

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
BOARD MEETING
AUGUST 4, 2022 - 10:00 A.M.

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

Ms. Jill Peeples, Chair – Good morning. Can everybody hear me? I have my mic on. Can you hear me now?

Audience – Yes.

Chair Peeples – Thank you. Good morning. Welcome to the Board of Funeral, Cemetery, and Consumer Services meeting. It's August 4, 2022. It's 10 o'clock in the morning, and we're here at the World Golf Village in St Augustine FL. Thank you to all the Board members, staff and those that support the Board. Thank you to the attendees and the Division. I would like to call this meeting to order, and I'll turn it over to Ms. Simon, for her preliminary remarks and roll call. Board members, please push the button to turn your mics on so that you will be recorded. Ms. Simon?

Ms. Ellen Simon – Thank you. Can everybody hear me as well?

Audience – Yes.

Ms. Simon – Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is August 4, 2022, and it is about 10 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice and location of this meeting has been duly published in the Florida Administrative Register, and an agenda for this meeting has been made available to interested persons. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board's Chair, Ms. Peeples, runs the meeting. Persons desiring to speak should initially ask the Chair for permission. Please be aware that the microphone is on at the podium and you would need to speak into it, should you choose to speak to the Board.

As a reminder to Board members, you are to refrain from commenting on facts not included in your Board packages, and instead base your decision solely on the information in your Board packages, as well as testimony provided at this meeting. Additionally, ongoing investigations are private and confidential and are not to be discussed, even for the purposes of confirming there is an investigation. Just a few words about Item Q on your agenda, which is Public Comment. Public Comment is reserved for general comments by the public and not for re-litigation of any matter before the Board. Please be made aware that if Public Comment is used as an attempt to re litigate a matter that is being heard on this agenda, the Board will be instructed that the comment is not appropriate for Public Comment, and it should not be considered for further discussion.

At this point, I would like to direct your attention to the two (2) women to my right, behind you. Since many of you are new Board members, you have not previously had the opportunity to meet Jasmin Richardson. You may know her through her licensing work, but as a Financial Specialist, one of her many responsibilities is to attend all Board meetings, and she is indispensable to the process. LaTonya Bryant also appears at each meeting, and among many of her duties she is responsible for setting the meeting, recording and monitoring the meeting. Today we are fortunate to have Crystal Grant in her stead. As a Financial Examiner/Analyst II, she is also indispensable to the Licensing Team and we appreciate her stepping in to assist in these endeavors. If it's alright with you, I'd like to call the roll.

Chair Peeples – Yes, ma'am.

Ms. Simon:

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg
Sanjena Clay

Vincent "Todd" Ferreira
Christian "Chris" Jensen
Kenneth "Ken" Jones
Janis Liotta
Jay Lyons
Darrin Williams

Also noted as present:

Mary Schwantes, Executive Director
Rachelle Munson, Board Legal Advisor
Marshawn Griffin, Department Legal Counsel
Jasmin Richardson, Department Staff
Crystal Grant, Department Staff

Ms. Simon – Madam Chairperson, there is a quorum for the business of the Board.

Chair Peeples – Thank you, Ms. Simon. We're going to go through the agenda. There are copies in the rear of the room, if you did not get one. Ms. Simon?

Ms. Simon – Thank you.

B. Old Business

- (1) *Collective Application(s) (Informational)*
 - (a) *Foundation Partners of Florida LLC (Bradenton)*
 1. *Change of Ownership*
 - *Cinerator Facility*
 - *Funeral Establishment*
 2. *New Establishment*
 - *Preneed Branch*

Ms. Simon – When this matter was originally heard on the June agenda, there were recommended conditions mistakenly included on the coversheet presented to the Board members. Conditions numbered 8) and 9), which are in your Board package today, related to an Application for Registration as a Training Agency, and are only applicable to an application of that sort. However, the collective set of applications did not include an Application for Registration as a Training Agency. The Board approved the application subject to all of the conditions listed and included on the coversheet. As a result, when the Order is filed reflecting the approval of the applications, conditions number 8) and 9) will not be included, as they are not applicable. If there are no concerns or questions, I will move on.

- (2) *Contract(s) or Other Related Form(s)*
 - (a) *Recommendation for Approval with Conditions*
 1. *Physicians Life Insurance Company (Omaha, NE)*
 - *Preneed Sales Agreement*

Ms. Simon – These preneed sales agreement forms were presented at the June 21, 2022 Board meeting and were tabled due to the forms not containing all the statutorily required disclosures as set forth in the Board minutes from the June 21st meeting, which are included in your package. Applicant has revised the forms to include all required disclosures and is seeking Board approval. PLIC submits the following preneed sales agreement forms for approval: A Guaranteed Statement of Funeral Goods and Services (Form L-NB-0578) and a Non-Guaranteed Preneed Funeral Agreement-Statement of Funeral Goods and Services (Form LNB-0580). If approved, these forms are to be used for the sale of insurance-funded preneed funeral goods and services by various licensed preneed main establishments and their related preneed branches. The Division is recommending approval subject to the condition that two-full-sized print-ready copies of the revised preneed sales agreement are received by the Department within sixty (60) days of this Board meeting.

Chair Peeples – Thank you, Ms. Simon. What is the pleasure of the Board? Is there a motion to approve?

MOTION: Mr. Ken Jones moved to approve the agreement subject to the condition that two (2) full sized print-ready copies are received by the Department within sixty (60) days of this Board meeting. Mr. Darrin Williams seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

- 2. *Physicians Mutual Innovations, LLC (Omaha, NE)*
 - *Preneed Sales and Trust Agreement*

Ms. Simon – These trust and preneed sales agreement forms were presented at the June 21, 2022 Board meeting but were tabled due to the forms not containing all the statutorily required disclosures, as set forth in the attached Board minutes within your Board package. Applicant has revised the forms to include all required disclosures and is seeking Board approval, specifically of a master preneed trust agreement along with a participation agreement and a preneed funeral agreement. Additionally, as sponsor, this applicant offers preneed trust services utilizing Regions Bank, N.A. (FDIC insured), as the Trustee.

As for Exhibit B, you will find in your Board package that there is a contract entitled “*Second Amended Agreement and Declaration of Trust of Physicians Mutual Innovations, LLC Master Preneed Funeral Trust Agreement,*” as well as a “*Second Amended Master Preneed Funeral Trust Agreement.*” As for Exhibit C, this entity seeks approval of the included Statement of Funeral Goods and Services agreement and Master Preneed Funeral Trust Contract for Merchandise & Cash Advance Items (Forms B-SV-0572-FL and B-SV-0573-FL), which is included as Attachment 3 to your Board package. The Division is recommending approval of the trust agreement documents and approval of the preneed funeral agreement, all the forms previously mentioned, subject to the following conditions recommended by FCCS Division:

- 1) That the representations of Physicians, through its representative from Regions, as set forth in letter dated July 4, 2022, copy attached hereto, be deemed material to the Board’s decisions herein.
- 2) That fully executed copies of the trust documents as identified above be provided to the Division within sixty (60) days of this Board meeting.
- 3) That two full sized print-ready copies the preneed sales agreement be provided to the Division within sixty (60) days of this Board meeting.

Chair Peeples – Thank you, Ms. Simon. What is the pleasure of the Board? Is there a motion to approve with conditions?

MOTION: Mr. Chris Jensen moved to approve the agreement subject to the conditions recommended by the Division. Ms. Sanjena Clay seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

- (3) *Request(s) to Change Status of Licensed Cemetery*
 - (a) *Recommended for Approval without Conditions*
 1. *Avon Park Cemetery Association d/b/a Bougainvillea Cemetery (Avon Park)*

Ms. Simon – A financial examination was conducted earlier this year and there were findings, which included a deficit in the Care & Maintenance Trust. The licensee made the Trust whole as relates to the findings in the examination. In April 2022, this matter was brought before the Board to determine whether the Applicant could change its licensed status to an exempt status. The Board denied the Applicant’s request. The Applicant subsequently provided an affidavit from the cemetery’s president, Marcos Garcia, which is included within your Board package. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve?

Mr. Jody Brandenburg – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Brandenburg – I’d like to speak with Ms. Wiener, if I may.

Chair Peeples – Yes, sir. Please.

Mr. Brandenburg – Thank you. Ms. Wiener, as the April meeting, the president was Diana Meneely. And, at this meeting, the president is Marcos Garcia. How did that change occur from April to now?

Ms. Wendy Wiener – This cemetery is a community cemetery, run by volunteers. And, as in many volunteer organizations, people's terms come and go, and people change. Ms. Meneely reassumed her position as secretary and is running the office. And Mr. Marcos, who had previously been president, became president again. So, there was nothing related to the change in status that drove that change in titles. Just people moved into {inaudible}. Ms. Meneely is a retired bank executive and she considers herself better suited to run the office.

Mr. Brandenburg – Do you sense the concern of the Board was the Care and Maintenance Trust? Would you and your client agree to provide the Board, in February and August, for the next two (2) years, a statement from whoever might be handling the trust, the amount of the trust, for the next two (2) years? Every six (6) months, February and August?

Ms. Wiener – I don't have authority to make that agreement. The Division previously put to the licensee some requests for additional oversight, and frankly it's not required. I'm not encouraged to establish a precedent with regard to a cemetery that has become exempt. The cemetery really doesn't even have to maintain the Care and Maintenance Trust Fund but has agreed to do so and has stated in its affidavit that it will only use its Care and Maintenance Trust Fund for care and maintenance of the cemetery. There is no intention to, as some other organizations have done when they have moved to an exempt status, whether that be religious or otherwise, to raid the trust funds. So, I can ask about that. I'm probably not able to get that answer to you during this meeting. As I said, it's a volunteer organization. It's a community cemetery. There's not someone staffing the office. I don't have regular contract with Ms. Meneely or with the new president. So, I can ask and if so, then they can provide that information, but I don't believe that the Board's approval should be contingent upon that.

Mr. Brandenburg – I wasn't suggesting that.

Ms. Wiener – Thank you. They in no way mean to be uncooperative. They really should not have been licensed in the first place. Why and how this cemetery's history brought it to be a licensee is somewhat mysterious, but we do come across that. There was, as you know, Mr. Brandenburg, and I'm not sure anyone else was around in the industry back then, like you and I were, but there was a push during that timeframe that we went from thirty (30) acres to fifteen (15) acres to really get new cemeteries and expand new cemeteries. So, we do end up with a lot of cemeteries in the state that probably shouldn't be licensed but are.

Mr. Brandenburg – Thank you.

Chair Peeples – Thank you, Mr. Brandenburg. Is there a motion?

Mr. Jay Lyons – Madam Chair, may I?

Chair Peeples – Yes, sir, Rabbi Lyons.

Rabbi Lyons – Good morning. So, my understanding is somewhat confusing. The original trust fund, there was money due to put into the trust fund under certain contracts the cemetery needs to sell the burial space, and it was given to that trustee for care and maintenance. So, how does licensure or exemption from licensure affect the relationship between the trustee and the two (2) parties of the contract?

