PLEASE SEE PAGES 53-67 FOR INFORMATION RELEVANT TO RULES COMMITTEE MEETING ON JUNE 8, 2023

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
VIDEOCONFERENCE MEETING
NOVEMBER 3, 2022 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning, all. This is Jill Peeples, Chair of the Board of Funeral, Cemetery, and Consumer Services. It is Thursday, November 3, 2022, and I would like to turn it over to Ms. Simon for preliminary remarks and roll call.

Ms. Ellen Simon – Thank you, Madam Chair. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is November 3, 2022, and it's approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held by videoconference. Notice of this meeting has been duly published in the Florida Administrative Register. An agenda for this meeting has been made available to interested persons. Both the link and call–in number is on the agenda, which has been made available to the public. The call–in number and other information relating to this Board meeting has also been published on the Division's website. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared.

As this is a videoconference of the Board, there are some items I need to draw your attention to. For one, as a general rule, please do not utilize your video camera for the meeting unless you are a Board member, Board counsel, or an authorized Division employee. If you have a matter listed on the agenda and intend to appear before the Board to represent yourself, or if you are an attorney that is representing a client, only turn your video camera option on when we have reached the agenda item that you want to be heard on or when you hear your name called. Then turn your video camera option off again as soon as your matter has been addressed by the Board.

As always, we need everyone that is on the call to place their phone or audio feed on mute, if you are not speaking. As you can tell from earlier this morning, the ambient noise coming from someone's phone or audio, which is not muted, causes severe disruption to the meeting. If you are not muted, you may be muted by Division staff. As a result, you may need to call back into the meeting because that may be the only way to unmute your phone. Also, if you are using your computer or smartphone for your audio feed, please remember to speak directly into the microphone on your device. To do so otherwise negatively impacts the recording of this meeting. Just as in a live meeting, persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board Chair, Madam Peeples, runs the meeting. Persons desiring to speak should initially ask the Chair for permission.

As a reminder to Board members, you are to refrain from commenting on facts not included within 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 X 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 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.

Additionally, as a final reminder, Board meetings are public meetings under Florida Law, and anything said via chat is subject to a public records request. This feature should only be used for one of two of the following reasons. One, towards the end of today's meeting when we come to letter W on the agenda, the Board will be discussing three (3) topics raised at the August Board meeting. At this point, comments are to be limited to those three (3) topics. If you would like to be heard on any of the three (3) outlined topics, please use the chat feature. Address your comments to Mary Schwantes, Executive Director, and include your name, the organization you are representing and which of the three (3) issues you want to be heard on. Two, the chat feature may be used for assistance with any technological issues you may be experiencing. Again, Mary Schwantes, Executive Director, will be monitoring the chat feature and, as necessary, will forward your inquiry to someone who can assist in resolution of the problem. At this point I will take the roll:

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
LaTonya Bryant, Department Staff
Jasmin Richardson, Department Staff

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

Chair Peeples – Thank you, Ms. Simon.

B. Old Business

(1) Collective Application(s)

(a) Recommended for Denial

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

a. New Establishment

- ***Funeral Establishment***
  - ***Petition for Waiver***
- ***Preneed Branch***

Ms. Simon – Allen Funeral Directors LLC d/b/a A Green Cremation, seeks approval of applications for 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, 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.

This matter was previously heard by the Board during the August 2022 meeting. After being heard by the Board, the Applicant requested the matter be tabled for an opportunity to provide a different cinerator facility contract. Included within your Board package are the separate applications regarding the aforementioned properties. The principals included in the applications for licensure have submitted fingerprints which were returned without criminal history. The application was originally on the August 4, 2022, agenda and was withdrawn because the cinerator facility listed was not within seventy-five (75) miles. The applicant has since submitted a request to waive Rule 69K-21.003(2), Florida Administrative Code, which imposes a seventy-five (75) mile parameter. The Division recommends denial of the application and also the request for waiver. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Is there anyone representing Allen Funeral Directors, LLC d/b/a A Green Cremations?

Ms. Wendy Wiener – Yes. Wendy Wiener, representing the applicant.

Chair Peeples – Thank you, Ms. Wiener. Would you like to approach the Board, please?

Ms. Wiener – I would. Thank you very much. Good morning, Board members. If ever there was a valid reason for the Board to grant a waiver to a rule, this would be it. There is absolutely no disputing that the Keys have far less land mass than any other portion of the entire state of Florida, and for that reason and that reason alone, there are far fewer opportunities to establish a

cinerator facility along the Keys. Now, my client has thoroughly reviewed over the course of time, prior to submitting this application, his opportunities to establish his own cinerator facility, but the administrative impediments, coupled with the land use laws and regulations in the Keys, make it essentially impossible to do so. The only crematories in the Keys are owned by my client's direct competitor. And it seems unnecessarily harsh to deny these applications, which would, in essence, give my client's competitor control over his capacity to establish another cremation related business in the Keys. Now, remember, this Board can waive a rule. The seventy-five (75) mile is not a statutory requirement. It is a rule, and it was likely put in place, like many of the 75-mile rules, to ensure that decedents are not transported for excessive amounts of mileage without proper care and refrigeration. Well, as you can see in your application or in the application before you, the refrigeration facility that will be used for decedents doing business with this cremation business is, in fact, less than seventy-five (75) miles from the subject crematory. And so, there's no dispute that the descendants will be transported from refrigeration further than seventy-five (75) miles. The 75-mile rule, as I said, is simply a rule and can be waived. This Board regularly waives the applications of a rule, where good cause is shown to waive that application. And in this case, probably more than in any other case I've personally had, there is certainly good cause to waive this rule and allow this business to utilize a cinerator facility that is more than seventy-five (75) miles from the applicant's business location. I would be happy to address any questions that you have, or to provide further information.

Chair Peeples – Thank you, Ms. Wiener. I have a question. In doing a little research, I noticed that in Big Pine Key, there was Heritage Cremation, and there was Dean and Lopez Funeral Home and Crematory. Have the principals reached out to these two (2) entities to see if they would be willing to make an agreement with them? Has that been raised?

Ms. Wiener – First of all, Mr. Anthony Allen is on this meeting. I don't see his camera on, but I'm hoping that maybe he turns his camera on shortly.

Mr. Anthony Allen – I'm sorry. This is Anthony Allen. I didn't know I needed my camera on. I can turn it on if you need me to.

Ms. Wiener – No worries.

Chair Peeples – Excuse me, Ms. Wiener. Ms. Simon, do you need to swear Mr. Allen in?

Ms. Simon – Thank you, ma'am. Mr. Allen, 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. Allen – I do.

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

Mr. Allen – Anthony Allen, A L L E N.

Ms. Simon – Thank you, Madam Chair.

Chair Peeples – Thank you, Ms. Simon.

Ms. Wiener – I would say these videos make it so difficult. I apologize for speaking over you. I was simply going to say both of those crematories are owned and operated by Mr. Allen's direct competitor. As to whether Mr. Allen has sought an arrangement with either of those crematories, he can speak to that, but remember, that gives his competitor the capacity over whether or not cremations can occur when they can occur. I'm sure that none of you that are in the business on this particular Board would want to have a cremation-focused business, this business is focused on cremation, and then be at the mercy of your competitor as to whether you can deliver good service to your clients. And with that, I would certainly invite Mr. Allen to elaborate.

Mr. Allen – If it's ok, I'll go ahead and answer that question?

Chair Peeples – Yes, please, Mr. Allen.

Mr. Allen – The Florida Keys is 116 miles long. At its widest point, fifteen (15) miles. There are two (2) funeral home owners in the entire Keys, out of that 116 miles, myself and Bob Dean. Bob Dean owns the three (3) existing funeral homes south of Marathon, which consists of Dean Lopez of Big Pine, Dean Lopez of Key West and Thurston-Castello of Key West. They're all owned by the same individual. He owns two (2) crematories, one (1) of which is functional, the other one is not. I have reached out to him, but again, I am his direct competitor. He has told me that he does not do outside cremations he's only licensed and insured to do his own facilities. Now, as Wendy had said, my funeral home that's in Key Largo is located roughly seventy-five (75) miles from the tip of Key West, which is the furthest point. So that's seventy-five (75) miles within between where his last funeral home is located and my funeral home. There are very small amounts of land in between there. Most of it is marsh, bridges, residential area, retirement communities, so forth, but I have done everything I could. The closest funeral home, besides my direct competitor, is up on the mainland. I've also reached out to them with the same reply. They are a private crematory. They only do cremations for their own facility. They do not do outside cremations. I hope this answers the question.

Chair Peeples – Mr. Allen, the Heritage Cremation? Who is the owner of that facility?

Mr. Allen – I'm actually not even familiar with Heritage Cremation. We have a lot of people that register that they are in the Florida Keys doing business, but they are not down there. I'm trying to do the right way of actually establishing a footprint, get a license, and do business there. But to my knowledge, the only physical facilities that are in the Florida Keys are the one located down in Key West, the other one that's under a different name that's also located down in Key West in the Old Mason's building, and then the one that's located in Big Pine. Now, Mr. Dean owns a standalone cremation, just a facility that was grandfathered in back in the eighties, which is in Big Kaput. If you give me the address, I could probably tell you a little bit better, but there is no other actual brick and mortar buildings, And, like I said, it's not uncommon that somebody will establish a phone number in the Florida Keys at a residential, and then try to do business out of that. In fact, I've had to report people like this in the past that were up on the mainland, that advertised being in the Florida Keys, and if you do enough research, it's a phone line to somebody's house.

Chair Peeples – Yes, sir. In my research that I completed, I noticed that there were three (3) to four (4) of those entities that have phone numbers, but the physical location may not have been in Big Pine Key. But Heritage Cremation. And I don't have an address before me right now, but I did notice that Heritage Cremation had a presence, and Dean and Lopez Funeral Home and Crematory.

Mr. Allen – Is this the Heritage Cremation that the Board has been trying to shut down for the last ten (10) years that's owned by AJ that's not actually a facility anywhere?

Chair Peeples – I'm not sure, sir. I'm just asking for reference for our decision today regarding, if you had reached out. And to Ms. Wiener's comment about a competitor, just from our personal experience here at our family's firm in Jacksonville, until five (5) years ago when we opened up and had our own crematory installed at our new location, we utilized colleagues. We don't call them competitors here we call them colleagues. So, we use colleagues to complete our cremation had great success from that perspective. So, that was the reason for my question, Ms. Wiener and Mr. Allen, if the avenues had been exhausted prior to requesting the waiver? Thank you.

Ms. Wiener –Ms. Peeples. It is an extremely valid question. I just did a quick search on the Division's database and I'm not finding a Heritage Cremation in the Keys with a cinerator facility application. Not an exhaustive search, but I did search while you were conversing with Mr. Allen. So, I'm not sure if there is another cinerator facility. I think, ultimately, as I said at the outset, as a Board, you're facing the best opportunity there, is to grant a waiver, in this circumstance of very limited crematories.

Chair Peeples – Thank you, Ms. Wiener. Mr. Brandenburg?

Mr. Jody Brandenburg – Madam Chair, I'll make a motion to waive Rule 69K-21.003(2), in this instance, for the reason of the practicality, the location, and it's the right thing to do.

Mr. Ken Jones – Second.

Chair Peeples – Was that a second by Mr. Jones?

Mr. Jones – Yes, ma'am.

Chair Peeples – Thank you. We have a motion by Mr. Brandenburg, to approve the waiver request. A second by Mr. Jones. Is there any further discussion or any questions for Ms. Wiener or Mr. Allen? Hearing none. Mr. Jensen?

Mr. Chris Jensen – 1 have a question, maybe for Ms. Munson. If we approve this, is that setting a precedent? Is this just for this location or are we setting some sort of precedent that can be applied all over the state?

Ms. Rachell Munson – I can say that I cannot guarantee that if you get another request or petition similar to this, that this petition will not be reference or alluded to, but every petition is reviewed on a fact-specific, case-by-case basis.

Mr. Jensen – Thank you, Ms. Munson. Madam Chair, I do have follow up here, if I may?

Chair Peeples – Yes, sir, please.

Mr. Jensen – I do believe there is a hardship there. I've done a little research in that area myself. The Heritage is one of those out of state 1-800 numbers that we often find in all of our areas, I am curious, from Mr. Allen, what work has he done to try to get another crematory down there? I hear through the grapevine that they'll never allow one, but why? Has someone actually worked on that? I mean, it doesn't seem proper to the public {inaudible} choice.

Mr. Allen – I can go ahead and answer, if that's ok, Madam Chair?

Chair Peeples – Yes, sir, please.

Mr. Allen – The Florida Keys is protected. Most of the land is zoned either environmental or floodable. Most of our buildings are steel buildings. Anything that's new construction has to be over eight (8) feet off the ground. So, we don't have a solid foundation on the ground to actually put something that's as heavy as an incinerator facility. So, we're limited on buying older properties if we wanted to build a facility for incineration. With that, you have to go through both and environmental study and an impact study. If you are going to try to raise the property, then they have to do another study to make sure you're not going to be flooding your neighbor's area. Just like when we had Hurricane Irma come through in Big Pine, where I'm opening this location, we received eight (8) feet of flooding through that area. It's not uncommon for us, during certain times of the year when we get king tides, that there'd be a foot of standing water. So, for licensing, insurance purposes, safety purposes, it just makes it pretty much impossible, very difficult to find a suitable, already existing building to put a crematory in that's not already being occupied by another business. So, as far as like finding a barren piece of land to build something on, like I said, you're going to run into that same problem. I did ask the County, what would I need to do to open a cremation facility. They said I would have to either purchase the property first, then pay all these environmental studies, and within two (2) years they might come back and say, “Yes, you can start doing this damage,” or “No, you have been denied,” and then I'm stuck with the property. The other option would be is finding someone that has a facility, like a building, that's going to rent it to me, give me permission to make all these massive modifications and then again go through the same process of not even being able to install it because the County's denied the situation. It's just everything here is protected or under an environmental act. In fact, in Big Pine, where this is going to be, we have the only place that has Key deer. So, almost every bit of the property is on some kind of scrutiny where they're afraid it's going to interfere with the local life that's already there, that's being protected.

Chair Peeples – Mr. Jensen, did that complete your question, sir?

Mr. Jensen – Sort of. I was just wondering if, I mean everything you mentioned is the same stuff that anybody goes to opening a crematory in Florida. I've been through a lot myself. But I just was wondering if he had done anything specific to try and get another crematory there and why that is not allowed? So, I was just curious.

Chair Peeples – Thank you, Mr. Jensen. Ms. Clay, did you have your hand up?

Ms. Sanjena Clay – No, I did not.

Chair Peeples – Ok, thank you. Mr. Brandenburg?

Mr. Brandenburg – Respectfully, could we call the question?

Chair Peeples – Do any Board members have any further questions for Ms. Wiener or for Mr. Allen? Hearing none. Ms. Simon, will you do a roll call vote for this item, please?

Ms. Simon – Yes, ma'am.

Mr. Brandenburg – Ms. Simon and Chair Peeples, may I suggest that we vote yes or no, not yea or nay? Because it's sometimes misunderstood and is so easily misunderstood.

Chair Peeples – Yes, sir. Mr. Brandenburg, thank you for that. Ms. Simon was going to make that comment that from now on we need to vote either yes for the motion or no for the motion. Thank you, sir. Ms. Simon, please proceed.

Ms. Clay – Madam Chair, before you proceed?

Chair Peeples – Yes, ma'am?

Ms. Clay – Would you please restate the motion?

Chair Peeples – Yes, ma'am. The motion by Mr. Brandenburg was to accept the waiver request as in your Board packet, mentioned there, which would give them opportunity to waive the 75-mile requirement for cremation and refrigeration, and also allow their preneed branch request. So, if you notice in your packet, there's several items. There's a waiver and also a preneed branch request. Is that correct, Ms. Simon?

Ms. Simon – Madam Chair, we would be voting on two (2) distinct issues, I think. One is the waiver. You may have already said this, and if so, I apologize. One is the waiver, and one is the actual application.

Chair Peeples – Yes, thank you. Mr. Jensen, did you have a question, sir?

Mr. Jensen – Madam Chair, when you were just speaking, you mentioned waiving the refrigeration. I don't believe that's before the Board, because he can refrigerate in Key Largo. It's just the waiving the cremation mileage. Is that correct?

Chair Peeples – Ms. Simon, is that correct?

Ms. Simon – That is, ma'am.

Chair Peeples – Thank you, Mr. Jensen, for that clarification. Ms. Clay, I hope that answered your question.

Ms. Clay – I believe it did. Thank you.

Chair Peeples – Ms. Munson?

Ms. Munson – Madam Chair, I don't know if that answered mine, though. That just raised it. I thought that this motion was just on the waiver, and then there would be a second vote, with a second motion on the approval of the application itself. Just want to make sure that's what's happening right now as I record this for my purposes, for the record.

Chair Peeples – Thank you, Ms. Munson. Ms. Simon we are working on the waiver request right now, which is Mr. Brandenburg's motion to approve the waiver request, correct?

Ms. Simon – That is my understanding.

Chair Peeples – Ok, Mr. Jones, seconded that. So, now we're doing a roll call vote for Board members. You will vote yes if you approve the waiver request, and no, if you deny. Ms. Simon?

Ms. Simon – Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Mr. Clark?

Mr. Andrew Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Todd Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Janis Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Mr. Jay Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Darrin Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – Madam Chair, that motion passes.

Chair Peeples – Thank you, Ms. Simon.

Chair Peeples – Ms. Simon, if you'll go to the next item, please.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, sir, Mr. Brandenburg?

Mr. Brandenburg – I believe we need to vote on the application.

Chair Peeples – Mr. Brandenburg, that's our next item, the preneed branch. So, we're still under, B. (1) (a) 1. a. Now, we're on the preneed branch. Correct, Ms. Simon?

Ms. Simon – Madam Chair, if I may? What we just voted on is the waiver, and the waiver was for the cinerator facility. Now it is time for a vote be taken on the applications for licensure of both the funeral establishment and the preneed branch.

Ms. Munson – Correct.

Chair Peeples – Thank you, Ms. Simon.

Mr. Brandenburg – Madam Chair, I'll make a motion to approve the funeral establishment and the preneed branch.

Chair Peeples – Thank you Mr. Brandenburg. We have a motion by Mr. Brandenburg. Do we have a second?

Ms. Liotta – Second.

Chair Peeples – We have a motion by Mr. Brandenburg to approve the funeral establishment and the preneed branch, and a second by Ms. Liotta. Is there any discussion, or any questions for Mr. Allen, or Ms. Wiener, prior to the vote? Hearing none. Ms. Simon, will you do a roll call vote for this too, please?

