From: Wendy Wiener
To: Schwantes, Mary; Marshall, Kimberly
Subject: Updated Comments
Date: Friday, October 2, 2026 11:53:10 AM
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WRW Legal Rules Revisions for 2026 10 19.docx

Good morning, Mary and Kimberly.

Please see updated comments which address issues raised during the last Rules Committee Meeting. This work product is submitted on behalf of FCCFA, IFDF, SCI and FSI.

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69K-18.002. Funeral Director Intern Training Program.

(1) THIS RULE IMPLEMENTS SECTIONS 497.375 AND 497.373(2)(c), F.S.

(2) APPLICATION FOR FUNERAL DIRECTOR INTERN LICENSE.

(a) Persons desiring licensure as a funeral director intern shall apply for such license by completing Form DFS-N1-1722, "Application for Funeral Director Intern License," effective ~~10/24~~, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17331, with a nonrefundable fee of $105. The application form shall be filed with the Division at the address stated on the form. The fee includes an application of $100 and an unlicensed activity fee of $5, which shall accompany the form.

(b) A member of the United States Armed Forces, such member's spouse, and a veteran of the United States Armed Forces who separated from service within 2 years preceding the application for licensure are exempt from the application fee and the initial unlicensed activity fee. The military record must show such member is currently in good standing or such veteran was honorably discharged.

(c) Applicants shall submit with their application for license, proof of satisfying the education requirements of Section 497.375(1)(b), F.S. The applicant shall submit, with the application, proof of satisfying education requirements complying with Section 497.373, F.S.

(d) If the Division determines that the applicant for internship has no reportable criminal history within the meaning of Section 497.142(10)(c), F.S., and has no record of disciplinary action against any professional license, and otherwise meets the criteria for issuance of the internship license pursuant to Section 497.375, F.S., the Division shall so notify the applicant in writing, and upon receipt of such written notification the applicant may commence their internship; provided, all such approvals by the Division shall be reported to the Board at its next regular monthly meeting and shall be subject to ratification by the Board. As to any applicant which the Division determines has a reportable criminal history within the meaning of Section 497.142(10)(c), F.S., or has a record of disciplinary action against any professional license, or fails to meet any criteria for issuance of the internship license pursuant to Section 497.375, F.S., the Division shall present the application to the Board for its decision at the Board's next regular in-person monthly meeting.

(3) ENROLLMENT IN COURSE OF STUDY WHILE INTERNING. This rule section implements Section 497.375(1)(b) 2., F.S.
(a) An applicant under Section 497.375(1)(b) 2., F.S., must meet each and all of the requirements specified in Sections 497.375(1)(b)2.a. and, b.~~, and c.~~, F.S.
(b) An applicant under Section 497.375(1)(b) 2., F.S., must be enrolled in a course of study referred to at Section 497.375(1)(b)2.b., F.S., as of the date the applicant's application for intern license is received by the Division. The course of study must be approved by the Board pursuant to Section 497.373, F.S.
(c) A course of study in "mortuary science" as referred to at Section 497.375(1)(b)2.b., F.S., shall be a Type 1 course as defined in Rule 69K-100.035, F.A.C. "Courses of Study: Criteria; Procedures for college or university to obtain approval."
(d) A course of study in "funeral service arts" as referred to at Section 497.375(1)(b)2.b., F.S., shall be a Type 2 course as defined in Rule 69K-100.035, F.A.C. "Courses of Study: Criteria; Procedures for college or university to obtain approval."
(e) A funeral director intern licensed under Section 497.375(1)(b) 2., F.S., shall during the internship remain continuously enrolled in, and attending as required by the college or university, the course of study indicated in their internship application (hereinafter in this rule section the "course of study"), until the course of study is successfully completed or the internship ends.
1. If during the internship the intern's enrollment or attendance in the course of study for any reason terminates prior to successful completion of the course of study, the intern shall immediately suspend all activities under their internship license, and shall within 20 business days advise their internship supervisor that their enrollment or attendance in the course of study has terminated prior to successful completion of the course of study.
2. If an intern's internship supervisor is notified by the intern they supervise, licensed under Section 497.375(1)(b) 2., F.S., that the intern has, prior to successful completion of the course of study, ceased or been terminated from current enrollment in the course of study or has ceased attendance in the course of study, the supervisor shall immediately suspend all activities under the internship and within 20 calendar days shall complete and file with the Division Form DFS-N1-2040 "Report of Suspension of Intern's Conditions of Internship," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17336. If the supervisor receives information from a source the supervisor deems reliable, specifically asserting that the intern they supervise, licensed under Section 497.375(1)(b) 2., F.S., has, prior to successful completion of the course of study, ceased or been terminated from current enrollment in the

course of study or has ceased attendance in the course of study, the supervisor shall within 20 calendar days require the intern to provide the supervisor written proof from the school that the intern is currently enrolled in and attending the course of study, and if such proof is not received within 20 days of the supervisor's request the supervisor shall immediately suspend all activities under the internship and within 5 business days shall complete and file with the Division a form DFS-N1-2040 "Report of Suspension of Intern's Conditions of Internship."
3. An intern whose internship has been suspended pursuant to this subparagraph may petition the Board to reinstate the internship. The petition shall not be granted unless the intern demonstrates that the termination of enrollment or attendance was due to illness, personal injury, or other substantial hardship beyond the intern's reasonable control.
(4) IDENTIFICATION OF TRAINING AGENCY AND SUPERVISOR; CHANGES.
(a) Funeral director interns shall train under their funeral director intern license only at a funeral establishment approved as a training agency pursuant to Rule 69K-18.004, F.A.C. "Intern Training Agencies." The training agency shall appoint the funeral director who shall supervise the intern. Funeral director interns shall be supervised in their funeral director internship activities by a funeral director employed at the training agency, holding a valid funeral director license under Chapter 497, F.S.
(b) Funeral director interns shall identify on their application for intern license the intern training agency where they will be trained, and the name and license number of the licensed funeral director who will supervise them.
(c) A training agency may at any time appoint a different funeral director, employed by the training agency, to supervise an intern. No approval by the Board or the Division is required for a change in supervisor pursuant to this rule subsection.
(d) An intern's internship supervisor may at any time terminate their supervision of the intern. The supervisor shall notify the intern and the training agency of such termination of supervision, and the training agency shall appoint a replacement supervisor. The exiting supervisor shall file their final training report as required by paragraph (9)(c) of this rule.
(e) To notify the Division of termination of supervision and/or change in supervisor, the intern must file Form DFS-N1-1734, "Notice of Change of Supervisor and/or Location", which is incorporated by reference in paragraph 69K-18.001(2)(c), F.A.C.
(f) An intern shall report a change to a different training agency on the first quarterly training report submitted after such change.

(5) LENGTH OF INTERNSHIP.
(a) One year of full-time funeral director internship training shall be required to satisfy the requirement of Section 497.373(2)(c), F.S. "Full-time" shall be deemed and construed to mean training comprising at least 40 hours each week for at least fifty weeks, to be completed within a contiguous twelve month period.
(b) An intern may on the internship application request an internship start date of up to 21 days after Board approval of the internship application, and such request shall be granted.
(c) Unless renewed by the Board pursuant to this rule, a funeral director internship shall terminate at the end of the 365th day after the internship began.
(d) A funeral director internship may not be extended, but may be renewed subject to the requirements of Sections 497.375(4)(b) and (c), F.S., as those sections are implemented in this rule.
(6) RENEWAL OF FUNERAL DIRECTOR INTERNSHIP TO CONTINUE COURSE OF STUDY.
(a) This rule section implements Section 497.375(4)(b), F.S.
~~(b) No funeral director internship may be renewed under Section 497.375(4)(b), F.S., unless the internship license was applied for and granted under Section 497.375(1)(b) 2., F.S.~~
(c) An intern whose internship license was applied for and granted under Section 497.375(1)(b) 2., F.S., may apply to renew the internship by filing with the Division a completed Form DFS-N1-2036, "Application to Renew Funeral Director Internship to Continue Course of Study," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17333. The application shall be accompanied by a nonrefundable fee of $105. The fee includes an application fee of $100 and an unlicensed activity fee of $5.
~~(d) An applicant shall be currently enrolled in and attending the course of study identified in the original application for internship, when the application for renewal is filed.~~
(e) As a prerequisite to certifying to the licensing authority that an intern has completed at least one-half of the course of study in mortuary science or funeral service arts, the funeral director in charge (FDIC) of a training agency shall require the intern to provide the FDIC with an academic transcript issued by the college or university where the intern is enrolled.

Commented [WW1]: Discuss 90 day bridge contemplated in s. 497.375(4)(e)

Commented [WW2]: Unnecessary, already in law.

Commented [WW3]: Not supported by law.

The FDIC shall review said transcript to verify that the intern has completed at least one-half of the course of study in mortuary science or funeral service arts.

~~(f) The application to renew 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.~~

(g) Only one renewal shall be granted to any one intern.

(h) The renewal shall be for an additional one year period~~, to commence immediately upon the end of the initial internship period.~~

(i) The Division shall approve the application to renew internship if the Division finds the application to be complete, the applicable fee is paid, and the internship is eligible for renewal under Section 497.375, F.S. The Division shall provide the Board at each monthly Board meeting with an informational report of internships renewed pursuant to Section 497.375(4)(b), F.S.

(7) RENEWAL OF FUNERAL DIRECTOR INTERNSHIP DUE TO ILLNESS, INJURY, HARDSHIP, OR AWAITING EXAM RESULTS.

(a) This rule section implements Section 497.375(4)(c), F.S.

(b) An intern seeking to renew the internship pursuant to Section 497.375(4)(c), F.S., shall apply to renew the internship by filing with the Division a completed Form DFS-N1-2037, "Application to Renew Internship Due to Illness, Hardship, or Awaiting Results," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17334. The application shall be accompanied by a nonrefundable fee of $105. The fee includes an application fee of $100 and an unlicensed activity fee of $5.

(c) The application to renew 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.~~

(d) Only one renewal shall be granted to any one intern.

(e) The renewal shall be for an additional one year period~~, to commence immediately upon the~~

Commented [WW4]: Unsupported by law. The requirement to apply before end of internship ONLY applies to renewals applied for under (4)(c)

Commented [WW5]: Law does not establish the time upon which the renewed internship may begin for (4)(b) situations.

Commented [WW6]: This requirement is unsupported by the law.

~~end of the initial internship period.~~

(f) Applications under Section 497.375(4)(c), F.S., shall be presented to and ruled upon by the Board.

(8) SUPERVISION -- SHIFT FROM DIRECT TO GENERAL SUPERVISION.

(a) This rule section implements Section 497.375(1)(d), F.S.

~~(b) No funeral director intern may shift to general supervision pursuant to Section 497.375(1)(d), F.S., unless the intern's internship was applied for and granted pursuant to Section 497.375(1)(b)2.b., F.S.~~

(c) An intern ~~under Section 497.375(1)(b)2.b., F.S.,~~ may apply to take the laws-and-rules examination required under Section 497.373(2)(b), F.S. (hereinafter the "Florida Law & Rules Exam"), by completing and submitting a form DFS-N1-2038, "Application to Take the Florida Law & Rules Exam," which is incorporated by reference in Rule 69K-1.001, F.A.C. The application shall be accompanied by the applicable Florida Law & Rules Exam fee pursuant to Section 497.376, F.S., and Rule 69K-17.001, F.A.C. The application fee of $100 and an unlicensed activity fee of $5 shall accompany the form.