Ms. Wiener – So, exempt cemeteries don't have to maintain Care and Maintenance Trust Funds, but many do so voluntarily. In fact, at FSI, our master trust contains the monies of many exempt cemeteries, and it's a great idea for an exempt cemetery to deposit a portion of every sell into a care and maintenance trust to maintain it for the perpetual care of the cemetery, but it's not required. I think to your point where there were contracts sold and those contracts obligated, at that time, the cemetery to deposit and maintain funds in trust, those contracts will absolutely be honored. I believe it is the continued plan, for the cemetery, to continue to deposit funds to its Care and Maintenance Trust that it will maintained by Truist, although it won't

be required to so on ongoing contracts, but I believe that that is their plan. So, there won't be any breach of the contracts that are in existence now.

Chair Peeples – Thank you, Rabbi Lyons.

Mr. Todd Ferreira – Madam Chair?

Chair Peeples – Yes, Mr. Ferreira?

Mr. Ferreira – I'm not real comfortable handing over \$1.3 million to volunteers, to start with. People who aren't in the office, answering the phone. I think, like Mr. Brandenburg said, we need some type of tracking, a way to make sure that those funds are still there.

Ms. Wiener – I absolutely appreciate your concern. While the community cemetery is run by volunteers, Truist is not, and they will take very good care of those Care and Maintenance Trust Funds. Mark Hall and his entire team are watching out for the funds. Just like any other exempt cemetery that creates and maintains a Care and Maintenance Trust Fund, those cemeteries are often run by volunteers, or part-timers, or what have you. So, the issue before this Board is a tricky one, because frankly we have taken the position, and I believe it would be {inaudible} if the matter were to go to litigation that the Board doesn't actually have approval to allow a cemetery to become exempt or not. I could go today and form a community organization, send in a notice of exempt cemetery, and I'd be up and running as an exempt cemetery. I could or could not create a Care and Maintenance Trust Fund. So, the Board doesn't have the authority to approve an exempt cemetery. It's really just {inaudible} that is received and a \$25 payment that comes along with that notice.

So, in this particular situation, the Board finds itself in sort of this grey area where there was a licensed cemetery, it was operated as a licensed cemetery, but it was then operated by volunteers, in the exact same way, without someone regularly in the office. I believe it is Ms. Meneely, the new president, and a gentleman that maintains and cares for this cemetery. And so, while they were licensed, the maintenance of that license is not necessary. The way that they do their business is in keeping with an association or community cemetery, which is one of the exemptions. So, I recognize the desire for oversight, but I don't believe that this Board has the jurisdiction to impose that oversight, which is why this comes to you with a recommendation for approval without conditions, because in terms of the oversight you could receive, you have the affidavit and the word from the president of the association that the trust funds will not be raided or taken. So, I'm sure that the cemetery will not be uncooperative, but I don't believe this Board can impose and enforcement of cooperation, if you will, other than as relates to those limited items. There are five (5) or six (6) laws that apply to exempt cemeteries, maintaining burial records, certain care and maintenance obligations, and if those obligations are breeched, there is a process where the Division becomes involved and helps to mediate scenarios between individuals that complain and the cemetery. But, beyond the enforcement of those limited statutes, I think the Board is at its limit in having requested and received the affidavit, as to the trust funds.

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – Question for Ms. Munson, please?

Ms. Rachelle Munson – Sure.

Rabbi Lyons – An exempt cemetery is licensed under an exempt cemetery...

Ms. Wiener – No.

Rabbi Lyons – Yes. I'm {inaudible} familiar with this. They received a license with a license number on it, licensed as exempt. I know it sounds funny, but an exempt cemetery is licensed as an exempt cemetery.

Ms. Wiener – I think that's just because that's how the Division's capacity to assign a number to an exempt cemetery, but it's actually a notice of exempt cemetery that is sent into the State.

Rabbi Lyons – Question for Ms. Munson is, does the Board have the authority to put conditions on that? That the Department will not issue that license unless certain conditions are met?

Ms. Munson – I believe we had this discussion when this was brought up before, at the previous meeting, when this item was initially presented to the Board, and I believe that the Division staff, leadership, and I believe the Office of General Counsel was breaking down the definitional meaning of what the exempt cemetery allows, and because it technically does not, this was the discussion. So, it is kind of a quirky area. So, if there is no licensing authority, per se, then there is no authority to place a condition on something that is not within your purview. And the Division can speak or expand upon that, but I believe that was the last word on that from our last meeting.

Ms. Wiener – I agree completely with what Ms. Munson said.

Chair Peeples – Thank you, Ms. Munson. Thank you, Ms. Wiener. Ms. Simon?

Ms. Simon – It is my impression that when you have an exempt cemetery, you are unable to impose different conditions on that cemetery, because it's not a licensed cemetery. That is my understanding.

Chair Peeples – Rabbi Lyons, did that complete your questions?

Rabbi Lyons – Yes, thank you.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Quick question here. Going back to the April meeting, basically, the issue that Mr. Knopke was having was the \$1.3 million, to protect the consumers. I think what Mr. Brandenburg's issue is. So, how do we do that to make sure of that? Because legally, I mean, once they're like that, they can be sold. Anything can happen. It may not be the intent of this particular group of people right now, but if they have very little income and the world is what it is, some person may come in there and buy it for whatever and then they raid the trust fund. Then, what are we to do?

Ms. Wiener – So, a couple of things. Mr. Knopke was really looking for the thing that you ended up receiving, which was an affirmation and attestation by the cemetery, that it would utilize the funds for care and maintenance of the cemetery. So, that was what drove Mr. Griffin and Ms. Simon to request an affidavit from the leadership of the cemetery. The trust funds that are currently held, which is really in care and maintenance trust, what's there, because the income is disbursed out to the cemetery on a regular basis. So, the principal of the trust has been derived from payments made pursuant to contract. Those contracts do not disappear. They don't do away. Those contracts will continue to bind that \$1.3 million into that trust, even if the trustee, pursuant to its own regulation, is not authorized to disburse funds from that trust that were deposited there while the cemetery was licensed, because the trustee would put itself into significant, potential jeopardy with its own regulator along with this Board. Truist is a big player in the death-care industry and I feel certain that Mark and his team have no interest in violating Chapter 497 on breaching contracts between consumers and the cemetery.

Mr. Jensen – Thank you.

Chair Peeples – Thank you, Mr. Jensen. As Ms. Wiener is here representing Avon Park Cemetery Association, is there any other discussion or questions for her, from the Board? Mr. Ferreira?

Mr. Ferreira – So, Truist is the trust company, right. So, the volunteers are their bosses, correct? So, if the volunteer asks for x number of dollars, Truist is going to pay it out, right?

Ms. Wiener – No. The way that the law works is it imposes upon the trustee the obligation only to disburse funds for different kinds of trust under only certain conditions. So, even though the cemetery will become exempt now, the trust funds that have been deposited previously are still bound by the trust agreement under which they were deposited and will continue to be bound by the contracts. So, the exempt cemetery won't have any capacity to ask for more of that \$1.3 million than we would be entitled to, under the law, because those funds went in while the cemetery was licensed. That won't change. Now, this Board has unfortunately seen a different scenario in the past where a cemetery became exempt, as a religious cemetery, and

they did go in and raid some trust funds. Fortunately, a licensee bought them, and it became a licensed cemetery, and I think those issues have largely been resolved, but these are different kind of people. As I said, Ms. McNeely is a career bank executive, so she certainly understands the fiduciary unity that Truist has to honor the trust agreement. The trust agreement won't go away, so that trust agreement is still going to bind those trust funds.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Mr. Brandenburg, let me go to Mr. Jones first and then Mr. Brandenburg.

Mr. Brandenburg – Sure.

Mr. Jones – Quick question for the Division. Ms. Wiener said there's several cemeteries that fall within this, that could exempt themselves. If this is approved, what are we looking at down the road? How many cemeteries? Do we have any idea what the impact could be?

Ms. Simon – I'm not sure, at this point, because we don't know which cemeteries are facing that. But, yes, we can see cemeteries, if this cemetery goes exempt, that there may be others that wish to do that.

Mr. Jones – And I'm basing it on her saying that there were many, so that's the reason I'm asking.

Ms. Wiener – I stand by my statement that there are many, but I think to alleviate your concerns somewhat, Mr. Jones, I would say this, this is not a new issue facing the Board. Cemeteries have transitioned to exempt in the past, and notwithstanding that there are many, we don't get a lot of these requests. I think everyone on this Board knows I'm fairly well in touch with what's happening in the death-care industry in Florida. I don't have any other cemeteries approaching me about changing their status. So, some probably could, but many probably just go on with their licenses {inaudible}. Not that many years ago we had a cemetery that was sold to a church. It had been owned by a funeral home. My guess is it was fifteen (15) acres at the time, the cemetery then it only developed a little bit. They sold it to the church, and it became an exempt cemetery. We filed a notice in that case, and there was no question about that matter. So, it happens from time to time, but in my personal experience, I've had maybe five (5) or six (6) over the course of my thirty (30) year career.

Mr. Jones – Thank you.

Chair Peeples – Thank you, Mr. Jones. Ms. Simon {inaudible} a comment that you had asked a question. Ms. Simon?

Ms. Simon – I am not sure about Avon Park's preneed. I don't know if they have preneed.

Unidentified person – {inaudible}

Ms. Simon – Ok, because when you're exempt, of course you cannot.

Mr. Jones – Right.

Ms. Simon – So, that is one of the ways of protecting the public.

Ms. Wiener – I mean, they'll sell interment rights. You can sell an interment right preneed because that's not a preneed {inaudible}. They won't be selling merchandise anyway, because under the exemption that applies to them, they will not be selling merchandise.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Just for clarification, my comment about every six (6) months for two (2) years, that was not a condition for approval. I didn't want to tack that on as part of the approval process. It was merely peace of mind for the Division and the Board. It wasn't a condition for approval.

MOTION: Mr. Brandenburg moved to approve the request. Rabbi Lyons seconded the motion.

Chair Peeples – We have a motion and a second, and give me just one minute for discussion, please. If I may, Ms. Wiener, thank you for coming today. Thank you for speaking on behalf of Avon Park Cemetery Association. I think, as a Board, we all have a concern for the consumer. That’s our main purpose of being here, and it concerns us that if we make this an exempt cemetery, we don’t have any fallback from that perspective, and there have been situations even with licensed cemeteries, that things have happened, funds have been raided, and that’s the whole purpose of the Consumer Protection Trust Fund.

Ms. Wiener – That only applies to preneed, the Consumer Protection Trust Fund. {Inaudible} apply to a Care and Maintenance Trust Fund.

Chair Peeples – Thank you. Will they be selling any type of contracts that will include openings and closings for future aspects?

Ms. Wiener – They can sell openings and closings. They will not be selling interment rights or services in the future, but they will transition to, which is what most exempt cemeteries or community association cemeteries have, is they’ll sell memberships in the cemetery that will entitle an owner to a space or spaces and to have that space opened or closed. So, that is permitted under the exemption and that is what community cemeteries do. There are many, many. If you look at your database, there are probably hundreds of exempt cemeteries that do just this or something like this, either religious or community or association or other nonprofit cemeteries that sell and {inaudible}. So, they will and may, I assume, but there is not an entire lack of oversight of an exempt cemetery. So, I want to make sure that the Board members understand that exempt cemeteries, as set forth in s. 497.260(1), Florida Statutes, are enumerated. They have their particular ways that they can operate in order to qualify for exemption, but on down in that statute is (2). There are still, as I said, five (5) or six (6) laws that continue to apply, and those are laws that protect the consumers. Laws regarding recording of burial rights, laws regarding non-discrimination, and things of that nature. So, there are protections, and if there are issues with consumers, big or small, even so much as a disagreement about who can attend a service on an exempt cemetery property, if the consumer complains to the Division, the Division actually dispatches one of its staff to conduct a mediation between the parties. If that mediation fails or if there are issues that are identified, then the Division, the Board really, can take action against the exempt cemetery, because there are still those key consumer protection statutes that apply, even to exempt cemeteries. So, they’re exempt, but they’re not. Does that make sense?

