

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
November 4, 2010 - 10:00 A.M. to 5:00 P.M.
Department of Financial Services
2020 Capital Circle SE, Alexander Bldg #230
Tallahassee, FL 32301

1. Call to Order and Roll Call

Mr. Jody Brandenburg, The Chair, called the meeting to order at 10:00 am and declared a moment of silence for Ms. Corinne Olvey, good friend and colleague.

Mr. Doug Shropshire requested to make the usual prefatory comments for the record.

My name is Doug Shropshire. I am Director of the Division of Funeral, Cemetery, and Consumer Services. Today is August 5, 2010; the time is approximately 10:00am. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. Notice of this meeting has been duly published in the FAW. An agenda for this meeting has been made available to interested persons. The meeting is occurring in person at the Alexander Building in Tallahassee, FL. My Assistant, Ms LaTonya Bryant-Parker, will be taking minutes of the meeting and recording it in addition to that.

Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Mr. Brandenburg, runs the meeting. Persons desiring to speak should initially ask the Chair for permission.

At this time I will take the roll and Board members will please respond with "aye" or "present" when I call their name:

PRESENT:

Joseph "Jody" Brandenburg, Chairman
Jean Anderson
Lewis "Lew" Hall
Powell Helm
Nancy Hubbell
Tracy Huggins
Ken Jones
Col. Don Stiegman
Gail Thomas-DeWitt, Vice-Chairman

ALSO PRESENT:

Doug Shropshire, Executive Director
Allison Dudley, Board Counsel
Anthony Miller, Assistant Director
LaTonya Bryant-Parker, Department Staff
Robyn Jackson, Department Counsel
Linje Rivers, Department Counsel
Jasmin Richardson, Department Staff
Karen Duehring, Department Staff
Lashonda Morris, Department Staff

ABSENT

Virginia "Ginny" Taylor

Mr. Chairman we have a quorum and the Board may proceed to address the matters on the agenda.

The Chair questioned whether all Board members received their packets. There were positive responses from the Board members.

2. Action on the Minutes

A. October 7, 2010

The Chair confirmed that all Board members had read the draft of the minutes of the previous Board meeting held on October 7, 2010.

MOTION: Mr. Ken Jones moved to adopt the minutes of the meeting. Ms. Tracy Huggins seconded the motion, which passed unanimously.

3. **Old Business**

A. *Application for Preneed Main License Renewal*

(1) *Recommended for Approval with Conditions*

(a) *Stonemor Florida Subsidiary, LLC d/b/a Scott Funeral Home (Lake Placid)*

The above license renewal was previously recommended for denial at the June 24, 2010 Board meeting based upon the following:

1. Did not meet minimum net worth requirements of Rule 69K-5.0016 (3):

Total Preneed Contracts: \$ 338,526

Required Net Worth: \$ 40,000

Reported Net Worth: \$ (224,631)

2. Failure to respond to Department's notice of deficiency of incomplete form R-3 submission.

The Division sent a Notice of Intent to Deny along with Notice of Rights and Request for a Hearing to the licensee on June 28, 2010. The licensee provided a response by filing a Petition for a Formal Hearing, dated as of June 30, 2010, to dispute the material facts upon which the Board's denial was based. In lieu of this petition, and after conferring with legal counsel representing the licensee, the Division granted an informal hearing to consider the disputed facts and to reach a possible settlement agreement. The licensee also provided an updated financial statement to the Division as of December 31, 2009 which reflects a total partners' capital or net worth under Equity, in the amount of \$115,248,000, therefore, demonstrating that the initial required net worth of \$40,000 has been met, as set forth under Rule 69K-5.0016(3); also an agreement executed on behalf of the parent firm by which the parent guarantees performance of the Licensees preneed obligations; also a stipulation by which the Licensee agrees if the renewal is approved by the Board today to remit to the Division the amount of \$2500 in costs related to the processing of this of this application for renewal. Finally, in agreement by the Licensee, if the Licensee does not provide all renewal material to the Division by June 1, 2011 for its next renewal, the Licensee will pay the amount of \$5000 in costs.

As a result, the Division agreed to enter into a stipulation and consent agreement and is recommending approval with the condition that the Board accepts the attached executed Stipulation and Consent agreement as entered into by the Division and the licensee; and that the Board renew the License F050433 for one-year period commencing July 1, 2010, subject to the terms and condition of this Stipulation and the Guarantee Agreement.