Ms. Simon – Yes, ma'am. Please respond with a Yes or No as to your response to the motion. Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – And that motion passes.

Unidentified person – {Inaudible}

Chair Peeples – Who was speaking, please? Who is on the call that doesn't have their phone muted, please? Thank you. Ms. Simon, we will now proceed to disciplinary proceedings, please.

Ms. Simon – Thank you, ma'am.

(2) Disciplinary Proceedings(s)
(a) Settlement Stipulation (Probable Cause Panel B)
1. Miranda, Mercedes Arlene: DFS Case No. 283186-21-FC; Division No. ATN-36406 (F061563)

Mr. Williams – Madam Chair?

Chair Peeples – Yes, sir?

Mr. Williams – I am going to recuse myself as I served on this Probable Cause Panel B for disciplinary proceedings items B. (2) (a) 1 and C. (1) (a), (1) (b) 1, (1) (b) 2, (3) (a) 1 and (3) (a) 2.

Chair Peeples – Thank you, Mr. Williams. We appreciate that for the record. Mr. Griffin.

Ms. Kimberly Marshall – This is Kimberly Marshall. I'm going to be presenting this case.

Chair Peeples – Thank you, Ms. Marshall?

Ms. Marshall – This matter was originally presented to the Board in October 2022. The Board approved the proposed Settlement Stipulation. However, after the Board meeting it was determined that the wrong Settlement Stipulation was inadvertently included within the Board package and ruled upon. The correct Settlement Stipulation is included within this package before you today. It would be appropriate for the Board to reconsider this matter, entertain a motion to entertain a motion to accept the Settlement Stipulation included within this Board package.

Mercedes Miranda ("Respondent") is licensed as a funeral director and embalmer. Respondent is the funeral director in charge ("FDIC") of Northstar Funeral Services of Florida, LLC d/b/a Homestead Crematory ("Northstar"). Northstar is a cinerator facility, licensed under Chapter 497, Florida Statutes, license number F276075. The Department conducted an investigation of Northstar and found that Northstar placed more than one body in its retort without prior written permission, failed to follow the standard uniform rules for the removal of cremated remains and post cremated procedures. Respondent, as FDIC of Northstar, is subject to discipline based on Northstar's violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of $2,300 and have its license placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation. I'm available to answer any questions. Thank you.

Chair Peeples – Thank you, Ms. Marshall. Are there any questions for Ms. Marshall from the Board? Is Ms. Mercedes Miranda on the call today? Hearing none: Would any Board member like to make a motion to withdraw the Order, and then except the Settlement Stipulation, as Ms. Marshall has presented?

MOTION: Mr. Jones moved to reconsider this matter. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Ms. Marshall?

Ms. Simon – Madam Chair?

Chair Peeples – Yes, Ms. Simon?

Ms. Simon – I was going to proceed. I apologize. The next matter on your agenda is…

Rabbi Lyons – Don't we need to make a motion to accept the settlement?

Ms. Munson – Thank you, Rabbi Lyons.

Ms. Simon – Oh, I'm sorry. I apologize. I thought we had.

Chair Peeples – And I apologize. I thought we did that as one item together but thank you for doing it separately.

MOTION: Rabbi Lyons moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of $2,300 and have its license placed on probation for one (1) year. Ms. Clay seconded the motion, which passed unanimously.

Ms. Munson – And just for the record, did we confirm that Ms. Miranda was not present?

Chair Peeples – Yes, ma'am. I had asked if she was present, and I did not hear anyone say in the affirmative.

Ms. Munson – Thank you.

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

(b) Request for Hearing (Section 120.57(1), Florida Statutes)
1. DeathCall LLC (Port Charlotte)

Ms. Simon – Is a representative of Death Call LLC on the call today?

Ms. Wiener – Yes, Ms. Simon. Wendy Wiener representing Death Call.

Ms. Simon – Thank you. An application for removal facility licensure was received by the Division in February 2022. The application went before the Board in April 2022. The Board denied the application and the order reflecting the Board's decision was issued on May 4, 2022. The Applicant timely filed a request for a formal hearing pursuant to section 120.57(1), Florida Statutes, and that is why we are here today. Applicant alleges the following facts are in dispute:

1) Applicant has no disciplinary history.
2) The disciplinary history relied upon is related to a different corporate entity and is insufficient to support the denial of any license application. The history is comprised of 6 investigations conducted over the course of 8 years. Three of the investigations were closed, two without action and one with a letter of warning. The other three investigations resulted in minor fines totaling $1,500; and
3) The disciplinary history, even if related to Applicant, does not demonstrate lack of good moral character.

The Board's responsibility is to make a determination of whether the Applicant provided material facts in dispute, which are required for a section 120.57(1), Florida Statutes, hearing. For your review, the documentation provided is the Board packet from the April 2022 Board meeting, the Order issued reflecting the Board's decision, and the pertinent minutes from the April 2022 meeting. The Division recommends that the Board take into account that, according to the minutes, the only Board discussion before the denial was entered regarded the eight (8) different complaints included within the Board packet, which were against the sole principal of the Applicant, and the lack of trustworthiness stemming from those complaints.

Chair Peeples – Thank you, Ms. Simon. Ms. Wiener, would you like to address the Board?

Ms. Wiener – I would. Thank you, Madam Chair. This is a really unusual procedural posture. Up until prior to 2022, when an applicant, whose license application was denied requested a formal hearing, it simply either proceeded to formal hearing or some settlement was entered into or there was a reconsideration by the Board, if that was requested. So, we're in a little bit of an unusual procedural posture, but that doesn't take away from the fact that the underlying discipline upon which the denial was faced cannot lawfully be attributed to this applicant. This applicant simply filled out the application wrong. The applicant has no disciplinary history. Its principal, Mr. Mosier, also has no disciplinary history. The disciplinary history that was relied upon was for a separate entity, not before you, not for your consideration at all. That would be like, if a company called ABC Funeral Company of Florida applied for a license, and someone that owns ABC Funeral Company of Florida, also owned ABC Funeral Company of Georgia, and there was discipline of that Georgia company, that would be this Board holding that discipline for that unrelated entity against the licensee. This applicant has no disciplinary history. There is no criminal history whatsoever. And so, this Board didn't even have the right to rely on disciplinary history of an unrelated entity in order to deny this license application. So certainly, there is a factual dispute, because the Order says that the denial is based on the statute that is cited in your Board packet, s. 497.385(1). That entitles the Board to review the trustworthiness and the good standing and good moral character of the applicant, which has no discipline and no negative history whatsoever, which is probably why the Division recommended this applicant for approval this.

This agenda item came to you in April recommended for approval. Now, even if the disciplinary history had been related to the applicant, which it wasn't, but even if it did, there is a dispute as to whether that reflects poor moral character or a lack of trustworthiness. The litany, as was described, of disciplinary history, it's really three (3) minor cases. There were eight (8) investigations over the course of a period of, I'm sorry, six (6) investigations, over the course of eight (8) years. Three (3) of them were dismissed out of hand, and the other three (3) resulted in collective fines, sum total of fines of $1500. Now, this Board is in the business of issuing discipline, and I think it would be hard for anyone in this industry to say that over an eight-year period with three (3) investigations, that Settlement Stipulations resulting to $1500 total in fines, results in a lack of good standing and a lack of trustworthiness. That standard simply was not triggered, but not even withstanding, the more important part here is that this applicant has no disciplinary history for you to rely upon, and neither does its principal. Its principal happens to be an owner in another business with disciplinary history. That does not trigger your capacity to deny a license based on that entity's disciplinary history. The Board simply cannot lawfully rely upon that history. And so, we find ourselves in this posture of we can go, this Board can find that there is a fact in dispute, because if the Board chooses to dispute that the applicant itself has a disciplinary history, we can take that to the Division of Administrative Hearings. The Administrative Law Judge, I argue, will not be able to find that the statutory trigger for finding a lack of trustworthiness and good character was met, because this applicant doesn't have history. Its principal doesn't personally have a disciplinary history. Therefore, if we go to DOAH, I am likely to request attorneys' fees in the event that the Administrative Law Judge finds that this applicant had zero disciplinary history. I strongly suspect that is why Ms. Simon and those at the Division recommended this for approval to you back in April. I think this Board has no choice but to reconsider this matter and move this application forward for approval. And I'm happy to address any other questions.

Chair Peeples – Thank you, Ms. Wiener. Are there are any Board members that have any questions for Ms. Wiener on this particular item? Mr. Jensen?

Mr. Jensen – I do have a question, but I think it's more in line for Ms. Munson. Is Ms. Wiener correct in what she's saying that it's not triggered? Because I see the adverse licensing form that Mr. Mosier did fill out. So, and I believe it was Mr. Brandenburg that brought up the litany, so to speak, of issues there. So, is this correct that we're sort of out of pocket here?

Ms. Munson – It was the Board's vote back in that meeting. I guess it was in April when this was made. I'm going to refer this back for Ms. Simon to address, because it was the Division's recommendation initially not to deny it. So, you're asking about a factual case here, or a factual circumstance attached to this application regarding the adverse history, and I'm going to allow the Department to address that, because they would be the ones who would have done that investigation and made their findings.

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

Ms. Simon – Yes, Madam Chair. In this instance, we do have a corporation, and the only individual listed as part of the corporation is the individual that has the history we're talking about now, if my review of the matter is correct. That is the

only person that is responsible for the corporation, essentially. So, in my estimation, it is relevant. I don't know if there are any other attorneys for the Department that wish to speak on this. However, my estimation is it is relevant past history.

Chair Peeples – Thank you, Ms. Simon. Would any of the attorneys like to address this from the Department? Mr. Griffin or Ms. Marshall? Mr. Griffin, I see you. There you go.

Mr. Marshawn Griffin – I would need to see the full application before I could. Sorry, but the OGC does not receive the applications for licensure. So, before I can opine on that I would need to see the full application.

Ms. Simon – Madam Chair?

Chair Peeples – Yes, Ms. Simon?

Ms. Simon – If I may, that is simply my impression of the law. That the question is one of trustworthiness, and we're talking about the only principal of the corporation.

Chair Peeples – Thank you, Ms. Simon. Ms. Munson, do you have any wise counsel for the Board?

Ms. Munson – I will only say that it's conceivable that if this matter was to go before DOAH, and if the Division made an initial recommendation to approve it, I am sure that opposing counsel will want to interrogate or have that information explain why the Division thought that it was worthy of approval, even though it is the Board's decision ultimately to determine whether or not approval would be an appropriate resolution.

Chair Peeples – Thank you, Ms. Munson. Are there any Board members with any comment? Mr. Jensen?

Mr. Jensen – I apologize, but I seem to have heard two (2) different things there. Ms. Simon mentioned that the past history is relevant. Ms. Munson said that the Department, recommended for approval, so that wouldn't matter. So, I'm just trying to get a handle on what Ms. Wiener said. If, in fact, we should not be reliant upon pass performance or anything from Tennessee.

Ms. Munson – I'm going to interject just for perhaps a bit of clarification, Mr. Jensen. I think on Page 10 of this packet of materials, {inaudible} shows that that the Division recommendation was to approve subject to the conditions. So, notwithstanding Ms. Simon's remarks or comments this morning, when originally presented, the information regarding the Division's recommendation is stated. And they gave the reasons for their recommendation. I was just identifying, for the purposes of this Board, that that information is of record. And if this case were to go to DOAH, which is totally up to the Board to determine whether there is dispute of material fact warranting that, then that information, without doubt, will be relevant in the proceeding.

Chair Peeples – Mr. Jensen, does that complete your question?

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – Thank you. Ms. Weiner?

Ms. Wiener – Let's not be confused. The principal has no disciplinary history. In fact, the Tennessee Board, actually, it opened an investigation into the principal and closed it without any findings of wrongdoing. The principal has no disciplinary history. Look carefully at the Board packet. Another entity that the principal was a part owner of, has a minor disciplinary history. It doesn't evidence a lack of good character. It is a minor disciplinary history. Over eight (8) years, $1500 worth of fines. I think those on this Board that are licensees would certainly note that that is minor disciplinary history, but you can't consider that and that will be my argument at DOAH. You have no capacity to consider that. The only reason that it is in front of you, is because this applicant didn't have me ahead of time, because I would have filled out the application correctly and have said no disciplinary history and we would not even be here. This matter has been going on since April. The applicant has no disciplinary history, The statutory standard, in s. 497.385(1) says you can look at the applicant's trustworthiness. The applicant and the person in control of it does not have a disciplinary history upon which you can rely. If I go to DOAH on this, I am likely to get an Order from an administrative law judge that says you are not entitled to rely on adverse licensing history of an

unrelated other party. Otherwise, we have turned our statutory scheme on its head. Anyone who owns, works for, or is a principle of licensees that may stretch across states, anything that happens, in a matter, in another State, for another entity, is now going to come here and bear on the trustworthiness of this application? This, a Florida licensee? That is not how the statutory scheme has worked ever. That's not what the law says. It's not what the rules say. This matter should never have come to this Board with anything other than a clean recommendation, because this applicant has no disciplinary history.

Ms. Munson – I'm sorry, Chair. I just wanted to interject that in Ms. Wiener's presentation, and though zealous that it is, just to not confuse the Board at all that, we really do not know what an administrative law judge would rule, and I would not want the Board to feel that any statements made actually crosses into their jurisdiction. I have no idea how they will rule. It depends on how it's presented, and what that ALJ feels on that day, with respect to their understanding and appreciation of the circumstances. That's all I wanted to say.

Chair Peeples – Thank you, Ms. Munson. Ms. Simon, then Rabbi Lyons, then Mr. Brandenburg, please.

Rabbi Lyons – You're muted.

Ms. Simon – Thank you, Rabbi Lyons. Madam Chair, I simply wanted to clarify my earlier comments. I think I was responding to Mr. Jensen, when he was asking me a question regarding the law, However, in this matter, the Division's recommendation has not changed. The recommendation was for licensure.

Chair Peeples – Thank you, Ms. Simon. Rabbi Lyons?

Rabbi Lyons – I'd like to make a motion that we repeal the decision from the April 7, 2022, meeting and that we accept the original application.

Mr. Brandenburg – Second.

Chair Peeples – We have a motion by Rabbi Lyons to repeal the original and accept the current, and we have a second by Mr. Brandenburg. Is there any further discussion?

Mr. Brandenburg – I do have a question. Do you mean approve?

Chair Peeples – Yes, sir. Approve. Yes, sir.

Rabbi Lyons – I'm approving the original application.

Mr. Brandenburg – Thank you.

Ms. Munson – So, I'm going to just clarify, if you would allow me, Madam Chair, as to what the motion probably should state. This particular issue was brought before this Board. The way it's been noticed was to request a formal hearing before DOAH based on disputed issues of material fact. The motion that's presented now and discussion has nothing to do with what this item was noticed for. So, if the Board first chooses to or, I tell you, I don't know how the Board is going to vote on this, but giving deference to Attorney Wiener, if she wants to waive lack of notice for consideration of the motion that's just been presented, we can go ahead and do that, but I don't want anyone to present a due process issue in the future, and it not be favorable on any parties, and say this wasn't even what we came to discuss today. So, in all fairness, I would like Ms. Wiener to have an opportunity to address this motion that has just been made. If she's ok with that and accepts that notice on behalf of her client, and then perhaps move forward with the vote from the body.

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

Ms. Wiener – Thank you, Madam Chair and Ms. Munson. We will certainly waive notice on consideration, reconsideration of the application, which was denied in April of this year and have no concerns about that whatsoever.

Chair Peeples – Thank you, Ms. Weiner. Ms. Munson, does that complete and give you the comfort that you need from the motion that was made and the second?

Ms. Munson – It does. For the record, it will be recognized as a motion for reconsideration, and it will be voted on in that matter.

Chair Peeples –Thank you, Ms. Munson. Mr. Brandenburg, did you have your hand up, sir?

Mr. Brandenburg – No. Are we voting?

Chair Peeples – Well, I saw your hand up, so I want to make sure I recognized you before we took a vote, but we do have a motion on the floor from Rabbi Lyons and a second by Mr. Brandenburg. Is there any further discussion?

Mr. Clark – Madam Chair? Just one quick question.

Chair Peeples – Yes, sir. Mr. Clark?

Mr. Clark – Do we need to include that the location passed an inspection in the motion because that was part of the original. The original recommendation was approval, inspection, and one-year probation. I just want to make sure we get the inspection in the motion if we need to.

Chair Peeples – Yes, sir, Mr. Clark. Thank you. Rabbi Lyons, I think you addressed it in your motion, did you not?

Rabbi Lyons – So, we're going to repeal the April 7th decision, or reconsider, whatever the languages and approve the application with conditions.

Chair Peeples – Thank you, Rabbi Lyons. Mr. Brandenburg, do you concur?

Mr. Brandenburg – Yes.

Chair Peeples – Thank you. Thank you, Mr. Clark. Hearing or seeing no further hands or discussion, we will take a vote. If you vote in favor of the motion, say yes. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – Is there any opposed on this motion? Motion carries.

Ms. Wiener – Thank you, Board.

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

C. Disciplinary Proceeding(s)

(1) Settlement Stipulation (Probable Cause Panel B)

(a) Mena, Geronimo Jr.: DFS Case No. 295157-22-FC; Division No. ATN-38717 (F042156)

Ms. Simon – Is Mr. Mena or a representative of Mr. Mena on the phone on the call. Hearing no response. Mr. Griffin for the Department.

Mr. Griffin – Marshawn Griffin for the Department. Geronimo Mena Jr., (Respondent) is licensed as a direct disposer under Chapter 497, Florida Statutes. Respondent is the direct disposer in charge (DDIC) of Everglades Crematory (Everglades), a cinerator facility licensed under Chapter 497, Florida Statutes, license number F059115. Everglades failed to process or pulverize the cremated remains of the deceased into granulated particles. Pursuant to Rule 69K-22.007(3)(d), Florida Administrative Code, and the uniform standard procedures, the cinerator facility was required to process or pulverize the cremated remains into granulated particles. Respondent, as DDIC of Everglades, is responsible for these violations.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of $1500 and have his license placed on probation for one (1) year.

MOTION: Mr. Brandenburg moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of $1500 and have his license placed on probation for one (1) year. Ms. Clay seconded the motion.

Mr. Jensen – Madam Chair?

Chair Peeples – Mr. Jensen?