Chair Peeples – Yes, ma’am. Thank you for your comments. As Chair, as a Board member, I’m just concerned, as the notes from the April meeting, we are not going to have authority over these folks, from this perspective, so it is a big concern of mine, and I’m not sure how the other Board members feel. Mr. Ferreira?

Mr. Ferreira – I’m very confused. Can they sell merchandise and services, or can’t they?

Ms. Wiener – They cannot sell merchandise under their {inaudible} exemption. There are some exempt cemeteries that can sell merchandise.

Mr. Ferreira – Ok. We went from burial rights to just now openings and closings, right?

Ms. Wiener – That is correct.

Mr. Ferreira – So, what else can they sell? In this scenario, I need to know what else they can sell.

Ms. Wiener – They can sell interments and openings and closings.

Mr. Ferreira – Ok. No vaults? No markers?

Ms. Wiener – No, that would be merchandise.

Mr. Ferreira – Ok. They can’t package anything together and sell a package or anything like that, right?

Ms. Wiener – No.

Chair Peeples – Thank you, Mr. Ferreira.

Rabbi Lyons – Madam Chair?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – You said they're a community cemetery. So, they sell the memberships {inaudible} burial rights or openings and closings.

Ms. Wiener – That's correct. Yes, but membership will include the burial right and opening and closing, but you're exactly right. But, just to address, the things that come with that will be the interment right and the opening and closing.

Rabbi Lyons – So, the real answer to Chair Peeples' concern is that the money the consumers have up until this point put into the trust fund, or our concern primarily is, in moving forward it's out of our jurisdiction, but that money right now is. That money is protected by the trustee whose obligations are beyond the oversight of this committee and the trustee needs to honor the three-party contracts that is the governing contract of how that money ended up in the trust funds.

Ms. Wiener – That is correct.

Mr. Ferreira – Madam Chair?

Chair Peeples – Thank you, Rabbi Lyons. Mr. Ferreira?

Mr. Ferreira – So, if the president of this group calls the trustee and says that they need \$100K for a backhoe, are they going to send them a check for \$100K?

Ms. Wiener – If there are sufficient earnings in the trust, they sure are, just like any other cemetery, licensed or unlicensed.

Mr. Ferreira – So, let me just make sure everyone's clear that these volunteers control this trustee. So, there's no oversight, like you're talking about. These volunteers control this trustee.

Ms. Wiener – Well, they do, and they don't.

Mr. Ferreira – They're employed. They can pull this money from this trustee immediately, if they wanted to.

Ms. Wiener – They sure could, but they would have to transfer it to another trustee. So, when you buy any kind of a preneed contract or a cemetery, you, the consumer, enter into a relationship with the trustee and with the cemetery or the funeral home. So, that's not going to go away, as it relates to the principal in place now. That will not go away. That stays in place. It will not change. What will change is in the future, if the cemetery decided it did not want to deposit funds into care and maintenance, it could make that choice. Or, it could continue to deposit funds into care and maintenance, and then it could withdraw those funds if it wanted to buy a backhoe. But, with regard to the concern of today, the \$1.3 million related to the consumers that deposited funds pursuant to their agreements with Avon Park Bougainvillea Cemetery, those funds will continue to be governed by the Chapter 497 approved trust agreement and those contracts, and no one, volunteers or cemetery, have the legal capacity to direct the trustee to breach its trust agreement. The trustees don't breach their trust agreements, as a rule. The current money, not only do you have the assurance as requested by the Division by affidavit, but you also have the trustee holding this pot of money and only with the capacity, pursuant to the trust agreement, to disburse the income. No capacity to disburse to the principal.

Chair Peeples – Thank you, Mr. Ferreira. Is there any other discussion? Mr. Jensen?

Mr. Jensen – Quick question, maybe for Ms. Munson.

Ms. Munson – Sure.

Mr. Jensen – So, this is not necessarily preneed, it's more care and maintenance. So, worse case scenario, the place gets sold and somebody does take home \$1.3 million, we're not necessary on the hook for it, I mean worse case. We're not on the hook for anything, but are we then on the hook to the consumers, with the care and maintenance?

Ms. Wiener – Well, no, but even if the cemetery changed hands, those trust funds, in the legal realm of sorts, they'll run with the land, because that money is attached to that. Those monies are bound up by contracts, not just contracts with the consumers, but with the trust agreement. Those monies, the principle of those monies will stay in place, and even if someone else were to buy it, they would step into the shoes then of Avon Park and they would not have any capacity to say take it out, do whatever. So, that \$1.3 million, bound up by two (2) separate sets of contracts and Chapter 497.

Mr. Jensen – Madam Chair, may I continue?

Chair Peebles – Yes, sir, Mr. Jensen.

Mr. Jensen – So, just to put this in a nutshell, it's just like any other cemetery. If XYZ buys it, then they're responsible for servicing all of the preneed. So, this money is going to be bound up, even if someone else buys it.

Ms. Wiener – 100%. Absolutely.

Mr. Jensen – I'm good with that. Thank you.

Chair Peebles – Thank you, Mr. Jensen. For the Board's information, I think this may be a topic that we want to address as we go further regarding exempt cemeteries. It seems to be, and I really do not feel, through Ms. Munson and Ms. Simon, that we have statutory authority to deny them to become exempt. We do have a motion and we have a second. Is there any further discussion on this item? Seeing no discussion, Ms. Simon, will you do a roll call vote, please?

Ms. Simon – Absolutely. Mr. Ferreira?

Mr. Ferreira – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Mr. Clark?

Mr. Andrew Clark – Yes.

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Ms. Liotta?

Ms. Janis Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – The ayes have it.

Chair Peeples – And I vote yes, also. The ayes have it, so this motion is approved. Thank you, Ms. Wiener.

Ms. Wiener – Thank you.

C. Application(s) for Preneed Sales Agent

(1) Informational Item (Licenses Issued without Conditions) – Addendum A

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

(2) Recommended for Approval without Conditions (Adverse License History)

(a) Schicker, Charles (Appointing Entity: Smart Cremation of Florida LLC)

Ms. Simon – On June 16, 2022 the appointing entity applied electronically for Mr. Schicker’s licensure as a preneed sales agent and answered “Yes” to the background question regarding adverse licensing history on the application due to reportable disciplinary history that required disclosing. Smart Cremation of Florida LLC, employer, provided the Division with a written explanation of the relevant adverse license history by Mr. Schicker and completed Adverse Licensing Action History form. A copy of the Consent Order regarding the disciplinary action could not be obtained. In 1986, Mr. Schicker’s non-resident life insurance license was suspended by the Minnesota Department of Insurance for soliciting without a current license. As a result, the Minnesota Department of Insurance suspended Mr. Schicker’s life insurance license for a period of five (5) years. Mr. Schicker met all conditions of the suspension of his life insurance license and there are no other disciplinary issues in relation to this applicant. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Do we have a motion to approve?

MOTION: Rabbi Lyons moved to approve the application. Ms. Clay seconded the motion, which passed unanimously.

D. Application(s) for Continuing Education

(1) Course Approval - Recommended for Approval without Conditions – Addendum B

- (a) Cremation Association of North America (16008)**
- (b) Florida Cemetery, Cremation & Funeral Association (75)**
- (c) Independent Funeral Directors of Florida Inc (135)**
- (d) Matthews International (30408)**
- (e) National Funeral Directors Association (136)**
- (f) New Jersey Funeral Service Education Corp. (7002)**
- (g) Selected Independent Funeral Homes (137)**

Ms. Simon – Pursuant to s. 497.147, F.S., and Board Rule 69K–17.0041, F.A.C., the courses presented on Addendum B 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.

Chair Peeples – Thank you, Ms. Simon. Do we have a motion to approve?

MOTION: Mr. Jones moved to approve the applications. Mr. Jensen seconded the motion, which passed unanimously.

E. Consumer Protection Trust Fund Claims

(1) Recommended for Approval without Conditions – Addendum C

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

Chair Peeples – Thank you, Ms. Simon. Do we have a motion to approve?

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

F. Application(s) for Embalmer Apprentice

(1) Informational Item (Licenses Issued without Conditions) – Addendum D

- (a) Capps, Buddy C F602595**
- (b) Clift, Million D F600110**
- (c) Garcia-Hernandez, Yeraldy F600582**
- (d) Maxey, Sarah L F599867**
- (e) Rowe, Miranda D F601084**
- (f) Smith, Chloe F603217**

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

(2) Recommended for Approval without Conditions (Criminal History)

- (a) Embalmer Apprentice**
 - 1. Crawford, Lashawn Martez**

Ms. Simon – Is the applicant here?

Mr. Lashawn Crawford – Yes.

Ms. Simon – Please step forward. The application was received on or about April 25, 2022 and was incomplete when submitted. A completed application was received on July 11, 2022. The applicant initially answered “No” to the criminal history question. The applicant was notified on May 18, 2022 that criminal history was noted after a review of the fingerprint results, to wit, on or around October 18, 2017, the applicant was found guilty of a misdemeanor for no valid driver’s license and adjudication of guilt was withheld. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Would you swear in Mr. Crawford?

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Crawford – Lashawn Crawford, C R A W F O R D.

Ms. Simon – Thank you, sir.

Chair Peeples – Thank you, Mr. Crawford. Thank you for being here today. Would you like to answer questions by the Board, or would you like to comment to the Board?

Mr. Crawford – I really don't have any answers or comments. I just want to move forward with furthering myself in the funeral industry with my embalmers license.

Chair Peeples – Thank you, sir. Do we have motion to approve?

MOTION: Mr. Clark moved to approve the applications. Mr. Williams seconded the motion, which passed unanimously.

Chair Peeples – Good luck, sir.

Mr. Crawford – Thank you.

Chair Peeples – You're welcome. Ms. Simon?

G. Application(s) for Florida Laws and Rules Examination

(1) Informational Item (Licenses Issued without Conditions) – Addendum E

(a) Funeral Director (Endorsement)

1. Cardillo, Ariel
2. Crawley, Brian W

(b) Funeral Director (Internship and Exam)

1. Tirado, Laura E

(c) Funeral Director and Embalmer (Endorsement)

1. Owens Jr, Daniel
2. Peoples, Rebekah E
3. Romano, John M
4. Steen, James R
5. Terenzio, Richard

(d) Funeral Director and Embalmer (Internship and Exam)

1. Allen, Shannon M
2. Almarales, Lazara L
3. Holbrook, Lacy J
4. Morales, Juliana A
5. Murphy, Morgan
6. Perry, Dylan R
7. Robinson, Kayla E
8. Sullivan, Ricki L
9. Williams, Dillan J

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

(2) Recommended for Approval without Conditions (Criminal History)

(a) Funeral Director and Embalmer (Internship and Exam)

1. Hernandez, Nathaniel L

Ms. Simon – Is Mr. Hernandez here today? Hearing no response. An application for a funeral director and embalmer license was received on June 14, 2022. A background check revealed a relevant criminal history, which was viewed by the Board at the June 2021 Board meeting. That criminal history was that the applicant pled no contest to misdemeanors in or around 2008. The Division is recommending approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Is there a motion to approve?

