they're buying a preneed contract that's funded by insurance, then bad on them for not reading their contract at all. But also, that's a problem of the seller in not properly training its preneed sales agents. I don't think it would -- this rule does what it's intended to do. It requires significant disclosures, and those disclosures are made. Now, whether you've identified a training problem among funeral homes, probably, but I don't think you can get it back at this rule.

Mr. Jensen – Okay. Ms. Schwantes, may I ask you, do you see complaints of this nature where people don't realize they bought life insurance? Is that a thing, or am I just hearing a couple of isolated incidences?

Ms. Schwantes – I have not seen any complaints on that, no, sir.

Mr. Jensen – Okay.

Ms. Schwantes – Do I think it happens? It probably does, but we have not received any kind of complaints.

Mr. Jensen – Okay. Very good, Mr. Chair. I was just curious if any of the legal minds thought we might need a little more clarification here for the consumer's sake. I understand it, and Ms. Wiener understands it, but I'm not sure all the consumers do understand it, but I don't know whether this is the proper rule to address that or not, and that's what I'm trying to figure out.

Chair Clark – Are you comfortable moving forward, no change?

Mr. Jensen – I am.

Ms. Schwantes – So going through the questions, is it a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory materials?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – And no changes. I think you have already opened it up for public comment.

Chair Clark – I did.

Ms. Schwantes – Then we just need Committee action on this.

MOTION: Mr. Jensen moved that no changes are needed with regards to this rule. Ms. Clay seconded the motion, which passed unanimously.

Chair Clark – Ms. Schwantes, do you want to do one more, and then we can do our closing remarks?

Ms. Schwantes – That sounds good.

(m) Rule 69K-8.006 - Description of Merchandise on Preneed Contracts

Ms. Schwantes – This rule is found on Page 35 of the workbook. Ms. Wiener, again, provided a copy of the rule, but no comments. And the table is be found on Page 36 of the workbook.

Chair Clark – Thank you, Ms. Schwantes. Any public comments? Hearing none. For the Committee, does anyone see a need to open this up for repeal? I don't see anything. I would say no change, but any discussion? Hearing none.

Ms. Schwantes – Questions? Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it have current statutory authority?

Committee members [Unison] – Yes.

Ms. Schwantes – Does it reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Schwantes – Is it in proper form?

Committee members [Unison] – Yes.

Ms. Schwantes – And is it consistent with expressed legislative intent?

Committee members [Unison] – Yes.

Ms. Schwantes – No changes. And Committee action would be appropriate.

MOTION: Mr. Jensen moved that no changes are needed with regards to this rule. Chair Clark seconded the motion, which passed unanimously.

Ms. Schwantes – With that, Mr. Chair, we will start off again next time with 69K-8.007. We will incorporate that very first rule on the agenda, 69K-7.001. And roughly, I think we have ten (10), no, maybe closer to fifteen (15) more rules to go through on this initial review part for the October meeting, plus continuing the Senate Bill 598 issues.

F. Summary Regarding Meeting Results and Future Plans

Ms. Schwantes – I do want to cover a couple of quick things. We've got two (2) main goals over the next couple of months, like we've talked about. We've got to complete the approved proposed language on the remaining four (4) rules that were impacted by Senate Bill 598, and file that with JAPC no later than January 1st. And then we also have to have the initial phase of the Annual Rule Review completed and approved by the Board no later than the Board's December meeting, so that results can be timely filed by January 1st under the rule review statute. Our next Committee meeting is Monday, October 19th, video conference at 10:00 a.m., and we have scheduled two (2) more meetings after that, Monday, November 16th at 10:00, and Monday, December 14th at 10:00. And again, for written comments on anything that is to be discussed on October 19th regarding the Senate Bill 598 issues, those written comments are due October 5th close of business, please. That's all I have.

Mr. Jensen – Could you repeat those dates for those meetings?

Ms. Schwantes – Yes. Monday, October 19th. That one's already posted.

Mr. Jensen – Yes, I got that one.

Ms. Schwantes – Monday, November 16th at 10:00 a.m., and Monday, December 14th at 10:00 a.m. Again, video conference. And written comments would be due October 5th for the Senate Bill 598 issues.

Chair Clark – Ms. Munson?

Ms. Munson – I just want to offer a suggestion. In future meeting publications in the FAR, if we don't state an end time, we're perfectly fine to keep running. I know this was just a 30-minute deviation, but if we specifically state an end time, we are probably expected to be bound closer to that end time than not, just because we were noticed for discussion for a window of time. If that makes any sense. I think this might have been 10:00 to 2:00. We might want to say at 10:00 a.m. and then can go until we finish. But if it says until 10:00 to 2:00, a little bit over is okay, but taking it to 5 o'clock is kind of really outside the window. So yes, just to be mindful of that for future.

Ms. Wiener – Mary, can I confirm which rules you are expecting comments on 10/5? Is it 18.002, 18.003, 25.001, 25.002?

Ms. Schwantes – Correct. Those are the four (4) that were identified under Workbook #1. If you want to just refer to Workbook #1.

Ms. Wiener – Yes.

Ms. Schwantes – Those are the four (4) that we will be continuing discussions on in October. And we have a little bit of additional time after that if we needed it to firm up language, but hopefully we can get the proposed language firmed up in October so it can go before the November Board, and we are in plenty of time filing before JAPC goes forth.

Ms. Wiener – And then none of the rules that -- I'm sorry, keep going.

Ms. Schwantes – Go ahead. No, go ahead.

Ms. Wiener – None of the rules we mentioned today that we were opening, you are not looking for substantive comments on any of those rules on October 5th?

Ms. Schwantes – That's correct. We're not looking for any kind of comments on those rules until later in the fall, maybe even early winter. The deadline for proposed language on those is not until April.

Ms. Wiener – And are you expecting or would you like proposed language on the new rule that was proposed by Mr. Grabowski that the Committee sent him back to work on more on October 5th so that that can be considered or later?

Ms. Schwantes – No, ma'am. That will not come back up before the Committee until December. I don't have a date for that. We can revisit that later. I mean, I have a date for the meeting. But not for the comments.

Ms. Wiener – Okay.

Ms. Schwantes – But not for the deadline for the comments. However, if you would consider at least two (2) weeks in advance, that's probably about accurate.

Ms. Wiener – Got it.

Chair Clark – Ms. Schwantes, are we ready for Chair Remarks?

Ms. Schwantes – Yes, sir.

G. Chair's Remarks

Chair Clark – Ms. Schwantes and Ms. Munson, I have six (6) open, eight (8) no change, and four (4) repeal. If we need to share notes after, let me know. But that's where I think we landed. I'll be brief. Thank you all for your work today. Thank you to the brain trust, Ms. Wiener, Mr. Grabowski, and Ms. Coney. Thank you for coming prepared but also helping us navigate this. Your thought leadership is appreciated. And I thank Ms. Munson, Ms. Schwantes, especially Ms. Schwantes, we are so organized compared to where we started. We were learning together. But these workbooks help a lot. So, thank you.

Ms. Schwantes – Thank you. And thank you guys for all of your attention and consideration on all of these. We get through this and we learn, right?

Chair Clark – That's right.

H. Adjournment

Chair Clark – So, thank you all so much. And with that, the meeting is adjourned.

The meeting was adjourned at 2:31.

DRAFT