Col. Don Stiegman questioned whether Ms. Nancy Hubbell feels the accounting makes sense.

Ms. Hubbell answered, "Yes."

MOTION: Ms. Huggins moved to approve the application subject to the conditions proposed by the Division. Ms. Gail Thomas-Dewitt seconded the motion, which passed unanimously.

4. **Disciplinary Proceedings**

A. Settlement Stipulation for Consent Order and Proposed Consent Order

(1) *Landmark Funeral Home: Case No. 108626-10-FC (Probable Cause Panel B)*

Ms. Robyn Jackson stated, with the Board's permission, the Division would like to table the actual settlement of this matter. Mr. Holodak, who represents Landmark, agrees it may be in everyone's best interest to hold back the settlement itself and reevaluate some of the conditions and then present it at the next Board meeting.

Mr. Edward Holodak added that as the Settlement is currently written, it does leave itself open to interpretation and challenge. That is what the Division and the Client are trying to avoid.

Ms. Huggins recused herself as she served on Probable Cause Panel B.

After brief discussion, it was determined that this item would be withdrawn and presented at the February Board meeting.

(2) Legacy Funeral Home and Cremation Services, LLC: Case No. 111199-10-FC

Mr. Linje Rivers stated that the Department conducted an investigation at Legacy Funeral Home and Cremation Services, LLC (License No. F052126). As a result of the investigation, it was discovered that the licensee did not promptly notify the Department of the location change for the establishment, advertised for preneed sales without a valid preneed license, and advertised as if it were open for business without holding a valid license. Upon further investigation, it was revealed that the Respondent has permanently shut down operations as a funeral establishment. Thus, the department requested that the Respondent voluntarily surrender their license. Respondent subsequently signed a settlement stipulation voluntarily surrendering their funeral establishment license. Therefore, the Department requests that the Board revoke the Respondent's license for a period of 10 years.

The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Powell Helm questioned why there were no fines or costs associated.

Mr. Rivers stated it would be unlikely that the fines would be recovered once the license is revoked.

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

The Chair recommended that the Division open a case against the FDIC.

Mr. Shropshire noted The Chair's recommendation.

(3) Richardson, Derryck: Case No. 112630-10-FC

Mr. Rivers stated that the Department conducted an investigation and found that Henry Taylor, a funeral director at Richardson Family Funeral Care, signed the Medical Examiner's name on a death certificate. Mr. Taylor stated that he made a mistake on the initial death certificate. Instead of requesting the medical examiner sign a correct copy, Mr. Taylor forged the signature on the death certificate. The funeral director in charge, Derryck Richardson, was informed of the allegations and understands that as an FDIC he is responsible for the actions of his employees. After speaking with Mr. Richardson, a settlement was reached with all parties involved.

Mr. Richardson agreed to pay a \$250 fine.

The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Jones stated that initially, he was contacted by the medical examiner and in turn Mr. Jones referred the medical examiner to the Department.

MOTION: Ms. Huggins moved to accept the Order. Mr. Lew Hall seconded the motion, which passed unanimously.

(4) Richardson's Family Funeral Care, Inc: Case No. 112628-10-FC

Mr. Rivers stated that the Department conducted an investigation and found that Henry Taylor, a funeral director at Richardson Family Funeral Care, signed the Medical Examiner's name on a death certificate. Mr. Taylor stated that he made a mistake on the initial death certificate. Instead of requesting the medical examiner sign a correct copy, Mr. Taylor forged the signature on the death certificate. The funeral director in charge, Derryck Richardson, was informed of the allegations and understands that as an FDIC he is responsible for the actions of his employees. After speaking with Mr. Richardson, a settlement was reached with all parties involved.

The funeral establishment agreed to pay a \$250 fine.

The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Jones stated that initially, he was contacted by the medical examiner and in turn Mr. Jones referred the medical examiner to the Department.

MOTION: Mr. Helm moved to accept the Order. Col. Stiegman seconded the motion, which passed unanimously.