MOTION: Ms. Clay moved to approve the application. Rabbi Lyons seconded the motion, which passed unanimously.

H. Application(s) for Internship

(1) Informational Item (Licenses Issued without Conditions) – Addendum F

(a) Funeral Director

1. Anderson, Caleb F601824
2. Edgley, Michael R F599898
3. Felch, Jessica P F601108

(b) Funeral Director and Embalmer

1. Hannans, Renata F395272
2. Nichols, Paije A F603218
3. Simm, Stephen M F602979

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

I. Application(s) for Monument Establishment Sales Agent

(1) Informational Item (Licenses Issued without Conditions) – Addendum G

(a) Cabarga, Maria L F030745

(b) Constantino, Joseph F026680

Ms. Simon – This is an informational item. Pursuant to s. 497.554, Florida Statutes, the Division has previously approved the applicants listed on Addendum G.

J. Application(s) for Broker of Burial Rights

(1) Recommended for Approval without Conditions

(a) New Beginnings Corp (Pembroke Pines)

Ms. Simon – Is there a representative of New Beginnings Corp here today? Hearing no response. The application was received on June 6, 2022. The Division completed a background check of Applicant’s principal and owner, which revealed no criminal history. The Division is recommending approval without conditions.

Chair Peeples – Is there a motion to approve without conditions?

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

K. Application(s) for Centralized Embalming Facility

(1) Recommended for Approval with Conditions

(a) Oosco Funeral Homes Inc d/b/a Beth Shalom Memorial Chapel (Orlando)

Ms. Simon – Is there a representative of the entity in the room today?

Mr. Williams Adams – Yes.

Ms. Simon – Please step forward. An application for centralized embalming facility licensure was received on June 14, 2022. The Funeral Director/Embalmer in Charge will be William Adams (F046449). A background check of the principals revealed no criminal history for its principals. The Division is recommending approval subject to the condition that the facility pass an on-site inspection by a member of Division Staff.

Chair Peeples – Thank you, Ms. Simon. Will you please swear them in?

Ms. Simon – Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Mr. Adams – Yes.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Adams – William Adams, A D A M S. We were inspected and I have a copy of the inspection.

Chair Peebles – Thank you, Mr. Adams. We appreciate you being here today to represent the Beth Shalom Memorial Chapel. Are there any questions for Mr. Adams by the Board? Is there a motion to approve with conditions, which Mr. Adams states has been completed? Can staff verify?

Ms. Simon – If we can have that be a condition and then if it has already occurred...

Chair Peebles – Yes, ma'am. Thank you.

MOTION: Mr. Jones moved to approve the application subject to the condition that the facility passes an onsite inspection by a member of Division Staff. Mr. Williams seconded the motion, which passed with one (1) dissenting vote.

L. Application(s) for Direct Disposal Establishment
(1) Recommended for Approval with Conditions
(a) Cremations of Tampa LLC (Plant City)

Ms. Simon – Is there a representative of the entity in the room today? Hearing no response. An application for direct disposal establishment licensure was received on June 27, 2022. The Funeral Director in Charge will be Alan Orr (F051681). A background check of the principals revealed no criminal history. The Division is recommending approval subject to the condition that the establishment pass an on-site inspection by a member of Division Staff.

Chair Peebles – Thank you, Ms. Simon. Is there a motion to approve with conditions?

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

M. Collective Application(s)
(1) Recommended for Approval with Conditions
(a) Allen Funeral Directors LLC d/b/a A Green Cremations (Big Pine Key)
1. New Establishment
▪ Funeral Establishment
▪ Preneed Branch

Ms. Simon – Ms. Wiener is representing this entity. Allen Funeral Directors LLC d/b/a A Green Cremation, seeks approval of applications for new licensure of one (1) funeral establishment and one (1) preneed branch. More specifically, the applications for licensure are for the following:

- 1) Allen Funeral Directors LLC d/b/a A Green Cremation, a funeral establishment, physical address: 127 Industrial Rd Ste B, Big Pine Key, FL 33043. FDIC: Jeffery Watts, license #F047717
- 2) A Green Cremation a preneed branch, physical address: 127 Industrial Rd Ste B, Big Pine Key, FL 33043

The Division is recommending approval subject to the condition that the establishments pass an on-site inspection by a member of Division Staff.

Chair Peebles – If I may, I'd like to have a motion and second, and then any discussion.

MOTION: Mr. Jones moved to approve the application subject to the condition that the establishments pass an onsite inspection by a member of Division Staff. Ms. Clay seconded the motion.

Chair Peebles – Are there any questions for Ms. Wiener, or would you like to address the Board, Ms. Wiener?

Ms. Wiener – Just here to answer questions.

Chair Peeples – Thank you, ma’am. Mr. Jensen?

Mr. Jensen – I’d like to ask the Board to look at Page 6 of the application. I’m just curious, Ms. Wiener. I notice on here that the funeral home in question is in Big Pine Key. Looks like they’re embalming and they’re going to do it in Key Largo, and it looks like their cremation will be done in Opa-Locka, which is outside of the seventy-five (75) mile radius that you are allowed. So, I’m just curious how that’s going to work.

Ms. Wiener – I cannot answer that question for you, because I did not notice that myself, and apparently neither did the Division. I don’t know if, are we sure it’s more than seventy-five miles as the crow flies?

Mr. Jensen – I’m pretty sure it’s as the crow flies seventy-five miles. Maybe someone from staff can help me out here?

Ms. Simon – Actually, if I may?

Chair Peeples – Go ahead, Ms. Simon.

Ms. Simon – I believe that Mr. Jensen looked this up earlier, and it was one hundred thirty-five (135) miles.

Mr. Jensen – Well, no. One hundred thirty-five (135) miles from Big Pine Key to Opa-Locka is the maximum distance, as the crow flies seventy-five (75) miles. I think that’s what Ms. Wiener’s asking.

Ms. Wiener – No, I was asking if you were measuring as the crow flies, or as you drive.

Mr. Jensen – Opa-Locka is by Ft. Lauderdale, so if you take Big Pine Key, as the crow flies, maybe it takes off three (3) or four (4) miles. It was one hundred thirty-five (135) miles, MapQuest.

Ms. Wiener – If the Board might table this matter, I can call Misty and find out if she addressed this.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – I did look this up in the course of studying the material, and you’re correct from Big Pine Key to Opa-Locka. However, the central facility is in Key Largo and to Opa-Locka is seventy-one (71) miles.

Mr. Jensen – Yes. May I?

Chair Peeples – Mr. Jensen?

Mr. Jensen – And I do understand that. That’s what confused me, because their embalming is going to be done in Key Largo. The next section talks about cremation, and they’re going to make arrangements, and it looks like they own that facility as well, in Opa-Locka. So, I’m wondering if they have a crematory in Key Largo or was that a mistake?

Ms. Wiener – I can certainly inquire, if the Board would entertain an option to table this momentarily. I’ll reach Misty and get to the bottom of this.

Chair Peeples – For the motion and the second, is that agreeable?

Mr. Jones – Yes.

Chair Peeples – Thank you.

Ms. Wiener – Thank you.

(b) Carriage Funeral Holdings Inc (Kissimmee)

1. *Change of Ownership*
 - *Funeral Establishment (2)*
2. *New Establishment*
 - *Preneed Branch (2)*

Ms. Simon – Carriage Funeral Holdings Inc seeks approval of the following applications for licensure based upon a change of ownership: two (2) funeral establishments and two (2) new preneed branch licenses. More specifically, the entities that are being acquired are as follows:

- 1) Funeraria San Juan Inc, a licensed funeral establishment, license #F040173, physical address: 2700 Simpson Road, Kissimmee, FL 34744. FDIC: Aracely Carmona, license #F022821
- 2) Funeraria San Juan Inc, a licensed funeral establishment, license #F067707, physical address: 3189 S John Young Parkway, Kissimmee, FL 34744. FDIC: Aracely Carmona, license #F022821

New Preneed Branch

- 1) Funeraria San Juan Inc, a licensed funeral establishment, license #F040173, physical address: 2700 Simpson Road, Kissimmee, FL 34744.
- 2) Funeraria San Juan Inc, a licensed funeral establishment, license #F067707, physical address: 3189 S John Young Parkway, Kissimmee, FL 34744.

The change of ownership is the result of an asset purchase. The principals of the corporation have submitted fingerprints for the principals were returned without criminal history. If there are currently any unfulfilled preneed contracts sold at these locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. Is there a representative of the entity here today?

Mr. Sam Mazzu – Yes.

Ms. Simon – Please step forward. The Division is recommending approval subject to the following conditions:

- 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 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 Applicant (new owner or controlling party) shall assume all existing preneed liabilities, (if any), of the location(s) being acquired.

Chair Peeples – Ms. Simon, will you swear him in, please?

Ms. Simon – Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Mazzu – I do.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. – Sam Mazzu, M A Z Z U, on behalf of Carriage.

Chair Peeples – Thank you, Mr. Mazzu. Thank you for being here today. Are there any questions from the Board to Mr. Mazzu? We have a suggested approval with conditions. Do we have a motion?

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, Mr. Brandenburg?

Mr. Brandenburg – I would be honored to move for approval, with the conditions listed. Fred Richardt, the owner of these locations, and I have been friends. We grew up together. We’ve been friends for seventy (70) years, so I would be honored to make the motion.

MOTION: Mr. Brandenburg moved to approve the applications subject to the conditions recommended by the Division. Mr. Jones seconded the motion, which passed unanimously.

Mr. Mazzu – Thank you very much.

Chair Peeples – You’re welcome. Thank you.

(c) Northwood Funeral Home & Crematory LLC (West Palm Beach)

1. Change of Ownership

- *Cinerator Facility*
- *Funeral Establishment*

Ms. Simon – Is there a representative of the entity here?

Mr. Luke Grabowski – Yes, ma’am.

Ms. Simon – Good morning. Northwood Funeral Home & Crematory LLC seeks approval of the following applications for licensure based upon a change of ownership: one (1) funeral establishment, and one (1) cinerator facility license. More specifically, the entities that are being acquired are as follows:

- 1) Northwood Funeral Home, a licensed funeral establishment, license #F040350, physical address: 5608 Broadway, West Palm Beach, FL 33407. FDIC: Ernest Gagnon, license #F042397
- 2) Northwood Crematorium, a licensed cinerator facility, license #F040349, physical address: 5608 Broadway, West Palm Beach, FL 33407. FDIC: Kurt Weise, license #F042397

Included in your Board package are the separate applications for each of the properties. The change of ownership is the result of an asset purchase. The purchase has already taken place and the purchase agreement is attached. The principals of the corporation have submitted fingerprints for the principals were returned without criminal history; however, one (1) principal does have adverse licensing history. If there are currently any unfulfilled preneed contracts sold at these locations, the obligation to fulfill those preneed contracts will be assumed by the new owners. In the course of processing the applications for change of ownership, it was discovered that the change of ownership occurred months earlier, which is a violation of s. 497.380, F. S., and Rule 69K-21.002, F.A.C. Both parties agreed that these violations may be addressed by a settlement stipulation brought before the Board today. The Division is recommending approval subject to the following conditions:

- 1) That the Applicant (new owner or controlling party) shall assume all existing preneed liabilities, (if any), of the location(s) being acquired.
- 2) That the establishments pass an inspection by a member of Division Staff.
- 3) That the Board approves the attached stipulation for licensure which calls for one year of probation and a fine of \$2500.

