

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
TELECONFERENCE MEETING
January 4, 2018 - 10:00 A.M.

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

Mr. Jody Brandenburg, Chair – Good morning everyone. I'd like to call to order the Board of Funeral, Cemetery, and Consumer Services' teleconference meeting. It's January 4, 2018. In calling this meeting to order, Ms. Simon, would you please give your preliminary remarks and do the roll call?

Ms. Ellen Simon – Yes Mr. Chairman. My name is Ellen Simon. I'm the Assistant Director of the Division of Funeral, Cemetery, and Consumer Services. Today is January 4, 2018, and it is 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Service. This meeting is being held by teleconference. Notice of the meeting has been duly published in the Florida Administrative Register. An agenda for the meeting has been made available to interested persons. The call-in number was placed on the agenda. The Board's staff present for this meeting are in the Claude Denson Pepper Building, in Tallahassee FL. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. At this time, Mr. Chairman, I will call the roll:

Joseph "Jody" Brandenburg, Chair
Keenan Knopke, Vice Chair
Jean Anderson
Francisco "Frank" Bango {**ABSENT**}
Andrew Clark
James "Jim" Davis {**ABSENT**}
Lewis "Lew" Hall
Powell Helm
Ken Jones
Vanessa Oliver {**ABSENT**}

Also noted as present:

Mary Schwantes, Executive Director
Tom Barnhart, Board Legal Advisor (via phone)
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

Ms. Simon – Mr. Chairman we have a quorum for the business of the Board.

A. Action on Minutes
(1) December 7, 2017

Chair – Thank you. The first item on our Supplemental Agenda is the action on the minutes from the December 7, 2017 meeting.

MOTION: Mr. Ken Jones moved to adopt the minutes of the meeting. Mr. Lew Hall seconded the motion, which passed unanimously.

2. Old Business

A. Informational Item
(1) Pershing Industries, Inc. dba Vista Memorial Gardens (Miami Lakes)

Ms. Simon – This is the report that the Board has requested to see that was done by an independent CPA firm. If there are no questions?

Chair – Board members, any questions, comments? Thank you.

3. Application(s) for Preneed Sales Agent
A. Informational Item (Licenses Issued without Conditions) – Addendum A

Ms. Simon – This is an informational item. Pursuant to s. 497.466, F.S., the applicants have been issued their licenses and appointments as preneed sales agents.

4. Application(s) for Continuing Education Course Approval
A. Recommended for Approval without Conditions – Addendum B
(1) APEX Continuing Education Solutions (4201)
(2) Cremation Association of North America (16008)
(3) Funeral Service Academy (23408)
(4) International Cemetery, Cremation, and Funeral Association (22808)
(5) International Order of the Golden Rule (2201)
(6) MK Jones (9605)
(7) National Funeral Directors Association (136)

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K-17.0041, F.A.C., the courses presented have been reviewed by the CE Committee and the Committee, as well as the Division, recommends approval of the applications for the number of hours indicated.

MOTION: Mr. Hall moved to approve the applications. Ms. Jean Anderson seconded the motion, which passed unanimously.

5. Application(s) for Florida Law and Rules Examination
A. Informational Item (Licenses Issued without Conditions) – Addendum C
(1) Direct Disposer
(a) Quintana, John A
(2) Embalmer (Endorsement)
(a) Gardner, Amanda M
(b) Hoyt, Michael R
(3) Funeral Director and Embalmer (Endorsement)
(a) Costin, Jason B
(b) Tetrick, Brian L
(4) Funeral Director and Embalmer (Internship and Exam)
(a) Gardener, Akhelia S
(b) Moore, Cheyenne M

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

6. Application(s) for Internship
A. Informational Item (Licenses Issued without Conditions) – Addendum D
(1) Funeral Director and Embalmer
(a) Alderman, Michella L (F230373)
(b) Carter, Crystal D (F224604)
(c) Plummer, Latonya L (F224844)
(d) Vermillion, Brittney E (F224603)
(e) York, Tiffany A (F224845)

Ms. Simon – This is an informational item. Pursuant to Rule 69K-1.005, F. A. C., the Division has previously approved these applications.

7. Consumer Protection Trust Fund Claims

A. Recommended for Approval without Conditions – Addendum E

Ms. Simon – The CPTF claims presented on the Addendum have been reviewed by the Division and the Division recommends approval for the monetary amounts so indicated.