(5) Taylor, Henry: Case No. 112629-10-FC

Mr. Rivers stated that the Department conducted an investigation and found that Henry Taylor, a funeral director at Richardson Family Funeral Care, signed the Medical Examiner's name on a death certificate. Mr. Taylor stated that he made a mistake on the initial death certificate. Instead of requesting the medical examiner sign a correct copy, Mr. Taylor forged the signature on the death certificate. The funeral director in charge, Derryck Richardson, was informed of the allegations and understands that as an FDIC he is responsible for the actions of his employees. After speaking with Mr. Richardson, a settlement was reached with all parties involved.

Mr. Taylor agreed to pay a \$1500 fine.

The terms of the settlement stipulation are reasonable under the facts and circumstances of this case. The Department requests that the Board approve the settlement and issue the Consent Order to conclude this matter.

Mr. Jones stated that initially, he was contacted by the medical examiner and in turn Mr. Jones referred the medical examiner to the Department.

Mr. Hall questioned whether Mr. Taylor faces any criminal charges for forgery.

Mr. Rivers stated that he was not aware.

Col. Stiegman questioned whether there were any grounds for the Board to take subsequent actions besides the fine such as revocation of the license.

Mr. Shropshire stated that today, the Board could only make a determination of the Order.

MOTION: Col. Stiegman moved to accept the Order. Mr. Helm seconded the motion, which passed unanimously.

5. Request to Undedicate Cemetery Property

A. Recommended for Approval without Conditions

(1) Remembrance Services of Florida, LLC d/b/a Gulf Pines Memorial Park (Englewood)

This item was withdrawn from the Agenda.

6. Application(s) for Preneed Sales Agent

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

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

The Chair declared his affiliation with SCI Funeral Services of Florida Inc and stated it would not affect his judgment in this or any other issues going forward.

Ms. Huggins declared her affiliation with Stewart Enterprises and stated it would not affect his judgment in this or any other issues going forward.

7. **Application(s) for Preneed Main License**
A. *Recommended for Approval without Conditions*
(1) *Eternal Cremation Services, LLC (Clearwater)*

The Department received the application on September 27, 2010 and deficiencies were noted on the application. A deficiency letter was sent to the applicant on October 4, 2010 and all deficiencies were resolved as of October 15, 2010. A completed background check of all officers revealed no criminal history. Applicant will sell trust funded preneed at 100% trusting through Funeral Services Inc (FSI) and will use the pre-approved First Florida Trust Agreement (BB&T) and pre-arranged funeral agreement. On September 2, 2010 the Board approved the application for the qualifying direct disposal establishment license.

The Applicant's financial statements as of October 4, 2010 reflect the following:

Required Net Worth	= \$	10,000
Reported Net Worth	= \$	16,618

Recommendation is for approval of the application without conditions.

MOTION: Ms. Thomas-Dewitt moved to approve the application. Ms. Hubbell seconded the motion, which passed unanimously.

8. **Application(s) for Preneed Branch License**
A. *Recommended for Approval with Conditions – Addendum B*

The Division recommends approval of the application(s).

MOTION: Ms. Hubbell moved to approve the application(s). Mr. Hall seconded the motion, which passed unanimously.

9. **Continuing Education Course Approval(s)**
A. *Recommended for Approval without Conditions – Addendum C*
(1) *Education Workers Group #11208*
(2) *FuneralCE #43*
(3) *International Cemetery and Funeral Association #74*
(4) *In-Sight Books #10008*
(5) *National Funeral Directors Association #136*
(6) *Pinellas County Funeral Home Association #58*
(7) *Selected Independent Funeral Homes #137*

The Continuing Education Committee and the Division recommends approval of the application(s).

MOTION: Mr. Jones moved to approve the application(s). Ms. Jean Anderson seconded the motion, which passed unanimously.

10. **Application(s) for Florida Laws and Rules Examination**
A. *Recommended for Approval without Conditions – Addendum D*
(1) *Funeral Director and Embalmer - by Endorsement*
(a) *Bottorf, Ray L*
(b) *Druen Jr., Danny G*
(c) *Howard, Randy D*
(d) *Rosauer, Jeffrey A*
(e) *Salisbury, Angela D*
(2) *Funeral Director and Embalmer – by Internship*
(a) *Hicks, Barry L*
(b) *Peoples, Karen Y*
(c) *Swann, Ryan J*

(d) *Wilson, Daniel B*

The Division recommends approval of the application(s).

MOTION: Ms. Huggins moved to approve the application(s). Mr. Helm seconded the motion, which passed unanimously.