Chair Peeples – Thank you, Ms. Simon.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Clark – I just want to state for the record that I have an affiliation with Paul Nelson and Nicole Nelson, and I'll recuse myself from this matter.

Chair Peeples – Thank you, Mr. Clark. We appreciate that. Is there a motion to approve with conditions? Mr. Jensen?

Mr. Jensen – Yes, thank you, Madam Chair. So, the issue was it happened before you guys were purchasing, and now you're purchasing it, so you're going to take care of all of that in the purchase. Is that what this is?

Mr. Grabowski– Madam Chair, If I may address that.

Chair Peeples – Yes, sir.

Mr. Grabowski – Mr. Jensen, this was an acquisition that had already occurred. The owner of Northwood Funeral Home currently is Mr. Paul Nelson, who flew up from West Palm Beach this morning. He was a licensed funeral director in California for twenty-seven (27) years. He purchased this funeral home under a very short time, due to some issues with the current owner at the time, which is why the statement was made about the acquisition. So, this has already occurred, which is what is addressed in the settlement stipulation before the Board.

Chair Peeples – If you don't mind, if you'll state your name and relationship to Northwood, please.

Mr. Grabowski – Yes, I'm sorry, Madam Chair. Luke Grabowski, on behalf of Northwood Funeral Home, The Butler Law Firm.

Chair Peeples – Thank you, sir. Mr. Jensen, Does that complete your question?

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – Are there any other questions for Mr. Grabowski, or any items we need to discuss? Ms. Clay?

Ms. Clay – I'm not sure I'm clear on why there was a violation and it was sold before approval.

Mr. Grabowski – It was a very simple mistake that my client fully admits. When he came to Florida, this funeral home was facing closure, due to health issues of the current owner. They were in California. They packed up and moved. Went forward with the purchase, not knowing the requirement to file an acquisition application. Mr. Nelson fully recognizes that is no excuse for the violation. I want to point out that about a month after this happened, when Mr. Nelson realized he violated Florida law, he actually called and asked me to alert Division staff of his violation, because he wanted this to come before the Board. He wanted to make up for that mistake and move forward, in compliance with Florida law. So, it was an error, and we're hoping to make up for that and move forward.

Ms. Clay – Thank you.

Chair Peeples – Thank you, Ms. Clay. Are there any other questions or discussion?

MOTION: Mr. Jones moved to approve the agreement subject to the conditions recommended by the Division. Mr. Williams seconded the motion, which passed unanimously.

Mr. Grabowski – Thank you, Madam Chair.

Chair Peeples – Thank you. If we may, let's go back to the change of ownership for Carriage Funeral Holdings Inc. Mr. Brandenburg, if you will just so state that you have been a friend of Mr. Richard, do you recuse yourself from the vote, or would you like to continue with your vote?

Mr. Brandenburg – I do not recuse myself.

Chair Peeples – Ok. Thank you, sir. For the record, thank you.

N. Executive Director’s Report
(1) Operational Report (Verbal)

Ms. Simon – At this point, I will turn the meeting over to Executive Director, Mary Schwantes.

Ms. Schwantes – Madam Chair, may I?

Chair Peeples – Yes, ma’am.

Ms. Schwantes – Thank you. Good morning, everybody. So, last month I reported that the Division’s new website would be published within a few weeks. We now have a firmer date on that publication. I believe it will go live around August 10th. Again, we hope the revised website will be easier to navigate, a lot easier to navigate, and provide better information to its viewers. And, we do welcome feedback, so please let us know what you think.

Summer is always the busiest time of year for the Division, primarily as a result of fiscal year deadlines. So, as you all know, we have to complete inspections of all of the non-cemetery establishments by the end of June 30th, which is the end of the fiscal year. Cemeteries, just as a reminder, are done on a calendar-year basis. The other thing about summertime is that as soon as the fiscal year end June 30th, we start filing reports. There are a number that are required both for budget purposes and for accountability, basically. However, it also gives us the opportunity to really celebrate the Division’s accomplishments and accomplishments of our staff. In FY21/22, despite ongoing staffing shortages and other challenges, Division field staff completed in excess of 1600 inspections, 76 examinations and 330 investigations. That is primarily the work of sixteen (16) field positions and of those sixteen (16) field positions, we’ve had an average of three (3) to four (4) vacancies for the past two (2) years. So, I’m very proud of them. Our licensing team processed over 3600 new and renewal applications, and that is also in addition to staffing shortages and retraining, as we’ve been able to promote from within, and also from outside. So, again, very proud of our Division team and glad to be able to share these accomplishments with everybody.

I’m going to skip ahead a little bit to the Item N. (2).

(2) Correspondence to Board (Informational)

Ms. Schwantes – Included in your Board packet is a July 27th email that was received from Cheryl Lankford of Lankford Funeral Home in Deland FL. The email is included for informational purposes only, at this time, as it was intended for Board member’s review. Although the subject matters mentioned in the email are not open for discussion at this time, if the Board would like for any of the issues raised to be include in a future Board meeting and appropriately noticed, please let us know and we’ll make sure that happens. So, I would just ask for input from the Board. Is there anything on the email or similar subjects that you all would like to see raised in a future Board meeting, and again we would have to notice that for discussion, at that time.

Ms. Clay – May I, Madam Chair?

Chair Peeples – Yes, Ms. Clay.

Ms. Clay – I was somewhat disturbed, and I’ll tell you why. It was indicated that this rule should be changed, this process that’s been in place, with the number of hours, should be changed because there is a shortage. I don’t think that that is a good reason to change things. There’s a shortage of pilots right now, and I don’t want them to change the qualifications for a pilot and I end up on that plane. So, I would just like to caution us, in terms of things like that, just for the future. Thank you.

Chair Peeples – Thank you, Ms. Clay. Mr. Jensen?

Mr. Jensen – If I may, just to address what Ms. Clay is referring to? The shortage of funeral directors is real. I get it. The forty (40) embalmings is what Ms. Lankford is referring to. It's hard for some funeral homes to achieve, especially in a high cremation area. Her suggestion, and maybe we do it different area wise, I think if we're going to change it that we should do it for the whole state, and I do think it's something to look. To be honest with you, I have a training facility and it was hard. I had to wait a couple years to get to that point where we could be a training facility. So, I don't know. I think it's worth looking at. I don't know if this changes the rules to be a funeral director or be a funeral establishment or anything. The difference between thirty (30) embalmings and forty (40) is not that big, in my book. So, maybe we need to look at changing that down some just to help so that there are more training facilities. I mean, there's a lot going on in the state to help get more funeral directors in our state. I had a meeting last week with a junior college president in our area to do just that, to create a program, because there's only three (3) in the state. So, there's a lot to be done and I think anything we can do to help. I do agree with Ms. Clay. I do not want qualifications of the individuals that are doing the funeral service to be changed, but I don't necessarily mind adding more. There's a lot of talented embalmers out there that are not doing that many cases.

Ms. Schwantes – Madam Chair, may I?

Chair Peebles – Yes, Ms. Schwantes.

Ms. Schwantes – Thank you. Again, I appreciate both of your comments. I do want to limit this to do we need to have this on a future agenda for discussion. So, if we can narrow the comments to that, that really is where we are.

Ms. Clay – That was the reason for my comment.

Ms. Schwantes – I understand, Ms. Clay. Thank you.

Chair Peebles – Mr. Jones?

Mr. Jones – Ms. Schwantes, I would say yes. It would probably be worth the discussion for a future meeting. I don't know if you need a motion.

Chair Peebles – Rabbi Lyons?

Rabbi Lyons – {Inaudible} what's the role of the funeral director and what's the role of staff at the funeral home? Yes, it was a discussion because it was a point well made that {inaudible} on the job training, if you have it, may {inaudible} families or not {inaudible} professional way.

Chair Peebles – Thank you. Any further discussion? No, sir. We'll take some comments when we get to Public Comments. Thank you, sir. Ms. Schwantes, would you like to continue?

Ms. Schwantes – Thank you, Madam Chair. I think given just the few comments that were made that this is something that we will add to a future agenda for discussion purposes, so we'll work on that. Our next Board meeting will be held by videoconference on Thursday, September 1st, at 10:00 AM. Details regarding all Board meetings are always posted on our website, so I always encourage people to go back and look there. That ends the Executive Director's Report, for my portion.

Chair Peebles – Thank you, Ms. Schwantes. Excuse me, one moment. Ms. Wiener?

M. Collective Application(s)

(1) Recommended for Approval with Conditions

(a) Allen Funeral Directors LLC d/b/a A Green Cremations (Big Pine Key)

1. New Establishment

- **Funeral Establishment**
- **Preneed Branch**

Ms. Wiener – So, I think everyone interpreted the seventy-five (75) miles in this application to be from where the human remains were being refrigerated, which is seventy-five (75) miles between the refrigeration of the cremation. Mr. Allen, the

owner of Allen Funeral Directors, can make an arrangement with another crematory that is within seventy-five (75) miles, if the Board will not approve the application because from the actual funeral establishment to the crematory is indeed more than seventy-five (75) miles. So, if the Board chooses not to approve the application under those conditions, even though the refrigeration and the crematory are within seventy-five (75) miles, then we would ask to table from this Board meeting and we'll provide a new cremation facility for September.

Chair Peebles – Thank you, Ms. Wiener. One moment, please. What about the deemer?

Ms. Wiener – We would waive any deemer.

Chair Peebles – Thank you, ma'am. Appreciate that. Are there any other questions for Ms. Wiener? And this is referring to the collective applications of Allen Funeral Directors LLC d/b/a A Green Cremations. Is there any other discussion? Do we need a motion, Ms. Munson, or just table it, since we did table it and there was a motion earlier? Are we okay?

Ms. Munson – We are okay.

Chair Peebles – Is that agreeable?

Ms. Wiener – Absolutely. Thank you.

Chair Peebles – Thank you, ma'am.

Ms. Simon – There are a couple other items on the Executive Director's Report. If I may, Madam Chair?

Chair Peebles – Yes, ma'am. Please.

(3) Report: Payment of Disciplinary Fines and Costs (Informational)

Ms. Simon – This is informational only.

Monthly Report of Fines and Costs Assessed and Paid
 Division of Funeral, Cemetery and Consumer Services
 Date of Board meeting: August 4, 2022
 Date report was prepared: July 25, 2022

	Licenses	Board Meeting	Case No.	Total Fine & Cost Due	Date Due	Paid in Full?	Comments
	Tri-County Funeral Services, Inc.	Jul-22	242577-19-FC & 282897-21-FC	\$500			
	Sandy Poulard	Jul-22	242583-19-FC & 282898-21-FC	\$1,500			
	Holloway Funeral Home, LLC	Jul-22	287724-21-FC	\$3,000			
	Frank T. Winninger	Jul-22	283323-21-FC	\$1,500			
	Abundant Favor Mortuary	Jul-22	283321-21	\$1,500			
	Gallaher American Family Funeral Home	Jun-22	278188-21-FC	\$250	8/15/2022		
	McRae Funeral Services LLC	April 7, 2022	285315-21-FC	\$1,750	May 16, 2022	Paid in Full	
	Vinson Funeral Home	March 3, 2022	283110-21-FC	\$250	May 9, 2022		Sent to OGC for administrative action
	Jeffrey Lee Tillman	March 3, 2022	275817-21-FC	\$4,000	August 2, 2022		Sent to OGC for administrative action
	Paradise Funeral Chapel LLC	2/3/2022	App for Licensure	\$1,500	March 25, 2022		Sent to OGC for administrative action
	Marie Decker	May-21	243582-19-FC	\$2,250	11/22/2021		Sent to OGC for administrative action

ES7-26-2022

(4) Rule Chapter 69K-25, Florida Administrative Code (Informational)

Ms. Simon – In the 2022 Legislative Session, there were some changes made regarding licensure by endorsement. Chapter 69K-25 will be affected, and as a result, the Department will be opening up Chapter 69K-25 to look at rulemaking to implement the statutory changes. That is informational only. That is the end of the Executive Director’s Report.