Mr. Jensen – I just was curious here, and I hate to be a pain on this. While I looked at the pictures and I do think the cremains probably needed to be processed again. I think the word granulated particles is pretty subjective. So, is there some sort of rule that I'm missing that says they have to be a certain size? I mean, it's subjective. So, I'm just wondering, more on an administrative type thing, not necessarily on this case. I mean, just out of my experience, I probably would've thought the blades are dull or something there. It probably needs to be processed again, and I know they offered that, in reading this stuff, but the customer decided not to go that route. "Granulated particles" seems very subjective. Maybe Mr. Griffin would like to answer that.

Mr. Griffin – Now, there's nothing in Florida Administrative Code or Florida Statutes that states the precise definition of granulated articles. So, there's basically a standard convention of law, which is that you refer to the plain language of those terms. So, you know, granulated particles. It doesn't say, you know, what the particles must be no bigger than, you know, 2.5 mm or anything like that. So, it's just too, know, the trier of fact kind of basically their independent judgement.

Mr. Jensen – Ok, very good, and Mr. Chair, I'm good, they agree to the shuttle it, so. It is what it is, thank you.

Chair Peeples – Ok, let's go back because we did not give the opposition an opportunity to vote, Let's go back and let's vote again. If you accept the Settlement Stipulation motion by Mr. Brandenburg and seconded by Ms. Clay, you will say yes.

Board members – Yes.

Chair Peeples – Any opposed? Motion carries.

(b) Related Cases: ATN-38778

1. Swann, Ryan James: DFS Case No. 296092-22-FC; Division No. ATN-38778 (F056361)

Ms. Simon – Again, presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. I believe counsel for Swann's Mortuary is present. Mr. Ryan James Swann is present on the call as well.

Mr. Ryan James Swann – I'm here.

Mr. Christopher V. Butler – This is Attorney Butler, on behalf of Mr. Swann. Good morning, everyone.

Chair Peeples – Good morning. Ms. Simon, would you like to swear in Mr. Swann, please?

Ms. Simon – Mr. Swann is on the call, as well? I simply see Mr. Butler.

Mr. Butler – Mr. Swann is on the call, but with respect to the Board, should you have any questions, I don't believe Mr. Swann will be making statements.

Chair Peeples – Thank you, sir. Mr. Griffin?

Mr. Griffin – Ryan James Swann ("Respondent") is a funeral director and embalmer, licensed under Chapter 497, Florida Statutes. Respondent is the funeral director in charge ("FDIC") /Swann's Mortuary, ("Swann's"), a funeral establishment, license number F040806.The Department conducted an investigation of Swann's and found that Swann's demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statues, and failed to timely honor a contract. Respondent as FDIC of Swann's is subject to discipline based on Swann's violation of Chapter 497, Florida Statutes. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of $1,000 and have his license placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair Peeples – Thank you, Mr. Griffin. Mr. Butler, would you like to address the Board, sir?

Mr. Butler – Ms. Peeples, subject to the Board's approval, I'm here to answer any questions that you may have. Thank you very much.

Chair Peeples – Yes, sir. Thank you. Are there any questions by the Board members to counsel for Mr. Swann? Seeing no hands raised. Board members, what is your request? Are you going to have a motion made?

MOTION: Mr. Jones moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of $1000 and have his license placed on probation for one (1) year. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Mr. Griffin.

2. Swann's Mortuary: DFS Case No. 296091-22-FC; Division No. ATN-38778 (F040806)

Ms. Simon – I do not see Mr. Butler on the line, so is there a representative of Swann's Mortuary on the call?

Mr. Butler – Yes, I'm here.

Ms. Simon – Thank you, Mr. Butler. Mr. Griffin, again for the Department.

Mr. Griffin – Marshawn Griffin for the Department. Swann's Mortuary ("Respondent") is a funeral establishment, licensed under Chapter 497, Florida Statutes. The Department conducted an investigation of Respondent and found that Respondent demonstrated negligence or incompetency in the practice of activities regulated under Chapter 497, Florida Statues, and failed to timely honor a contract. Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine in the amount of $1,000 and have its license placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation.

Chair Peeples – Thank you, Mr. Griffin. Are there any Board members with any questions to Mr. Swann's counsel? Seeing none, what is the Board's preference?

MOTION: Mr. Jones moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of $1000 and have its license placed on probation for one (1) year. Ms. Liotta seconded the motion, which passed unanimously.

(2) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A – No Recusal Needed)

(a) Family Funeral Home & Cremation Services, LLC: DFS Case No. 280010-21-FC; Division No. ATN-36123 (F083557)

Ms. Simon – Is there a representative of this entity on the call?

Mr. Griffin – Marshawn Griffin. I spoke with them. They're represented by an attorney, Jackie Fulford. She gave me a call yesterday and advised that she was not going to be able to be present for the hearing today.

Ms. Simon – Thank you. Presenting for the Department is Mr. Griffin. Mr. Griffin?

Mr. Griffin – Yes, ma'am. I was just trying to find my PDF. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Family Funeral Home & Cremation Services, LLC (Respondent). The Division alleges Respondent engaged in conduct requiring licensure under Chapter 497, Florida Statutes with an expired license The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair Peeples – Thank you, Mr. Griffin. What is the Board's pleasure? Is there a motion to respond to waive their right to a hearing?

Mr. Griffin – It's not that they have waived their right to a hearing. It's that hey elected that there were no material facts in dispute.

Chair Peeples – Thank you, Mr. Griffin. Is there a motion from the Board?

MOTION: Mr. Clark moved that there were no material facts in dispute. Mr. Williams seconded the motion, which passed unanimously.

Mr. Griffin – Now that the Board has determined the Respondent has elected that there are new material facts in dispute, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

Chair Peeples – Thank you, Mr. Griffin. Is there a motion to accept the findings of fact?

MOTION: Mr. Clark moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Jensen seconded the motion, which passed unanimously.

Mr. Griffin – The Department asserts that the Board's findings of fact support a finding of violations of Chapter 497, Florida Statues, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

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

MOTION: Mr. Williams moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. At this time, the Department recommends that the Board should impose a $1000 fine against Respondent.

Chair Peeples – Is there a motion to accept the penalty please?

MOTION: Mr. Jones moved that the Respondent shall pay a $1000 fine. Mr. Ferreira seconded the motion.

Chair Peeples – Is there any discussion? Mr. Jensen?

Mr. Jensen – I just want to make one observation here. I noticed in the last vote, there were at least four (4) Board members that were muted. Does that matter?

Chair Peeples – Ms. Munson?

Ms. Munson – The question is, is everyone required to vote? Everyone is required to vote, if not properly recused. The fact that they were muted, I'm not going to speak to whether or not they voted, or their vote was recorded properly.

Chair Peeples – Ms. Simon, did you have your hand up?

Ms. Simon – I did not, Madam Chair. Thank you.

Chair Peeples – I'm sorry.

Ms. Munson – I would suggest Madam Chair, that when the votes are taken, that all of the Board members please remove themselves from mute so that their vote can be properly recorded.

Chair Peeples – Thank you. Board members, if you will. Mr. Williams, I see that you have yours muted. Right now, if the Board members will unmute, please.

Mr. Brandenburg – Mine is unmuted.

Chair Peeples – Ms. Clay, if you'll unmute, please. Thank you., I thank all Board members. Thank you, Mr. Jensen. So, we have a motion by Mr. Jones, a second by Mr. Ferreira. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries.

(3) Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)
(a) Related Cases: ATN-36160 and ATN-36757
1. Macon, Richard L.: DFS Case No. 282871-21-FC; Division No. ATN-36160 (F045770)

Ms. Simon – Is Mr. Macon or a representative of Mr. Macon on the call today? Hearing no response. Presenting for the Department is Mr. Griffin.

Mr. Griffin – Marshawn Griffin for the Department. The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Richard L. Macon (Respondent). Respondent is the funeral director in charge (FDIC) of Richard L. Macon, Inc., d/b/a Freeman Funeral Home (Freeman Funeral). The Division alleges Freeman Funeral engaged in the following:

- Engaged in conducted regulated under Chapter 497, Florida Statutes, with an expired license
- Failed to use a department approved form for its bodies handled reports
- Failed to display the license and photograph of its funeral director in charge in a conspicuous place in the establishment
- Failed to maintain eye caps in its embalming preparation room
- Failed to have the prices for its caskets conspicuously displayed

The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

Chair Peeples – Thank you, Ms. Griffin. Is there a motion?

MOTION: Mr. Jones moved that there were no material facts in dispute. Mr. Williams seconded the motion.

Chair Peeples – Is there any discussion?

Ms. Munson – I just have a question. Is Mr. Williams recused or not on this?

Mr. Griffin – I believe, Mr. William, recused himself at the beginning for all.

Ms. Munson – He just made a motion. I just wanted to be clear.

Mr. Williams – I don't think it's with this case. It was for the case prior to.

Chair Peeples – Ms. Munson, I have him recused in (2)(a), (2)(b) under letter B, and then under letter C, I have him recused for (1)(a) and (1)(b).

Ms. Munson – And is this the Macon case?

Mr. Griffin – Yes.

Ms. Munson – And I see your name listed as recused, but I just needed to clarify that for the record.

Mr. Williams – Yes, ma'am. I am recused. I apologize. I thought we had… Got it.

Ms. Munson – Ok. No problem. We're good. And just one other clarification, when we're voting on these penalties or fines or any payments. I believe that protocol for this Board that is always going to be thirty (30) days, unless stated otherwise. So, the first one went for a $1000 file to be paid within thirty (30) days. And we'll just assume that for this recording or whatever happens, with the remainder cases as well. That was it. Thank you.

Chair Peeples – Thank you, Ms. Munson. We have a motion by Mr. Jones, and since Mr. Williams has to be recused, is there a second?

Ms. Liotta – Second.

Chair Peeples – Thank you. We have a motion by Mr. Jones a second by Ms. Liotta. Any discussion? All in favor say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries.

Mr. Griffin – Now that the Board has determined the Respondent has elected an informal entering in this matter, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

Chair Peeples – Is there a motion to accept the findings of fact?

MOTION: Mr. Ferreira moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Mr. Jensen seconded the motion, which passed unanimously.

Chair Peeples – Mr. Griffin?

Mr. Griffin – The Department asserts that the Board's findings of fact support a finding of violations of Chapter 497, Florida Statues, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

MOTION: Mr. Jones moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Thank you. Mr. Griffin?

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty in this matter, the Department is recommending that that the Board impose a $1500 fine and place Respondent's license on probation for a period of one (1) year.

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

Rabbi Lyons – Have a question, please?

Chair Peeples – Yes, sir, Rabbi Lyons?

Rabbi Lyons – Mr. Griffin knows what I'm going to ask. What's the math leading up to $1500?

Mr. Griffin – So, for the failure to timely renew, it was alleged in the Administrative Complaint, but we normally don't assess any penalty for that against the FDICs. For the failure to use a department approved form, the only possible penalty is an issuance of a Notice of Noncompliance. The FDIC photo, Notice of Noncompliance. No embalming or eye caps in the embalming prep room carries a penalty guideline range of a $1,000 fine up to $2,500 fine, six (6) months to one (1) year probation, suspension up to one (1) year and permanent revocation. So, the Department chose, or sorry, is seeking $1,500 based on the fact that it's still a violation. We've had to go through a hearing on this matter and the Department would assert that $1,500 is more than fair considering that it's closer to the lower end of the penalty guidelines for that. And then the failure to have the casket prices conspicuously displayed, the penalty guidelines call for a Notice of Noncompliance for a first violation.

Chair Peeples – Rabbi, did that answer your question?

Rabbi Lyons – Yes.

Chair Peeples – Thank you.

MOTION: Mr. Jones moved that the Respondent shall pay a $1500 fine and place Respondent's license on probation for a period of one (1) year. Mr. Ferreira seconded the motion, which passed with one (1) dissenting vote.

2. ***Richard L. Macon, Inc. d/b/a Freeman Funeral Home: DFS Case Nos. 280688-21-FC and 282726-21-FC; Division Nos. ATN-36160 and ATN-36757 (F041946)***

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. Mr. Griffin?

Mr. Griffin – The above-referenced matter is presented to the Board for consideration of the Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Richard L. Macon, Inc., d/b/a Freeman Funeral Home (Respondent). The Division alleges Respondent engaged in the following:

- Failed to follow a lawful order of the Board
- Engaged in conducted regulated under Chapter 497, Florida Statutes, with an expired license
- Failed to use a department approved form for its bodies handled reports
- Failed to display the license and photograph of its funeral director in charge in a conspicuous place in the establishment
- Failed to maintain eye caps in its embalming preparation room
- Failed to have the prices for its caskets conspicuously displayed

The Motion demonstrates Respondent has alleged that there are no material facts in dispute and for this matter to proceed as an informal hearing before the Board and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty.

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

MOTION: Mr. Jones moved that Respondent has waived her right to a request to proceeding in this matter. Ms. Clay seconded the motion, which passed unanimously.

Mr. Griffin – Now that the Board has determined the Respondent has elected an informal hearing in this matter, the Department believes that it is appropriate at this time for the Chair to entertain a motion adopting the allegations of the facts as set forth in the Administrative Complaint.

Chair Peeples – Do we have a motion to accept the allegations of fact?

MOTION: Mr. Ferreira moved to adopt the allegations of the facts as set forth in both Administrative Complaint. Ms. Liotta seconded the motion, which passed unanimously.

Mr. Griffin – The Department asserts that the Board's findings of fact support a finding of violations of Chapter 497, Florida Statues, as charged in the Administrative Complaint. The Department believes that it is appropriate at this time for the Chair to entertain a motion finding Respondent in violation of Florida Statutes as charged in the Administrative Complaint.

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

MOTION: Mr. Jones moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Mr. Jensen seconded the motion, which passed unanimously.

Mr. Griffin – The Department also offers into evidence, the investigative report with exhibits, a copy of which has previously been furnished to the Board to establish a prima facie case for the violations alleged in the Administrative Complaint. As to penalty, the Department is recommending that that the Board impose a $5000 fine and place Respondent's license on probation for a period of three (3) years. The penalty breakdown is as follows. The failure to follow the lawful Order of the Board, the Department is seeking a $2,500 fine as to that allegation. The failure to timely renew the license, this is a second violation for the licensee. As you can see in the Board packet, on Pages 20 through 23, we have the prior Consent Order that establishes that there was a prior violation of this. So, for that allegation, the Department's asking for a $1,000 fine. Failure to use a department approved form for its Bodies Handled Report, we've passed the time limit to impose a citation in this matter. Failure to have the FDIC photo, that's a Notice of Non-compliance. And then no caps in the embalming prep room, the Department's seeking a $2,000 fine on this. And then for all the accounts where a fine is possible, there's also the one-year probation that's called for in the penalty guidelines. So that's the penalty, the methodology as to how we came to the penalty recommendation.

Chair Peeples – Thank you, Mr. Griffin. Is there a motion to accept the penalty, as denoted?

MOTION: Mr. Ferreira moved that the Respondent shall pay a $5,000 fine and place Respondent's license on probation for a period of one (3) years. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Mr. Griffin. Ms. Simon, it's 11:22. If we could take an eight (8) minute restroom break really quick. Let's go to 11:30 and we'll continue on.

Ms. Simon – Thank you, ma'am.

Chair Peeples – Thank you.

**********BREAK**********

Chair Peeples – Ms. Bryant, are we back recording?

Ms. LaTonya Bryant – Yes, ma'am.

Chair Peeples – Thank you. Are all Board members back on the call?

Ms. Simon – Madam Chair, all Board members are present.

Chair Peeples – Thank you. Ms. Simon.

D. 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 have been issued their licenses and appointments as preneed sales agents.

E. Application(s) for Continuing Education

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

(a) Independent Funeral Directors of Florida, Inc. (135)
(b) LifeNet Health (22608)
(c) National Funeral Directors Association (136)
(d) Practicum Strategies (65)
(e) Wilbert Funeral Services (39408)

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 – Do we have a motion to approve?

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

F. 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.

Mr. Ferreira – Madam Chair?

Chair Peeples – Yes, Mr. Ferreira?

Mr. Ferreira – I probably should recuse myself from this. This is my company.

Chair Peeples – Thank you, Mr. Ferreira. Do we have a motion to accept?

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

G. Application(s) for Embalmer Apprentice

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

(a) Beard, Curtis R F621527
(b) Brissett, Shaige S F621491
(c) Butler, Jermal D F623829
(d) Diaz, Gwyneth L F617823
(e) McCallum, Lashonda E F616432
(f) Ramirez-Jimenez, Merlina F619561
(g) Vandegejuchte, Heather A F621083

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 Denial (Criminal History)

(a) McWilliams, Morgan A F353355

Ms. Simon – Excuse me, Madam Chair. I just needed a moment.

Chair Peeples – Yes, ma'am.

Ms. Simon – Madam Chair, I apologize, but I am experiencing some computer issues. I'm going to need to move to another individual's office within my suite. Can I please have one moment?

Chair Peeples – Yes, ma'am.

Ms. Simon – Thank you. I apologize for the disturbance. May I continue, Madam Chair?

Chair Peeples – Yes, please, ma'am.

Ms. Simon – An application for an embalmer apprenticeship licensure was received by the Division on September 13, 2022. The application was incomplete when submitted. A completed application was received on October 11, 2022. The applicant answered "YES" to the criminal history question and submitted three criminal history forms along with the application. The applicant previously held an embalmer apprentice license that expired on April 19, 2022. If the license is approved, it will only be granted for 2 years pursuant to rule 69K-27.001, F.A.C. In Collier County, on August 24, 2021, the Applicant pled to the following:

1) One count of reckless driving causing property damage, a first-degree misdemeanor, for which he was adjudicated guilty and was sentenced to 12 months' probation, ordered to pay fines/court costs, attend DUI school and a substance abuse evaluation, and be subject to random breathalyzer/urinalysis. The Court additionally ordered certain alcohol restrictions and restitution to CVS;
2) One count of not having possession of a valid driver's license, a second-degree misdemeanor, for which he was adjudicated guilty and received the same sanctions as above;
3) One Count of possession of a controlled substance, a third-degree felony, for which adjudication was withheld, and he was sentenced to 18 months of probation with the condition of a substance abuse evaluation and the requirement of being subject to random breathalyzer/urinalysis; and
4) One count of possession of a narcotic paraphernalia, a second-degree misdemeanor, where which he was adjudicated guilty and sentenced to fines/costs.

In Lee County, on or around October 19, 2021, the applicant pled to nolo contendere to driving while his license was suspended, a second-degree misdemeanor. As a result of this criminal history, the Division recommends denial.

Chair Peeples – Thank you, Ms. Simon. Is there a representative for Morgan McWilliams on the call?