(d) An intern ~~under Section 497.375(1)(b)2.b., F.S.,~~ desiring to change to general supervision, shall submit a completed Form DFS-N1-2039 "Certification for General Supervision of Intern," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17335. The certification shall be signed by the funeral director in charge (FDIC) of the training agency where the intern is receiving training, to certify that in the FDIC's opinion the intern is competent to complete the internship under general supervision.

(e) The Division shall review the application and shall notify the applicant that the application is approved upon a determination by the Division that the application is complete, the applicant has passed the Florida Law & Rules Exam, and the applicant appears eligible to proceed to general supervision under Section 497.375, F.S. The intern may commence performance of internship duties under general supervision upon notification of approval by the Division. The Division shall provide the Board each month with a report of interns who have been approved to shift to general supervision pursuant to Section 497.375(1)(d), F.S.

Commented [WW7]: Law does not establish the time upon which the renewed internship may begin.

Commented [WW8]: The ability to restrict the move from direct to general for only one type of intern is unsupported by the law.

(9) TRAINING REPORTS.
(a) An intern's internship supervisor shall prepare and file training reports concerning the intern's performance, on a calendar quarter basis, throughout the internship, including any renewal of the internship, and whether the intern is performing under direct or general supervision. The reports shall be filed with the Division on Form DFS-N1-1747, "Supervisor's Quarterly Report of Apprentice or Intern Training," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or https://www.flrules.org/gateway/reference.asp?No=Ref-17332.
(b) Training reports shall be due 30 days after the end of the calendar quarter to which they relate. The first quarterly training report shall cover the partial calendar quarter in which the internship began. A subsequent training report shall be due for every subsequent calendar quarter of the internship. A final training report shall be filed within 30 days of the end of the quarter in which the internship was completed or terminated.
(c) Upon a change in supervisor of the intern, the exiting supervisor shall within 30 days complete and file with the Division a training report through the last date of supervision of the intern by the exiting supervisor. The new supervisor shall commence filing training reports concerning the intern.
(d) If during any quarter of the internship the funeral director intern receives instruction from more than one licensed Florida funeral director, each such instructor shall be required to certify the training on a form DFS-N1-1747, "Supervisor's Quarterly Report of Apprentice or Intern Training," which is incorporated by reference in Rule 69K-1.001, F.A.C., giving the dates during which instruction was given and the training activities engaged in by the intern under his or her supervision.
(e) No funeral director license will be issued until all required training reports have been received by the Division.
~~(10) ONLY ONE INTERNSHIP PER PERSON ALLOWED.~~
~~No person shall be granted more than one internship license in their lifetime; provided, this rule provision shall not be deemed to bar renewal of internship licenses as authorized by Section 497.375(4), F.S.~~

Commented [WW9]: Unsupported by law.

69K-18.003. Concurrent Internships.
(1) This rule implements Section 497.377, F.S.
(2) GENERAL -- ~~An applicant for concurrent internship must meet all the separate requirements for the funeral director internship, and the embalmer internship.~~ An applicant for concurrent internship shall complete and file with the Division Form DFS-N1-1732, "Application for Concurrent Intern License," effective ~~10/24~~, which is incorporated by reference and available on the Department's website http://www.myfloridacfo.com/Division/funeralcemetery/ or at

http://www.flrules.org/Gateway/reference.asp?No=Ref-17054. Unless exempt, the application shall be accompanied by payment of the application fee specified on the form. The application fee is nonrefundable.

(3) LENGTH OF INTERNSHIP.

(a) One year of full-time internship training served concurrently, consisting of both funeral director and embalming activities, shall be required to satisfy the requirement of a concurrent internship under Section 497.377, F.S. "Full-time" shall be deemed and construed to mean training comprising at least 40 hours each week for at least fifty weeks.

(b) A concurrent internship shall not begin prior to approval of the internship application by the board. A concurrent internship shall be deemed to begin on the day after the Board approves the internship application; provided, an intern may on the internship application request an internship start date of up to 21 days after Board approval of the internship application, and such request shall be granted.

(c) ~~The funeral director portion of a concurrent internship shall terminate at the end of the 365th day after the internship began, unless renewed by the Board pursuant to Section 497.375(4), F.S. A funeral director internship may not be extended, but may be renewed subject to the requirements of Sections 497.375(4)(b) and (c), F.S.~~

~~(d) The embalmer portion of the concurrent internship may not be renewed pursuant to Section 497.375(4)(b), F.S. The embalmer portion of a concurrent internship shall terminate 365 days after issuance of the concurrent internship license, unless extended due to personal injury or illness of the intern as specified in Rule 69K-18.001, F.S.~~

A concurrent internship may be renewed pursuant to Section 497.377.

~~(4) APPLICABILITY OF Section 497.375(1)(b)2, F.S., TO CONCURRENT INTERNSHIPS.~~

~~(a) Section 497.375(1)(b) 2., F.S., regarding commencing a funeral director internship while~~

Commented [WW10]: Repetitive to sentence immediately before.

Commented [WW11]: Cannot locate support in law for this requirement.

Commented [WW12]: A concurrent internship can be renewed due to illness, personal injury, or **other substantial hardship** beyond her or his reasonable control or demonstrates that she or he has completed the requirements for licensure as a funeral director but is awaiting the results of a licensure examination. See s. 497.377(2)(d)2.

~~enrolled in a course of study, may be utilized by concurrent internship applicants as regards the education requirements for funeral director licensure, but not as regards the education requirements for embalmer licensure. A concurrent internship license application will be denied unless the applicant has, as of the date of application for concurrent internship is received by the Division, completed the educational requirements applicable to embalmer internships pursuant to Sections 497.370(2) and 497.368(1)(d), F.S.~~

(~~4~~) EDUCATION PREREQUISITES FOR CONCURRENT INTERNSHIP. Applicants for a concurrent internship license may satisfy the education requirements of ~~Sections 497.368~~ Sections 497.370 and 497.375, F.S., by compliance with subsections (a) or, (b)~~, or (c),~~ below. ~~See Rule 69K-100.035, F.A.C., for explanation of Types 1, 2, and 3 courses of study.~~

(a) Award, prior to application for concurrent internship license, of a 2-year ~~or 4-year~~ college degree or higher in any field from a ~~program that was accredited by the American Board of Funeral Science Education (ABFSE) when the degree was awarded.~~college or university accredited by a regional accrediting agency recognized by the United States Department of Education.

~~(b) Award of any 2-year or 4-year college degree, and completion of a Board approved Type 1 (combination funeral directing and embalming) course of study approved by the Board pursuant to Rule 69K-100.035, F.A.C. Both the college degree and the Type 1 course of study must have been awarded and completed prior to application for concurrent internship license.~~

~~(c) Award of a 2-year or 4-year college degree in any major; completion of a Board approved Type 3 (embalming only) course of study; and enrollment, as of date of concurrent internship license application, in a Board approved Type 1 (combination funeral directing and embalming) or Type 2 (funeral service arts) course of study. The Type 1 or 2 course of study shall be one approved by the Board pursuant to Rule 69K-100.035, F.A.C. The college degree and the Type 3 course of study must both have been awarded and completed prior to application for concurrent internship license.~~Submit evidence demonstrating that the applicant is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education (ABFSE) in a course of study in mortuary science accredited by ABFSE.

~~(5) NO PERSON SHALL BE ISSUED MORE THAN ONE CONCURRENT INTERSHIP LICENSE IN THEIR LIFETIME.~~

(6) To notify the Division of termination of supervision and/or change in supervisor, the intern must file Form DFS-N1-1734, “Notice of Change of Supervisor and/or Location”, which is incorporated by reference in paragraph 69K-18.001(2)(c), F.A.C.

69K-25.001. Licensure by Endorsement; Embalmers.

~~(1) The Board specifically finds that no presumption shall arise as to equivalence or stringency of requirements or examinations of other states except as provided by this rule, and that a determination of equivalence or stringency shall be determined in the manner set forth herein.~~

(1) The Board of Funeral, Cemetery, and Consumer Services ~~may~~ shall, upon receiving a completed application and payment of the appropriate fee issue the license applied for to an applicant who applies pursuant to Section 497.369(1)(b)2. or (1)(b)1.:

(a) Section 497.369(1)(b)2. upon determination that ~~persons~~ an applicant ~~who have~~ has successfully completed a course, ~~embracing at least~~ in the subjects specified in Section 497.368(1)(d), (e), F.S., at a school or college approved by the American Board of Funeral Service Education or by this Board and ~~who have~~ has passed an embalmer examination administered by a licensing agency of another state or The Conference of Funeral Service Examining Boards with a score of at least 75% on all sections of the examination and ~~who~~ holds a current valid license to practice embalming in the original state of licensure ~~are considered to have met standards substantially equivalent to the requirements of this state~~.

(b) Section 497.369(1)(b)1. without the requirement of passing the National Board Examination issued by The Conference of Funeral Service Examining Boards or any other educational or testing requirements, ~~to any~~ so long as the applicant ~~who~~ holds a valid license in good standing to practice embalming in another state of the United States, and ~~who~~ has engaged in the full-time, licensed practice of embalming in another state for a least 5 years.

(2) Applicants for licensure as an embalmer by endorsement must pass an examination approved by the Board of Funeral, Cemetery and Consumer Services on the local, state, and federal laws and rules relating to the disposition of dead human bodies.

(3) Applicants for licensure as an embalmer by endorsement ~~by endorsement for embalmers~~ shall complete and submit the Application For Embalmer License By Endorsement, form number DFS-N1-1707, effective ~~05/24~~, which is hereby incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-16585 and at: www.myfloridacfo.com/division/funeralcemetery/licensing#forms. Applicants applying for licensure by endorsement based upon five years of full-time employment must complete and submit the Certification of Employment History, form number DFS-N1-1775, effective ~~05/24~~, which is hereby incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-16587 and at: www.myfloridacfo.com/division/funeralcemetery/licensing#forms.

Rule 69K-25.002, F.A.C.

69K-25.002. Licensure by Endorsement; Funeral Directors.

~~(1) The Board specifically finds that no presumption shall arise to equivalence or stringency of requirements or examinations of other states except as provided by this rule, and that a determination of equivalence or stringency shall be determined in the manner set forth herein.~~

(1) The Board of Funeral, Cemetery, and Consumer Services ~~may~~ shall, upon receiving a completed application and payment of the appropriate fee issue the license applied for to an applicant who applies pursuant to Section 497.374(1)(b)2. or (1)(b)1.:

(a) Section 497.374(1)(b)2. upon determination that ~~persons~~ an applicant ~~who have~~ has successfully completed a course in mortuary science prior to 1979 at a school or college approved by the American Board of Funeral Service Education and ~~who have~~ has passed a Funeral Director Examination administered by a licensing agency of another state or the examination administered by The Conference of Funeral Service Examining Boards with a score of at least 75% on all sections of the examination and ~~who~~ holds a current valid license to practice funeral directing in the original state of licensure.

(b) Section 497.374(1)(b)1. without the requirement of passing the National Board Examination issued by The Conference of Funeral Service Examining Boards or any other educational or testing requirements, so long as the applicant holds a valid license in good standing to practice funeral directing in another state of the United States, and has engaged in the full-time, licensed practice of funeral directing in another state for a least 5 years.