CHAPTER 69K-25
LICENSURE BY ENDORSEMENT

69K-25.001	Licensure by Endorsement; Embalmers
69K-25.002	Licensure by Endorsement; Funeral Directors
69K-25.0025	Licensure by Military Experience; Funeral Directors, Embalmers, and Direct Disposers; Licensure Renewals of Spouses of Armed Forces Members
69K-25.003	Licensure as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration
69K-25.004	Limited License for Retired Professionals During Times of Critical Need

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.

(2) The Board of Funeral, Cemetery, and Consumer Services determines that persons who have successfully completed a course, embracing at least 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 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 hold 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.

Rulemaking Authority 497.103, 497.369 FS. Law Implemented 497.369 FS. History—New 6-4-80, Amended 12-24-81, 8-10-83, 10-16-85, Formerly 21J-25.01, 21J-25.001, Amended 8-8-00, Formerly 61G8-25.001.

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.

(2) The Board of Funeral, Cemetery, and Consumer Services determines that persons who have 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 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 hold a current valid license to practice funeral directing in the original state of licensure; or

(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.

Rulemaking Authority 497.103, 497.374 FS. Law Implemented 497.374 FS. History—New 6-4-80, Amended 12-24-81, 8-10-83, 10-16-85, Formerly 21J-25.02, Amended 7-30-86, Formerly 21J-25.002, Amended 8-8-00, Formerly 61G8-25.002.

69K-25.0025 Licensure by Military Experience; Funeral Directors, Embalmers, and Direct Disposers; Licensure Renewals of Spouses of Armed Forces Members.

(1) A member of the United States Armed Forces and a veteran of the United States Armed Forces whose appointed duties in the military is/was to act as a mortician or mortuary specialist, is eligible for licensure as a funeral director if the following are submitted:

(a) Proof of an associate's degree in mortuary science from a school or college approved by the American Board of Funeral Service Education or by the Board of Funeral, Cemetery, and Consumer Services;

(b) Either proof of passing the Arts section of the national board examination administered by the International Conference of Funeral Service Examining Boards with a score of at least 75% on all sections of the examination, or proof of passing a funeral director examination administered by a licensing authority of another state;

(c) Proof of having had the appointed duties of a mortician or mortuary specialist in the military;
(d) Proof of successful completion of the Florida Laws & Rules examination; and
(e) A copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document.

(2) A member of the United States Armed Forces and a veteran of the United States Armed Forces whose appointed duties in the military is/was to act as a mortician or mortuary specialist, is eligible for licensure as an embalmer if the following are submitted:

(a) Proof of successful completion of a course, embracing at least the subjects specified in sections 497.368(1)(d), (e), F.S., at a school or college approved by the American Board of Funeral Service Education or by the Board of Funeral, Cemetery, and Consumer Services;

(b) Either proof of passing the science section of the national board examination administered by the International Conference of Funeral Service Examining Boards with a score of at least 75% on all sections of the examination, or proof of passing an embalmer examination administered by a licensing authority of another state;

(c) Proof of licensure to practice embalming in another state in the United States of America;

(d) Proof of having had the appointed duties of a mortician or mortuary specialist in the military;

(e) Proof of successful completion of the Florida Laws & Rules examination; and

(f) A copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document.

(3) A member of the United States Armed Forces and a veteran of the United States Armed Forces whose appointed duties in the military is/was to act as a mortician or mortuary specialist, is eligible for licensure as a direct disposer if the following are submitted:

(a) An official transcript showing a college level course in Florida Mortuary Law and a college level course in ethics;

(b) A copy of a high school diploma or GED certificate;

(c) Proof of having had the appointed duties of a mortician or mortuary specialist in the military;

(d) Proof of successful completion of the Florida Laws & Rules examination; and

(e) A copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document.

(4) A licensee who is the spouse of a member of the Armed Forces of the United States and was caused to be absent from the State of Florida because of the spouse's duties with the Armed Forces shall be exempt from all licensure renewal provisions under these rules during such absence. The licensee must show proof to the Board of the absence and the spouse's military status.

Rulemaking Authority 497.103, 497.168, 497.393, 497.602(4) FS. Law Implemented 497.168, 497.393, 497.602(4) FS. History--New 6-11-19.

69K-25.003 Licensure as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration.

(1) An applicant for licensure by endorsement as an embalmer or as a funeral director may, at the time of application, request to be registered to practice as a temporary embalmer or a temporary funeral director while awaiting to take the licensure examination required in section 497.369(4) or 497.374(4), F.S. The fee for such registration shall be \$50.00.

(2) The request for licensure as a temporary embalmer or temporary funeral director shall be in writing, shall include the name and address of the establishment at which the applicant will be temporarily practicing and the name of the licensee who will be supervising the applicant, and shall be accompanied by payment of the registration fee which shall be in addition to the fee for licensure by endorsement.

(3) After verifying that the applicant meets the requirements of section 497.369(1)(a) or 497.374(1)(a), F.S., and has paid the registration fee, the Board shall issue the applicant a letter authorizing temporary practice which the applicant shall keep readily available for inspection by the Board or inspectors of the Department of Financial Services. In the event the Executive Director is unable to verify that the applicant meets all the requirements for temporary practice, the applicant's request shall be presented to the Board at its next available meeting for decision.

(4) 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 initial issuance fee. The military record must show such member is currently in good standing or such veteran was honorably discharged.

(5) An applicant, who is granted authorization for temporary practice, shall practice only in a licensed funeral establishment. A temporary embalmer shall practice only under the direct supervision of a licensed embalmer. A temporary funeral director shall practice only under the direct supervision of a licensed funeral director. For purposes of this rule, "direct supervision" does not require the physical presence of the supervising licensee on the premises at all times; however the supervising licensee shall be available to communicate with the temporary licensee in those times in which the supervising licensee is not on the premises. Furthermore, the supervising licensee shall review and give final approval to all services performed by the temporary licensee.

(6) The authority to practice temporarily shall expire at the end of the sixtieth day after the licensure examination for which the applicant applied.

(7) Applicants granted permission to practice temporarily shall be governed by the laws and rules of the Board regulating the practice of funeral directing and embalming and shall be liable for violations thereof.

Rulemaking Authority 497.103, 497.369(5), 497.374(5) FS. Law Implemented 497.369, 497.374 FS. History—New 10-25-92, Amended 5-20-93, Formerly 21J-25.003, Amended 11-11-99, Formerly 61G8-25.003, Amended 2-18-19.

69K-25.004 Limited License for Retired Professionals During Times of Critical Need.

(1) A limited licensee shall only provide services during times of critical need within the State and shall work for an entity licensed under chapter 497, F.S. A limited license shall be effective for so long as the executive order from the Governor or federal order declaring a state of emergency remains in effect including the time the state of emergency is extended as authorized by law.

(2) Each person desiring to obtain a limited license as a retired funeral director, embalmer, or combination funeral director/embalmer shall apply to the Department by submitting the following:

(a) A completed "Application for Retired Professionals," Form DFS-N1-1746, effective 10/06, which is incorporated by reference in rule 69K-1.001, F.A.C., and is available on the Department's website (www.myfloridacfo.com/FuneralCemetery) or by contacting the Department of Financial Services, Division of Funeral, Cemetery and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361.

(b) A notarized affidavit stating that the applicant:

1. Has been licensed to practice in any jurisdiction in the United States for at least ten years in the profession for which the applicant seeks a limited license;
2. Has retired from the practice of that profession;
3. Intends to practice only pursuant to the restrictions of the limited license; and
4. Shall not engage in preneed sales under such license.

Rulemaking Authority 497.103(5)(b), 497.143 FS. Law Implemented 497.143 FS. History—New 6-2-09.

O. Chairman's Report (Verbal)

Addressed later in the meeting.

P. Office of Attorney General's Report

(1) Memo to Board

(a) Attorney General's Rules Report (Informational)

Ms. Munson – The information regarding the Rules Report, as indicated in your material, is for informational purposes only. There's no current rulemaking in play. The last rule was adopted in May. The Board very well may be considering additional rules, as of this meeting.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
AUGUST 2022**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-12.011	Annual Inspection Fees for Monument Builders	09/02/2021	10/19/2021 03/04/2022	10/29/2021	11/17/2021 12/21/21 – JAPC Letter 01/10/22 – JAPC Response 01/11/22 – JAPC Letter 01/11/22 – TOLLED 02/16/22 – Notice of Correction 03/15/2022 – Notice of Change 04/04/2022 - JAPC Response	04/15/2022	05/05/2022

(b) *Rule 69K-5.007, F.A.C. and S. 497.268, F.S. (Action)*

69K-5.007 Conversion Procedures.

When a municipal, church owned, fraternal or community and non-profit association cemetery converts to a cemetery company as defined in section 497.005, F.S., then said cemetery shall file the following with the Department:

(1) An Application To Organize A New Cemetery Company, Form DFS-CEMN, adopted in rule 69K-1.001, F.A.C. This application shall be accompanied by a non-refundable application fee of \$5,005.

(2) Establish and maintain a care and maintenance trust fund. The initial deposit for establishment of this trust fund shall be an amount equal to \$10.00 per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or \$50,000 ~~\$25,000~~, whichever sum is greater.

(3) Copy of sales agreement.

(4) Completion of an Application To Transact Cemetery Business, Form DFS-CEM, adopted in rule 69K-1.001, F.A.C. Form DFS-CEM shall be accompanied by a license fee based on the cemetery's last fiscal year sales pursuant to section 497.265, F.S.

Rulemaking Authority 497.103 FS. Law Implemented 497.263, 497.265 FS. History—New 9-29-75, Amended 1-27-81, Formerly 3D-30.19, Amended 10-23-91, Formerly 3D-30.019, Amended 6-26-02, Formerly 3F-5.007, Amended 3-1-16.

Change to \$50,000 to match the language in Section 497.268(4), F.S.

Ms. Munson – There is a recommendation as brought to the attention of this Board by the Division that because of the statutory language in s. 497.268(4), F.S., the statute specifically indicates, I believe it's been included for your review, but I'll read the pertinent information: "The initial deposit for establishment of this trust fund shall be an amount equal to \$10.00 per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or \$50,000, whichever sum is greater." The Board's rule which references that requirement identifies \$25,000 as the amount, and it needs to be changed to comply with statutory requirement to read "\$50,000, whichever sum is greater." So, that is the impetus that brought about this recommendation for a rule change, and it's brought for your consideration. I say consideration lightly only because the statute requires it and the rule definitely needs to conform. So, I will ask for Board action at this time to see if you so approve to change the language in Rule 69K-5.007 to comply with the statute and modify the amount to reflect \$50,000 instead its current reading of \$25,000.