Mr. Morgan McWilliams – Hello Ms. Peeples. My name is Morgan McWilliams. I'm here representing myself along with my employer, Mr. Michael White, as well as my other boss, Jeffrey Nieves, who is on the call with us as well. And I'm here to answer any questions and maybe just give a brief statement as to my regretful past.

Chair Peeples – Thank you, Mr. McWilliams. Ms. Simon, would Mr. McWilliams need to be sworn in?

Ms. Simon – Yes, he would, Madam Chair. Mr. McWilliams, can you please raise your right hand and be sworn in?

Mr. McWilliams – Yes.

Ms. Simon – Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God.

Mr. McWilliams – I do.

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

Mr. McWilliams – Morgan Andrew McWilliams, M C W I L L I A M S.

Chair Peeples – Thank you, Mr. McWilliams. Would you like to address the Board, sir?

Mr. McWilliams – Yes, thank you. I just wanted to be open and honest here in today's Board. I appreciate the opportunity to speak. I do have a history that I'm not proud of. I have struggled with addiction throughout my lifetime. I just want to state for the record, though, that the last incident, as you can see with my record there, all these arrests occurred between 2020 and 2021. There's been no further incident, and none of these charges were anything dealing with theft or trustworthiness. You know, a huge part of my recovery now, as I work at Legacy Options, is being able to give back and being able to serve the families. And it's a really rewarding position that, you know, I've experienced. My father has a funeral home in Ohio. I grew up in the industry. And I just really don't want to let this struggle get in the way of any of my accomplishments. And I'm, again, happy to answer any questions that the Board may have. And we would ask for your reconsideration on the recommendation.

Chair Peeples – Thank you, Mr. McWilliams. Are there any questions from the Board members to Mr. McWilliams?

Mr. Williams – I have a question.

Chair Peeples – Mr. Williams?

Mr. Williams – Thank you, Madam Chair. Mr. McWilliams, I see in the Board packet, and I just want to verify, are you currently still on probation for the one count of position with a controlled substance?

Mr. McWilliams – Yes, sir. I currently am on probation, and part of the requirement is multiple drug screens every month, and, obviously making sure that I'm in good moral character with no other further incidents. And I do appreciate that question.

Mr. Williams – A follow-up, Madam Chair?

Chair Peeples – Yes, sir.

Mr. Williams – This question may be to Ms. Simon. Ms. Simon, is the reason for the denial because he's still currently on probation, or was there other factors outside of what was listed?

Ms. Simon – Madam Chair, if I may?

Chair Peeples – Yes, ma'am.

Ms. Simon – The reason for the denial is the recent criminal history, including the fact that the applicant is still on probation.

Mr. Williams – Thank you. Thank you, Madam Chair.

Chair Peeples – Yes, sir, Mr. Williams. Are there any other Board members?

Mr. Clark – Madam Chair?

Chair Peeples – Mr. Clark?

Mr. Clark – Thank you, Madam Chair. Mr. McWilliams, good morning. I'm just curious, after everything happened in August, why did you drive on October 19th last year?

Mr. McWilliams – It's a great question, sir. Again, I was struggling with addiction at that point in time. Since May 31st of 2021, that last incident there, I've remained in recovery. I went to support groups. I've had the great opportunity to work in the funeral industry with Mr. White, and I would like to defer a little bit of time to him, Madam Chairman, if we can, to just speak. But the reason that I reoffended in that time is because I was careless in my decision-making while I struggled with the substance abuse at that time.

Chair Peeples – Thank you, Mr. Clark. Ms. Simon, Mr. McWilliams has mentioned that he would like his employer to speak. May we swear that person 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. Michael White – I do.

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

Mr. White – My name is Michael Whyte, and the spelling of my last name is W-H-I-T-E. I am a founder of Legacy Options Funeral and Cremation Services. We're a family-owned and operated business with locations in Naples, Bonita Springs, and Fort Myers. I met Mr. McWilliams about three (3) years ago when he was struggling with addiction while he was working for a colleague. The colleague was a very good friend of mine and knew I was in recovery, and I have been in recovery for fifty-two (52) years. And at age twenty-six (26), a funeral director in business in Boston took a chance on me and gave me a second chance in my journey in recovery. While I cannot predict behavior in the future for anyone, I just know that after fifty-two (52) years of being in recovery myself, what I have seen with Mr. McWilliams is his willingness to take and share his experience, strength, and hope with other young people who are struggling with addiction. He goes to church groups. He goes to recovery centers, both in Lee and Collier County. He's an example of a great employee with our organization., and I respectfully ask this Board to reconsider their ruling in denying him the chance, the second chance, to move forward. He's a full-time student in school, and he has a wonderful opportunity with us here at Legacy Options. I respectfully ask that the Board reconsider his denial. I thank you so much for your consideration.

Chair Peeples – Thank you, sir. Mr. McWilliams, you mentioned you had another employer, I think, that is on the call or someone speaking on behalf of your character. Mr. Nieves? Is that correct, sir? Did I pronounce it?

Mr. Jeffrey Nieves – It's Nieves. Jeffrey Nieves.

Chair Peeples – Mr. Nieves, thank you. I'm sorry for that. Mr. Nieves, would you like to address the Board? If so, Ms. Simon will swear you in, sir.

Mr. Nieves – That's OK.

Ms. Simon – Mr. Nieves, 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. Nieves – Yes, I do.

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

Mr. Nieves – Thank you. My name is Jeffrey Nieves, N I E V E S.

Ms. Simon – Thank you, sir.

Mr. Nieves – Michael White, he is my grandfather. As he mentioned, we are a family-owned business. I met Morgan around the same time my grandfather did while he was working for another outfit in the Collier County area of Florida. And I know that he has had some struggles in the past, like I have, like my grandfather has. We have a culture here at Legacy Options of supporting one another, not just in a professional way, but in a personal way as well. And we stay in regular contact with things that aren't business-related just to make sure that all the people, because it's a demanding job, it's a demanding industry, and we try to make sure that everyone is doing okay on the home front as well. He has made questionable decisions in the past, absolutely. It's right there in the record. However, for the past year and a half or so that Morgan's been with us, he's been clean, sober, shows up early for work, stays late, works the weekends, will go in on weekends to meet with families to receive cremains. He goes above and beyond in every single aspect of this job, and he epitomizes right now the character

traits that I believe are required to be a good professional in this industry and serve the families in our community. So that's really all I have to say. And I appreciate your time.

Chair Peeples – Thank you, sir. Mr. Jones, did you have a question?

Mr. Jones – Yes. Mr. McWilliams, how long is your probation? How much is left on it?

Mr. McWilliams – Yes, sir. I currently have six (6) months left of state required probation.

Mr. Jones – Does that contain drug testing throughout the six (6) months?

Mr. McWilliams – Yes, sir.

Mr. Jones – Is there anything after the six (6) months? Any drug testing?

Mr. McWilliams – Not right now. However, you know, I've certainly thought about that, and I could participate in an intensive outpatient or local mental health facility may be able to offer something in that nature on more of a rigid, you know, written-down schedule. But certainly, I'm going to stay active in church. I believe spirituality is a huge key for me. Right now, I'm leading worship at my local church in Naples. So that's big, as well as staying involved with others and having a good support group. A support network is most definitely in the game plan for long-term recovery.

Mr. Jones – Thank you.

Chair Peeples – Thank you, Mr. Jones. Are there any other Board members that have questions? Rabbi Lyons?

Rabbi Lyons – I'd like to make a motion, if I may, Chair.

Ms. Munson – Madam Chair? If I may?

Chair Peeples – Ms. Munson?

Ms. Munson – Mr. McWilliams, do you have a designated sobriety date?

Mr. McWilliams – Yes, May 31, 2021. The same arrest they did in the last report.

Ms. Munson – And when you say you have six (6) months left on your probation, so that my math is clear, does that mean it expires in May of next year, 2023?

Mr. McWilliams – Correct.

Ms. Munson – And in addition to your affiliation with Legacy and your church, which are two (2) separate, do you have any, or could you describe what your support circle looks like?

Mr. McWilliams – Yes, absolutely. I mean, you know, my work environment, as Mr. Nieves and White had both mentioned, they are in long-term recovery as well, so they are a huge part of my recovery. I do attend AA meetings and go to support groups and that nature. I host a Bible study within my church, so typically two (2) to three (3) times a week I'm attending church and doing prayer and meditation. So, does that answer your question, Ms. Munson?

Ms. Munson – It answers it to the extent that, yes, you've described what the support looks like. When you say you attend AA meetings, is that a part of your requirement for the probation?

Mr. McWilliams – It is not. That's a voluntary requirement that I do.

Ms. Munson – And do you know, or can you identify to this Board how long you anticipate continuing with that attendance?

Mr. McWilliams – As long as, you know -- the rest of my life, as long as it's needed, and it's needed. It's a day at a time and, you know, certainly I'll be a part of the AA group for the rest of my life.

Ms. Munson – Madam Chair, that's all I have. Thank you.

Chair Peeples – Thank you, Ms. Munson. Mr. Brandenburg?

Mr. Brandenburg – Madam Chair, I'd like to make a motion to deny this application.

Rabbi Lyons – I was going to make a motion first.

Chair Peeples – We have a motion by Mr. Brandenburg. Rabbi Lyons, would you like to second?

Rabbi Lyons – Well, I was called on earlier. I said I was going to make a motion and then Ms. Munson had a few questions.

Chair Peeples – Mr. Brandenburg, are you okay to rescind your motion and allow Rabbi Lyons to make the motion, sir?

Mr. Brandenburg – Did we have a second to my motion?

Chair Peeples – Rabbi Lyons stated that he had already made a motion, sir. Would you be okay to rescind your motion and be the second to Rabbi Lyons' motion to deny?

Rabbi Lyons – No, wait, wait, wait. I'm not making a motion to deny. What I'm saying is, Madam Chair called on me. I indicated I wanted to make a motion, then Ms. Munson had a few questions. So, I was hoping that I would get the floor back.

Chair Peeples – Thank you. Rabbi Lyons, please?

MOTION: Rabbi Lyons moved to approve the application. Ms. Liotta seconded the motion.

Chair Peeples – Is there any further discussion? Mr. Williams?

Mr. Williams – Point of information. So, the recommendation from Division is to deny. So how can we make a motion to accept? I mean, maybe I'm trying to get it clear, because are we accepting the recommendation of the denial?

Ms. Munson – No, no, no. If I may, Madam Chair?

Chair Peeples – Yes.

Ms. Munson – The Division's position is the Division's position. They review the application and they have presented information how they feel, from their perspective, it should go. The Board has an independent vote. And Rabbi Lyons, as a member, has made a motion to accept the application notwithstanding. So that's what the motion is to accept the application. It's been seconded by Ms. Liotta. And I believe now, Madam Chair, was going to call the vote or open discussion. Whatever she deemed next.

Chair Peeples – Thank you, Ms. Munson. Mr. Williams, does that answer your question?

Mr. Williams – Yes, I'm sorry. I think Mr. Jones also had his hand up. I apologize.

Chair Peeples – That's ok. Mr. Jones?

Mr. Jones – Yes, if I could ask Rabbi Lyons to modify his recommendation to approve, but with a minimum of one (1) or two (2) years of probation, and a six-month report during the probation of how Mr. McWilliams is doing with his AA membership and attendance, please?

Chair Peeples – Rabbi Lyons, would you amend your motion?

Rabbi Lyons – So amended.

Chair Peeples – Ms. Liotta, would you accept that amended second?

Ms. Liotta – Yes.

Chair Peeples – So we have a motion, an amended motion before us to accept the application instead of denial. We have a second. Is there any further discussion or any questions to Mr. McWilliams?

Ms. Munson – I want to clarify the motion if I can. It said a one- or two-year probation. The motion needs to identify which is it. Is it a one- or two-year probation? And when you say six (6) months to report, just the understanding, does that mean that if approved, the applicant will be required from date of approval to report back to this Board in six (6) months?

Mr. Jones – Yes, ma'am. And I left the year or two (2) up to the motion maker. So, it was up to them. I just wanted probation.

Ms. Munson – Ok. So, we'll clarify that before any vote, and I believe Mr. Jensen and Mr. Lyons had something, but thank you, Madam Chair.

Chair Peeples – Yes, ma'am. Mr. Jensen.

Mr. Jensen – So, we're just talking about the embalmer apprentice license, correct?

Rabbi Lyons – Yes.

Mr. Jensen – So that means he'll be under supervision, correct?

Mr. McWilliams – Correct.

Mr. Jensen – Okay. Also, just out of curiosity here, if we were to deny, does that prevent him from coming back in six (6) months when his probation is over to do something again?

Chair Peeples – Ms. Munson or Ms. Simon?

Ms. Munson – I will allow Ms. Simon to add, but a denial does not prohibit it. It does, however, follow him on his record regarding his licensure history. The denial will remain on the books. Of course, the Board also has an option to allow him to withdraw if that's the avenue that this may be going. But I just wanted to explain what those different lanes look like.

Mr. Jensen – Thank you, Madam. I'm good.

Chair Peeples – Thank you, Mr. Jensen. Rabbi Lyons, did you have a question, sir?

Rabbi Lyons – I was just going to clarify the whole thing, if that's ok.

Chair Peeples – Yes, sir.

Rabbi Lyons – If other people have questions, I don't know. So, the motion is to approve the application with a one-year probation and a requirement to report to the Board six (6) months from now on how the AA. and whatever random breathalyzers, whatever he's been subjected to, that should be reported to the Board six (6) months from now.

Chair Peeples – Is that correct, Ms. Munson?

Ms. Munson Yes, ma'am, that's the motion that's on the table. I just needed to clarify. Thank you.

Chair Peeples – Thank you, Ms. Munson. Ms. Clay?

Ms. Clay – I just want clarification in terms of the reporting back to the Board. What does that look like? Is that actually a formal item on the agenda or is that something that sent to staff for clearance?

Chair Peeples – Ms. Simon?

Ms. Simon – If I may? If you are inclined to grant the license for embalmer apprenticeship, you can make a condition of this approval that the applicant submits to the Division some type of status or review, whatever, with six (6) months from the date of the Final Order. And if he does not, then we will look at imposing discipline. We would have to take action to impose discipline for failure to meet one of the conditions.

Rabbi Lyons – Right. {Inaudible} on probation, so he'd be in hot water.

Mr. McWilliams – And also, if I may, I am taking five classes and in college right now. I'm in a mortuary science program. So, in probably this time frame, roughly six (6) months, I'll be filing for my concurrent internship as well for the requirements there to obtain licensure. So, I'll most definitely be in contact. And I certainly appreciate the opportunity to prove myself and make a living. Thank you.

Chair Peeples –Thank you, Mr. McWilliams. Is there any other items of discussion or questions before Mr. McWilliams leaves from the Board? Rabbi Lyons?

Rabbi Lyons – One of the things I want to mention to my colleagues on the Board. Part of the reason behind this motion is that this is an apprenticeship. It's not a full license. So, he's going to be in front of us again. And the fact that he had not one (1), but two (2) employers made a pretty compelling argument.

Chair Peeples – Thank you, Rabbi Lyons. Is there any further discussion or any questions by the Board members? Seeing none. Ms. Simon, will you do a roll call vote in the motion on the table? Ms. Munson, please correct me if I am not stating it correctly. The motion is to approve the apprenticeship application request, include one (1) year probation and report back to the Board in six (6) months. Is that correct?

Ms. Munson – That is correct. The status report, that's correct.

Chair Peeples – Alright, thank you, Ms. Munson. Ms. Simon, will you do a roll call vote? And yes, we'll be approving Rabbi Lyons motion, no, would be negative.

Ms. Simon – If I may, just for clarification, Madam Chair, Reporting back to the Board? Is it as we discussed, submitting a letter within six (6) months from the date of the Final Order? Or is it the applicant appearing before the Board?

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – Just a letter six (6) months from the date of the Final Order.

Chair Peeples – Ms. Liotta, do you accept that amended motion?

Ms. Liotta – I accept.

Chair Peeples – Thank you. Ms. Simon?

Ms. Simon – Thank you. Mr. Brandenburg?

Mr. Brandenburg – No.

Ms. Simon – Mr. Clark?

Mr. Clark – No.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – No.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – That motion fails.

Chair Peeples – Ms. Munson or Ms. Simon, the motion has failed to accept the application. Do we have any other further items we need to address with Mr. McWilliams?

Ms. Simon – Madam Chair, if I may? There still needs to be motion right now. There was a motion to accept with conditions and that motion failed.

Ms. Munson – And the other motion would be a motion to deny or if the Board so feels generous, a motion to withdraw the application, if he wants to withdraw the application.

Chair Peeples – Thank you, Ms. Munson. Mr. McWilliams, what Ms. Munson is referring to that you can withdraw your application right now, if you would like. And then you can present it again, or you can let us go ahead with another motion, which could be a denial. Can't tell you how the Board's going to vote. But what would you like to do? Do you have any pleasure, sir?

Mr. White – This is Michael White, Morgan's employer. I'm just wondering where we go from here.

Ms. Simon – If I may, Madam Chair?

Chair Peeples – Ms. Simon?

Ms. Simon – Depending upon the vote, you are free to contact me after the meeting, and I will speak to you about the steps that you take from this point on.

Mr. White – Ok, all right.

Ms. Simon – So, your option now is to withdraw that. We allow you to withdraw your application if you were so interested, because the denial may be on your record and may impose a hardship, depending on what happens next, or to go forward with your application. Madam Chair, I hope I said that correctly.

Chair Peeples – Yes, ma'am. Mr. McWilliams, would you like to withdraw, or would you like us to continue?

Mr. McWilliams – Ma'am, I would wish to withdraw if that be the case. Thank you.

Chair Peeples – Ms. Simon, do you need any information from Mr. McWilliams, or do we need a motion on the withdrawal?

Ms. Simon – I believe we need a motion on the withdrawal, Madam Chair.

Chair Peeples – Thank you, ma'am. Do we have a motion?

MOTION: Mr. Ferreira moved to allow withdraw of the application. Ms. Clay seconded the motion.

Chair Peeples – Is there any discussion? Mr. Jensen?

Mr. Jensen – Yes, I'd like to make a quick statement, if I may, for Mr. McWilliams. I can get behind this if we wait six (6) months till he's off probation. Referring back to what Mr. Clark said about probation, but then he elected to make another decision to drive again. And that's a little too close to the time period. I just wanted to make that statement that, you know, when probation is over with and everything went smooth, perhaps a reapplication would be in order then. Thank you.

Mr. Clark – Madam Chair?

Chair Peeples – Thank you, Mr. Jensen. Yes, Mr. Clark?