MOTION: Ms. Anderson moved to approve all the claim(s), for the monetary amounts indicated. Mr. Hall seconded the motion, which passed unanimously.

Chair – I'd like to call to the attention of the Board, that the Preneed Consumer Protection Trust Fund balance, as of the end of November, was \$8.8 million.

8. Application(s) for Funeral Establishment

A. Recommended for Approval with Conditions

(1) A Mortuary Service LLC (Oakland Park)

Ms. Simon – An application for a Funeral Establishment was received on November 2, 2017. The application was incomplete when submitted. All deficient items were returned on November 30, 2017. The Funeral Director in Charge will be Jennifer Fernandez (F078118). A background check of the principals revealed no relevant criminal history.

There is a current licensee at this location, The Mortuary Group LLC (F103867). Pursuant to a letter from the principal, Tarynne Arcelay, the licensee will relinquish this license once the new license has been issued. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

MOTION: Mr. Jones moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Hall seconded the motion, which passed unanimously.

(2) Barbara Falowski Funeral and Cremation Services Inc. (Fort Lauderdale)

Ms. Simon – An application for a Funeral Establishment license, due to a change of ownership, was received by the Division on December 6, 2017. The application was incomplete when received. All deficient items were received on December 14, 2017. The Funeral Director in Charge will be Carrie Hernandez (F045027). A background check of the principals revealed no relevant criminal history. This funeral establishment is the qualifying entity for a preneed license. The preneed license is F019482. Pursuant to a letter dated December 13, 2017, the new owners will fulfill any outstanding preneed contracts. The Division is recommending approval subject to the condition(s) as follows:

- 1) That the closing on the transaction to acquire ownership shall occur within 60 days of the date of this Board meeting.
- 2) That the closing on the transaction shall be substantially on terms and conditions as represented to the Board at this Board meeting.
- 3) That Applicant shall assure receipt by the Division within 75 days of the Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred and stating the date of closing, and stating that closing occurred on terms and conditions not inconsistent with those as represented to the Board at this Board meeting, and providing a copy of the fully executed Bill of Sale, Asset Purchase Agreement, or other document by which the acquisition transaction is consummated, executed by all parties, and any and all amendments, schedules, and other attachments thereto, also fully executed.
- 4) That the Director of the Division of Funeral, Cemetery, and Consumer Services may extend any deadline set out in these conditions, by up to 90 days, for good cause shown. The Director shall report any such extensions to the Board as an informational item.
- 5) That all representations by the applicant in the application and related materials provided to the Board or FCCS Division by the applicant, in support of the application(s), are deemed material to the Board's action herein.
- 6) That the establishment passes an inspection by a member of Division Staff.

MOTION: Mr. Helm moved to approve the application subject to the conditions recommended by the Division. Mr. Clark seconded the motion, which passed unanimously.

- 9. **Application(s) for Monument Establishment Builder License and Monument Retail Sales Agreement(s)**
 - A. **Recommended for Approval with Conditions**
 - (1) **Heath Monument Company LLC (Vero Beach)**

Ms. Simon – Heath Monument Company LLC has submitted the following: (1) an application for a monument establishment builder license and (2) a monument sales retail agreement. The application was submitted on November 27, 2017 and all items were resolved as of December 20, 2017. If approved, Applicant will operate as a monument establishment builder at the above specified location and utilize the attached monument retail sales agreement. The Division is recommending approval subject to the following conditions:

- 1) That Applicant pass the inspection for licensure as a Monument Builder.
- 2) That two (2) full sized print-ready copies of the monument retail sales agreement are received by the Department within 60 days of this board meeting.

MOTION: Mr. Helm moved to approve the application and agreement subject to the conditions recommended by the Division. Mr. Keenan Knopke seconded the motion, which passed unanimously.

- 10. **Application(s) for Monument Establishment Sales Agent License**
 - A. **Informational Item (Licenses Issued without Conditions) – Addendum F**

Ms. Simon – This item is informational only. Pursuant to s. 497.554(3)(a), F.S., the applicants have already been issued licensure as monument establishment sales agents.

- 11. **Application(s) for Removal Service**
 - A. **Recommended for Approval with Conditions**
 - (1) **Cerberus Enterprise Inc. (Hialeah)**

Ms. Simon – An application for a Funeral Establishment was received on November 21, 2017. The application was incomplete when submitted. All deficient items were received on December 6, 2017. A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition that the establishment passes an onsite inspection by a member of Division Staff.