(2) Applicants for a funeral director license by endorsement must pass an examination approved by the Board of Funeral, Cemetery and Consumer Services on the local, state, and federal laws and rules relating to the disposition of dead human bodies.

~~(3) If licensed subsequent to October 1, 1979, those who hold an associate degree in mortuary science from a school or college approved by the American Board of Funeral Service Education or by this Board and have met the examination requirements as stated in subsection (2) are considered to have met standards substantially equivalent to this state.~~

(~~3~~4) Applicants for a funeral director license by endorsement ~~Applicants for licensure by endorsement for funeral director~~ shall complete the Application For Funeral Director License By Endorsement, form number DFS-N1-1721, effective ~~05/24~~, which is hereby incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-16586 and at: www.myfloridacfo.com/division/funeralcemetery/licensing#forms. Applicants applying for licensure by endorsement based upon five years of full-time employment must complete and submit the Certification of Employment History, form number DFS-N1-1775, incorporated by reference in Rule 69K-25.001, F.A.C.

Remaining rules for consideration 2026-27:

69K-7.001 Care and Maintenance Trust Fund Deposits.

Commented [WW13]: This can probably be repealed.

(1) The cemetery company is obligated to pay into the Care and Maintenance Trust Fund ten percent (10%) of the purchase price of burial rights as outlined in Section 497.268, F.S.

(2) Ten percent (10%) of the down payment and ten percent (10%) of each payment allocated to burial rights shall be paid to the trust fund until the full obligation is fulfilled.

(3) If the contract does not provide for the allocation of payments as anticipated in subsection (2), above, such payments shall be allocated as follows:

(a) For deferred payment contracts the trust liability as described in subsection (1), shall be divided by the total sales price.

(b) This percentage will then be applied to all payments received including the down payment and the value of credits given to determine the amount to be deposited in the care and maintenance trust fund.

(c) The percentage payments required to be deposited on each payment shall be carried out two places and the amount of deposit required may be rounded off to the nearest dollar as long as the total amount required to be deposited has been fully deposited when the contract has been fully paid.

(4) One hundred percent (100%) of all special endowments must be set aside in special trust account or a savings account in a bank or savings and loan association located within and authorized to do business in this state; or deposited in the care and maintenance trust fund. If a contract provides for a separate amount to be paid for care and maintenance, it shall be considered a special endowment. In such cases, the cemetery company shall pay the required percentage on the sum paid for the right and the amount of the endowment.

(5) If the contract contains terms which require a greater deposit to the care and maintenance trust fund or a more timely deposit, the terms of the contract shall prevail.

Rulemaking Authority 497.103 FS. Law Implemented 497.266, 497.267, 497.268, 497.269 FS. History–New 3-22-63, Amended 4-20-63, Renumbered from 3-8.01 to 3D-30.01 on 9-8-75, Amended 1-27-81, Formerly 3D-30.01, 3D-30.001, Amended 2-1-95, 12-4-95, 5-27-98, Formerly 3F-7.001.

69K-7.0012 Care and Maintenance Trust Fund Withdrawals.

(1) Definitions

As used in this rule the following definitions apply:

~~(a) "Board" refers to the Board of Funeral, Cemetery, and Consumer Services.~~

~~(b) "Division" refers to the Division of Funeral, Cemetery, and Consumer Services.~~

(c) "Care and maintenance trust fund accounting year" refers to the twelve consecutive month period established and used by the Care and Maintenance Trust Fund trustee or servicing agent of the trust fund for trust fund tax and annual reporting purposes.

(d) "Change of distribution method" refers to changing from the net income withdrawal method to the total return withdrawal method, or from the total return withdrawal method to the net income withdrawal method.

(2) Procedure for making withdrawal election.

(a) Regarding the election referenced under Section 497.2675(2), F.S., the initial election and each subsequent change of election shall be made by filing a completed, signed, and dated Election of Care and Maintenance Trust Fund Distribution Method, Form DFS-N1-2177, effective 05/2016 with the Division at least 60 days prior to the effective date specified in the election. This form is incorporated herein by reference, and may be obtained from http://www.flrules.org/Gateway/reference.asp?No=Ref-07502, or from the Board's office or from the Board's website http://www.myfloridacfo.com.

(b) Upon receipt by the Division of a completed, signed, and dated Election of Care and Maintenance Trust Fund Distribution Method, Form DFS-N1-2177, effective 05/2016, the Division shall affix the Division's dated receipt stamp to the form and shall within five business days return a copy of the form as thus stamped to the contact person shown on the form.

(c) The Division shall provide the Board with an informational copy of all election forms filed with the Division.

(3) Calculation of distribution under total return withdrawal method.

(a) The total return withdrawal percentage may be any amount from zero percent up to but not exceeding five percent, as specified on the election filed with the Division.

(b) For purposes of calculating the average fair market value of the trust under Section 497.2675(2)(b), F.S., the fair market value of the trust shall be determined as of January l of each year used in the averaging calculation.

(c) The fair market value of trust assets shall be determined by the trustee or the servicing agent who is not under common control with the cemetery licensee to whom the trust relates. Neither the trustee nor the servicing agent shall rely on asset valuations provided by or on behalf of the cemetery. Provided, a cemetery that is authorized to act as its' own

trustee under Section 497.266(2), F.S., may calculate the fair market value of its trust assets and calculate the amount of its total return distribution.

(d) The amount to be distributed under either the net income withdrawal method, or the total return withdrawal method, shall be calculated by the trustee, or the servicing agent who is not under common control with the cemetery licensee, to whom the trust relates. Provided, a cemetery that is authorized to act as its own trustee under Section 497.266(2), F.S., may calculate the fair market value of its trust assets and calculate the amount of its total return distribution.

(e) Application of Sections 497.2675(2)(b) l. and 2., F.S.

1. The phrase "if assets are added" as used in Section 497.2675(2)(b)1., F.S., refers to deposits to trust of the amounts required to be deposited under Section 497.268, F.S., and any extraordinary deposits to trust such as but not limited to deposits to correct deficiencies in prior period deposits.

2. The phrase "if assets are distributed" as used in Section 497.2675(2)(b)2., F.S., refers to extraordinary distributions from the trust pursuant to written consent of the licensing authority under Section 497.266(3), F.S.

3. The application of Sections 497.2675(2)(b)1. and 2., F.S, are illustrated in the examples below.

Example A

Example A ignores growth or reduction in investment values, and distributions from the trust. Assume the trustee or servicing agent wants to determine the average fair market value of the trust for a 2016 distribution under the total return withdrawal method. This computation will involve averaging the trust fair market value as of January 1, 2014, 2015, and 2016. Assume the fair market value of the trust was $100 on 1-1-2014. Assume that cemetery sales of interment spaces resulted in deposits to the Care and Maintenance Trust Fund of $2.00 in 2014 and $2.20 in 2015. The computation of average fair market value for the 2016 distribution under the total return withdrawal method will be as follows:

Table A1

	2014	2015	2016
Beginning market value Principal addition	$100	$102.00	$104.20
	2.00 + 2.20	2.20	

FMV for averaging purposes	$104.20	$104.20	$104.20

The average fair market value for the 2016 distribution equals $104.20.

Because the $2.00 added in 2014 is not reflected in the 2014 beginning balance, it is added to that balance for purposes of computing average fair market value. Because the $2.20 in deposits occurred during 2015, it is added to both the 2015 balance and the 2014 balance. The deposits in 2014 and 2015 will necessarily be reflected in the opening fair market value in 2016, so they are not separately added in that year.

Assume that cemetery sales of interment spaces resulted in deposits to the Care and Maintenance Trust Fund of $2.15 in 2016. The average trust fair market value calculation for a 2017 distribution under the total return withdrawal method will be as follows:

Table A2

	2015	2016	2017
Beginning market value	$102.00	$104.20	$106.35
Deposits to trust	2.20 + 2.15	2.15	
FMV for averaging purposes	$106.35	$106.35	$106.35

The average fair market value for the 2017 distribution equals $106.35.

Example B

Same facts as in Example A, except that in 2015 the licensing authority approved an extraordinary distribution from the trust in the amount of $5.00. The average trust fair market value calculation for a 2016 distribution under the total return withdrawal method will be as follows:

Table Bl

	2014	2015	2016
Beginning market value	$100	$102.00	$99.20
Deposits to trust	2.00 + 2.20	2.20	
Extraordinary distribution	(5.00)	(5.00)	
FMV for averaging purposes	$99.20	$99.20	$99.20

The average fair market value for the 2016 distribution equals $99.20.

Because the $2.00 added in 2014 is not reflected in the 2014 beginning balance, it is added to that balance for purposes of computing average fair market value. Because the $2.20 in deposits occurred during 2015, it is added to the 2015 balance and the 2014 balance. Because the $5.00 extraordinary withdrawal occurred during 2015, it is subtracted from the 2015 balance and the 2014 balance. The deposits in 2014 and 2015, and the withdrawal in 2015, will necessarily be reflected in the opening fair market value in 2016, so they are not separately added or deducted for that year.

The average trust fair market value calculation for a 2017 distribution under the total return withdrawal method will be as follows:

Table B2

	2015	201 6	2017
Beginning market value	$102.00	$99.20	$101.35
Deposits to trust	2.20 + 2.15	2.15	
Extraordinary distribution	(5.00)		
FMV for averaging purposes	$101.35	$101.35	$101.35

The average fair market value for the 2017 distribution equals $101.35.

Example C

Same facts as in Example B, except that we assume that the aggregate net effect of rise and fall of investment values resulted in the following actual beginning fair market values: 2015, $103.00; 2016, $110.

Table Cl

	2014	2015	2016	Avg FMV
Beginning market value	$100	$103.00	$110	
Deposits to trust	2.00 + 2.20	2.20		
Ordinary distribution	(5.00)	(5.00)		
FMV for averaging purposes	$99.20	$100.20	$110.00	$103.13

The average fair market value for the 2016 distribution equals $103 .13.

Assume the actual fair market value at the beginning of 2017 is $115. The average trust fair market value calculation for a 2017 distribution under the total return withdrawal method will be as follows:

Table C2

	201 5	201 6	2017	Avg FMV
Beginning market value	$103.00	$110	$115	
Deposits to trust	2.20 + 2.15	2.15		
Extraordinary distribution	(5.00)			
FMV for averaging purposes	$102.35	$112.15	$115	$109.83

The average fair market value for the 2017 distribution equals $109 .83.

(4) For purposes of computing average fair market value of the trust, except for adjustments to comply with Sections 497.2675(2)(b)l. and 2., F.S., the fair market value of trust assets as of each January 1 shall not be adjusted to reflect accrued liabilities or accrued but not yet received deposits.

(5) Application of Prudent Investor Rule.

(a) Pursuant to Sections 497.266(4) and 497.458(5)(a), F.S., trust assets may be invested as prescribed in Section 518.11, F.S., entitled "Investments by Fiduciaries; Prudent Investor Rule." As regards to care and maintenance trusts and preneed trusts under chapter 497, F.S., investments under Section 518.11, F.S., are subject to the prohibitions set forth in Sections 497.458(l)(h), (i) and 497.458(5)(a), F.S.

(b) For purposes of application of Section 518.11, F.S., the trustee of the Care and Maintenance trust shall consider the primary purpose of the Care and Maintenance Trust Fund to be providing for the future care and maintenance of the cemetery, as defined at Section 497.005(11), F.S., after the cemetery ceases to produce any revenue stream from which care and maintenance costs may be paid.