Mr. Clark – I just want to echo what Mr. Jensen just said. That's certainly kind of where I'm at. I think there hasn't been enough time since the incident occurred. And after probation, you know, what Mr. White said about what a great story for Mr. McWilliams to have a great testimony. Certainly, would love to have that be part of his story, but there needs to be more time.

Chair Peeples – Are there any other Board members that have any items they would like to state for discussion? We have a motion on the floor by Mr. Ferreira, second by Ms. Clay to allow withdrawal of the application. All in favor of the motion say yes.

Board Members – Yes.

Chair Peeples – All opposed? Motion carries. Good luck, sir.

(b) Morales, Tiffany R

Ms. Simon –An application for embalmer apprenticeship licensure was received by the Division on September 16, 2022. The application was completed on September 27, 2022. Applicant has the following relevant criminal history, to wit, on September 17, 2007, Applicant entered a plea of nolo contendere to five counts of child abuse, four without great bodily injury. Each charge was a third-degree felony. She was adjudicated guilty and sentenced to five (5) years' incarceration and five (5) years of probation. Her incarceration term was suspended. Based on this history, the Division is recommending denial.

Mr. Clark – Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Is there a representative of Ms. Tiffany Morales?

Ms. Lauren Pettine – There is. Tiffany Morales is on here and I am representing this matter.

Mr. Clark – Madam Chair?

Chair Peeples – Yes, Mr. Clark?

Mr. Clark – I just need to state for the record that I have an affiliation with Hiers-Baxley Funeral Services, and I'll recuse myself on this matter.

Chair Peeples – Thank you, Mr. Clark. Ms. Pettine, would you like to address the Board?

Ms. Pettine – I would. Thank you. Tiffany Morales is applying for an embalming apprenticeship. She made disclosure of her criminal history, which includes the charges of child abuse. These charges stem from events that occurred in 2006. In January of 2006, she started dating an individual, which she moved in with in April of 2006, and then subsequently married in fall of 2006. So, a very quick relationship. This man had children from a previous relationship living with him. During that time, rose-colored glasses were unfortunately on, and lasted the duration of the relationship. After the events, she pled guilty and nolo contendere. She did not see or live with this man again, ever again. She completed all of the requirements for probation. In addition to all of the parenting classes required to regain custody of the children who've been in her care since. So, Florida Statutes, Section 497.368, provides that applicants with criminal history within the time period can't be licensed unless the licensing authority or the Board determines the applicant has good character and has no demonstrated history or lack of trustworthiness or integrity in business or professional matters. Since the long period of time of these charges, it's been 2007, you know, she's continued to engage in integrity. She has not associated with this man ever again and has since divorced him as well and did everything necessary to regain custody of her children. She's been working [inaudible]. She's also here and available to answer any questions you might have. Thank you, Board.

Chair Peeples – Thank you, ma'am. Would Ms. Morales like to address the Board? If so, we need to swear her in, please. Would she like to address?

Ms. Pettine – If you have any questions for her, we can get her sworn in.

Chair Peeples – Ok. Thank you, ma'am. We appreciate that. Board members, any discussion or a motion?

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – It's been enough time and she's just going to be an embalmer apprentice, so she'll be under supervision.

MOTION: Mr. Jensen moved to approve the application. Mr. Ferreira seconded the motion, which passed unanimously.

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

(1) Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum E

(a) Funeral Director (Internship and Exam)

1. ***Fulford, Jessica V***
2. ***Marsters, Michael B***

(b) Funeral Director and Embalmer (Endorsement)

1. ***Dolfi, Stacey A***
2. ***Jorgensen, Richard J***
3. ***La Cava, Joseph F***
4. ***Matthews, Lawton J***

5. Noreikis, Brooke L

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

1. Baranyk, Nora E

2. Tomaru, Kyuta

3. Valdes-Torres, Guadalupe

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 Denial (Examination)

(a) Funeral Director (Endorsement)

1. Dee Jr, Charles W.

Ms. Simon – Mr. Charles Dee, Jr. submitted an application for a funeral director licensure on September 6, 2022, at which time the application was incomplete. A completed application was received on October 14, 2022. The applicant's fingerprints returned with no criminal history. However, section 497.374(1)(b)1., Florida Statutes, provides the requirements for issuing a license by endorsement. The applicant holds a Massachusetts funeral director license, which is currently active and in good standing. We are still recommending denial in that he has not yet taken or passed the Arts section of the National Board Examination. The Division is recommending denial.

Chair Peeples – Thank you, Ms. Simon. Is Mr. Dee on the call today?

Mr. Charles Dee, Jr. – Yes.

Chair Peeples – I see you, Mr. Dee. If you would like to address the Board, we'd like to have you for sworn in, please.

Mr. Dee – Thank you.

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. Dee – I do.

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

Mr. Dee – Charles William D, Jr., D E E.

Chair Peeples – Thank you, Mr. Dee. Would you like to address the Board, sir?

Mr. Dee – Yes. Thank you, Ms. Peeples. And thank you to the Board for hearing me. I'm asking the Board to review this requirement for the Arts section of the National Board exam. In October of 1979, when I was testing for the Massachusetts State Board to receive a license in funeral director and embalming, the national competency exam was not used or recognized for licensure in Massachusetts. I sat for their own multi-hour written exam. I remember it's been a while, but I do remember it was a four (4) or five (5) hours written exam. I'm not privy to what Massachusetts sent to Ms. Richardson as far as, you know, the different types of questions that were asked. But following the written exam, we had a practical embalming exam, and I passed both on the first time I took them. I've been a licensed director in embalming in good standing in Massachusetts for forty-three (43) years. I've owned and operated a funeral home for over forty (40) years. I personally served approximately 4,000 families. Prior to that, I received a four-year Bachelor of Business Administration degree and an Associate in Science degree in funeral service. I retired to Delray Beach in 2020. On May 20, 2021, I worked as a funeral assistant at Riverside-Stanetsky in Delray. They've asked me to apply for my license, which I'm doing. I work part-time, very part-time, and I'll be continuing to work part time at age 66. That's my statement.

Chair Peeples – Thank you, Mr. Dee. Is there any Board member that has any questions? Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to approve the application. Mr. Clark seconded the motion.

Chair Peeples – Is there any further discussion?

Ms. Simon – Madam Chair?

Chair Peeples – Yes, please?

Ms. Simon – Madam Chair, if the Board is so inclined to go forward and approve this application, I would request that it be conditioned upon receiving the passing scores from The Conference. We sent Mr. Dee an email last week indicating that we would be recommending denial, and we have not received verification of passing the Arts exam.

Chair Peeples – Thank you, Ms. Simon. Mr. Brandenburg, would you like to amend your motion?

Mr. Brandenburg – No. My motion is to approve.

Chair Peeples – Without conditions?

Mr. Brandenburg – Without conditions.

Chair Peeples – Thank you, Mr. Brandenburg. Mr. Clark, do you still continue with the second of Mr. Brandenburg's motion?

Mr. Clark – Yes, I do.

Chair Peeples – Thank you. Are there any other questions of Mr. Dee or any comments for discussion by the Board members? Ms. Clay, if you'll turn your mic on, please? Any other discussion? All in favor of the motion say yes.

Board members – Yes.

Chair Peeples – All opposed, say no.

Mr. Williams – No.

Ms. Clay – No.

Chair Peeples – Ms. Simon, will you take a roll call vote, please?

Ms. Simon – Yes, ma'am. As to the motion of approving the application, Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay?

Ms. Clay – No.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons?

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Mr. Williams – No.

Ms. Simon – Madam Chair?

Chair Peeples – No.

Ms. Simon – That motion passes.

Chair Peeples – Thank you. Good luck, Mr. Dee.

Mr. Dee – Thank you. Thank you to the Board.

I. Application(s) for Internship

(1) Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum F

(a) Funeral Director

1. Coffie, Carol L F623841

(b) Funeral Director and Embalmer

1. Boldrey, Kathryn L F619524
2. Gross, Gerron F F617813
3. Hicks Jr, Tony R F617860
4. Terry, Deondre L F621034
5. Telhada, Victoria N F617447
6. Uriarte, Destiny Q F524744
7. Wilcox, Mildred V F195807
8. Wong, Najhma A F616856

(c) Embalmer

1. Hernandez, Brittney P F439664

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.

J. Application(s) for Monument Establishment Sales Agent

(1) Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum G

(a) Hodgson, Johnny A F045508
(b) Moore, Charles E F623009
(c) Mulligan, Rhonda R F066039

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

K. Application(s) for Registration as a Training Agency

(1) Recommended for Approval without Conditions – Addendum H

(a) SCI Funeral Services of Florida LLC d/b/a Kays-Ponger & Uselton Funeral Homes and Cremation (F288714) (Venice)

(b) SCI Funeral Services of Florida LLC d/b/a Lemon Bay Funeral Home and Cremation Services (F288716) (Englewood)

Ms. Simon – This is an informational item. The Division has reviewed the application listed on Addendum H and found them to be complete in that the applicants have met the requirements to be a training agency. Pursuant to Rules 69K-1.005, Florida Administrative Code, the Division has previously approved these applications. If I may just have one moment.

Chair Peeples – Ms. Simon, I have a quick question. It's on agenda item I(1)(c) Embalmer. Do we need to visit that item?

Ms. Simon – Madam Chair, I believe that that is on the addendum, but I can check.

Chair Peeples – Thank you, ma'am.

Ms. Simon – That item is on the addendum and was previously approved.

Chair Peeples – Thank you, ma'am. I appreciate that.

(2) Recommended for Approval with Conditions

(a) Request(s) for Waiver

1. Foundation Partners of Florida LLC d/b/a Beckman Williamson Funeral Homes & Crematory (F602534) (Rockledge)

Ms. Simon – Foundation Partners of Florida LLC d/b/a Beckman-Williamson Funeral Homes & Crematory, this newly approved establishment (F602534), is now seeking approval of a waiver of Rule 69K-18.004, Florida Administrative Code, regarding certain requirements for licensure as a training agency. Additionally, this establishment is seeking to continue their training agency status. The Division recommends approval subject to the following conditions:

1) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within 30 days of the date the request was published; and
2) That the Application for Registration of a Training Agency be granted so that the aforementioned funeral establishments may continue to be registered as Training Agencies under the new ownership.

Madam Chair, the Division's recommendation is for approval to be had in two (2) different motions. One (1) is to approve waiving the requirements of Rule 69K-18.004, provided there's no dispute by the public within thirty (30) days the request was published. And second, that the application for registration as a training agency be granted.

Chair Peeples – Do we have a motion?

MOTION: Mr. Jones moved to approve the request waiving the requirements of Rule 69K-18.004, provided there's no dispute by the public within thirty (30) days the request was published. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Ms. Simon?

Ms. Simon – Madam Chair, the next motion is that the application for registration of a training agency be granted so that the funeral establishment may continue to be registered as training agencies, under the new ownership.

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

MOTION: Mr. Brandenburg moved to approve the application for registration of a training agency be granted so that the funeral establishment may continue to be registered as training agencies, under the new ownership. Ms. Clay seconded the motion, which passed unanimously.

Chair Peeples – And if we can, Ms. Simon, before we go on to K(2)(a)2, do we need to revert back to K(1)(a) and (b), SCI Funeral Services of Florida? Do those need to be addressed?

Ms. Simon – No, ma'am. Those two were on the addendum.

Chair Peeples – Thank you, ma'am. Please proceed.

Ms. Simon – Thank you.

2. Jay Funeral Home LLC (F601568) (Perrine)

Ms. Simon – Is there a representative of Jay Funeral Home on the call today? Hearing a response. Jay Funeral Home LLC, newly approved (F601568), is now seeking approval of a waiver of Rule 69K-18.004, Florida Administrative Code, regarding certain requirements for licensure as a training agency. Additionally, just like in the last matter, this establishment is seeking to continue their training agency status. The Division recommends approval subject to the following conditions:

1) That Rule 69K-18.004, Florida Administrative Code, be waived as requested by the licensees, provided there has been no dispute by the public within 30 days of the date the request was published; and
2) That the Application for Registration of a Training Agency be granted so that the aforementioned funeral establishments may continue to be registered as Training Agencies under the new ownership.

The Division requests that the Board, if so inclined, have two (2) different motions for each of those two (2) different calls to vote.

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

MOTION: Mr. Jensen moved to approve the request waiving the requirements of Rural 69K-18.004, provided there's no dispute by the public within thirty (30) days the request was published. Mr. Jones seconded the motion, which passed unanimously.

Chair Peeples – Do we have a motion?

MOTION: Mr. Brandenburg moved to approve the application for registration of a training agency be granted so that the funeral establishment may continue to be registered as training agencies, under the new ownership. Mr. Williams seconded the motion, which passed unanimously.

Chair Peeples – Thank you, Ms. Simon.

L. Notification(s) for Change of Location

(1) Informational Item (Licenses Issued <u>without</u> Conditions) – Addendum I

(a) Cremation Service of Florida LLC (F191953) (Gainesville)

Ms. Simon – This is an informational item. The establishment listed on Addendum I has applied for approval of a change of location of their business. The only criteria for approval is that the new location pass inspection by the Division of Funeral, Cemetery, and Consumer Services.

M. Application(s) for Funeral Establishment

(1) Recommended for Approval <u>with</u> Conditions

(a) Cynthia Batts and Johnetta Batts LLC d/b/a Lakeview Funeral Home (Orlando)

Ms. Simon – An application for funeral establishment licensure was received on July 20, 2022. The application was incomplete when submitted. A completed application was received on September 22, 2022. The Funeral Director in Charge will be Cynthia Batts (F170608). The applicant is applying for a new license because of the death of the owner, Ray Batts. Is there a representative of this entity on the call? Hearing no response.

Ms. Cynthia Batts – Cynthia Batts is on the line.

Ms. Johnetta Batts – Johnetta Batts is on the line.

Ms. Simon – Thank you. I appreciate that. The Division is recommending approval subject to the condition(s) as follows:

1) That the establishment passes an inspection by a member of Division Staff.
2) That the current license (F039801) be made invalid.

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

MOTION: Mr. Brandenburg moved to approve the application subject to the condition that the establishment passes an inspection by a member of Division Staff and the current license (F039801) be made invalid. Mr. Williams seconded the motion, which passed unanimously.

Chair Peeples – Thank you, ladies.

Mr. Clark – Madam Chair?

Chair Peeples – Mr. Clark?

Mr. Clark – I apologize. I actually need to clarify for the record. I was having a technical issue for K(2)(a)1. I want to state for the record that I have an affiliation with the applicant, but that affiliation did not prevent me from rendering a fair and impartial decision, and I apologize for that.

Chair Peeples – Yes, it's ok. Thank you, Mr. Clark, for the record. Ms. Simon?

(b) Hortense & Mills Memorial Funeral Home Inc. (Ft Pierce)

Ms. Simon – Is there a representative of this entity on the call? Hearing no response. An application for a funeral establishment was received on August 2, 2022. The application was incomplete when submitted. A completed application was received on September 30, 2022. A background check of the principals revealed no relevant criminal history. The Division is recommending approval subject to the condition that the establishment passes an inspection by a member of Division Staff.

Chair Peeples – Board members?

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

Mr. Williams – I have a question. Ms. Simon, could you explain, I guess, more in detail of the reasoning for the comment on the Page 1 of the material?

Ms. Simon – Madam Chair, I apologize. I had thought that that was removed from the agenda. That is not relevant criminal history. That matter was noll prosequi and dismissed by the courts.

Chair Peeples – Thank you, Mr. Williams. Are there any other questions or discussion? Seeing none. All in favor of the motion, say, yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries.

(c) Tampa Cremation LLC (Tampa)

Ms. Simon –An application for funeral establishment licensure was received on September 12, 2022. The application was incomplete when submitted. A completed application was received on October 13, 2022. The Division is recommending approval subject to the condition that the establishment passes an inspection by a member of Division Staff. Is there a representative of this entity on the call?

Unidentified person – Yes, ma'am.

Ms. Simon – Thank you, sir. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Board members, what's your pleasure? Do we have a motion?

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. Mr. Jones seconded the motion, which passed unanimously.

(d) Walker-Berry Funerals & Cremations Inc (Jacksonville)

Ms. Simon – Is there a representative of this entity on the call?

Ms. Rose Walker – Yes, ma'am. I'm here.

Ms. Simon – Thank you. An application for funeral establishment licensure, based on a change of ownership, was received September 16, 2022. The application was incomplete when submitted. A completed application was received on October 14, 2022. The current establishment does have a qualifying preneed license; however, an application for a preneed license has not been submitted. The licensee did submit a letter stating they will fulfill all unfulfilled preneed contracts. On the application in this matter on page eight, when originally submitted, the wrong signature was included. Since the time that the agenda materials were mailed out, I have received documentation, an amended page eight indicating a signature of the current owner, and the current owner is actually a personal representative of Ms. Coleman's as Ms. Coleman has passed. The Division is recommending approval subject to the condition(s) as follows:

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

Chair Peeples – Ms. Simon, I have a question. In my affiliation, I know these ladies. They are colleagues here in Jacksonville, as well as the AB Coleman Mortuary. But under the River City Crematory Agreement, it states that that's an agreement with the current facility. If we receive a motion to approve, I would like to have it included in the motion that the Board office gets an updated agreement letter with River City Crematory with the new entity.

Ms. Simon – Madam Chair, I did speak with Ms. Walker about that yesterday, who I believe is on the call, and I indicated to her that that may be a condition of licensure, that we receive an updated contract referencing the appropriate name of the entity.

Chair Peeples – Thank you. I appreciate that. Board, your pleasure?

MOTION: Mr. Ferreira moved to approve the application subject to the conditions recommended by the Division, as well as the condition of a new contract submitted by River City Crematory, before license is issued. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Thank you, ladies.

N. Application(s) for Preneed Main License

(1) Recommended for Approval without Conditions

(a) Archer Funeral Home Inc (F343752) (Lake Butler)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. The Department received an application for preneed main license on July 26, 2022, which was incomplete at the time of submission. The application was deemed complete on September 15, 2022. The applicant does have an adverse licensing history. If approved, will trust with IFDF, and use their approved contracts. The Division recommends approval without conditions.

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

(b) Broward Funeral Choices Inc (F077061) (Lauderdale Lakes)

Ms. Simon – Is there a representative of this entity on the call today?

Unidentified person – Yes, ma'am.

Ms. Simon – Thank you, sir. Board members, the Department received an application for a preneed main license on September 26, 2022, which was incomplete at the time of submission. The application was deemed complete on October 6, 2022. If approved, will trust with FSI, and use their approved contracts. The Division recommends approval without conditions.

Chair Peeples – Board members?