Chair Peebles – Thank you, Ms. Munson. Is there a motion?

MOTION: Rabbi Lyons moved to approve changing the language in Rule 69K-5.007 to comply with the statute and modify the amount to reflect \$50,000 instead its current reading of \$25,000. Mr. Clark seconded the motion, which passed unanimously.

Chair Peebles – Thank you. Ms. Munson?

Ms. Munson – Whenever we open the rule for development, and there's language presented, I have to ask these very technical questions. Bear with me. It is absolutely the worse discussion that I think I engage in with regard to this particular position. So, I will ask the question as required. Will the proposed rule amendments have adverse impact on small business or be likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida, within one (1) year after the implementation of the rule? I will make a side note that although there is an increase {inaudible}, it is required by statute. There is absolutely nothing we can do, and it kind of falls outside of any regulatory requirements that wouldn't necessarily lead to perhaps a SERC analysis. The response to that very well would be, No, as required by statute. But I preface all that to help guide this discussion.

Chair Peebles – Do you need a motion on that item?

Ms. Munson – I do need a motion and an answer.

Chair Peebles – Thank you, ma'am.

Rabbi Lyons – Madam Chair?

Chair Peebles – Rabbi Lyons?

Rabbi Lyons – Thank you. The language is null, as required by statute. Is that what we’re saying. Look, we don’t know, but we need to do this anyways, so, we’re doing it. Right? Is that the idea?

Ms. Munson – Technically, it means that the changes made are required. It’s not “we don’t know,” because you can actually do a calculation to technically determine that.

MOTION: Mr. Jones moved to accept. Ms. Clay seconded the motion, which passed unanimously.

Ms. Munson – The second question is, should a violation of this rule or any part of this rule be designated a minor violation? It has not previously been designated a minor violation in your rules. You can so vote as you choose to.

MOTION: Mr. Jones moved that a violation of this rule or any part of this rule should not be designated a minor violation. Mr. Williams seconded the motion, which passed unanimously.

Ms. Munson – Madam Chair, the rule is required by statute, but I also would need to ask does this Board feel that this rule should include a Sunset Provision?

Mr. Jones – What is your recommendation?

Ms. Munson – Technically I’m not in a position to recommend if it’s required by statute. Normally the rules would run as long as statute requires it, so that would be a No.

MOTION: Mr. Jones moved that this rule should not include a Sunset Provision. Mr. Jensen seconded the motion, which passed unanimously.

Ms. Munson – Thank you, Madam Chair.

(c) Annual Regulatory Plan (2022-2023) (Action)

Ms. Munson – I only have one final point. I think I mentioned it at our last meeting that it is the season for the Annual Regulatory Plans to be presented and submitted to the Governor’s office. It’s a requirement of every regulatory board. You will see in your information a draft copy of what this Board may be considering or should consider for its Annual Regulatory Plan for the FY2022/2023. I can state on the record that I have discussed this information, received recommendations from Division leadership, and I’ve also had an opportunity to discuss it with Madam Chair. The information that you see in Section 1 indicates that we would anticipate rulemaking, as a result of changes to ss. 497.369 and 497.373, Florida Statutes. I believe it was alluded to just moments ago by Ms. Schwantes and Ms. Simon. The degree of those changes are not yet determined, but because of legislative changes to those changes, Rules 69K-25.001 and 69K-25.002, Florida Administrative Code, will likely be modified, and we would hope to begin that rulemaking possibly by October of 2022. Section 2 indicates any rules that we anticipate entering into regarding rulemaking. This document, as I’ve indicated before, is not prohibitive or restrictive in any manner. I use that language consistently, because it is actually factual. You will notice in Section 2, I have Rule 69K-5.007, Florida Administrative Code, listed, because as we just voted on, we’ve confirmed that that rule specifically will be involved in rulemaking during this fiscal cycle. If there’s any that may develop or may identify a need for rulemaking, of course we can enter into that rulemaking, engage in that rulemaking as needed, but certainly we know that Rule 69K-5.007, Florida Administrative Code, should be included in Section 2. There is no additional information, with regard to previous changes. Any rulemaking that we anticipated previously we did not feel the need to carry over. This is for the Board’s review, with your vote today, which I will request. I will ask your approval of this Plan so that I can remove it or elevate it from its draft status to a final status, at which time Madam Chair will be asked to sign it. I will be asked to sign it, and it will be transferred to the Department and the Division to file, as they are required to do, and ultimately submit to the Governor’s Office.

Chair Peebles – Thank you, Ms. Munson. Is there a motion to approve?

MOTION: Ms. Clay moved to approve the Annual Regulatory Plan. Mr. Clark seconded the motion, which passed unanimously.

**Board of Funeral, Cemetery, and Consumer Services
2022-2023 Annual Regulatory Plan**

Section 1

Laws Enacted or Amended within the previous 12 months which create or modify the duties or authority of the Board.

Law	Mandatory rulemaking? Yes/No	Is rulemaking necessary? Yes/No	Notice of Development Published? Yes/No If Yes, Citation	Expected publication date for NPRM	If rulemaking is not necessary? Explain
Sections 497.369 and 497.373, F.S. (Rules 69K-25.001 and 25.002, F.A.C.)	x	x	No	October 2022	

Section 2

Laws not listed above that the agency expects to implement by rulemaking by the following July 1.

Law	Is rulemaking intended to:	Simplify	Clarify	Increase efficiency	Improve coordination with other agencies	Reduce regulatory costs	Delete obsolete, unnecessary or redundant rules
Section 497.268, F.S. (Rule 69K-5.007, F.A.C.)			x				

Section 3:

Updates to 2021-22 Annual Regulatory Plan.
(120.74(1)(c), Florida Statutes)

There are no updates to the prior year's regulatory plan.

Section 4: Certification.

Pursuant to Section 120.74(1)(d), Florida Statutes, I hereby certify that I have reviewed this Annual Regulatory Plan and that the Board regularly reviews all of its rules to determine if the rules remain consistent with the Board's rulemaking authority and the laws being implemented, with the most recent comprehensive review having been completed July 1, 2022.

August ///, 2022

Date

Board of Funeral, Cemetery, and Consumer Services

/s/

Rachelle Munson, Senior Assistant Attorney General
Office of Attorney General
Board Counsel, Board of Funeral, Cemetery, and
Consumer Services

August ///, 2022

Date

Ms. Munson – Thank you, Madam Chair.

Ms. Peeples – You're welcome.

Q. Public Comments (Verbal)

Ms. Simon – Is there any public comment for today's meeting?

Madam Chair – Mr. Beckham?

Ms. Simon – Please raise your right hand to be sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Howard Beckham – I swear to God.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Beckham – Howard R. Beckham, B E C K H A M.

Madam Chair – Thank you, Mr. Beckham.

Mr. Beckham – Thank you. I know many of you {inaudible}. Thank you very much for what you do. I appreciate that very much. I'm speaking today on a couple of points. One was about the number of embalmings for a training facility. Actually, I think I wrote an email some time ago to Mary about this. Smaller funeral homes have great challenges doing those embalmings, with the cremation rate in Florida well over 50%, almost the entire state. Not the entire state. Ken can probably give you the exact number. I {inaudible} in St. Augustine, cremation rate was over 78% by our funeral home there. If you're doing a 150, 200 case funeral home, you're going to have a hard time doing forty (40) embalmings. The number I suggest is twenty (20) embalmings, because in the world, smaller funeral homes just don't do enough embalmings to qualify as training facilities. What this has an effect on is for some graduates in mortuary school not being able to find a place to do an internship in the State of Florida. So, they have a choice. Go to another state that has that opportunity where they can do that, or go into another field, which they've just spent two (2) years of education obtaining a {inaudible}. It's something to be considered. We talk about a shortage of funeral directors all the time. If we don't prepare an avenue and give them a way to serve somewhere in these qualifications, then what are we doing? Are we telling them we don't want them, or are we telling them there is a way? That's what I'm inviting the Rules Committee to consider, and the members of this Board to consider as well.

The second thing I'd like to bring up is the National Boards. If any of you remember ICCFA, the magazine {inaudible} an article in there with Mr. {inaudible}. Mr. {inaudible} was a retired US Army colonel on the Quarter Master Hall of Fame with the United States Army. He is the president of the Cincinnati Mortuary School. Also, he was directed by the United States Army to Arlington National Cemetery to clean up the mess that we all know existed there. The article basically states that the National Board has gotten out of control. Pass grades in science right now for first-time test takers is under 58%, which is, if you get below 60%, you have to write letters to American Board of Funeral Service Education of why {inaudible}, what you're doing. I've talked with Kevin Davis and Joe Finocchiaro in Miami and St. Petersburg. They've been teaching there for years, Kevin thirty (30) years and Joe for over ten (10) years. They're teaching the same thing over and over again, and their pass rates continue to decline. What is the problem here? Is it possibly the students? Is it possibly the NBA? They're not teaching things differently. The students were successful before, and they're not successful now. The Conference currently runs the state funeral director's exam for this agency. They write that exam and they're going to be transferring over to doing the National Board's Arts exam, for the State of Florida. I'm not too worried about that. I have an 89% pass rate for that exam at my institution, but what I am concerned about is the sciences. I've read over the laws, and I'm not a lawyer, but I have read the statutes over and over again, and I read the rules, and I believe by rule that it's possible for this entity, the Rules Committee, to institute a change in how they're tested in the State of Florida. The three (3) schools here in Florida are more than willing to submit test questions, for their own examination that are sensitive to the need of Florida funeral homes. To create a Laws and Rules exam is not what I'm quite talking about. I'm talking about a funeral director and embalmer arts and sciences exam that can be administered here in the State of Florida and we have ideas on how to process that. I'd just like to lay this on the table, at this point, for the Division to consider it, for the Rules Committee to consider an alternative to the National Boards. I don't wish to replace the National Boards. Students wishing to take the National Boards, that will be fine. I'd like to have the consideration by this Division and the Rules Committee of this Division to have on the table that the three (3) mortuary schools in this state and the faculties thereof to create exams that are sensitive to the needs of the funeral directors and funeral homes of the State of Florida. To allow students to take that exam and be able to become Florida funeral directors to be licensed. Thank you.

Chair Peeples – Mr. Beckham, if you would, would you state your affiliation?

Mr. Beckham – I am currently program director at Florida St. College’s Funeral Service Program and lead professor.

Chair Peeples – Thank you, sir. We appreciate your comments today. Thank you for addressing the Board.

Mr. Brandenburg – Madam Chair, I have a question.

Chair Peeples – Yes, sir?

Mr. Beckham – Yes, Mr. Brandenburg?

Mr. Brandenburg – If we have our own in-state testing and administered by that, when a licensee moves to another state, how are we assured that the other state is going to recognize a Florida-independent test?