MOTION: Mr. Knopke moved to approve the application subject to the condition that the establishment passes an onsite inspection by a member of Division Staff. Mr. Hall seconded the motion, which passed unanimously.

- B. **Recommended for Approval without Conditions**
 - (1) **Curseen Jones LLC (Lakeland)**

Ms. Simon – An application for a Funeral Establishment was received on November 27, 2017. The application was incomplete when submitted. All deficient items were received on December 11, 2017. A background check of the principals revealed no relevant criminal history. The facility passed its inspection on December 19, 2017. The Division is recommending approval.

MOTION: Mr. Helm moved to approve the application. Mr. Jones seconded the motion, which passed unanimously.

- 12. **Contract(s) or Other Related Form(s)**
 - A. **Recommended for Approval with Conditions**
 - (1) **Preneed Sales Agreement(s)**
 - (a) **Fred Hunter Memorial Services, Inc. d/b/a Cremation Society of America (F019312) (Hollywood)**

Ms. Simon – Fred Hunter submits a preneed sales agreement form and addendum for approval. Specifically, the documents include: (1) a Prearranged Funeral Agreement; and (2) a Financial Accommodation Addendum. If the forms are approved, they are to be used for the sale of trust-funded preneed contracts by this preneed licensee and its related preneed branches.

The Division is recommending approval subject to the condition that two (2) full sized print-ready copies, of each contract, are received by the Department within 60 days of this Board meeting.

MOTION: Mr. Knopke moved to approve the request subject to the condition that two (2) full sized print-ready copies, of each contract, are received by the Department within 60 days of this Board meeting. Mr. Clark seconded the motion, which passed unanimously.

B. Informational Item

(1) Appointment of Successor Trustee

(a) Pershing Industries, Inc. d/b/a Vista Memorial Gardens (F039523) (Miami Lakes)

Ms. Simon – Pershing Industries Inc. d/b/a Vista Memorial Gardens has designated a successor trustee to transfer its cemetery care and maintenance trust account from Comerica Bank & Trust National Association to Coral Gables Trust Company (Coral Gables), as more specifically set forth in the correspondence from representative, Richard L. DeNapoli, dated December 6, 2017. Coral Gables is a trust company established in 2004 located at 255 Alhambra Circle, Coral Gables, FL 33134. Coral Gables is or will be the successor trustee and will continue to operate under the existing trust agreement for this trust account.

13. Executive Director’s Report

A. Operational Report (Verbal)

Ms. Simon –Ms. Schwantes?

Ms. Mary Schwantes – Yes, thank you. Good morning. I want to update you on a couple of items. First, let’s start with Legislation. The Department’s bills, which include the CPTF language, which was presented at the last Board meeting, have been filed. The CPTF language, of course, impacts s. 497.456, F.S. The House bill is HB 1073, sponsored by Representative Bill Hager. It is already in the process of moving through. It’s now in the Insurance & Banking Subcommittee, so it is moving along. The identical bill in the Senate is SB 1292, sponsored by Senator Kelli Stargel.

The Department bills were filed between December 18th and December 21st. Both bills also include an initiative involving, what I’ll call “Veterans’ Preference,” for lack of a better term. The Divisions within the Department, were asked what they might do to assist veterans, particularly with regards to licensing. I believe we mentioned this possible initiative before but did not at that time have the exact language. So, as it impacts Chapter 497, the bills propose a waiver of the initial application fee for veterans and/or veterans honorably discharged within 24 months prior to their application. The language, as it appeared in the bill, is being amended for clarification regarding the waiver and certain statutory references. I do not have the exact amended language to read to you or to present to you today, but we can get you copies in the near future.

What the bill does, with regards to qualified veterans, is waives the initial application fees for individual licenses. It only applies to individual licenses. What the bill does not do:

- Does not waive any commercial application/licensing fees
- Does not waive any exam or continuing education fees
- Does not waive any renewal fees