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

(c) South Florida Crematory LLC d/b/a Atlantis Simple Cremations (Pompano Beach)

Ms. Simon – Is there a representative of this entity on the call today? Hearing no response. The Department received an application for preneed main licensure on September 12, 2022, which was incomplete at the time of submission. The application was deemed complete on October 6, 2022. If approved, will trust with Funeral Directors Life, and use their approved contracts. The Division recommends approval without conditions.

Chair Peeples – Thank you, Ms. Simon. Board members?

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

O. Application(s) for Removal Service License

(1) Recommended for Approval with Conditions

(a) Compassionate Removal Services Corp (West Palm Beach)

Ms. Simon –An application for a removal service was received on September 19, 2022. The application was complete when submitted. A background check of the principals revealed no criminal history for its principals. The Division recommends approval subject to the condition that the removal service passes an onsite inspection by a member of Division staff.

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

(2) Recommended for Denial
(a) VIP Removal Transport LLC (Miami)

Ms. Simon – An application for a removal service was received on September 6, 2022. The application was incomplete when submitted. A completed application was received on September 28, 2022. While the applicant answered no to the criminal history question, one (1) of the principals was actually convicted of felony possession of cocaine in 2003. He was sentenced to two (2) days confinement. As a result of that conviction, the Division recommends denial.

Chair Peeples – Board members?

Rabbi Lyons – I have a question.

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – I thought the look back period was only fifteen (15) years?

Ms. Simon – If I may? When it comes to felonies, it is twenty (20) years, Misdemeanors is five (5).

Chair Peeples – Any other questions for staff? Mr. Clark?

Mr. Clark – Just a clarification, maybe for the Division. Maybe I misread it, but I thought, I'm looking for the page, maybe 11. I thought it was adjudicated not guilty.

Ms. Simon – It may have been, Mr. Clark. The applicant or the principal pled and was sentenced. Their conviction may have been -- they might have received a withheld adjudication or adjudication. I apologize for not identifying which.

Mr. Clark – Oh, no problem. Thank you.

Chair Peeples – Mr. Jensen?

Mr. Jensen – Just to follow up on Mr. Clark. On Page 10, it also has it was a misdemeanor and felony. Both were checked. So, I'm a little confused along that same line there.

Ms. Simon – I'm sorry, on page 10?

Mr. Jensen – Yes, Page 10 on the criminal history form, item E. The crime was, it's got misdemeanor checked and it's also got felony checked.

Ms. Simon – Madam Chair, this is actually a felony. Possession of cocaine is a felony.

Chair Peeples – Mr. Jensen, did that answer your question?

Mr. Jensen – Well, sort of. I'm thinking two (2) days in jail seems like it must have been a real small amount. I don't know, but anyways, the look back period ends next year, correct?

Chair Peeples – Ms. Simon?

Ms. Simon – The twenty (20) years will be up, I believe, on August 26, 2023.

Mr. Jensen – Ok, thank you, Chair.

Chair Peeples – Mr. Jones?

Mr. Jones – Is there anyone representing this company on the call? Thank you.

Chair Peeples – Thank you. Rabbi Lyons, did you have a follow-up question?

Rabbi Lyons – No. But thank you.

Chair Peeples – Thank you. Any other discussion or questions by Board members? What's the pleasure of the Board, please?

MOTION: Ms. Clay moved to deny the application. Mr. Brandenburg seconded the motion.

Chair Peeples – Is there any discussion? Rabbi Lyons?

Rabbi Lyons – There was a gentleman who put his camera on for a moment. I just want to make sure there's nobody representing who didn't get a chance to talk before we vote, but I guess we're not hearing anything.

Chair Peeples – Thank you, sir. We have a motion by Ms. Clay, a second by Mr. Brandenburg. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed?

Mr. Ferreira – No.

Rabbi Lyons – No.

Ms. Liotta – No.

Chair Peeples – Please take a roll call vote, Ms. Simon.

Ms. Simon – Yes, ma'am. Mr. Brandenburg?

Mr. Brandenburg – Yes.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay.

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – No.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – No.

Ms. Simon – Rabbi Lyons.

Rabbi Lyons – No.

Ms. Simon – Mr. Williams?

Mr. Williams – Yes.

Ms. Simon – Madam Chair?

Chair Peeples – Yes.

Ms. Simon – The motion to deny has passed.

Ms. Munson – I just wanted to clarify, I wasn't sure about this, and I may have missed it and I looked again. His notice, the applicant's notice for this particular meeting is what page?

Ms. Simon – Notice is sent to each of the applicants on the agenda. It is not included within your agenda items.

Ms. Munson – Okay. So, I just wanted to confirm, that's all. It was sent via email?

Ms. Simon – Yes, ma'am.

Ms. Munson – Thank you.

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

Ms. Munson – I'm sorry, Ms. Simon, I forgot to ask. Because it is denial, the Board is probably very familiar with me stating that I would like a reason specifically indicated on the record for the denial.

Chair Peeples – Thank you, Ms. Munson. Ms. Clay, you made the motion and Mr. Brandenburg made the second. Would you like to include the reason for denial?

Ms. Clay – Yes, the reasons would be those stated by Ms. Simon. I went completely blank, I'm sorry.

Chair Peeples – That's ok. Ms. Munson, does that give you the information you need?

Ms. Munson – I'm just going to clarify for the record that the reason for the denial is just the information in the Division's remarks section. He was denied because of the felony conviction in August of 2003.

Chair Peeples – Ms. Clay, do you accept that as your amended motion?

Ms. Clay – Yes, thank you.

Chair Peeples – Mr. Brandenburg, do you second and accept?

Mr. Brandenburg – What was it?

Ms. Munson – That the Order will reflect that the applicant was denied because he had a felony possession of cocaine on his record dated August 27, 2003.

Mr. Brandenburg – Yes, I agree with that.

Chair Peeples – Okay, thank you. Ms. Simon, did you have your hand up?

Ms. Simon – I did, but I was just stretching. Thank you.

Chair Peeples – Thank you, ma'am. So, Ms. Munson, since we have given the reason for denial, we don't need to take another vote, correct?

Ms. Munson – No, ma'am. Thank you.

Chair Peeples – Thank you. Ms. Simon, please proceed.

Ms. Simon – Thank you, ma'am.

P. Application(s) to Renew Internship

(1) Recommended for Approval without Conditions

(a) Funeral Director

1. Burke, Joseph E F541191

Ms. Simon – Is Mr. Burke, or a representative on the call today? Hearing no response. An application to renew the funeral director and embalmer internship license was received on October 5, 2022, and the current license expired on October 11, 2022. As a result of this application being timely, the Division recommends approval.

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

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

Ms. Simon – Madam Chair? I believe that Mr. Williams has indicated he needs to get off the phone momentarily.

Chair Peeples – Yes. Mr. Williams?

Mr. Williams – Yes?

Chair Peeples – Please proceed and thank you for the information.

(b) Funeral Director and Embalmer

1. Cannon, Reginald F538338

Ms. Simon – An application to renew the funeral director and embalmer internship license was received on September 26, 2022. The current license should have expired on September 27, 2022. Because the application was timely, the Division recommends approval without conditions.

Chair Peeples – Board members?

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

(2) Recommended for Denial
(a) Funeral Director and Embalmer
1. Harris, Brittany N F540000

Ms. Simon – Is Ms. Harris on the call today? Hearing no response. The applicant's funeral director and embalmer internship expired on October 6, 2022. An application to renew funeral director and embalmer internship was received Department on October 7, 2022. Because the application was late, the Division is recommending denial.

Chair Peeples – Board members?

Rabbi Lyons – I mean, we're talking about a day. We're talking about one (1) day, not even a full day. So, I would, without setting any precedent, move that we accept the application.

Ms. Liotta – Second.

Chair Peeples – We have a motion by Rabbi Lyons to accept the application and not deny it. We have a second by Ms. Liotta. Is there any discussion by the Board members? Ms. Clay, did you have a question?

Ms. Clay – I don't have a question. I just have a statement. Deadlines for me are very important, as I'm sure they are for many organizations. And where do we draw the line? Is the deadline important or not important? Should we abide by deadlines or not abide by deadlines? And do we need to impose some type of grace period? So just me just kind of sounding off that I think that we need to adhere to rules.

Chair Peeples – Thank you, Ms. Clay. We have a motion by Rabbi Lyons to accept the application requests, a second by Ms. Liotta. Is there any other discussion, Board members? Seeing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed? Motion carries. Ms. Simon?

Q. Collective Application(s)
(1) Recommended for Approval with Conditions
(a) New Horizon Funeral Chapel and Cremation Inc (St Cloud)
1. New Establishment
- *Centralized Embalming Facility*
- *Refrigeration Facility*

Ms. Simon – Is a representative of the entity on the call today?

Unidentified person – Yes.

Ms. Simon – Thank you, ma'am. New Horizon Funeral Chapel and Cremation Inc, seeks approval of the applications for new licensure of one (1) centralized embalming facility license and one (1) refrigeration facility license. More specifically, the entities that are being acquired are as follows:

1) New Horizon Funeral Chapel and Cremation Inc, a centralized embalming facility, physical address: 1311 Indiana Avenue, St Cloud, FL 34969. FDIC: Michael Morales, license #F042205
2) New Horizon Funeral Chapel and Cremation Inc, a refrigeration facility, physical address: 1311 Indiana Avenue, St Cloud, FL 34969.

The principals of the corporation have submitted fingerprints for the principals were returned without criminal history. Your Board package includes separate applications for each of the types of licensures requested. The Division is recommending approval subject to the condition that the establishments under the applications herein pass an onsite inspection by a member of Division Staff.

Chair Peeples – Thank you, Ms. Simon. Board members?

MOTION: Mr. Clark moved to approve the applications subject to the condition that the establishments pass onsite inspections by a member of Division Staff. Mr. Ferreira seconded the motion, which passed unanimously.

R. Contract(s) or Other Related Form(s)

(1) Recommendation for Approval with Conditions

(a) Amendments to Cemetery Bylaws

1. Curlew Hills Memory Gardens Inc (F039581) (Palm Harbor)

Ms. Simon – Curlew Hills Memory Gardens Inc seeks approval of bylaws which are included within your Board package. They have been properly noticed in the Florida Administrative Register and the Division review finds that they do not unreasonably restrict the use of burial rights increased costs to burial rights, owners or unreasonably restrict competition. Is there a representative of this entity on the call today?

Keenan Knopke – Yes, ma'am.

Ms. Simon – Thank you. The Division recommends approval subject to the condition that no adverse comments are received by the Division within the allotted period of thirty (30) days.

Chair Peeples – Board members?

MOTION: Mr. Brandenburg moved to approve the amendments subject to the condition that no adverse comments are received by the Division within the allotted period of thirty (30) days. Mr. Clark seconded the motion, which passed unanimously.

(b) Monument Retail Sales Agreement

1. New Beginnings Corp d/b/a New Beginnings Funeral Home (Pembroke Pines)

Ms. Simon – The sales agreement is included within your Board package and the Division recommends approval 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.

Chair Peeples – Board members?

MOTION: Mr. Ferreira 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. Jensen seconded the motion, which passed unanimously.

(c) Request(s) for Transfer of Trust

1. FPG Florida LLC d/b/a Englewood Community Funeral Home (F060727) (Houston, TX)

Ms. Simon – Is there a representative of this entity on the call? Hearing no response. FPG seeks approval of the transfer of the trust from The First Amended and Restated Agreement and Declaration of Trust of IFDF Master Trust Fund A (90/10 trust) under Argent Trust Company to the FPG Florida, LLC Alternative Preneed Funeral Trust Agreement under Regions Bank, N.A. (Regions). If approved, Regions is or will be trustee, all as more specifically set out in Ms. Bokhary's correspondence dated August 11, 2022. The Division recommends approval subject to the conditions as follow:

1) That the representations of FPG, as set forth in representative's correspondence dated August 11, 2022, be deemed material to the Board's decisions herein.
2) That within ninety (90) days of this Board Meeting Regions provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications including the following:
   - A letter signed and dated by one of its officers, certifying the dollar amount of trust assets being transferred to the trust as identified in representative's attached correspondence dated August 11, 2022.

- Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in representative's attached correspondence dated August 11, 2022.

3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional ninety (90) days.

Chair Peeples – What is the pleasure of the Board?

Mr. Clark – Madam Chair?

Chair Peeples – Yes, Mr. Clark?

Mr. Clark – Once again, I need to state my affiliation with FPG of Florida, in this matter, and I'll recuse myself.

Chair Peeples – Thank you, Mr. Clark. Remaining Board members, what is the pleasure? Is there a motion?

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

2. NorthStar Cemetery Services of Florida LLC d/b/a Trinity Memorial Gardens (F612027 and F019194) (New Port Richey)

Ms. Simon – Is there a representative of this entity on the call? Hearing no response. NorthStar seeks approval of the transfer of the following: The Revocable Preneed Trust Fund Agreement /Trinity Memorial Gardens Preneed Cemetery Merchandise Trust (70/30 trust, **Exhibit A**) and the Care and Maintenance Trust Fund Agreement of Trinity Memorial Cemetery, Inc/Trinity Memorial Gardens Care and Maintenance Trust under Truist Bank, N.A. (**Exhibit B**) to Regions Bank (Regions). If approved, Regions is or will be trustee and will continue to operate under the existing trust agreements, all as more specifically set out in Ms. Bokhary's correspondence dated September 27, 2022. The Division recommends approval subject to the conditions as follow:

1) That the representations of NorthStar, as set forth in representative's correspondence dated September 27, 2022, be deemed material to the Board's decisions herein.
2) That within ninety (90) days of this Board Meeting Regions provide the FCCS Division (ATTN: LaShonda Morris), the effective date of the transfer and certifications including the following:
   - A letter signed and dated by one of its officers, certifying the dollar amount of trust assets being transferred to the trust as identified in representative's attached correspondence dated September 27, 2022.
   - Acknowledgement of receipt of the amount of trust assets being transferred as specified under the former trust, as identified in representative's attached correspondence dated September 27, 2022.
3) That the Board's executive director, for good cause shown, may extend the compliance time frame for the above specified conditions, an additional ninety (90) days.

Chair Peeples – Board members?

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

S. Request to Change Status of Licensed Cemetery

(1) Recommended for Approval <u>without</u> Conditions

(a) Mount Sinai Cemetery Association (Daytona Beach)

Ms. Simon – Is there a representative of this entity on the call? Hearing no response. This cemetery has been licensed since in or around 1994. According to the licensee, in 1976 the cemetery was dedicated by a religious institution. The Care and Maintenance annual trustee report for 2021 indicates that the ending fair market value of the trust on December 31, 2021, was $637,232.96. The Cemetery is requesting that this licensed cemetery become exempt pursuant to section 497.260(1)(a) and 497.260(1)(d), Florida Statutes. The Division recommends approval without conditions.

Chair Peeples – Ms. Simon, we have a gentleman representing Mount Sinai.

Mr. Alan S. Kisseloff – Yes, ma'am. I'm on here.

Chair Peeples – Thank you, sir. Ms. Simon, have you completed your remarks?

Ms. Simon – I have, Madam Chair. Thank you.

Chair Peeples – Thank you. Mr. Kisseloff?

Mr. Kisseloff – Yes, ma'am?

Chair Peeples – Thank you, sir. If you would like to address the Board, we would need to swear you in, sir. Would you like to address the Board?

Mr. Kisseloff – I'll be happy to address any questions, so you can swear me in.

Chair Peeples – Please swear him in, Ms. Simon.

Ms. Simon – As I see your right hand is raised, do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Kisseloff – Yes, ma'am.

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

Mr. Kisseloff – Alan S. Kisseloff, K I S S E L O F F.

Ms. Simon – Thank you. Madam Chair?

Chair Peeples – Thank you, Ms. Simon. Board members, do we have any questions to Mr. Kisseloff regarding this application regarding the status of the licensed cemetery? Mr. Jensen?

Mr. Jensen – Yes, just one quick question for Mr. Kisseloff. You've been licensed since 1994. Why now are you requesting exempt status?

Mr. Kisseloff – Because I found out that we should be exempt just through going through the statutes. The history is that this is a local sole Jewish cemetery in Daytona Beach. It was run by officers from the synagogue in Daytona Beach. Then it was taken over by another gentleman. He got tired of burying his friends, and I and another person created a new Board, and I was the treasurer. The other guy was the president. He passed away. I am now everything, and I am a total volunteer, and the audits are cumbersome for me. It turns out that apparently, I'm the only person in Ormond Beach that knows how to run a cemetery, so I was asked to run another cemetery in Ormond Beach. We've never had an issue with the audits, and as a volunteer doing this all by myself, if I could take some of that weight off of my shoulders so I can continue to do this, I would. And like I said, I happened to stumble upon the statute that says that we should be exempt. And working with the people on this Board and Mr. Patronis' Office, they said they would entertain an application, so I submitted it.

Mr. Jensen – Thank you.

Chair Peeples – Any other Board members? Any discussion or questions for Mr. Kisseloff? Mr. Brandenburg?

Mr. Brandenburg – Good afternoon, Mr. Kisseloff. Will Mount Sinai Cemetery Association continue to sell graves?

Mr. Kisseloff – Yes.

Mr. Brandenburg – And the value of the trust is at $637,000. How often do you have an audit on that?

Mr. Kisseloff – Well, first of all, I have a statement here through September 30th. The value of the trust is $512,209.20, as of September 30th. We have an audit whenever the State ask me to. It's typically every year.

Chair Peeples – Mr. Brandenburg, any further questions?

Mr. Brandenburg – Well, I guess the State won't be asking you to, anymore. Thank you.

Chair Peeples – Any other questions by Board members to Mr. Kisseloff? Seeing no questions. What is the Board's pleasure? Rabbi Lyons?

MOTION: Rabbi Lyons moved to approve the request. Ms. Liotta seconded the motion.

Chair Peeples – Is there any further discussion? Seeing none. Ms. Simon, will you do a roll call, vote on this one, please? If you vote yes in favor of the motion to change the status of the license cemetery.

Ms. Simon – Just give me one moment, Madam Chair, please.

Chair Peeples – Yes, ma'am.

Ms. Simon – Ok. Mr. Brandenburg?

Mr. Brandenburg – Yes.

Mr. Williams – Yes.

Ms. Simon – Mr. Clark?

Mr. Clark – Yes.

Ms. Simon – Ms. Clay.

Ms. Clay – Yes.

Ms. Simon – Mr. Ferreira?

Mr. Ferreira – Yes.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Yes.

Ms. Simon – Mr. Jones?

Mr. Jones – Yes.

Ms. Simon – Ms. Liotta?

Ms. Liotta – Yes.

Ms. Simon – Rabbi Lyons.

Rabbi Lyons – Yes.