Mr. Beckham – That’s an excellent question. I appreciate that. Currently, you’ll recall just recently we had a law in Florida where reciprocity was somewhat changed. If you have had experience and licensed as a funeral director in another state with good standing, you’re able to come to Florida and without much trouble become a licensed funeral director in the State of Florida. That puts our students actually at something of a disadvantage for somebody moving into, let’s say they’ve been for five (5) years a licensed funeral director in Kentucky. Their license is quite different. Or another state which has license that’s quite different. For instance, North Carolina does not require the National Board. We license in their state. What we’re looking at is giving the students the option. They can take the National Board if they wish. We’d like to have that still in place, if they wish to do so. Reciprocity will be up to the states which they’re going to. That’s the state law. I’m not going to go Amendment X of the Constitution of the United States of America. That’s a state by state issue, and that’s preserved under that Constitution. What we’re looking at is allowing the students who graduate here in Florida some of the same advantages that some other states have. We have great students here. I do happen to know a lot of great students. It breaks my heart when I see a student who’s gone through the program, take the National Board two (2), three (3), four (4) times at great expense. The National Board last year made over half a million dollars in income, for retakes alone. There are fewer members of the people of the National Board with the Conference of International Examining Boards who sit at this table up here, and they’re in about a 4,000 sq. ft. building in Fayetteville, Arkansas. You’ve given the half a million dollars to a group like that. That’s a lot of money every year. That’s how much additional income they get from retakes, people who failed the exam and have to come back and take it again. And what’s even more astonishing is people who retake the exam fail more often than first-time test takers. That’s confusing to me. What I’m trying to do, or asking to do, is to allow our graduates the chance to do the job that they are going to school for. Now those of you who are funeral directors up sitting at this table, you know what we had to go through. We all went to the classes and we all passed the boards, and we all studied. Nowadays, we’re in a different world. You look at the difference between the generations and what they’re learning in school and how they’re doing in school. We need to adapt to the millenniums, to the Ys and Zs. We’re going to make some changes to make sure we can man our places. One person I spoke to said we have a freight train coming straight at us at full speed and we’re stuck on the track. We are not preparing for what’s going to come down the road. In the next twenty (20) years, we’re going to have the end of the baby boomers and we’re going to have a big population growth, we’re not preparing for those next twenty (20) years, to staff our facilities. So, what I’m asking is for Florida to stop looking behind and start looking forward. Any questions? I’ll be happy to answer them.

Chair Peeples – Thank you, Mr. Beckham. Mr. Brandenburg, does that complete your questions?

Mr. Beckham – Did that answer your question, Mr. Brandenburg?

Mr. Brandenburg – You answered as well as you can.

Mr. Beckham – And I tried to do that, Mr. Brandenburg.

Chair Peeples – Thank you, Mr. Beckham, for the information. We’ll take it to the Division staff and then to Ms. Munson. We may have that as a future agenda item and may have you speak at that time.

Mr. Beckham – Thank you.

Chair Peeples – Thank you. Are there any other public comments? Any other public comments? Ms. Simon?

Ms. Simon – Please raise your right hand to be sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Mr. Timothy Cole – Yes.

Ms. Simon – Please state your name and spell your last name for the record.

Mr. Cole – Timothy Cole, C O L E.

Madam Chair – Mr. Cole?

Mr. Cole – Good morning. {inaudible} I went to college, Gupton-Jones in 1996. I didn't have an issue doing the internship, because the funeral home that I was with was doing the type of work. I do agree with him when it comes down to bringing that number down a little, because of the cremation rate. I would like for the Board or whoever is in charge to be more specific when it comes down to certain responsibilities of a funeral director in these establishments. Of course, there is a shortage of funeral directors and we do have some firms that many of you know about or may not know about that will use unlicensed persons to carry out funerals. When you look at the law, there are some words in there that are kind of confusing, when it says directly or indirectly. I just want the Board to make this here a little clearer. I know, but there are some others who don't know what that means. I'm willing to take some questions. I don't have an answer, but I will listen to the questions.

Madam Chair – Thank you, Mr. Cole. As you are aware, as a licensee you can make the Division staff aware of any unlicensed activity if you feel that there is any. That is one avenue to go about, from that perspective. Division team, do you have any other suggestions for Mr. Cole, other than what I mentioned?

Mr. Cole – I just want to make it clear, because I think there are some other funeral directors that are not very clear about when someone is acting in the form of a funeral director, but they may have a funeral director. Basically, just as long as they are covering me at the cemetery. I know you've heard that before. Hello?

Madam Chair – Mr. Cole, are you speaking of at a church or chapel service, someone that's overseeing the service that has a licensee in the building?

Mr. Cole – I am speaking in general that even at a viewing at a church, just as long as a funeral director, people are under the assumption that a funeral director does not have to be on the service as long as they meet them at the cemetery, which I know that is not according to the statutes.

Madam Chair – Which technically would fall under not having a licensed funeral director there.

Mr. Cole – No. They may have a licensed funeral director there, but the licensed funeral director is not acting as the licensed funeral director, if I'm making that clear.

Madam Chair – You would have someone that's not licensed overseeing the service?

Mr. Cole – What I'm saying is when I was brought up under, and many of you know Mr. A B Coleman, although I knew how to conduct a funeral, he would not allow me to actually conduct the funeral as a funeral director, as in just giving instruction {inaudible} position of a licensed funeral director. The licensed funeral director gave the instructions. They did what licensees are supposed to do. It's not like that all the time in the State of Florida. I have seen it and I've had questions, and it's been a big concern for me. The number one fact is I myself had to take the National Board at least four (4) or five (5) times. I went to school, took all those tests, and I struggled. So, for me to come here and a non-licensed person can actually close the casket down, lower the casket, lead the funeral and the funeral director is just sitting there saying if anything happens, we'll have a licensed funeral director here.

Madam Chair – Mr. Griffin, did you have your hand up earlier?

Mr. Griffin – Marshawn Griffin for the Department. To piggyback off the earlier comments. We already have statutes in place for penalizing unlicensed practice. In the hypothetical that was spoken of, there's also statutes that allow us take action. We can do a Notice of Intent to Cease and Desist and a Cease and Desist Order as to the unlicensed individual. As to the licensed individual, in s. 497.152(5)(a), Florida Statutes, there's something for aiding and abetting the unlicensed practice. So, we already have a framework in place. We just need people to file complaints to let the Division know that this behavior is occurring.

Mr. Cole – Ok. So, I think what I'm saying is it's a grey area to me and it's not being specific. That's all I wanted to bring to the table.

Madam Chair – Ms. Munson, did you have a comment?

Ms. Munson – It's going to be very short. We appreciate your comment sir, that it may be a grey area. I kind of just get a feeling from the information that you are presented that you may have knowledge, and it's ok to be a whistleblower, because you didn't identify. There's a need for education. The Division, I think, is always open to do that, but my greater concern is we would have no way of overseeing what's going on in each of these individual scenarios unless it's reported to the Division for them to take action, which I think is what Attorney Griffin was trying to say. For those who may argue that directly, indirectly supervises is a grey area, I have a feeling that they have a better understanding that may be outside of the law, but just choose to do it anyway. And if anyone observes it, I believe that there is an affirmative duty to report it. So, I would just encourage that type of message to be placed in the profession so that the opportunity for education could be better placed.

Mr. Cole – And maybe that should have been my question. Can we have more education opportunities so these persons would know this is not the way the law was written?

Ms. Munson – If the argument is that they really don't know, because that still may not be clear. Because some individuals do things and they know, but they will do them anyway. So, those who observe it actually have a duty to report it.

Mr. Cole – Ok.

Ms. Schwantes – Madam Chair, may I?

Madam Chair – Mr. Williams, did you have a comment?

Mr. Williams – No, Mr. Griffin answered it.

Madam Chair – Ok. Ms. Schwantes?

Ms. Schwantes – Thank you. I just want to again reiterate what Chair Peebles has said and also what Ms. Munson has said. Any unlicensed activity please do report it to the Division. We do investigate. One of the problems that we have in investigations, as always, and we have talked about this before, is proof, because you have to have people who are willing to come forward and report it and then agree to go even further than that and provide evidence, as necessary. So, it makes it difficult when we take it further, but we do investigate all of them and we do very much appreciate when licensees or the public come forward with that information for us. So, I just wanted to reiterate that. Thank you.

Madam Chair – Thank you, Mr. Cole. Mr. Jensen?

Mr. Jensen – We may be on the same path here, but in the scenario that this gentleman described, some of that stuff is not illegal. You do have to have a funeral director on the service if you have a body, but there are other attendants on the service and if they do other things, under the supervision of the licensed funeral director, that doesn't necessarily make it illegal. If I understand what you're saying about defining the roles, but in the scenario that you gave, when we close the casket there's three (3) of us up there. Somebodies going to grab the flowers, somebodies going to fold stuff up and somebodies going to let the lid down. It's not always the same person, but there's always a funeral director out there. Ms. Peebles, you may expand on this a little bit, but I understand what you're saying about better definition, but I don't know that the scenario you gave was actually something that's a reportable offense.

Madam Chair – Thank you, Mr. Jensen. Rabbi Lyons?

Rabbi Lyons – When {inaudible} do you have that in front of you? Do you have the statutes in front of you?

Mr. Cole – Yes.

Rabbi Lyons – I have a feeling I might be able to clarify a little bit.

Mr. Cole – I think it would be, *“Directing, being in charge or apparent charge of, or supervising directly or indirectly, any funeral service held in a funeral establishment, cemetery or elsewhere.”*

Rabbi Lyons – Is that the end of the quote?

Mr. Cole – In section (e).

Rabbi Lyons – I thought I recalled some line about except for roles played by the cemetery or some such language like that. No? What section are you in?

Mr. Cole – I’m in s. 497.372(e), Florida Statutes. Of course, we know, as owner a funeral director can sell funerals, can make arrangements, can negotiate. We know that. Directing, being in charge or apparent charge of...

Ms. Simon – Excuse me. If I may? Rabbi Lyons, to answer your question, it is not in the statute. That language you’re referring to.

Rabbi Lyons – Thank you.

Mr. Cole – Thank you.

Madam Chair – Thank you, Mr. Cole. We appreciate it. Are there any other public comments? If I may ask the Division, is there an area for licensees to sign in to get credit for today’s meeting? It’s in the rear of the room. If there are any licensees that need to get continuing education credit, please make sure that you sign in at the rear. Ms. Munson, Ms. Schwantes, Ms. Simon, may I go for the Chair’s portion now?

Ms. Simon – Yes, please.

O. Chairman's Report (Verbal)

Madam Chair – As you know, this is my first meeting and I am following in the steps of a very fine professional gentleman that I’ve know personally, and he mentioned how many years he knew Mr. Fred. I’m not going to say how many years I’ve known him. Mr. Brandenburg, I’d like for you to step up here for me, if you would. We have a plaque prepared, and it states, *“Presented to Joseph Brandenburg “Jody” in recognition of 5 years as Vice Chair and 13 years as Board Chair. Your dedicated service and commitment is greatly appreciated. Board of Funeral, Cemetery, and Consumer Services, August 4, 2022”*

{Applause and standing ovation}



Madam Chair – Thank you, Mr. Brandenburg, for your years of services. Not only to the profession, but also to the Board. We appreciate that. He and I had a little chat before we came into the room, and I asked him if he had any wisdom or knowledge to invoke on me before I start this position, and he said, “You’ll be fine.” I said, “Thank you. I appreciate that.”

- R. **Administrative Report**
- S. **Disciplinary Report**

The information for these reports was provided on the Agenda.

- T. **Upcoming Meeting(s)**
 - (1) *September 1st (Videoconference)*
 - (2) *October 6th (Videoconference)*
 - (3) *November 3rd (Orlando)*
 - (4) *December 1st (Videoconference)*

- U. **Adjournment**

Chair Peoples – So, if there is no other further discussion, no other comments, the meeting is adjourned. Thank you.

The meeting was adjourned at 11:47a.