Just like any other applicant, veterans are currently required to pay application and other licensure related fees mandated by Chapter 497, Florida Statutes, and Rule 69K, Florida Administrative Code. Generally, initial application fees of up to \$250 may be charged, depending upon the type of licensure sought. Those fees currently set by rule are much lower than that. The proposed legislation is expected to provide certain economic relief to qualifying veterans applying for licensure under Chapter 497, Florida Statutes, and, in that way, assist and encourage veterans interested in a career in the death care industry. The proposal is expected to have extremely minimal financial impact on the Division. We do not have specific records as to the number of veterans who are licensees. However, by extrapolating the percentage of veterans applying for licensure with the Division of Agency & Agency Services, and comparing that figure to the number of FCCS licensees, it appears that, at most, only 0.4% applying for initial licensure annually may be veterans who can take advantage of the benefits of this proposed legislation. The only anticipated expense will be the nominal expense incurred by FCCS staff in processing the application requests from the qualified veterans. We have requested the Department’s Information Technology Office to pull data, from our various systems, regarding license applications over the last five (5) years and may have more specific information regarding the impact after our analysis of that data, but again, it’s expected to be very minimal impact.

Regarding the Board membership process, we have two (2) consumer positions which remain open following the end of their terms in September. There is no new news from the Governor's Office regarding appointments to fill those positions. I do not at this time have an estimated idea of when we may even hear anything from the Governor's Office on those positions.

I want to move on to the Rulemaking issues. The next Rules Committee Meeting is scheduled for Thursday, January 18, 2018, in Jacksonville from 10 am to 3 pm. The deadline for submitting any written comments to the most recent draft of 69K-30 is close of business tomorrow, Friday, January 5, 2018. We have received a few responses so far and look forward to reviewing them in more detail with any responses which are received before the deadline. Depending upon the responses received and the decisions of the Rules Committee, it is our hope to schedule a formal Rulemaking Workshop in February or March, well before the Board meeting, which is scheduled for April.

The next Board meeting is an in-person meeting in Panama City Beach, on February 1st. We have invited the CFO to attend that meeting, if he is able. At this point, I do not think that his schedule will permit it, but his schedule always is flexible so hopefully he'll be able to be there. That concludes my report. Thank you.

Chair – Ms. Schwantes?

Ms. Schwantes – Yes, sir?

Chair – On the proposed legislation for the CPTF, can you give us that House Bill number again, please?

Ms. Schwantes – Absolutely. It's HB 1073 and SB 1292. Both the Veterans' Preference provisions and the CPTF provisions are part of an overall Department Agency bill.

Chair – Thank you.

Ms. Schwantes – Thank you.

B. Form Revision (Action)

Ms. Simon – Submitted in your Board package is a Quarterly Preneed Remittance Invoice. The first page that was submitted is the form with the modifications. The second page was the redlined version. These changes are primarily technical in nature and they are meant to conform with the statute and rule currently in place. The Division is recommending approval of the changes to the Quarterly Preneed Remittance Invoice.

Mr. Jones – Mr. Chair, I have a question.

Chair – Mr. Jones, go right ahead.

Mr. Jones – Hey Ellen, on that form, at the very bottom, where it says "Questions? Call Division's preneed staffer," I know we took the name and number off, but is that clear enough for people to know who to call and the number to call?

Ms. Simon – The number to call with the Division is listed on the Division's website pretty easily. If you would like, we could do the addition of that number and have that condition of the form approved by the Board right now, and we could make the changes subsequent to the Board meeting.

Mr. Jones – I understand not putting someone's name on there, but I was wondering about the number. The second question is the form revision date. Does that need to change to represent '18 instead of '13, or is it good as it is? That's all my questions.

Ms. Simon – Well, the form number will not change, however, the revision date, once it is revised will. We couldn't update the date without knowing it was actually going to be revised by JAPC, but that date will change.

Mr. Jones – Thank you. Thank you, Mr. Chair.

Chair – Thank you. Good point. Ms. Simon?

Ms. Simon – If there is a motion made to accept the changes to this form, that motion can include instruction that the Board put the telephone number for the Division, at the bottom of the form, if the Board is so inclined.

Chair – Is there a motion?

MOTION: Mr. Knopke moved to approve the changes to the Quarterly Preneed Remittance Invoice, to include adding the Division’s telephone number to the bottom of the form. Mr. Hall seconded the motion, which passed unanimously.

C. Report: Payment of Disciplinary Fines and Costs (Informational)

Ms. Simon – This item is informational only. Are there any questions?