Ms. Simon – Mr. Williams?

Chair Peeples – He's excused.

Ms. Simon – Oh, I'm sorry. I didn't realize that. Madam Chair?

Chair Peeples – Yes.

Ms. Simon – The motion passes.

Chair Peeples – Thank you, Mr. Kisseloff.

Mr. Kisseloff – Thank you, everyone. Thank you, Ms. Simon. Have a good day.

Chair Peeples – We need to take a five-minute break so we can get on through the rest of the agenda. It's 1:03. Let's return back at 1:08, please. Thank you.

**********BREAK**********

Chair Peeples – Folks, it is 1:08. Mr. Brandenburg, did you have a question sir?

Mr. Brandenburg – Chair, going back to Mount Sinai Cemetery.

Chair Peeples – Yes, sir?

Mr. Brandenburg – One of the regulations on 497.260, (cemeteries; exemptions), and maybe the Division can help me out on this, (1) (a), Religious institution cemeteries of less than five acres, which provide only single level ground burial. That is the clause for an exemption. Did I miss something, Ms. Simon, on your recommendation for approval?

Ms. Simon – Madam Chair if I may?

Chair Peeples – Yes, please, ma'am.

Ms. Simon – The recommendation for approval was based on the fact that the entity has provided that they are an exempt cemetery, just as we had done previously with Avon Park, that provided that it was an exempt cemetery. In this case, I believe it is based on an association.

Mr. Brandenburg – Well, for this and future reference, are we going to not adhere to the five-acre rule?

Ms. Simon – If I may just have one moment? I do not have the statute up in front of me. I'm trying to get that statute up now, but I believe that the five-acre requirement is not dealing with community or non-profit association cemeteries. I believe that this is a non-profit. I do not recall the reason to go exempt. However, again, it's not requested, typically. And as the representative of Mount Sinai is off the phone, I'm not sure that we can go back to that.

Rabbi Lyons – Madam Chair?

Chair Peeples – Yes, Rabbi Lyons?

Rabbi Lyons – On Page 2 of the Board packet, there's a letter dated September 23rd. It says the cemetery was founded in 1937 by members of Temple Israel of Daytona Beach. The cemetery is a religious institution cemetery of less than five (5) acres.

Chair Peeples – Mr. Brandenburg, does that answer your question and concern?

Mr. Brandenburg – Yes if it is under five (5) acres. I apologize for taking up people's time.

Chair Peeples – That's ok, sir. Thank you for bringing it to our attention. Ms. Simon, if you will continue with the agenda, please.

Ms. Simon – Yes, ma'am. Thank you.

T. Executive Director's Report

(1) Operational Report (Verbal)

Ms. Simon – Madam Chair, at this point, I would like to turn the meeting over to our Executive Director, Mary Schwantes.

Ms. Mary Schwantes – Madam Chair, may I?

Chair Peeples – Yes, ma'am?

Ms. Schwantes – Thank you, ma'am. For the first item, at least, since anyone here can recall, the Board will discuss a few issues of general concern today under agenda item W. So that we have plenty of time for those matters, today's Executive Director's Report is extremely brief. Our next Board meeting will be held by videoconference on Thursday, December 1st, at 10 a.m., and that ends the Executive Director's Report for today. Thank you, Madam Chair. Thank you, Board members.

(2) 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:Npvember 3, 2022
Date report was prepared:October 21, 2022

	Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
	Mercedes Miranda	Oct-22	283186-21-FC	$3,000			
	Northstar Funeral Services of Florida, LLC d/b/a Homestead Crematory	Oct-22	283185-21-FC	$3,000			
	Williams Funeral Home in Bartow, LLC	Oct-22	280750-21-FC	$750			
	Eric L. Wilson Funeral & Cremation Services PA	Oct-22	294352-22-FC & 295159-22-FC	$2,750			
	H.W. Oldham Funeral Home	Oct-22	282703-21-FC	$3,000			
	Angels of Paradise, LLC	Oct-22	293372-22-FC	$500			
	Taylor Family Funeral Home & Cremation Center	Oct-22	211354-21-FC	$500			
	A Mortuary Sedrvice, LLC	Oct-22	287707-21-FC	$1,500			
	Keith Phillip Kronish	Oct-22	292037-22	$4,500			
	Integrity Funeral Services of Tampa, Fl., Inc.	Oct-22	280393-21-FC	$1,500			
	Gloria Castillo	Oct-22	280401-21-FC	$1,500			
	Northwood Funeral Home & Crematory	Sep-22		$2,500		Paid in Full	
	Scott Thomas Hickey	Sep-22	287726-21-FC	$1,000	10/21/2022		
	Horace Barrett, Jr.	1-Sep	256152-19-FC	$3,000	10/21/2022		
	Holloway Funeral Home, LLC	Jul-22	287724-21-FC	$3,000	9/19/2022	Paid $1000	
	Gallaher American Family Funeral Home	Jun-22	278188-21-FC	$250	8/15/2022		

	Vinson Funeral Home	March 3, 2022	283110-21-FC	$250	May 9. 2022		
	Jeffrey Lee Tillman	March 3, 2022	275817-21-FC	$4,000	August 2, 2022	Paid In Full	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

ES 10-21-2022

U. Chair's Report (Verbal)

Ms. Simon – Madam Chair?

Chair Peeples – Thank you, Ms. Simon. I will be very brief also, as Ms. Schwantes was, so that we can get to agenda item W. I just want to thank all the Board members. I want to thank the staff in the Tallahassee office and those additional offices that are out doing things for our licensees and for the public. I want to thank the counsel for the prosecuting side, Ms. Marshall, and Mr. Griffin. And from our Board counsel, Ms. Munson. Thank you for all you do. We appreciate it and we appreciate all of your wisdom and guidance. And thank you Board members for being prepared. It means a lot to be prepared. Ms. Simon?

Ms. Simon – Thank you, Madam Chair.

V. Office of Attorney General's Report

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

Ms. Simon – Ms. Munson?

Ms. Munson – This is provided for informational purposes only. Thank you.

BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
NOVEMBER 2022

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective
69K-5.007	Conversion Procedures	08/04/2022	08/19/2022	08/29/2022	09/15/2022	10/18/2022	11/07/2022
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

Ms. Simon – And at this point, I will, again, turn the meeting over to our Executive Director, Mary Schwantes.

Ms. Schwantes – Thank you. Madam Chair, may I proceed?

Chair Peeples – Yes, ma'am.

W. Topics for Board Discussion as Referenced During 8/4/2022 Board Meeting

Ms. Schwantes – Thank you, ma'am. As previously indicated, this may be the first time, at least in many years, in which the Board has discussed items of general concern to the industry, as part of its scheduled agenda. It's unusual. For this reason, this is going to be a learning experience for all of us. With Chair Peeple's permission, we're going to handle this portion of the meeting in a similar manner to the way the Department has handled and facilitated the most recent legislative workshops on Chapter 497 issues. Ms. Simon previously requested that all individuals wishing to speak during this portion of the meeting. send a chat message with their name, the entity they represent, if any, and the topic on which they're interested in speaking. I have a list of all who provided this information in chat, and we'll call on them as the topic is raised for purposes of this agenda item. It will not be necessary to swear individuals in. However, we would, as always, greatly appreciate if non-Board members who speak would at least initially state your name and spell your last name for the record.

We have three (3) topics on the agenda today, and only three (3). I will briefly describe the topic then ask if the individuals who raised the topic wish to address the Board. In the interest of time, we would encourage all to keep their presentations brief, preferably lasting no more than three (3) minutes. Board members may then ask questions of the presenters. After that, I will call upon the individuals who indicated they wish to speak on a topic. The other individuals and Board members will then have additional opportunity to ask questions or otherwise discuss the topic. No Board action is required on any of these topics. If the Board chooses, we have identified the following possible actions it could take. The first would be to form a committee to further review the issue and submit a recommendation back to the Board. The second would be to recommend to the Department that legislative or rule changes be initiated to address the concern. If the Board makes recommendations of that nature, I will coordinate with Chair Peeples and Board counsel to make sure the recommendation is appropriately presented to Chief Financial Officer, Jimmy Patronis, and others within the Department as necessary, or pursued as appropriate through Board action in the future, through rulemaking. The third option would be to suggest the matter might be better addressed by industry associations or others. So, again, that's only if the Board chooses to take action. Board counsel may have further advice on these issues as we progress. Again, this is a learning experience.

(1) Embalming requirement for establishment to remain a teaching firm for internship licensees

Ms. Schwantes – This topic concerns Rule 69K-18.004, Florida Administrative Code, its related forms and s. 497.370, regarding embalming internships. Specifically, 69K-18.004(3) provides that in order to be approved as an embalmer interne training agency, a funeral establishment shall have performed at least forty (40) embalming cases per year, for each intern it is applying to train, in order to demonstrate its ability to provide such embalmer interns with the necessary intern training and experience. There's a similar provision requiring that a training facility have performed at least forty (40) funeral services per year, for each funeral director intern it is applying to train. However, it is, as I understand it, the embalming requirement that is of concern. This topic was raised in the communication from Cheryl Lankford of Lankford Funeral Home, and Howard Beckham, with the Florida State College at Jacksonville. Both are present today. So, I'm going to call Ms. Lankford first. Did you want to address the Board, or are you here just answer questions?

(a) Raised by:

1. Cheryl Lankford, Lankford Funeral Home (July 27, 2020 email)

Ms. Cheryl Lankford – Yes, ma'am. I would appreciate addressing the Board. Thank you.

Ms. Schwantes – Okay. If you would like to proceed, go for it and then I'll call upon Mr. Beckham after that.

Ms. Lankford – Yes. Madam Chairman and members of the Board, thank you very much today for giving us the opportunity. I wanted to bring this to the forefront in some areas. As you're aware, our industry is struggling to find funeral directors and embalmers. And in some cases, we are not having the number of embalmings that is required per year, as we are in a high

cremation population in our area, so we are having multiple funerals. Funerals are not the issue. It's that the embalming criteria must embalm forty (40) per year. Right now, at one of our facilities, we would not be able to remain a training agency under the guidelines that are now forty (40) bodies. We would like to look to the Board at possibly reducing that number. At present, we've done about twenty (20), twenty-five (25) embalmings this year. That is the first part of the questions of concern on the Board.

Ms. Schwantes – Thank you, Ms. Lankford. Mr. Beckham, did you want to address the Board or are you here just to answer questions?

Mr. Howard Beckham – I'll just briefly say, if I may, with your permission?

Ms. Schwantes – Yes.

2. ***Howard Beckham, Funeral Services Program Director and Professor, Florida State College at Jacksonville (see minutes from 8/4/2022 Board Meeting under "Public Comments")***

Mr. Beckham – Okay. I really feel that the smaller funeral homes, Ms. Lankford's funeral home in Deland is a moderately high volume funeral home compared to many in the state of Florida that could be training agencies. And I encourage the Board's Rules Committee, especially to consider reducing the number of embalmings needed to have an intern to a reasonable number. The number I would suggest would be ten (10). And I think that would be more advantageous to having more students graduate school, be able to find internships in the State of Florida and to perhaps stay in the State of Florida once they're licensed.

Ms. Schwantes – Thank you. Board members, do you have any questions for either Ms. Lankford or Mr. Beckham?

Ms. Clay – I just have one (1) question, if I may. Well, two (2) questions. One is, has this happened before where we've had to consider reducing the number of training hours simply because of a business shift?

Ms. Schwantes – Mr. Beckham?

Mr. Beckham – If I may address that? I don't think that this number has been changed since its inception. And that's probably, and somebody in Tallahassee can tell me. I remember when 497 went into effect, but it preceded 497 and existed in rules in 470 prior to that. It was transferred over, the same number. So, this has been in effect for twenty-five (25) to forty (40) years perhaps. And I don't know the exact number there. Somebody can stand to correct me on that exact time. But in that time, the State of Florida has grown significantly. And the number of cremations in the State of Florida has increased significantly. Those of you on the Board who are funeral directors, you've seen this personally right there. And then if you look at the statistics going in through Vital Statistics, you can see the number of cremations and the cremation rate, how much it has increased. So, it's been a change in the population and the population demands, Ms. Clay.

Ms. Schwantes – Thank you, Mr. Beckham. Ms. Clay, did you have another question?

Ms. Clay – I did have another question. My other question is in terms of logistics. Is it possible, based on funeral home size, to determine a number of cases that have to be completed? Or is that just completely out of the box of thinking?

Ms. Schwantes – Ms. Clay, I think I would try to respond to That. From an operational standpoint, that would be very difficult to administer because it would be non-uniform and almost a case-by-case basis. Mr. Brandenburg, do you have your hands up? Is that in response to Ms. Clay's question?

Mr. Brandenburg – No.

Ms. Schwantes – I'm sorry. May I call on you in a minute then because there were a few people ahead of you?

Mr. Brandenburg – Ok.

Ms. Schwantes – I saw Mr. Jensen and Rabbi Lyons' hands up earlier and so I was going to call on them and then I'll come back to Mr. Brandenburg. I wasn't sure about whether he was responding to Ms. Clay. Mr. Jensen?

Mr. Jensen – Yes, in reference to Ms. Langford, I do have a question. How many embalmers do you have on staff?

Ms. Lankford – Yes, sir. Thank you for the question. I have two (2) licensed embalmers on staff. Well, three (3). I don't do it, but yes, I'm a licensed embalmer as well.

Mr. Jensen – Okay, thank you. Also, just to state here as I stated in the minutes when this was brought up, I do believe this is a serious issue in Florida and we're just talking about a training agency here or being able to have someone to train. Cremation has doubled in the thirty (30), forty (40) years since this law went into effect, so I would think it would be only appropriate. I don't know if I would go as low as ten (10), but perhaps we should consider lowering it in half to make it twenty (20) to assist some of these others or some of the funeral facilities that, you know, we do need more trained people, no doubt about it. And I do think that this is a viable solution and a viable subject to consider. Thank you.

Ms. Lankford – Thank you, Mr. Jensen. Just one thing, if I can. We have two (2) interns that will be coming on with us now. One (1) is in school and will be seeking internship probably in the next six (6) months to a year. The other is beginning internship with us in January. We have been a licensed funeral home in the State of Florida for seventy-two (72) years. Under the guidelines that we have now, we will no longer be able to operate as a training facility if this number has not changed. And again, that's due to the influx of the cremation, rise in cremation in Volusia County area. And I would like to train our own individual staff and not have them have to leave our facility to go somewhere else to be trained.

Ms. Schwantes – Thank you, both. Rabbi Lyons, you were up next.

Rabbi Lyons – Thank you very much. So, I'm under the impression that a person will be licensed as a funeral director and not an embalmer. And with that license, they could be the funeral director in charge even of a facility that does not provide embalming. Am I correct on both of those?

Ms. Schwantes – Ms. Lankford, do you want to address that? I didn't catch all of the question, unfortunately.

Rabbi Lyons – Number one is that there's such a thing as a funeral director who's not an embalmer.

Ms. Schwantes – Yes, that is correct.

Rabbi Lyons – And that licensee could even be the funeral director in charge of a funeral establishment that does not provide embalming.

Ms. Schwantes – That sounds right.

Rabbi Lyons – Were there Board members who were saying no to that? I guess what I don't understand is that if the practice of embalming is becoming less and less popular and a facility that would choose not to provide embalming wouldn't be in any way required to have anything to do with embalming, so then doesn't one problem solve the other? Leave the standard where it is. The facility needs to be doing a certain minimum amount in order to be able to train people in that practice. But behind door number two, you have plenty of opportunity. The students should be made aware of this reality so that maybe what they would pursue is a license as a funeral director and not an embalmer since embalming is becoming a thing of the past because of refrigeration and because of cremation. As far as the specific organizations that are represented over here, I don't really have good advice for you. I'm sensitive to your plight, but I don't know that that's a reason to change the rules. As far as the ability, the really compelling thing is that we need to have training facilities in order to train people, so it's good. Then maybe funeral homes will decide that they would rather not provide embalming in order to open themselves up to all these trainees since anyways they're doing so few embalmings to begin with because it's becoming a thing of the past.

Ms. Schwantes – Board members, do you have any other questions or comments on that? Chair Peeples?

Chair Peeples – Mr. Brandenburg was next if you don't mind, please.

Ms. Schwantes – Ok, I wasn't sure if you were responding to Rabbi Lyons or not. Mr. Brandenburg?

Mr. Brandenburg – Yes, are you calling upon me now?

Ms. Schwantes – Yes, sir, if you're ready.

Mr. Brandenburg – Thank you. First of all, I want to go on record as saying that I certainly agree with Ms. Lankford and Mr. Beckham's contentions and agree that there has to be something done to continue to be training agencies. The only thing that I would disagree with is in Ms. Lankford's letter where she asked if the number could be reduced to reflect the need per area or region of the state. I disagree with that, in that whatever may occur needs to be statewide in the entire State of Florida. But I do support looking into being able to address this during more modern times.

Ms. Schwantes – Thank you, Mr. Brandenburg. I saw Mr. Ferreira's hand up, I believe. Mr. Ferreira, you're on mute.

Mr. Ferreira – I certainly agree with Mr. Brandenburg when it comes to Ms. Lankford and Mr. Beckham that we certainly need to make some changes. I've been hearing this for many years, and I think it would behoove us to make some decisions on this and move forward on this. I do want to clarify that a funeral director can be FDIC over a location that does not have a prep room. So, it's not the fact that we're not embalming, it's just the fact that there's no prep room in that brick and mortar building basically. So, I just wanted to clarify that.

Ms. Schwantes – Thank you, Mr. Ferreira. I appreciate that. Chair Peeples?

Chair Peeples – Thank you, Ms. Schwantes. A thought maybe just to propose, I don't know if this is an option, but we have several different associations in our state. For instance, our family and our team here, we're members of the Independent Funeral Directors of Florida. And in the composition of our association, there are different regions, which may comprise several counties in these regions. So could possibly that be an option on the table to where like with Ms. Lankford where she is in the area that she is, there are other firms that could be approved training agencies to where an intern may be able to go to another firm to get the number of required embalmings that they need, which would give them access to other embalmers, because every embalmer has their own specific way of embalming, for instance. But I do honor and respect her comment about wanting to train her own people, because being independent, family-owned, as she is, we would want to do the same. But that was just one of the things I had thought about prior to this agenda item coming up today. But I do feel that it is good that we're talking about this because it has been in existence for a number of years. And my dad, when I spoke with him, he's a 67-year licensed director in the state, and he said he had to do forty (40), so just for reference purposes. Thank you, ma'am.