(c) Real Estate. The fair market value of real estate as a trust asset shall be determined by a written appraisal obtained by the trustee, issued by a licensed real estate appraiser, which appraisal was made within twelve months prior to January 1 of the year for which the distribution under the total return withdrawal method is being calculated. For example, if an average trust fair market value is being calculated for a distribution in 2016 under the total return withdrawal method, the appraisal must have been done in the twelve months prior to January 1, 2016. If such appraisal requirement is not complied with, the real estate shall be assigned zero value as a trust asset in each year included in the average trust fair market value calculations for such distribution.

(6) Monitoring Trust Fair Market Value; action or adverse trends.

(a) The Division shall monitor the fair market value of care and maintenance trust funds as reported by trustees in annual trust reports. If the Division detects that the ending fair market value of the trust for the most recent calendar year has decreased as compared to the average ending balance of the trust for over the three most recent calendar years, the Division shall set the matter for review and action by the Board at a regularly scheduled meeting of the Board, and shall provide the licensee with 30 days advance notice that the matter will be set before the Board. The Board shall thereupon review the matter and for the protection of the care and maintenance trust fund may order any one or a combination of the following corrective measures as the Board finds appropriate for the protection of the care and maintenance trust fund:

1. A specified reduction in dollars in allowable withdrawals from the trust for a specified period,

2. A reduction in the total return withdrawal percentage for a specified period,

3. A requirement that the licensee switch to and use the net income withdrawal method for a specified period.

(b) Exceptions. The Board may in particular cases temporarily except a licensee that comes before the Board under paragraph (a), above, from imposition of corrective measures, if the Board finds that the cause of the adverse trend in the fair market value of the trust is due to one or more unusual temporary factors affecting all or a majority of the licensed cemeteries in the state or in a particular area of the state, and that for the protection of such cemeteries from insolvency the exception is necessary and appropriate.

(7) Miscellaneous provisions.

(a) All cemetery licensees shall continue to use the net income withdrawal method under Section 497.2675, F.S., on and after 7-1-2016, until the effective date of an election filed by the licensee to use the total return withdrawal method, which initial election shall be made by the licensee in accordance with this rule. Each subsequent change of election shall be made by filing a separate additional completed, signed, and dated Form DFS-N1-2177 in accordance with this rule.

(b) The effective date of an initial election and any subsequent change in election shall coincide with the first day of a care and maintenance trust fund accounting year to which the election relates. All elections shall be prospective only; no retroactive elections shall be allowed.

(c) If a cemetery has more than one Care and Maintenance Trust Fund under Section 497.266, F.S., a separate election shall be made and filed for each trust fund.

(d) Form DFS-N1-2177 must be signed by an authorized representative of the licensee.

(e) No Election of Care and Maintenance Trust Fund Distribution Method, Form DFS-NI-2177, effective 05/2016, shall be filed unless the cemetery licensee has been advised by the Care and Maintenance Trust Fund trustee or servicing agent that the trustee or servicing agent will be able to implement the change of distribution method indicated in the form to be filed.

(f) No trustee or servicing agent shall implement a change in distribution method unless the trustee or servicing agent has in its possession a copy of Form DFS-N1-2177 regarding the change of distribution method, which copy bears the Division's receipt stamp.

(g) A trustee shall not make a distribution under the total return withdrawal method unless the trustee or servicing agent determines it has reliable records establishing all fair market values needed to calculate average fair market value of the trust in prior periods included in the averaging calculation.

(8) Annual Report of Trustee.

(a) Any entity which for all or any part of a calendar year served as trustee of a Care and Maintenance Trust Fund under Section 497.266, F.S., shall by not later than April 1 of the following year file a Care and Maintenance Trust Fund, Annual Trustee Report (Revised), Form DFS-N1-2178, effective 05/2016, for all or that portion of the said calendar year in which it acted as trustee of the trust. This form is incorporated herein by reference, and may be obtained from http://www.flrules.org/Gateway/reference.asp?No=Ref-07503, or from the Board's website, http://www.myfloridacfo.com.

(b) No distribution to a cemetery licensee from the licensee's Care and Maintenance Trust Fund shall be made or allowed in any period during which the Care and Maintenance Trust Fund is delinquent in filing required reports under Section 497.269, F.S., and this rule.

Rulemaking Authority 497.103, 497.2675 FS. Law Implemented 497.2675, 497.268, 497.269 FS. History–New 10-27-16.

69K-7.002 Percentage Deposits Required on Turf Tops, Lawn Crypts, Etc.

Commented [WW14]: This can be repealed.

The percentages required to be deposited in the care and maintenance fund for crypts commonly known as turf tops, lawn crypts, Westministers, and similar types, shall be computed in the same manner and at the same rate as a mausoleum if the crypt is above or partially above the natural contour of the land, unless:

(1) It is covered by at least fifteen inches of earth and sod and has a surrounding grade or slope of no greater than thirty degrees from the top of the earth and sod to the natural contour of the ground; or

(2) The base of a triangle created by the fill extends at least twice the distance from the crypt as the crypt and earth covering extends above the normal contour of the ground; or

(3) The retaining wall on the outer edges of the garden does not exceed 24 inches in height above the natural contour of the ground.

Rulemaking Authority 497.103 FS. Law Implemented 497.268 FS. History–New 7-20-73, Renumbered from 3-8.07 to 3D-30.07 on 9-8-75, Formerly 3D-30.07, 3D-30.007, Amended 7-22-97, Formerly 3F-7.002.

69K-7.008 Preneed Trust Funds – Withdrawal of Income Earned Thereon.

Commented [WW15]: Unsupported by law. Repeal.

At the time of withdrawal a preneed licensee shall take reasonable steps to evaluate the income derived from that particular contract. A preneed licensee may not use any formula

to make the evaluation if such formula is used as a guise to make unauthorized withdrawals or results in accelerated or excessive withdrawals above the amounts allowed by Chapter 497, F.S., and the rules promulgated thereto.

Rulemaking Authority 497.103 FS. Law Implemented 497.458 FS. History–New 8-26-85, Formerly 3D-30.32, Amended 1-4-88, Formerly 3D-30.032, Amended 4-10-97, Formerly 3F-7.008.

69K-7.016 Duties and Powers of Trustee; Authorized Investments.

Commented [WW16]: Contained in Section 497.458. Repeal.

(1) Each trustee serving pursuant to a trust agreement approved by the Board shall be responsible for the administration of the trust and the investment of its assets in a manner consistent with Chapter 497, F.S.

(2) The duties and responsibilities of the trustee shall not be shared with the preneed licensee that established the trust or discharged to any third party associated with investment decisions. An advisor to the trustee may be appointed by the preneed licensee, however the recommendations of such advisor shall not be binding on the trustee and the trustee's liability shall not be diminished or abrogated in any way as a result of following the advice of the advisor.

(3) The preneed licensee or the advisor appointed by the preneed licensee is authorized to request the trustee to invest trust assets in whole or in part, in tax-free investments. An investment advisor is authorized to make non-binding recommendations to the trustee concerning specific investments.

(4) The trustee shall have the powers set forth in Part VIII of Chapter 736, F.S., to the extent they are not inconsistent or do not conflict with Chapter 497, F.S.

(5) The trustee shall have the power to invest the trust assets in those investments set forth in Section 215.47, F.S., however, there shall be no limitation on the portion of the trust assets that are allocated to tax-free investments pursuant to a request as stated in subsection (3) of this rule.

Rulemaking Authority 497.103 FS. Law Implemented 497.458 FS. History–New 8-9-94, Amended 4-29-99, Formerly 3F-7.016.

69K-7.017 Trust Fund Deposits; Funeral and Burial Services and Merchandise Preneed Contract Payments.

Commented [WW17]: Target for repeal. Likely unnecessary.

(1) All payments paid toward any preneed funeral or burial service or merchandise contract shall be trusted pursuant to Section 497.458 or 497.464, F.S., unless such merchandise or service is sold by a cemetery company and such merchandise is delivered or such service performed within 120 days after receipt of the final payment in accordance with Section 497.283, F.S. This section shall not apply to preneed contracts sold pursuant to Section 497.462, F.S.

(2) If the contract payments are made in deferred installments for merchandise and services which are not intended to be delivered as provided in subsection (1), above, then the funds paid on each installment shall be allocated in the manner set forth in the contract.

(3) If the contract does not provide for the allocation of payments as anticipated in subsection (2), above, such payments shall be allocated as follows:

(a) Funds collected for preneed services or merchandise contracts which comply with Section 497.458, F.S., shall be deposited in trust as follows: 70 percent of funds collected for services; 100 percent of funds collected for cash advance items; and 30 percent of funds collected or 110 percent of wholesale cost, whichever is greater, for merchandise. For deferred payment contracts the liability for each portion of the contract (services, cash advances and merchandise) shall be divided by the deferred payment price to arrive at the percentages for each portion of the contract. These percentages shall be applied to payments received to determine the amount to be deposited in trust. Once the total liability to the trust is fulfilled, no further deposits need be made to the trust.

(b) Funds collected for preneed services or merchandise contracts which comply with Section 497.464, F.S., shall not require allocation. The contract purchaser must make all payments to the Trustee or its servicing agent. The preneed licensee (seller) may receive a distribution of 10% of funds collected by the Trustee. Once the total liability to the trust is fulfilled, no further deposits need be made to the trust.

(4) In the event that funds deposited into trust exceed the amount required by the contract or these rules, the preneed licensee may withdraw the excess funds upon establishing that the total liability to the fund will equal the total corpus on deposit and the funds on deposit can be allocated and balanced on a contract-by-contract basis.

(5) Monthly reports shall be maintained showing the monies received and monies trusted on a contract-by-contract basis. The report shall also reflect the total monies received and trusted and that such trust deposits reconcile with the total monthly contract obligations.

(6) Documentation shall be maintained and be readily retrievable which shall show the calculation of trust liability and the percentage of payments made into the appropriate trust fund.

Rulemaking Authority 497.103 FS. Law Implemented 497.282(8)(d), 497.283, 497.458, 497.462, 497.464 FS. History–New 2-1-95, Amended 5-27-98, 3-5-01, Formerly 3F-7.017, Amended 9-9-18.

69K-7.015 Trust Agreements and Trustees. (69K-7.020 comes up as this)

Commented [WW18]: Target for repeal. From law.

(1) Any trust company or a state or national bank holding trust powers or a savings and loan association holding trust powers shall be considered a trustee qualified to serve as a trustee of a preneed trust under Section 497.458 or 497.464, F.S., or a pre-construction trust under Section 497.272, F.S.

(2) Any trust company or a state or national bank holding trust powers shall be considered a trustee qualified to serve as trustee of a care and maintenance trust under Section 497.266, F.S.

(3) All trust agreements and all amendments thereto must be submitted to and approved by the Board of Funeral, Cemetery, and Consumer Services.

(4) Each trust agreement must provide for:

(a) Resignation of the trustee.

(b) Replacement of trustee by trustor/settlor/grantor.

(c) Transfer of assets of the trust.

(5) Transfer of assets to another trust agreement is permissible provided the trust agreement was approved by the Board, if applicable, and the terms of both trust agreements are consistent and meet the requirements of Rule 69K-7.020, F.A.C.