11. Application(s) for Internship

A. Recommended for Approval without Conditions – Addendum E

(1) Funeral Director and Embalmer

- (a) *Clark III, Isaiah S*
- (b) *Socarras, Jennifer **
- (c) *Tomlinson, Mandisa A*
- (d) *Valenti, Tammy A*
- (e) *West, Hunter J*

The Division recommends approval of the application(s).

MOTION: Ms. Thomas-Dewitt moved to approve the application(s). Col. Stiegman seconded the motion, which passed unanimously.

12. Application(s) for Embalmer Apprentice

A. Recommended for Approval without Conditions – Addendum F

- (1) *Gray II, Russell D*
- (2) *Pittman, Johnathan L*
- (3) *Whitehead, Jared B*

The Division recommends approval of the application(s).

Mr. Hall declared his affiliation with Russell D Gray II and Gentry-Morrison and stated it would not affect his judgment in this or any other issues going forward.

MOTION: Ms. Huggins moved to approve the application(s). Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

13. Registration(s) as a Training Agency

A. Recommended for Approval without Conditions – Addendum G

(1) Funeral Directing

- (a) *Anderson-McQueen Company d/b/a E James Reese Funeral Home (Seminole) (F050783)*
- (b) *Funeraria Memorial Plan – Westchester (Miami) (F040305)*

(2) Funeral Directing and Embalming

- (a) *Carriage Florida Holdings Inc d/b/a Fuller Funeral Home-Cremation Service (Naples) (F060696)*
- (b) *Foundation Partners of Florida LLC d/b/a Kersey Funeral Home (Auburndale) (F060727)*

The Division recommends approval of the application.

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

14. Change in Location of Establishment

A. Informational Item (Licenses Issued without Conditions) – Addendum H

- (1) *Brisson Funeral Home Inc (Sanford) (F053993)*
- (2) *Grace Funeral Home (Opa-Locka) (F040065)*
- (3) *SCI Funeral Services of Florida Inc d/b/a National Cremation Society (Miami) (F041609)*

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

- 15. Consumer Protection Trust Fund Claims**
 - A. Recommended for Approval without Conditions – Addendum I**

The Division recommends approval of the claim(s).

MOTION: Mr. Helm moved to approve the claim(s). Mr. Hall seconded the motion, which passed unanimously.

- 16. Application(s) for Monument Establishment Sales Agent**
 - A. Informational Item (Licenses Issued without Conditions) - Addendum J**

The application(s) presented are clean and have been approved by the Division. This item is informational only and does not require Board action.

- 17. Application(s) for Cinerator Facility**
 - A. Recommended for Approval with Conditions**
 - (1) Carriage Florida Holdings Inc d/b/a Gulf Coast Cremation Services (Naples)**

An application for a Cinerator Facility was received on October 12, 2010. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Daniel Fuller (F042678). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Col. Stiegman seconded the motion, which passed unanimously.

- 18. Application(s) for Direct Disposal Establishment**
 - A. Recommended for Approval with Conditions**
 - (1) Phoenix Cremation Society Inc (Deltona)**

An application for a Direct Disposal Establishment was received on September 3, 2010. The application was incomplete when submitted. All deficient items were returned on October 1, 2010. The fingerprint cards for all principals were returned with no criminal history. The Direct Disposer in Charge will be Louis Haines (F042794). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Ms. Anderson moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Col. Stiegman seconded the motion, which passed unanimously.

- 19. Application(s) for Funeral Establishment**
 - A. Recommended for Approval with Conditions**
 - (1) Savino-Weissman Funeral Home & Cremation Services (Margate)**

An application for a Funeral Establishment was received on September 15, 2010. The application was incomplete when submitted. All deficient items were returned on October 8, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Mark Weissman (F042654). The Division is recommending approval with the following conditions: that the establishment passes an on-site inspection by a member of the Division staff; That the closing occur within 60 days of the date of this Board meeting; Receipt by the Division within 75 days of this Board meeting, of a letter signed by applicant or applicant's attorney, addressed to the Division, certifying that closing has occurred; and Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

MOTION: Ms. Huggins moved to approve the application subject to the conditions proposed by the Division. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

(2) Willie E. Hagan d/b/a Hagan and Bradwell Funeral Service (Monticello)

An application for a Funeral Establishment was received on September 28, 2010. The application was incomplete when submitted. All deficient items were returned on October 15, 2010. The fingerprint cards for all principals were returned with no criminal history. The Funeral Director in Charge will be Shanna Walker (F048940). The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Mr. Jones moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Mr. Helm seconded the motion, which passed unanimously.