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 January 4, 2018 Board Meeting
 Date of Report: December 22, 2017

Licensee	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
Donald Peter Korna	Dec-17	201961-17-FC; 169273-15-FC	\$1,500	Not yet determined		
Abbey Affordable Cremation & Funeral Services	Dec-17	203837-17-FC; 201957-17-FC	\$1,500	Not yet determined		
George E. Hewell & Son Funeral Home, inc.	Oct-17	210017-17-FC	\$1,750	17-Nov-17	Paid in Full 10/30/2017	
Kotrady-Hudgins Funeral Services, LLC d/b/a S	Oct-17	210062-17-FC	\$1,750	17-Nov-17	Paid in Full 11/2/2017	
Gregory Dunphy	Dec-16	196606-16-F	\$2,500	Monthly payments of \$208.37	Paid in Full	
Jeannette Royal	Jun-16	164613-14-FC	\$5,000	12-Jan-16	Note A	
A. When payment in full becomes past due, the FCCS Division works with the DFS Legal Division to enforce payment. B. Once fines and costs are paid in full, licensee kept on this report 3 months, showing Paid in Full, and then dropped off report; also licensee dropped off report after disciplinary action filed due to nonpayment of the fine and costs. C. The Order re this case is still in process, so no Due date is not yet established. D. Due date has not passed, as of the date of this report. E. As of the date of this report, monthly payments were current.						

14. Chairman's Report (Verbal)

Chair – I’d like to again mention our Rules Committee meeting that will be held on January 18th. That’s a Thursday. I want to thank Mr. Jones for making the facility available at the Bureau of Vital Statistics. Looking forward to working on these rules and anyone that can attend, I hope you’ll be there. We’ve had wonderful participation from industry members and other interested parties. Thank you for your participation. I look forward to being there.

Ms. Simon – Thank you, Mr. Chairman.

15. Office of Attorney General’s Report (Verbal)
A. Rules Report (Informational)

Mr. Tom Barnhart – Good morning, Board Members. This is Tom Barnhart, Attorney General’s Office. Nothing new on your report. Of course, we have recent amendments to the bottom two (2) rules, 69K-21.003 and 69K-33.001, F.A.C. The rules above that are the disciplinary rules that we continue to work on and will work some more on it, as mentioned, on January 18th, in Jacksonville. Are there any questions about the Rules Report?

Chair – I hear no questions.

Mr. Barnhart – Mr. Chairman, that concludes my report.

Chair – Thank you.

**BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES RULES REPORT
JANUARY 2018**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-30.001*	Disciplinary Guidelines and Penalties for Funeral Directors and Establishments, Embalmers, Removal Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities		03/24/2017 (RD)	04/14/2017			
69K-30.0021*	Minor Violations and Notice of Noncompliance for Funeral Directors and Establishments, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities		03/24/2017 (RD)	04/14/2017			
69K-30.003*	Citations for Funeral Directors and Establishments, Embalmers, Removal Services, Refrigeration Services, Direct Disposers and Establishments, and Cinerator Facilities (30.003)		03/24/2017 (RD)	04/14/2017			
69K-21.003	Inspection Criteria (Funeral Establishments).	09/07/2017	05/13/2017 (RD) 09/18/2017 (RN)	05/23/2017	09/26/2017 – Vol. 43/186	11/7/2017	11/27/2017
69K-33.001	Requirements Regarding Handling and Storing of Human Remains	10/05/2017	09/07/2017 (RD)	09/19/2017	10/18/2017 – Vol. 43/202	11/16/2017	12/6/2017

*Note: Rule Development for 69K-30.001, .0021 and .003 noticed together; however, each proposed rule can be amended separately if needed

*Note: Workshop on 69K-30.001, .0021 and .003 held June 6, 2017

*Note: Rules Committee Meetings on 69K-30 held June 28, 2017, August 18, 2017, October 10, 2017 and November 9, 2017

16. Upcoming Meeting(s)

- A. February 1st (Sheraton Bay Point Resort – Panama City Beach)
- B. March 1st (Teleconference)
- C. April 5th (DoubleTree by Hilton Orlando Downtown – Orlando)
- D. May 3rd (Teleconference)
- E. June 7th (Saddlebrook Golf Resort – Wesley Chapel/Tampa)
- F. July 12th (Teleconference)
- G. August 2nd (Tallahassee)
- H. September 6th (Teleconference)
- I. October 4th (Miami-Dade College – Miami)
- J. November 1st (Teleconference)
- K. December 6th (Embassy Suites by Hilton Jacksonville Baymeadows – Jacksonville)

17. Adjournment

Chair – Board members, anything for the good of the cause? The meeting was adjourned at 10:25 a.m.