(6) Transfer of assets of any trust must be made only to a qualified trustee as set forth in subsection (1) or (2), above, and only after written notice to the Department and the Board of the name, address, and location of the successor trustee; the effective date of the selection thereof; and the transfer of the assets which must be certified to by the replaced or resigned trustee to which shall be attached a receipt thereof from the successor trustee.

Rulemaking Authority 497.103, 497.465 FS. Law Implemented 497.266, 497.285, 497.465 FS. History–New 4-25-94, Amended 4-6-03, Formerly 3F-7.015, Amended 3-1-20, Technical Change 3-9-26.

69K-7.015 Trust Agreements and Trustees.

(1) Any trust company or a state or national bank holding trust powers or a savings and loan association holding trust powers shall be considered a trustee qualified to serve as a trustee of a preneed trust under Section 497.458 or 497.464, F.S., or a pre-construction trust under Section 497.272, F.S.

(2) Any trust company or a state or national bank holding trust powers shall be considered a trustee qualified to serve as trustee of a care and maintenance trust under Section 497.266, F.S.

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(6) Transfer of assets of any trust must be made only to a qualified trustee as set forth in subsection (1) or (2), above, and only after written notice to the Department and the Board of the name, address, and location of the successor trustee; the effective date of the selection thereof; and the transfer of the assets which must be certified to by the replaced or resigned trustee to which shall be attached a receipt thereof from the successor trustee.

Rulemaking Authority 497.103, 497.465 FS. Law Implemented 497.266, 497.285, 497.465 FS. History–New 4-25-94, Amended 4-6-03, Formerly 3F-7.015, Amended 3-1-20, Technical Change 3-9-26.

Commented [WW19]: Target for repeal. From law.

69K-8.002 Cancellation of Contracts.

(1) A purchaser may cancel a preneed contract in accordance with the terms of the contract, statute and rules that were effective at the time the contract was written.

Commented [WW20]: Target for repeal. From law.

(2) If the contract requires a greater refund than the statute or rules, the terms of the contract must be honored.

(3) When a preneed contract or cemetery contract is canceled, the accumulated earnings allocable to such contract shall be paid to the preneed licensee as provided by the statute and rules in effect when the contract was written.

(4) The seller of a preneed or cemetery contract may not cancel the contract unless the purchaser is in default under the terms of the contract or pursuant to the applicable statute and rules.

Rulemaking Authority 497.103 FS. Law Implemented 497.459 FS. History–New 1-29-81, Formerly 3D-30.27, 3D-30.027, Amended 7-6-97, Formerly 3F-8.002.

69K-8.003 Cancellation of Preneed Contracts; Reasonable Time Defined.

Commented [WW21]: Needs attention.

For purposes of section 497.459(2)(b)1., F.S., a reasonable time for delivering merchandise consisting of "caskets" as defined by section 497.005(10), F.S., and "outer burial containers" as defined by section 497.005(50), F.S., shall be 24 hours from the time the purchaser or agent requests that the preneed licensee deliver the merchandise. The preneed licensee shall record the date and time that the request for delivery is received from the purchaser or agent in a log kept for that purpose. In the event a preneed licensee fails to maintain such log and record a request for delivery, then the date and time of such request shall be the date and time designated by the purchaser or agent.

Rulemaking Authority 497.103 FS. Law Implemented 497.459(2)(b)1. FS. History–New 4-25-94, Amended 3-5-01, Formerly 3F-8.003.

69K-8.004 Preneed Contracts; Miscellaneous Provisions.

(1) Funds received on a preneed contract must be credited to the specific contract and all calculations regarding deposits to trusts or refunds to purchasers must be based on the amount paid by the purchaser or his representative.

(2) An overpayment on a preneed contract shall be refunded to the purchaser by the preneed licensee upon cancellation or fulfillment. With regard to all contracts upon which installment payments are being received on the date this rule becomes effective, any overpayment will be refunded following the receipt or the last installment payment, so long as the overpayment is $5 or greater.

(3) Misapplied or unidentified preneed funds shall be transferred to the correct preneed account immediately upon discovery, and shall be considered deposited timely if the funds were deposited in the trust in accordance with sections 497.458 and 497.464, F.S.

(4) Preneed accounts which are under or over trusted due to computer or manual miscalculations must be corrected immediately upon discovery, on a contract per contract basis.

(5) An executed preneed contract may be amended if the contract change does not affect the description or sales price of merchandise, or the sales price of services or cash advances, as reflected on the originally executed contract. All contract changes must be initialed and dated by the contract purchaser. The contract must be clearly legible before and after any amendments. A contract amendment can be in the form of an addendum to the contract provided the addendum is signed by the purchaser and preneed licensee or cemetery company and is attached to the original contract. If a contract is rewritten, funds credited to the original contract shall be transferred to the rewritten preneed contract within 30 days, but if the rewritten contract is canceled within thirty days, the old contract is reinstated and all funds paid by the purchaser on the new contract shall be returned to the purchaser.

Rulemaking Authority 497.103 FS. Law Implemented 497.457, 497.458, 497.459 FS. History–New 3-20-95, Amended 6-15-95, 8-17-95, 4-10-97, 2-18-03, Formerly 3F-8.004.

69K-8.005 Preneed Contracts Funded by Life Insurance.

(1) A preneed contract may be funded by a life insurance policy payable upon death of the preneed contract beneficiary, provided that no such policy may be sold if its maturity value is less than the amount of the services, merchandise or burial rights to be provided under the preneed contract. For purposes of this rule, maturity value shall mean the amount payable on the policy when all premiums for the policy have been paid, or all conditions for full payment of the policy amount have been met, and must at least equal the cost to the preneed purchaser of the services, merchandise, or burial rights established at the time the preneed contract is executed.

(2) Preneed contracts funded by life insurance may be sold only by persons holding a valid preneed license pursuant to section 497.452, F.S.

(3) Any insurance policy used to fund a preneed contract must be sold in a manner that complies with section 626.785, F.S.

(4) All preneed contracts funded by insurance must meet the requirements of section 497.282, F.S., and with regard to section 497.282(8), F.S., the contract must contain the following provisions:

(a) Disclosure of the purchase price, itemized to reflect the specific costs allocated to each service, cash advance or merchandise purchased. Where applicable, merchandise specifications shall be included;

(b) Disclosure that a life insurance policy has been purchased to fund the monies needed for some or all of the purchase price and will be used to fund the contract at the time of the purchaser's death in one of the following ways:

1. The life insurance policy proceeds will constitute the full payment for the contract purchase price at purchaser's death; or

2. Where the insurance will constitute only a portion of the full payment for the purchase price at purchaser's death, the contract shall clearly disclose that the purchaser has an obligation to pay the difference between the proceeds of the life insurance and the purchase price of the prearranged funeral.

(c) A clear disclosure that no funds are being paid into trust under the preneed contract and that the funding of the contract is through the payment of premiums to purchase life insurance;

(d) What penalties will occur in the event purchaser fails to make premium payments on the funding insurance policy;

(e) A clear disclosure of the impact upon the preneed contract and any penalty to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;

(f) That all purchasers are entitled to terminate or cancel their preneed contract at any time and that all purchasers are entitled to terminate or cancel the funding insurance policy within 30 days of purchase and receive a full refund of all monies paid for the contract or funding insurance policy;

(g) The following statement in bold print: The Board of Funeral, Cemetery, and Consumer Services regulates preneed contracts in Florida. Should you have a complaint, you should contact the Board at the Division of Funeral, Cemetery, and Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361 or by calling 1(800)323-2627.

(5) All preneed contracts shall be sequentially prenumbered.

(6) Each preneed licensee shall identify all insurance products currently used in connection with the sale of its preneed contracts. Such identification shall be provided in list format to be kept on file at the Board office. The identification shall include the following information for each insurance product listed:

(a) Name and address of insurer;

(b) Form number of master insurance policy;

(c) Form number of any accompanying endorsements, riders, and application forms.

(d) Evidence of approval by the Florida Office of Insurance Regulation.

(7) The Board may request for reference purposes a sample copy of any insurance policy or accompanying forms it does not currently have on file.

Rulemaking Authority 497.103 FS. Law Implemented 497.282, 497.451, 497.452, 497.454 FS. History–New 2-15-96, Formerly 3F-8.005.

69K-8.006 Description of Merchandise on Preneed Contracts.

(1) Preneed contracts shall contain a description of merchandise purchased with sufficient information to describe the merchandise to the purchaser or any other person. The description of merchandise can be included on an addendum form to the contract, provided the addendum form is approved by the Board of Funeral, Cemetery, and Consumer Services. The approval of the Board shall be conditioned upon the addendum form containing the applicable information required by subsections (2)-(5), and being presented in a clear and readable form.

(2) If the product is sold to the purchaser generically, then a general description shall be sufficient, providing the following information is included:

(a) For all types of merchandise.

Materials used in construction: type of wood, gauge of steel, marble, concrete, granite, bronze, fiberglass, plastic, etc.

(b) For caskets.

1. Types of handles: swing bar, fixed bar or no handles.

2. Color: exterior and interior.

3. Interior material.

4. Full or half couch.

5. Gasketed or non-gasketed.

(c) For memorials or monuments.

1. Size.

2. Design.

(d) For outer burial containers.

1. Lined (including types of lining).

2. Adhesive lid/non adhesive lid.

(3) If the sales presentation uses the manufacturer's name and specifications, then the name of manufacturer and model number shall be included on the contract in addition to color, materials and design.

(4) If at the time of need or fulfillment, the product which was sold is unavailable, the preneed licensee shall deliver a product which is of comparable or better quality and design.

(5) For the purposes of this rule, merchandise shall be considered available for delivery if the merchandise can be attained from a licensee's regular supply sources at the time of need or fulfillment.

(6) This rule shall be reviewed, and if necessary, repealed, modified, or renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 497.103(1) FS. Law Implemented 497.282(6)(c) FS. History–New 4-10-97, Amended 7-5-01, 2-18-03, Formerly 3F-8.006, Amended 2-8-24.

69K-8.007 Processing Fee.

(1) As used herein, a "processing fee" means a fee paid by a customer for services provided to process and archive a contract and related documents.

(2) If a licensee or preneed licensee includes a processing fee on a preneed or at need contract, the following requirements shall be met:

(a) The fee shall be disclosed to the purchaser on the licensee's or preneed licensee's General Retail Price List, Disclosure Price List or any printed or typewritten disclosure of fees that the licensee uses to comply with section 497.282(2), F.S.

(b) The fee shall be clearly disclosed as a processing fee in the contract.

(c) The fee shall not be included, or implied to be included, in any other fee charged to the purchaser.

(d) The fee may be charged on any contract for burial rights, merchandise or services even if the rights, merchandise or services were purchased on separate contracts at different dates. However, a licensee shall not charge the fee on a contract for the purchase of an opening and closing of a grave or installation of a vault in a grave in which burial rights have previously been purchased.

(3) The processing fee is subject to the trusting requirement for services unless the seller has qualified to write contracts pursuant to section 497.461 or 497.462, F.S.

(4) This rule does not apply to contracts written prior to this rule's effective date.

Rulemaking Authority 497.103, 497.282 FS. Law Implemented 497.103, 497.277, 497.282(2), 497.282(6)(b) FS. History–New 11-8-00, Formerly 3F-8.007.

69K-8.008 Defaults on Sold or Discounted Installment Sales Contracts or Promissory Notes.