20. Application(s) for Removal Service

A. Recommended for Approval with Conditions

(1) Darius Javan Carpenter d/b/a Carpenters Removal Service (Leesburg)

An application for a Removal Service was received on August 26, 2010. The application was incomplete when submitted. All deficient items were returned on September 27, 2010. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Col. Stiegman moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Ms. Anderson seconded the motion, which passed unanimously.

(2) First Coast Mortuary Services LLC (Fleming Island)

An application for a Removal Service was received on October 5, 2010. The application was complete when submitted. The fingerprint cards for all principals were returned with no criminal history. The Division is recommending approval with the following conditions: That the establishment passes an on-site inspection by a member of the Division staff; That the closing occur within 60 days of the date of this Board meeting; Receipt by the Division within 75 days of this Board meeting, of a letter signed by Applicant or Applicant's attorney, addressed to the Division, certifying that closing has occurred; and Receipt by the Division within 75 days of this Board meeting, of a copy of the Bill of Sale, executed by all parties, and any and all amendments thereto, also fully executed.

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

(3) Stacey A. Burrows d/b/a Burrows Removal & Transport Service (Havana)

Stacey A. Burrows d/b/a Burrows Removal & Transport Service (F057224) submits this request for approval of a change in location of the removal service, as required by s. 497.385(1)(g)2, Florida Statutes.

The application for a Removal Service was submitted on October 7, 2010. The application was complete when submitted. The fingerprint cards for all principals were submitted and returned without criminal history. The Division is recommending approval with the condition that the establishment passes an on-site inspection by a member of the Division staff.

MOTION: Ms. Anderson moved to approve the application with the condition that the establishment passes an on-site inspection by a member of the Division staff. Ms. Thomas-Dewitt seconded the motion, which passed unanimously.

21. Chairman's Report (Oral)

None

22. Executive Director's Report

A. 2011 Proposed Board Meeting Schedule

Thursday, January 6 th	Conference Call
Thursday, February 3 rd	Tallahassee
Thursday, March 10 th	Conference Call
Thursday, April 7 th	Tampa
Thursday, May 5 th	Conference Call
Thursday, June 2 nd	Conference Call
Thursday, June 23 rd	Tallahassee
Thursday, July 14th Wednesday, 13 th	Conference Call
Thursday, August 4 th	Tallahassee
Thursday, September 1 st	Conference Call
Thursday, October 6 th	TBD
Thursday, November 3 rd	Conference Call
Thursday, December 1 st	Tallahassee

Ms. Lisa Lyons Coney stated that the Annual Membership Meeting of FCCFA would be held the morning of July 14th and requested that the Board change the date of the proposed conference call to July 13th.

MOTION: Mr. Jones moved to approve the proposed schedule with the recommended change. Mr. Hall seconded the motion, which passed unanimously.

B. Proposed Amendments to Rule 69K-21.008, Funeral Director In Charge

Proposed amendments to Rule 69K-21.008 (Funeral Director in Charge) were presented to the Board at its October 7, 2010 meeting. However, the matter was tabled at the Board meeting for further review, when it was noted that in Section (3) of the Rule as presented at the October 7, 2010 meeting, the Rule would prevent a funeral establishment from writing any business immediately upon a change of its FDIC, until such time as the funeral establishment filed notice of a new FDIC. It was noted that traditionally it has been understood that in such cases, the funeral establishment had 20 days to obtain a new FDIC, and could continue writing new business and performing at-need business during those 20 days, although during that time it had no exemption from the requirement that all funeral directing and embalming activities had to be performed by properly licensed person.

The proposed Rule has been changed and I believe it now reflects the traditional understanding. I attach the revised Rule and the Rule as originally presented to the Board at its October 7, 2010 meeting.

Recommendation:

That the Board approves the revised proposed Rule for rulemaking and adoption.

That inasmuch as the Section (3) of the revised Rule does not change the traditional understanding and implementation of s. 497.380, F. S. re change of FDIC, that the Board find that the revised Rule provision has no economic impact on small business.