Commented [WW22]: Target for repeal. Inconsistent with law and covered in 497.459.

(1) Default by the purchaser on installment sales contracts or promissory notes shall not entitle the Cemetery Company to take credit for the amount deposited to the Care and Maintenance Trust Fund, unless the amount deposited has been returned to the purchaser.

(2) Installment sales contracts or promissory notes that include pre-need burial merchandise defaulted by the purchaser shall entitle the cemetery company to withdraw the amount deposited in the Merchandise Trust Fund.

Rulemaking Authority 497.103(1) FS. Law Implemented 497.458, 497.459, 497.266, 497.267, 497.283 FS. History–New 1-27-81, Formerly 3D-30.25, 3D-30.025, Formerly 69K-100.025.

69K-9.002 Residential Solicitations.

Commented [WW23]: 497.321 does not exist.

(1) For purposes of this rule, residential solicitation shall mean: "a telephone call to, or an in-person visit at, any place a person defines as his or her home."

(2) No licensee or preneed licensee, officer, director, employee, or agent shall initiate, conduct, or attempt to conduct a pre-need residential solicitation, for the purpose of selling

or other transfer of burial rights, merchandise, or services, after the hour of 9:00 p.m. and before the hour of 9:00 a.m. of the next calendar day except upon the prior express request of the person solicited.

(3) No licensee or preneed licensee, officer, director, employee, or agent shall knowingly initiate, conduct, or attempt to conduct pre-need residential solicitation, for the purpose of selling or other transfer of burial rights, merchandise, or services, of any person, or of any family of any person, who is suffering ill health except upon the prior express request of the person solicited.

Rulemaking Authority 497.103, 497.164 FS. Law Implemented 497.164, 497.321 FS. History–New 4-16-86, Formerly 3D-30.034, Amended 3-27-03, Formerly 3F-9.002.

69K-9.003 Solicitation in Healthcare Facilities.

Commented [WW24]: Include hospice and palliative care.

(1) For purposes of the rule, "healthcare facilities" shall include hospitals and nursing homes.

(2) The prohibitions contained in this rule shall not encompass contact made by telephone call to individuals who are residents of or patients in healthcare facilities if said contacts are made to a telephone which operates on a private, outside line which is under the exclusive control of the resident or patient and which operates independently of the healthcare facility's normal business telephone system.

(3) The Board finds that the uninvited solicitation of sales for burial rights, funeral merchandise or funeral services of persons who are residents of or patients in healthcare facilities is not in the public interest and constitutes intimidating, overreaching and vexatious conduct. Such solicitation constitutes an uninvited invasion of personal privacy.

(4) No licensee shall solicit or cause to be solicited a person who resides in a healthcare facility unless the solicitation has been previously and expressly requested by the person being solicited.

Rulemaking Authority 497.103, 497.164 FS. Law Implemented 497.164 FS. History–New 8-4-97, Amended 5-27-98, Formerly 3F-9.003.

69K-12.001 Installation of Monuments.

Commented [WW25]: Needs to be opened to address issues.

(1) A cemetery shall require that any person engaged in the retail sale of monuments or monument services who wishes to install, place, set, or inscribe a monument shall provide

the cemetery with proof that the person has a valid license with the Department. If a cemetery wishes to require proof that a monument dealer or builder has obtained all necessary local or occupational licenses, then the cemetery shall require such an affirmative representation in the application between the cemetery and the monument dealer or builder.

(2) Pursuant to section 497.273(3), F.S., a cemetery may adopt bylaws setting forth minimum standards for monuments installed in the cemetery which can include the style and size of a monument or its foundation, the content and material of which the monument and/or foundation is to be constructed, the locations or gardens in which different monuments may be installed, the manner of installation of either a flat or upright monument, the specific location on the grave for the installation of either flat or upright monuments, the requirements for the removal and replacement of monuments in the path that any installation equipment must take to install a specific monument, and the clean-up necessary after installation. In all cases, the cemetery must comply with its own minimum standards. Nothing in this rule shall be construed to allow a cemetery to have exclusive rights to monument construction or installation within the cemetery or any part of the cemetery, except for inscriptions in community mausoleums.

(3) Pursuant to sections 497.273(3) and 497.555, F.S., all cemeteries shall permit during normal business hours licensed monument establishments to install, inscribe or repair a monument, marker or private mausoleum. Cemeteries may adopt bylaws to establish minimum standards for access. These minimum standards shall not unreasonably restrict access to the cemetery grounds, the method of transporting burial merchandise to the burial space, or increase the cost to the owner of interment or burial rights. In all cases, monument establishments and cemeteries shall comply with these minimum standards.

(4) As the cemetery is the only entity holding the records of the ownership of the burial (interment) rights it may require that a person prior to delivering a monument for installation in the cemetery shall submit an application to the cemetery showing the foundation, design, style, size and material of the monument to be installed. If required by the cemetery, the application shall include a scaled sketch of the monument showing the lettering, the family name, the location of the first names of the deceased and/or others, dates and any other items planned to be a part of the monument. If the application does not meet the minimum standards for burial merchandise and installation thereof, the cemetery shall contact the monument establishment within five (5) working days with a written notice of non-compliance. If the cemetery does not do so, the application will be deemed to be approved. The cemetery shall require the written approval of the owner(s) of

Commented [WW26]: Why such a short time period?

the burial (interment) rights and legally authorized person which shall be on the application form submitted by the monument establishment prior to scheduling installation.

(5) The cemetery is the scheduling agent for all activities conducted within the cemetery. The scheduling of burials takes priority over all other activities. The cemetery shall schedule the installation of a monument within two (2) working days of the date requested by the installing person provided all the proper authorizations and other requirements have been delivered to and approved by the cemetery. The time of installation must be set so that the installation and the clean up can be accomplished prior to the normal closing time of the cemetery. The foregoing shall be subject to change by the cemetery in the event it received notification of a death of an owner of burial rights located in such a location that the installation of the monument would interfere with the burial.

(6) In the event a burial is taking place and in the determination of the cemetery the installation of a monument will be considered an interference with the burial, the installing persons shall be required by the cemetery to withdraw until the funeral being conducted has concluded and those in attendance have left the cemetery at which time the installation of the monument may be continued.

(7) Prior to the initiation of the monument installation the cemetery shall mark the place on the grave where the monument is to be installed by placing a flag, or other marker, thereon. Nothing in this rule is intended to imply or require that a cemetery shall have to lay out or engineer a grave site for the installation of a monument. If the cemetery is requested by the monument installer to engineer the grave site, the fee for such service shall be disclosed on the cemetery's price list.

(8) After installation, the cemetery shall inspect the installation. If the installation is improper and not in compliance with the cemetery's minimum standards, the installing person shall be notified in writing postmarked within five (5) working days after installation of the manner in which the installation is not in compliance and the installing person shall have 15 days from the date of notification, in which to make the correction. In the event that the correction is not made within the said 15 days, the cemetery has the right to correct the installation and charge the installing person a reasonable charge for making the correction. A monument establishment shall be responsible for the reasonable cost of repairs needed to repair damages to property in the cemetery caused by the monument establishment's operations in the cemetery.

Commented [LC27]: Postmarked? Or simply written? 10 days

(9) The cemetery shall not be liable for improper installation of monuments not installed by the cemetery.

(10) The cemetery may remove and store any monument installed without authorization.

Commented [LC28]: Given the exclusive right to verify and approve, unapproved placements should not be permissible

(11) Nothing in this rule shall be construed as requiring a cemetery to replace stolen monuments or portions thereof, or to replace or repair monuments that are damaged due to vandalism or other causes beyond the cemetery's control.

~~(11) A cemetery shall not require any person or firm that installs, places, or sets a monument to obtain any form of insurance, bond, or surety or make any form of pledge, deposit, or monetary guarantee as a condition for entry on or access to cemetery property.~~

Commented [LC29]: Duplicates language in 497.278

~~(12) In the event that the cemetery has approved a monument sketch or made written representations to the monument establishment which is not according to the records of the cemetery, the cemetery shall be solely responsible to correct or replace the monument.~~

Commented [LC30]: The cemetery has the unpaid mandate to verify records and identify the space for the unaffiliated licensee. It should be that licensee/seller requirement to verify spelling and authorizer by the purchaser.

Rulemaking Authority 497.103 FS. Law Implemented 497.273(3), 497.278, 497.550, 497.555 FS. History–New 1-24-95, Formerly 3F-12.001, Amended 10-12-09.

69K-12.004 Cancellation of Monument Establishment Retail Sales Agreements and Refunds.

(1) A purchaser may cancel an agreement in accordance with the terms of the agreement, statute and rules that were in effect at the time the agreement was executed.

(2) When an agreement is canceled, the terms of the agreement, statute and rules that were in effect at the time the agreement was executed shall apply.

(3) The failure of a monument establishment to deliver and install a purchased monument or marker by the date agreed in the agreement shall entitle the purchaser to a full refund of all amounts paid by the purchaser for the monument and its delivery and installation, unless the monument establishment has obtained a written agreement from the purchaser extending the delivery date. Such refunds shall be made within 30 days after receipt by the monument establishment of the purchaser's written request for a refund.

(4) The monument establishment may not cancel the agreement unless the purchaser is in default under the terms of the agreement.

Rulemaking Authority 497.103(5)(a) FS. Law Implemented 497.152(13), 497.553 FS. History–New 11-26-06.

69K-12.005 Requirements for Monument Establishment Retail Sales Agreements.

(1) A written retail sales agreement shall be executed between the monument establishment and the purchaser. Each written agreement shall be sequentially numbered and be entered into a sales journal by date of sale by the monument establishment. The provisions of the agreement shall be in at least 10 point type and shall be presented in a clear and legible format.

(2) Any additional purchases or changes made by the purchaser more than 30 days after the original sale date must be shown on a separate agreement. Any changes made by the purchaser within 30 days of the original sales date shall be made on the original agreement and shall be initialed and dated by the purchaser.

(3) The purchaser shall be provided with a copy of the executed agreement at the time of purchase and whenever any changes are made to the agreement.

(4) The agreement form must comply with all disclosure requirements of sections 497.152 and 497.553, F.S.

(5) Each retail sales agreement shall contain a complete description of the monument, marker, or related product to be delivered and installed together with the price(s) for each item(s) or service(s) purchased and any fees that will be charged. The agreed date for delivery and installation shall be clearly and prominently specified in each retail sales agreement.

(6) The description of the merchandise or drawings shall be included on the agreement or an addendum, provided the form has been approved by the Board of Funeral, Cemetery, and Consumer Services. The approval of the Board shall be conditioned upon the form containing the applicable information required by this rule.

(a) Name, address, and telephone number of monument establishment;

(b) Name, address, and telephone number of purchaser and interment right owner (if different from purchaser);

(c) Date of purchase;

(d) Latest date by which delivery and installation will be made;

(e) Name and address of cemetery or memorial for delivery and installation;

(f) Lot, block, or section number of grave (if to be delivered to a cemetery) or memorial location;

(g) Terms of sale, including purchase price and payment schedule;

(h) Sales tax, down payment, and balance due;

(i) Signature of purchaser;

(j) Signature of monument establishment representative.