AS REVISED AND PROPOSED TO BOARD AT 11-4-2010 BOARD MEETING

69K-21.008 Funeral Director In Charge. Notification of Change in Funeral Director in Charge.
[AMENDED] [REF818624]

(1) This rule section implements s. 497.380(7) and (12), Florida Statutes.

(a) As used herein the term "FDIC" refers to "funeral director in charge."

(2) FDIC GRANDFATHER PROVISION. This rule section implements the provisions of s. 497.380(7), FS, relating to service as FDIC by persons not holding embalmer licensure, after 10-1-2010.

(a) A person licensed as funeral director but not as an embalmer, who is seeking to continue acting as a funeral establishment's FDIC after 10-1-2010, must meet all of the criteria specified in s. 497.380(7)(a), (b) and (c), Florida Statutes.

(b) If as authorized by s. 497.380(7), FS, on 10-1-2010 a funeral establishment has as its FDIC a funeral director-only licensee, and thereafter that funeral director ceases for any reason to be FDIC at that funeral establishment, the funeral establishment shall thereupon employ as its FDIC a person holding valid licensure under chapter 497 as both a funeral director and embalmer.

(c) If as authorized by s. 497.380(7), FS, on 10-1-2010 a funeral establishment has as its FDIC a funeral director-only licensee, and thereafter for any that funeral director ceases to serve as FDIC at that funeral establishment, that funeral director may not thereafter resume work in the capacity of FDIC at that funeral establishment or any other funeral establishment, unless that funeral director obtains a valid embalmer license under chapter 497.

(3) CHANGE IN FUNERAL DIRECTOR IN CHARGE.

(a) Within calendar 20 days of a change of the person serving as a FDIC at a funeral establishment, the funeral establishment shall complete and file with the Division a form DFS-N1-1743 "Change of Funeral Director/Direct Disposer In Charge," which shall identify the new FDIC.

(b) In the event that a funeral establishment's FDIC is changed, including but not limited to by incapacitation, termination, or resignation:

1. The funeral establishment shall not accept or write any new business after the 20th calendar day after such change unless by then a new FDIC has been designated to the Division on form DFS-N1-1743 "Change of Funeral Director/Direct Disposer In Charge."

2. The funeral establishment shall assure that no funeral directing or embalming activities are performed within or on behalf of the funeral establishment by persons not licensed under chapter 497 to perform such activities.

~~The Board office shall be notified in writing within twenty (20) days of any change in a funeral director in charge (FDIC). The former FDIC, the new FDIC, and the funeral establishment shall be responsible for filing such notice.~~

Specific Authority 497.103, 497.382(12) FS. Law Implemented 497.380 FS. History--New 9-3-92, Formerly 21J-21.008, Formerly 61G8-21.008

AS ORIGINALLY PRESENTED TO THE BOARD AT ITS 10-7-10 MEETING

69K-21.008 Funeral Director In Charge. Notification of Change in Funeral Director in Charge. [AMENDED] [REF818624]

(1) This rule section implements s. 497.380(7) and (12), Florida Statutes.

(a) As used herein the term "FDIC" refers to "funeral director in charge."

(2) FDIC GRANDFATHER PROVISION. This rule section implements the provisions of s. 497.380(7), FS, relating to service as FDIC by persons not holding embalmer licensure, after 10-1-2010.

(a) A person licensed as funeral director but not as an embalmer, who is seeking to continue acting as a funeral establishment's FDIC after 10-1-2010, must meet all of the criteria specified in s. 497.380(7)(a), (b) and (c), Florida Statutes.

(b) If as authorized by s. 497.380(7), FS, on 10-1-2010 a funeral establishment has as its FDIC a funeral director-only licensee, and thereafter that funeral director ceases for any reason to be FDIC at that funeral establishment, the funeral establishment shall thereupon employ as its FDIC a person holding valid licensure under chapter 497 as both a funeral director and embalmer.

(c) If as authorized by s. 497.380(7), FS, on 10-1-2010 a funeral establishment has as its FDIC a funeral director-only licensee, and thereafter for any that funeral director ceases to serve as FDIC at that funeral establishment, that funeral director may not thereafter resume work in the capacity of FDIC at that funeral establishment or any other funeral establishment, unless that funeral director obtains a valid embalmer license under chapter 497.

(3) CHANGE IN FUNERAL DIRECTOR IN CHARGE.