(7) If a custom designed product is sold to the purchaser, a general description of the product shall be sufficient, providing that the following information is also included in the agreement:

(a) For memorials or monuments:

1. Type (upright, slant, plaque, marker, ledger, etc.);

2. Material (marble, granite, bronze, etc.);

3. Size (dimension);

4. Foundation (material and dimension);

5. Color (finish);

6. Design (lettering, drawing, carving, decoration, emblems, etc.).

(b) For all related merchandise and products such as:

1. Urns and cremation vaults (type, dimensions, finish and location);

2. Posts/Corners (color, dimension and finish);

3. Coping (color, dimension and finish);

4. Portrait (image, dimension, finish and location);

5. Vase (type, dimension, finish and location);

6. Chips (marble, granite, etc. and amount);

7. All others (list accessories, dimension, finish and location).

(8) If the sales presentation uses the manufacturer's name and specifications, then the name of the manufacturer and model number shall be included on the agreement in addition to color, materials, and design.

(9) The agreement shall disclose the latest date the memorial or monument will be installed and that the memorial or marker meets all of the cemetery's rules and regulations as of the date of the contract.

(10) The agreement shall disclose in bold print whether a restocking fee will be charged and the amount of the fee if the purchaser cancels the contract prior to delivery for any reason

other than the monument establishment's failure to deliver. A restocking fee cannot be charged for the monument establishment's failure to timely deliver.

(11) The agreement shall disclose whether a setting fee will be charged and the amount of the fee.

(12) The agreement shall disclose whether a transportation fee will be charged for the delivery and/or installation of the merchandise and the amount of the fee.

(13) The agreement shall disclose that there will be a separate fee charged for any future inscriptions or engravings.

(14) The agreement shall disclose any other charges or fees, which shall be itemized and detailed.

Rulemaking Authority 497.103(1)(u), (5)(a), 497.553(2) FS. Law Implemented 497.103(1)(u), 497.152(11), (12), 497.553 FS. History–New 11-26-06.

69K-12.011 Annual Inspection Fees for Monument Establishments.

Each monument establishment shall pay an annual inspection fee of $225 that is payable upon application for licensure and upon each renewal of such license.

Rulemaking Authority 497.103(1)(bb), (5)(a), 497.553(1) FS. Law Implemented 497.103(1)(bb), 497.553(1) FS. History–New 5-16-07, Amended 5-19-09, 5-5-22.

69K-16.0001 State Examination for Funeral Industry Professionals.

Commented [WW31]: Open for discussion, separate FD from Embalmer?

(1) In addition to all other requirements, any person desiring to be licensed, whether initially or by endorsement, as an embalmer, funeral director or direct disposer, in the state of Florida shall:

(a) Apply to the Board to take the Florida Law & Rules Exam.

(b) Pass the Florida Law & Rules Exam with a score of 75% or more. A fraction of a percentage point of one-half (.5) or higher on this examination shall be raised to the next highest whole number.

(2) The state examination shall cover the following laws:

(a) Chapters 382, 406, 497 and 872, F.S., and,

(b) 10 U.S.C. §§1481-1488, 16 U.S.C. §17 E, 18 U.S.C. §710, 38 U.S.C. §2303, 42 U.S.C. §248, 42 U.S.C. §238C; and the following rule chapters:

(c) Divisions 11G, Chapter 64V-1 and 69K, F.A.C.

(3) The examination shall cover the following topics in the percentage ranges that follow:

Practice Laws 40-50%, Preneed Contracts 16-20%, Medical Examiner 4-6%, Vital Statistics 10-16%, Disposition 10-16%, Federal Laws 4-6% and Offenses 8-16%.

(4) In any instance where pursuant to Chapter 497, F.S., it is a prerequisite for obtaining a license that the applicant take and pass the laws and rules examination, if the applicant has taken and passed such examination within 24 months prior to the date of the application currently pending, the requirement shall be deemed satisfied. The requirement shall not be deemed satisfied by having taken and passed the examination more than 24 months prior to the date of the application currently pending. For purposes of this rule the date of the application shall be the date the application is received by the Division of Funeral, Cemetery, and Consumer Services.

Rulemaking Authority 497.103, 497.144, 497.368, 497.373 FS. Law Implemented 497.144, 497.368, 497.369, 497.373, 497.374 FS. History–New 4-27-03, Formerly 61G8-16.0001, Amended 3-7-16, 2-7-17.

69K-16.001 Examination for Embalmer Applicants.

(1) Any person desiring to be licensed as an embalmer shall apply to the Department and successfully pass the required licensure examinations.

(2) The following shall constitute successful passage of the required licensure examination for embalmer applicants:

(a) Attaining a score of seventy-five percent (75%) on the Funeral Services Science section of the National Board Examination prepared by the Conference of Funeral Service Examining Boards, and,

(b) Attaining a score of seventy-five percent (75%) on the examination prepared and administered by the Department of Financial Services as set forth in Rule 69K-16.0001, F.A.C.

Rulemaking Authority 497.103, 497.144, 497.368 FS. Law Implemented 497.144, 497.368 FS. History–New 11-11-79, Amended 6-3-81, Formerly 21J-16.01, Amended 5-9-88, Formerly 21J-16.001, Amended 5-1-96, 10-29-97, 2-16-98, 4-27-03, Formerly 61G8-16.001.

69K-16.002 Examination for Funeral Director Applicants.

(1) Any person desiring to be licensed as a funeral director shall apply to the Department and successfully pass the licensure examination prepared and administered by the Department, pursuant to Rule 69K-16.0001, F.A.C.

(2) Additionally, the successful applicant will have attained a score of seventy-five percent (75%) on the funeral service arts section of the National Board Examination prepared by the Conference of Funeral Service Examining Boards, attained a score of seventy-five percent (75%) on the funeral service science section of the NBE prepared by the Conference of Funeral Service Examining Boards.

Rulemaking Authority 497.103, 497.144, 497.373 FS. Law Implemented 497.144, 497.373 FS. History–New 11-11-79, Amended 6-4-80, 6-3-81, 6-15-82, Formerly 21J-16.02, 21J-16.002, Amended 1-8-95, 5-13-96, 10-29-97, 2-16-98, 4-27-03, Formerly 61G8-16.002.

69K-16.004 Examination for Licensure by Endorsement.

Any person desiring to be licensed as a funeral director or embalmer by endorsement, as provided in Chapter 497, F.S., shall apply to the Department, have passed the examination(s) appropriate to the licensure sought, as set forth in Section 497.369 or 497.374, F.S., and shall pass the examination required in Rule 69K-16.0001, F.A.C.

Rulemaking Authority 497.103, 497.144, 497.374 FS. Law Implemented 497.144, 497.369, 497.374 FS. History–New 11-11-79, Amended 6-3-81, Formerly 21J-16.04, Amended 5-24-89, Formerly 21J-16.004, Amended 10-29-97, 7-8-03, Formerly 61G8-16.004.

69K-16.005 Reexaminations.

Applicants for licensure as embalmers and/or funeral directors who fail to achieve a passing grade on the required examinations may make application to retake the examination failed at the next regularly scheduled examination. Each subsequent application submitted shall be accompanied by the appropriate application fee.

Rulemaking Authority 497.103, 497.144 FS. Law Implemented 497.144, 497.368, 497.369, 497.373, 497.374 FS. History–New 11-11-79, Formerly 21J-16.05, 21J-16.005, Amended 4-22-01, Formerly 61G8-16.005.

69K-22.004 Operating Procedures.

(1) Cinerator facility operators shall establish a system of identification of human remains received for cremation. This system shall be designed to track the identity of the remains from time of receipt until completion of the cremation and delivery of the cremated remains to the legally authorized persons, or until otherwise disposed of in accordance with instructions from the legally authorized person.

(2) No more than one dead human body shall be placed in a retort at one time unless written permission has been received from the legally authorized person responsible for each body.

(3) Upon completion of each cremation cycle, the cremated remains shall be removed from the retort, pulverized and placed in a separate container.

(4) Human remains shall be cremated in the container or casket in which received unless written instructions to the contrary are received from the legally authorized person. Personal effects shall not be removed from the deceased without express written consent from the legally authorized person.

(5) All alternative containers used for cremation must meet the criteria set forth in section 497.606(9)(h), F.S. The receptacle or container may be an unfinished wooden box or other non-metal alternative container, which is designed for the encasement of human remains and which is made of cardboard, fiberboard, pressed wood, composition materials, or other enclosures which are all rigid enough for handling with ease and which completely enclose the human remains during the entire cremation process.

(6) Any part of the container chosen for cremation which has not been completely consumed in the cremation process shall be disposed of by completely burning, crushing, or otherwise lawfully disposing of the container.

(7) The cremated remains and the separate container shall be disposed of according to the express written instruction of the legally authorized person. If no instructions are given, the cremated remains shall be disposed of in a dignified and humane manner as authorized by law.

Rulemaking Authority 497.103(1)(n), (5)(a), 497.606, 497.607 FS. Law Implemented 497.103(1)(n), 497.606, 497.607 FS. History–New 6-26-85, Amended 10-16-85, Formerly 21J-22.04, 21J-22.004, Amended 11-20-96, Formerly 61G8-22.004, Amended 2-5-07.

69K-24.034 Operating Procedures for Refrigeration Services.

Refrigeration services shall establish a system of identification of human remains received. This system shall be designed to track the identity of the remains from time of receipt until delivery of the remains to the authorized persons, or until otherwise disposed of in accordance with instructions from the authorized person.

Rulemaking Authority 497.103, 497.385, 497.386 FS. Law Implemented 497.385, 497.386 FS. History–New 5-21-95, Amended 9-18-95, Formerly 61G8-24.034

69K-33.001 Requirements Regarding Handling and Storing of Human Remains.

Commented [WW32]: Open to address issues related to refrigeration.

(1) Funeral establishments shall establish a system of identification of human remains received. This system shall be designed to track the identity of the remains from the time of receipt until delivery of the remains to the authorized persons. This is in addition to the requirements for identification of human remains set forth in section 497.171, F.S.

(2)(a) All human remains in the possession of a chapter 497, F.S., licensee shall be refrigerated at 40 degrees Fahrenheit or below commencing 24 hours after death, unless the remains have by then been embalmed.

Commented [LC33]: Allow for repair, o/c, on-site but not operational

(b) Un-embalmed remains once placed in refrigeration shall not be removed from refrigeration, until removed for final disposition and as may be necessary for transportation, identification, viewing or similar service, or for containment or treatment as required by paragraphs (2)(g)-(i) of this rule.

(c) Human remains shall be completely covered immediately prior to exiting the place of removal and completely covered while being transported and stored.

(d) Human remains while held at an establishment or facility licensed under chapter 497, F.S., shall be kept out of sight of the public, except when, with the approval of a licensed funeral director and/or embalmer, particular remains are intentionally exposed to a legally authorized person, to one or more family members of the decedent, at a viewing, or at a funeral service or burial service.

(e) As used in this rule, the term "vermin" includes all insects, insect larvae, and rodents.

(f) All human remains received at a licensed establishment or facility shall within 24 hours of receipt at the establishment or facility be inspected by the establishment's operational staff for the presence of vermin infestation, and if same is detected, the remains shall be promptly treated for containment or elimination of same; elimination, if necessary, shall be performed by a funeral director & embalmer, embalmer, or an intern or apprentice of same.

Such treatment shall not constitute embalming and shall not require the approval of a legally authorized person.