(a) Within 20 days of a change of the person serving as a FDIC at a funeral establishment, the funeral establishment shall complete and file with the Division a form DFS-N1-1743 "Change of Funeral Director/Direct Disposer In Charge," which shall identify the new FDIC.

(b) In the event that a funeral establishment's FDIC quits or is terminated as FDIC:

1. The funeral establishment shall not accept or write any new business until it has designated a new FDIC by filing with the Division the required form DFS-N1-1743 "Change of Funeral Director/Direct Disposer In Charge."

2. As to any at-need funeral services the funeral establishment is already committed to perform at the time the FDIC quits or was terminated, the funeral establishment may complete those at-need commitments through the use of other licensed funeral directors on its staff or under the supervision of licensed funeral directors from other funeral establishments.

3. As to any preneed commitments the funeral establishment had previously entered into that become at-need while the funeral establishment is without a FDIC, the funeral establishment shall make arrangements at its expense to have another funeral establishment honor such commitments arising out of such preneed contracts, until such time as the funeral establishment has designated a new FDIC by filing with the Division the required form DFS-N1-1743 "Change of Funeral Director/Direct Disposer In Charge."

~~The Board office shall be notified in writing within twenty (20) days of any change in a funeral director in charge (FDIC). The former FDIC, the new FDIC, and the funeral establishment shall be responsible for filing such notice.~~

Specific Authority 497.103, 497.382(12) FS. Law Implemented 497.380 FS. History—New 9-3-92, Formerly 21J-21.008, Formerly 61G8-21.008

Mr. John Rudolph stated that there is no definition of what a “change of the person serving as a FDIC” is. That could be interpreted to mean that when you find out that your previous FDIC has resigned, died, etc and then you get a new person who agrees to serve as the FDIC. Getting the new person is the change, so the 20 days would start from the time you make the change. Technically you are supposed to do it immediately. As soon as the FDIC resigns or is terminated, you are supposed to immediately go out and find someone to become the new FDIC. For calculating the 20 days, when you use the word change, it is the day you get the new person who agrees to serve as the FDIC. Otherwise, we are back to the same problem because if you say the change is when the current FDIC dies, incapacitation, termination or resignation. If they resign and not communicate that to you or become incapacitated but you are going to hold them as the FDIC until they say they can’t come back to work. The problem has always been when the Licensee is notified that the FDIC has resigned, but that is when the 20 days begin. Here, it is being based on the act, incapacitation, termination or resignation. This creates a number of issues if you look at this upon their incapacitation, termination or resignation.

Mr. Shropshire stated that the date of the incapacitation, termination or resignation would be the date. The Division’s position would be that the funeral establishment is a separate licensee from the FDIC and has an obligation.

Mr. Jones questioned how “notified” is defined.

Mr. Rudolph stated there has to be a certain date that the 20 days begin. The 20 days should begin when the funeral establishment is notified or learns of the FDIC resigning, terminating or becoming incapacitated.

Ms. Coney stated that the intention of the Rule was to ensure that the funeral establishment had an FDIC in a timely manner and that the change was clearly understood as the act of resigning, terminating, dying, becoming incapacitated, going on medical leave; whatever the reason is that you are no longer able to perform those duties. It was the intention of the Rule to have someone in place within 20 days to perform those duties and that during those 20 days any active funeral directing would be done by licensed personnel that remained on staff. There is nothing unfair or unreasonable about having a person responsible to perform the acts of the FDIC within a 20 day period.

Mr. Rudolph finds this to be confusing.

MOTION: Col. Stiegman moved to approve the revised proposed Rule for rulemaking and adoption. Mr. Hall seconded the motion, which passed unanimously.

MOTION: Ms. Huggins moved that the proposed Rule would not have any adverse effect on small businesses. Mr. Helm seconded the motion, which passed unanimously.

23. Office of Attorney General’s Report (Oral)

None

Mr. Shropshire added that the Division office will be moving on November 15th. There may be a period of time on either side where it will be very hard to get in touch with us.

The Chair stated that he would like to see the meetings continue at the Alexander Bldg.

24. Adjournment

The meeting was adjourned at 11:13am.

THE CHAIRMAN MAY MAKE SPECIFIC CHANGES IN THE AGENDA AFTER IT HAS BEEN MADE AVAILABLE FOR DISTRIBUTION, ONLY FOR "GOOD CAUSE" SHOWN.