(g) Embalmed remains not stored in refrigeration or entombed in a cemetery shall be inspected at least once every 48 hours by operational staff of the establishment or facility. Any vermin infestation, mold, or mildew noted on the remains shall be promptly and effectively treated for containment or elimination of same; ~~elimination, if necessary, shall be performed by a funeral director & embalmer, embalmer, or an intern or apprentice of same.~~

(h) Human remains stored in refrigeration shall be inspected by operational staff of the establishment or facility at each handling and no less than monthly. Any vermin infestation, mold, or mildew noted on the remains shall be promptly and effectively treated for containment or elimination of same; elimination, ~~if necessary, shall be performed by a funeral director & embalmer, embalmer, or an intern or apprentice of same~~. Such treatment shall not constitute embalming and shall not require the approval of a legally authorized person.

(i) The requirement that human remains be handled, stored, and treated by all chapter 497, F.S., licensees with dignity and respect in accordance with chapter 497, F.S., and rules thereunder is not contingent on payment to the licensee of amounts due for professional services by the licensee.

Rulemaking Authority 497.103(1)(n), 497.386(4) FS. Law Implemented 497.386(4) FS. History–New 2-28-02, Formerly 61G8-33.001, Amended 8-5-13, 12-6-17.

69K-18.001 Embalmer Intern Training Program.

(1) Persons desiring licensure to become an intern embalmer shall apply for a license by completing Form DFS-N1-1708, "Application for Embalmer Intern License," effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or http://www.flrules.org/Gateway/reference.asp?No=Ref-17053. A one-hundred dollar ($100.00) nonrefundable application fee and an unlicensed activity fee of five dollars ($5.00) shall accompany the form. Such application shall demonstrate that the applicant for registration meets the requirements of Sections 497.368(1)(b)-(e), F.S. The completed application shall be filed with the Division at the address stated on the form.

(2) Embalmer internship training shall be received at an approved training agency under the direct supervision of a Florida licensed embalmer in good standing who shall certify by

quarterly reports the training activities engaged in by the intern during the preceding calendar quarter.

(a) Direct supervision means responsible supervision and control, with the licensed embalmer providing both initial directions as well as periodic inspection of the embalming service. The supervising embalmer shall be physically present or on the premises at all times when the intern is performing the services.

(b) If during the course of his internship training the embalmer intern receives instructions from more than one licensed Florida embalmer, each instructor shall be required to certify the training, giving the dates during which instruction was given and the training activities engaged in by the intern under his supervision.

(c) To notify the Division of termination of supervision and/or change in supervisor, the intern must file Form DFS-N1-1734, Notice of Change of Supervisor and/or Location, effective 10/24, which is incorporated by reference and available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or http://www.flrules.org/Gateway/reference.asp?No=Ref-17055.

(3) One year of substantially full-time embalmer internship training shall be required to qualify the intern embalmer for licensure as an embalmer. Full-time shall be deemed and construed to mean training comprising of at least 40 hours a week for at least 50 weeks to be completed within a twelve month period.

(4) A person whose first registration for embalmer internship training is filed after graduation from mortuary college shall be permitted to serve in embalmer internship capacity only until he completes the one year of substantially full-time embalmer internship and until the date the results of the immediately subsequent licensure examination are mailed to applicants for licensure.

(5) If an intern fails to complete the intern training as stated in subsections (3) and (4), because of illness or personal injury, the Board shall permit the intern to reregister only for the period of time required to complete the one year of training.

Commented [WW34]: Currently unsupported by law - statutory change to s. 497.368 recommended. Also consider adding bridge language from s. 497.375(4)(e)

(6) A member of the United States Armed Forces, such member's spouse, and a veteran of the United States Armed Forces who separated from service within 2 years preceding the application for licensure are exempt from the application fee and the initial unlicensed activity fee. The military record must show such member is currently in good standing or such veteran was honorably discharged.

Rulemaking Authority 497.103, 497.370 FS. Law Implemented 497.140, 497.368, 497.370, 497.371 FS. History–New 11-11-79, Amended 7-28-80, 8-10-83, 10-16-85, Formerly 21J-

18.01, Amended 12-11-88, 11-15-92, Formerly 21J-18.001, Amended 1-8-95, 7-14-99, Formerly 61G8-18.001, Amended 1-5-17, 2-20-19, 1-26-25.

69K-18.004 Intern Training Agencies.

(1) Funeral establishments which are in good standing and approved as training agencies by the Board as of June 30, 1979, shall continue as approved intern training agencies under this rule provision.

(2) To register as an intern training agency, the funeral establishment, pursuant to Sections 497.370 and 497.375, F.S., shall submit an application for such approval to the Division on Form DFS-N1-1749, "Registration as a Training Agency," EFFECTIVE 10/24, which is incorporated by reference in Rule 69K-1.001, F.A.C. The form is available on the Department's website at http://www.myfloridacfo.com/Division/funeralcemetery/ or http://www.flrules.org/Gateway/reference.asp?No=Ref-17057.

(3) In order to be approved as an embalmer intern training agency, a funeral establishment shall have performed at least 20 embalming cases per year for each intern it is applying to train ~~in order to demonstrate its ability to provide such embalmer interns with the necessary intern training and experience~~. In order to be approved as a funeral director intern training agency, a funeral establishment shall have performed at least 40 funeral services per year for each intern it is applying to train ~~in order to demonstrate its ability to provide such funeral director interns with the necessary intern training and experience~~.

(4) Funeral establishments which are approved as embalmer intern training agencies shall provide at least the following training for embalmer interns:

(a) Handling and use of equipment, supplies and facilities of funeral establishments;

(b) Preparing bodies for embalming, including bathing, shaving, and setting of features;

(c) Embalming of bodies;

(d) Care of embalming instruments;

(e) Dressing and casketing of bodies;

(f) Preparation of bodies for shipment; and

(g) Study of applicable local and state rules relating to embalming.

(5) Funeral establishments which are approved as funeral director intern training agencies shall provide at least the following training for funeral director interns:

(a) Instruction and practical work experience in making funeral arrangements;

(b) Study of requirements of funerals for various religious denominations;

(c) Arranging and setting up of chapels, churches and other places for funeral services;

(d) Arranging and supervising of cortege;

(e) Arranging of liaisons with law enforcement officers, medical examiners and physicians;

(f) Study of applicable local, state and federal laws relating to funeral directing;

(g) ~~Reserved;~~

(h) Determining of signs of death and the manner by which death may be determined;

(i) Instruction and practical experience in mortuary management and administration; and

(j) Preparation and filing of death certificates, burial permits and other documents.

(6) Training agencies which change location, without any change in ownership, shall continue to be approved training agencies without submitting any further application to the Department.

(7) This rule shall be reviewed, and if necessary, repealed, modified, or renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 497.103, 497.370, 497.375 FS. Law Implemented 497.370, 497.375 FS. History–New 11-11-79, Formerly 21J-18.04, Amended 5-24-89, 5-19-91, Formerly 21J-18.004, 61G8-18.004, Amended 3-16-17, 12-21-23, 1-26-25.

69K-24.042 Inspection Criteria for Centralized Embalming Facilities.

The Department shall inspect centralized embalming facilities on the basis of the following:

(1) There shall be a refrigeration equipment large enough to store all dead human bodies found in the facility at any given time; and

Commented [WW35]: Language too broad, Covid vs. regular?

(2) A preparation room equipped as follows:

(a) An exhaust fan with proper screening to exchange the air in the room with outside air at least twelve (12) times per hour;

(b) Operating table with non-porous surface;

(c) Sanitary floors with non-porous surface;

(d) Sanitary waste receptacles;

(e) A hand sink with hot and cold water and a service sink and a floor drain or sanitary drain for the removal of body fluids connected to central sewage system or septic tank. The floor drain may be replaced by an alternative method of removal of body fluids which meet the sanitation requirements of paragraph 69K-21.003(1)(c), F.A.C.;

(f) The following instruments properly maintained:

1. 1 machine for embalming or gravity equipment;

2. 1 aspirator;

3. 1 master trocar;

4. 1 aneurism needle;

5. 1 scalpel;

6. 1 drain tube;

7. 1 arterial tube;

8. 1 scissor;

9. Surgical needles;

10. Eye caps;

11. Surgeon's thread;

12. 1 head rest;

13. Razor and blades;

14. Absorbent cotton;

15. Antiseptic soap;

16. Sheet(s);

17. Towel(s);

18. Disinfectant;

19. Tubing;

20. Disposable surgical gloves.

(g) The following minimum supplies for embalming dead human bodies:

1. 2 bottles arterial fluid per body;

2. 1 bottle cavity fluid per body;

3. Supply of hardening compound for autopsies.

(3) Centralized embalming facilities shall have on site or immediately available sufficient sealed containers of a type required for the transportation of bodies which prevents the seepage or emission of offensive fluids or odors.

(4) Compliance with rule 69K-24.041, F.A.C.

(5) Preparation room shall meet the requirements of the Department of Health chapter 64E-16, F.A.C., which prescribes minimum sanitary practices relating to the management of biomedical waste, including segregation, handling, labeling, storage, transport and treatment. Centralized embalming facilities shall be maintained in a clean and sanitary manner.

Rulemaking Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History–New 5-26-99, Amended 1-30-02, Formerly 61G8-24.042.

In addition, FCCFA requested a hearing on the proposed change to 69K-6.005 Records.

The following records shall be made available to the Department for the purposes of examinations or inspections:

(1) through (3) No change.

(4) By-Laws, and Rules, and Regulations;

(5) Financial and accounting records, including financial statements, general ledger, accounts receivable, accounts payable, and cash receipts, journals, receipt books, business tax returns, and invoices;

(6) through (9) No change.

(10) Procedures for handling complaints as referenced by Section 497.260(3), F.S.;

(11) through (14) No change.

(15) Procedure manuals; and

(16) Examination work papers as required by Rule 69K-6.0052, F.A.C.; and

(17) Authorizations or disclosures for services or changes in establishments or facilities used.

Commented [WW36]: What are these?

These records will be available for review at the licensed facility or an alternative site of the cemetery company if approved by the Board pursuant to Section 497.276(2), F.S., Preneed lLicensees will send written notification to the Division Board office if records are available for review at an alternative site.

Rulemaking Authority 497.103(1)(n), (t), (u), (5)(a), 497.149, 497.161(1)(c), 497.276(3) FS. Law Implemented 497.149, 497.260, 497.276 FS. History–New 3-21-95, Amended 5-27-98, 4-16-00, Formerly 3F-6.005, Amended 1-12-04, .

FCCFA also requested a hearing on proposed changes to 69K-5.012 Application and Renewal Procedures for Broker of Burial Rights License to ensure that limitations are placed on burial rights brokers pursuant to the law.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: RULE TITLE:

69K-5.012 Application and Renewal Procedures for Broker of Burial Rights License

PURPOSE AND EFFECT: The proposed rulemaking implements the statutory changes made by Chapter 2026-174, Laws of Florida. The rulemaking will update the application procedures and requirements for licensure, incorporated materials, and the Rulemaking Authority and Law Implemented Sections.

SUBJECT AREA TO BE ADDRESSED: This rulemaking will address application for licensure and application for licensure renewal procedures and requirements.

RULEMAKING AUTHORITY: 497.103, 497.281 F.S.

LAW IMPLEMENTED: 497.103, 497.281 F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Schwantes, Division Director, Division of Funeral, Cemetery, and Consumer Services, (850)413-4984, or Mary.Schwantes@myfloridacfo.com.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.