Ms. Schwantes – Thank you, Chair Peeples. I see in the chat that Kevin Davis had replied. He'd done a little research on it and wanted to let us all know that the intern training agency's rule was established in 1979 under old Chapter 470. I have no reason to doubt that at all. I was previously going to say that I knew that it had not been changed since at least 2005. So, Juhan Mixon is with the IFDF. He has also indicated he wants to speak on this topic, and I'd like to call on Mr. Mixon now. And Juhan, do you have your camera on?

Mr. Juhan Mixon – I think I have it on. Perhaps it's on now. Yes, the association is very concerned about this. I wholeheartedly agree with Cheryl and with Howard, Mr. Brandenburg. It's time to make a change. Funeral directing and embalming in the State of Florida has certainly changed over the years. We wholly support the training facilities in the state being local funeral homes, whether they're large ones like SCI or whether they're individual ones like the Peeples Funeral Home or Cheryl Lankford's Funeral Home. And it's time to make this change. I think the question is, can you reduce the number of embalmings without reducing the quality of the embalmer? And I would suggest to you that you can. Those are questions that I have asked program directors in the State of Florida as well as funeral homes. And they say you can, but whether it's ten (10) or as one member indicated, I think Mr. Jensen, perhaps, or whether it's twenty (20), it needs to be reduced to fit the times we live in. So, we fully support this, and we would ask the Board to move forward today with the second option, I think Ms. Schwantes mentioned, which would be rulemaking to simply change the number from forty (40) to a reasonable number. We would support ten (10). We would support twenty (20).

Ms. Schwantes – Thank you, Mr. Mixon. Do Board members have any further questions for any of those who have spoken so far?

Mr. Jones – Madam Chair, this is Ken Jones.

Chair Peeples – Yes, Mr. Jones. I don't see you anymore, so I apologize.

Mr. Jones – Yes, I'm sorry. I'm off the camera. I'm on my phone. But the one question I had, I agreed to look at the numbers. But my question was, I know this is a problem not only in Florida, but nationally. Have we, or could we consider checking with other states to see if they've reduced them and by what percentage? It would be interesting. Just a suggestion. Thank you.

Ms. Schwantes – Thank you, Mr. Jones. We have not researched this issue in other states. Honestly, I was waiting for it to be fleshed out a little bit more here and see what the Board's inclination was. But we would be happy to look into that if the Board wishes for us to do that. I see Mr. Jensen's hand up, so I'll call on him and then Mr. Ferreira. Mr. Jensen?

Mr. Jensen – Yes, just to piggyback on what Mr. Jones said. I'm also licensed in Alabama and theirs is twenty (20) in Alabama. And if we need to make a proposal, I will propose that we make it statewide to make it fair for everybody and make it twenty (20). Let's cut it in half. Absolutely. Thank you.

Ms. Schwantes – Mr. Ferreira?

Mr. Ferreira – Yes, I agree with Mr. Jensen, in regard to, you know, making it statewide. I like the number fifteen (15).

Ms. Schwantes – Ok, Board members, this is again, your opportunity to discuss this further and develop a recommendation if you have one or any other action or not take any action at all. Mr. Clark?

Mr. Clark – I might as well go on record that I'm supportive as well. I agree that it needs to be statewide, and we'd be comfortable with twenty (20).

Ms. Schwantes – Mr. Jensen, you had your hand up again.

Mr. Jensen – Yes, I'll make the proposal or a motion, whatever, that you take it to CFO Patronis and see where this can go with the statewide allowable at twenty (20).

Ms. Schwantes – We have a motion. Do we have a second?

Ms. Liotta – Second.

Ms. Schwantes – Thank you, Ms. Liotta. There's a motion, and there's a second. All in favor, say yes.

Board members – Yes.

Ms. Schwantes – Any opposed, say no.

Rabbi Lyons – No.

Ms. Schwantes – All right. The motion carries, and we will work on a recommendation to CFO Patronis and/or, again, it would be coordinated with Chair Peeples, and with our counsel, Ms. Munson. And when we talk later, I have a feeling this may be appropriate for Board action later as a change in the rule, but we will discuss that later. So, it will go by recommendation and thank you, Board members.

Ms. Lankford – Thank you for your consideration.

Ms. Schwantes – Thank you, Ms. Lankford. Thank you, Mr. Beckham, and Mr. Mixon, for your participation.

(2) Problems that mortuary school students are facing in accessing required courses

Ms. Schwantes – This topic was raised in the communication, from Cheryl Lankford, Lankford Funeral Home, Beatriz Cains, who is a student at St. Petersburg College, and Angela Awbrey, an apprentice at Stephenson-Nelson Funeral Home. All are present today. So, I'll start again with Ms. Lankford. Do you want to address the Board? Are you here just to answer questions?

(a) Raised by:

1. Cheryl Lankford, Lankford Funeral Home (July 27, 2022 email)

Ms. Lankford – Well, a little bit of both. Thank you. I appreciate that. With the new legislation that we've had this past year or so that allows people to have either a bachelor's degree or higher that can take a few of our classes, particularly mortuary law, students are finding it hard to be able to register for these classes. I think Mr. Beckham can probably answer that better than I can. They only teach specific courses at specific times, and as full as our colleges seem to be for mortuary science around the state, they're having a hard time getting in. So, if you have a bachelor's degree or higher, you can become basically like an intern funeral director and acting to help since we are having a problem hiring funeral directors and embalmers in the state.

Ms. Schwantes – Thank you, Ms. Lankford. Ms. Cains, I know you wanted to address the Board. As a reminder, please keep your initial comments brief.

2. Beatriz Cains, Student, Funeral Services and Arts, St. Petersburg College (February 23, 2022 Statement)

Ms. Beatriz Cains – Thank you for the opportunity. I would like to add, unfortunately, I continue to experience obstacles in registering for courses within the St. Petersburg College program. It has also inhibited my fellow classmates and I to graduate in a timely manner. We are experiencing waitlist after waitlist. There are times where we get lucky and other times where we are not so lucky. Currently, I am in waitlist again for the third time during my tenure. Having to experience this with the institution and the program, it has ultimately become unmotivating, a bit uninspiring, and exhausting to continue. Due to these issues, I have made a decision that because I do have a higher degree already in my previous experience as forensic toxicologist and autopsy, I'm going to settle with the funeral director certificate only. Thank you.

Ms. Schwantes – Thank you, Ms. Cains. Ms. Awbrey, I know you wanted to make some comments as well.

3. Angela Awbrey, Apprentice, Stephenson-Nelson Funeral Home (October 24, 2022 email)

Ms. Angela Awbrey – Yes, thank you for this opportunity to share my testimony. Angela Awbrey, A-W-B-R-E-Y. My drive to join the funeral industry was not on a whim. This has been a long-term goal of mine that I've waited for. I've strived to keep my 3.9 through fourteen (14) classes and I'm very grateful for everything that I have learned. I was warned during orientation that there were challenges in the registration process. I have encountered the challenge and I am pushed back two (2) semesters, which is a total of twenty-four (24) weeks of active schooling. I'm not sure when I will graduate. I'm not sure how this will affect my financial aid, and this experience mutes my hope as a student for when I'm going to graduate. It initiates stress and anxiety and some confusion. I feel that SPC could benefit from revising the registration process or possibly adding more professors. Thank you.

Ms. Schwantes – Thank you, Ms. Awbrey. Board members, before I call on others who have indicated they want to speak on this, do any of you have questions for either Ms. Lankford, Ms. Cains, or Ms. Awbrey? And I saw Mr. Jensen's hand up.

Mr. Jensen – Yes, thank you. Not so much as a question. I'm just, I'm questioning, this sounds like an SPC problem, because if you go on the ABSFE website and there are colleges all over the country where you can go online and get this taken care of. So, this sounds more like an SPC problem than it is a Board issue. So, I'm wondering what do these ladies want us to do about this? We have no control over SPC.

Ms. Schwantes – And Mr. Jensen, I appreciate you asking the ladies. I think that one of our next presenters may be able to address some of that. And then we also do have representatives from each of the schools who are online, and I believe they're also interested in speaking too. Before getting to them, Mr. Ferreira, you had your hand up.

Mr. Ferreira – I'll wait to hear the presentation.

Ms. Schwantes – Thank you, Mr. Ferreira. Juhan Mixon with IFDF indicated that he wanted to speak on this. Mr. Mixon, are you available?

Mr. Mixon – Yes, thank you, Ms. Schwantes. Yes, Madam Chair and members, thank you. This is a localized problem, perhaps caused by going virtual. And we have other schools that are going virtual. It's very easy to register and there's no limits to how many students can register. The colleges aren't putting limits on them. and it becomes then a fundraiser for the college, not necessarily the program. And so that is problematic. And I would like to address Mr. Jensen's issue. Why does it come to this Board? It's coming to this Board because policy makers, whether they're legislators or whether they're academic deans of colleges who have these programs under them, they respect the opinion of this Board with regard to the training and the professionalism of funeral directors and embalmers, et cetera, in the State of Florida. So, while you cannot tell St. Pete College or Miami or the college in Jacksonville what to do, your opinion, the fact that you're listening to this issue from students and from others is very, very important in their decision making because they believe in what you're doing. And if you express concern as a Board about training programs and students not being able to get the required hours to graduate in a reasonable time, they will listen to you. The governor will listen to you. The legislature will listen to you and the colleges will listen to you. So, your opinion, Mr. Jensen, while it will not directly change things, it does bring a serious issue to the forefront for them to consider. So, we urge you to continue your discussion on this and come to some consensus as a Board about your concern or you don't believe it's concerning, or however you want to approach it, but your opinion does matter.

Ms. Schwantes – Thank you, Mr. Nixon. As I said, we do have representatives from each of the mortuary schools onboard. I noticed that Joe Finocchiaro from Miami is on and has indicated he wanted to speak. Mr. Finocchiaro?

Mr. Joseph Finocchiaro – Good afternoon. Can you hear me, ok?

Ms. Schwantes – Yes, thank you.

Mr. Finocchiaro – So, one of the things, as a coordinator here in Miami, that we've noticed is students need classes and they need them now. And that doesn't necessarily fall into when we offer courses at the different schools. And the reason why we do that is because there are limits to the number of students who can be in a course, even in an online program. And that number is set by the accreditation standards of the American Board of Funeral Service Education. Lectures are capped at thirty (30). I have not had completely full law courses in probably two (2) years. I've always had at least a couple of seats left over. And that is something unique here in Miami. And during pandemic learning, we have been what would be a distance educator. So, we have benefited from the fact that a lot of people during the pandemic decided to come to school, learn new skills, learn new trades. But even with that pandemic learning, watching my program go from sixty (60) students to now over 200, it still becomes difficult to fill those classes to capacity, or at least to a point where the school makes a business decision to offer it or not. So, there was a comment about, you know, maybe we need more faculty. Well, certainly, that would be helpful in some circumstances. But that is highly dependent upon the state legislature funding those faculty lines. And in mortuary programs, that doesn't seat 4,000 or 5,000 students that, say, a nursing program would, so if it is a choice between hiring a full-time line for a massive program or a STEM field or something like that, mortuary science usually gets stuffed to the back. Another issue that mortuary schools are facing, not just in the State of Florida, but nationwide, is a lack of qualified people to teach at the schools. They have to meet the minimum educational credentials of the Florida Department of Education, and sometimes even higher accreditation bodies at the national level.

So, what I have seen is usually a student needs a class, can't get it at whatever location they're looking for, and then they need it that semester probably to make financial aid. And we have to offer our cohorts in such a manner that, one, we know those classes are going to fill. The unfortunate side effect is when we offer so many classes every semester so that everyone could get in there, the school makes a business decision that says, hey, we can't pay you as a professor to teach that with only six (6) people in the course. So, we are going to reduce what you get paid for that in order for you to offer the course, which means professors are then teaching seven (7), eight (8), nine (9), ten (10) courses in a semester. For my funeral director peers, this would be the equivalent of, hey, you know what, if you're not just working on ten (10) cases, we're going to pull other people's cases so we can make sure you get to your twenty (20). And that quickly can overburden because even if you're getting paid less for that call, you still have to put all the effort into the call that you would do with any other case. There's no difference between a $6,000 traditional and a $4,000 traditional. If you chose to give a $2,000 discount, that's on you. But you still have to assume all the liability and all the effort. And with limited personnel at the schools, we've run into those type of bottlenecks as well. The unfortunate truth is that it is not an easy answer. And there are some schools that have more students than others.

And there are some options some of those students can take advantage of, such as transient student status and things like that. But we, as the mortuary schools, cannot consider other needs of other mortuary schools, even in our own state, when plotting out our course curriculums that, oh, what happens if a Florida State College student needs this course? Or what if a direct disposer needs that Florida law course? Well, we're quite transparent as to when it's offered. And we welcome anyone who would like to contact the schools and get them into those courses that they need. That's the unfortunate truth. And I give the floor back to you, Madam.

Ms. Schwantes – Thank you, Mr. Finocchiaro. Mr. Davis or Mr. Beckham, I know you're both online. Do either of you have anything to add to those comments? I see Ms. Lankford's hand up, and then we'll go back to Board members. Yes, Ms. Lankford?

Ms. Lankford – Yes, I appreciate Joseph's comments. The one thing, I guess, that we've just heard recently is, you know, our governor is contemplating, because we don't have enough teachers in school, allowing veterans to come in and teach our students. Why would that be any different than if we're short of help in these schools in mortuary science? Why couldn't a person that has been a licensed funeral director for X number of years become an interim teacher as well to help teach these classes? And maybe Howard can answer the other part of this question. Some of these classes that could be taught, like the ones that if you have an associate degree or a bachelor's degree or higher, that you can take the three (3) classes and take the Board and become the interim funeral director. Why can't those be given in a format of not Zoom, but kind of an online class, all three together?

Ms. Schwantes – Thank you, Ms. Lankford. Mr. Beckham, did you want to anything?

Mr. Beckham – Thank you. I appreciate that. What Mr. Finocchiaro said is exactly right. Our program basically has the same funding or less funding than it had ten (10) years ago. So, we have not had an increase in funding in a decade in our program for what we do. As a matter of fact, I know every one of us that teach in Florida, we talk with each other, and every one of us take money out of our own pockets to take care of certain items that we need for teaching some of our classes, for instance, and usually don't get reimbursed. But that being said, there are certain requirements set forth by the American Board of Funeral Service Education, by the Department of Education in the State of Florida and the United States, set up in the way who can teach and how they can teach. I served for five (5) years as an adjunct back in the early part of my career, and one of the qualifications is I had to have a bachelor's degree to be accepted by the college to teach. Funeral directors, not a lot of them have bachelor's degree. They may be great funeral directors. I have brought in funeral directors from the community to come into my embalming class, but I can't turn them loose. I have to be there to observe because I'm totally responsible. They don't have the credentials, though they have the license, but they don't have the academic credentials to be over that class to sign off on the embalming they're teaching those students. I'm there to “supervise” in case something happens. I'm the one responsible, in other words, kind of like the FDIC in a funeral home. So, it's some of these situations or things that are basically out of our control because of other administrative processes that do exist. It's just, unfortunately, the way it is.

Now, as far as classes and such, we have very stringent requirements to get into our program. We have a set number of students we can admit. I do limit the number of technical certificate students that get into our program. Generally, depending upon the number of funeral service students who apply, I try to give first preference to the funeral service AA or AS degree students before I give technical students their opportunity to come in. And we try to, you know, not just look at their GPAs, their background, but also look at their testing scores. We have a test they have to take to get into the program. So, we're very selective on that. The goal is to get as many people through the program as we can. And the problem we've had a lot of times, and I was just looking over this earlier this morning about my review class statistics, there are a lot of students who get to the program and who just aren't going to be able to finish the program. That's a national average. You can look across the American Board of Funeral Service Education websites and see the number of people who get into the program, and then you see number of graduates, and you can see a big discrepancy in almost every program. So, it's no easy fix. And a lot of it is there for various reasons and different things. Each school, you know, you have to ask that school why that school, why that problem exists. And we've discussed this amongst ourselves. And you have to do certain things the school tells you to do. So anyway, it's not, I've wanted to let the students in. I've wanted to let veterans in. I wanted to let a lot of people in. And I sit there, and I try, and I look, and I go over to things, and I can't let them in the program because they don't meet the criteria. And that's something important. Thank you very much.

Ms. Schwantes – Thank you. Mr. Ferreira?

Mr. Ferreira – So, I understand that testing is another issue. Are we getting to that?

Ms. Schwantes – Yes. We will be talking about the National Board Exam at the next topic.

Mr. Ferreira – Ok.

Ms. Schwantes – Some school issues will come up again. Mr. Jensen?

Mr. Jensen – Yes. I'm just wanting to clarify. So, if I understand correctly, basically, Ms. Schwantes, you proposed to CFO Patronis that we allow more people to be able to teach. Is that what I'm understanding?

Ms. Schwantes – And let me turn this back over to Board members for further discussion, as needed. Mr. Jensen did correctly raise earlier that this is not a Chapter 497 issue per se, other than anything that affects the death care industry. Of course, I know the Board is interested in hearing about it. The Board has the option, as before, of not taking any action, suggesting that we make recommendations to the Department for further rulemaking, et cetera. Again, this does not fall within our purview in terms of rulemaking within Chapter 69K or Chapter 497 Florida Statutes. Another option would be to suggest the matter might be better addressed by the industry associations. You've heard from Mr. Mixon as to why at least IFDF believes that it's extremely important for the Board to address or have the opportunity to address the issue. And with that, I leave it to you all for further discussion. Mr. Ferreira?

Mr. Ferreira – Yes. I would like to know what the professors, Mr. Beckham, Mr. Davis, and the gentleman from Miami, want to see happen? You know, they're sitting in it every day. What do they want to see changed?

Ms. Schwantes – Thank you, Mr. Ferreira. I did have some extra comments that have come up to me in chat for people who want to speak. We'll just have a few more people. Mr. Finocchiaro, you did have something you wanted to clarify if you want to speak again, and we have not heard from Mr. Davis. I have not seen him, other than in chat, responding to some things. I've not seen him indicate he wanted to speak. So, Mr. Finocchiaro?

Mr. Finocchiaro – Thank you, Mary. Just very briefly, Governor DeSantis has proposed an initiative bringing in vets, people like that, to teach at the primary K-12 level. When you come into the college level, all the Florida schools are accredited by two (2) major bodies. There's a regional accreditor, which happens to be the Southern Association of Colleges and Schools, and there's also the American Board of Funeral Service Education. Both of these extra bodies basically give the power of the piece of paper you receive when you finish the merit to actually work. So, if you look at Florida Statute Chapter 497, it says that a candidate for licensure must be a graduate of an American Board of Funeral Service Education accredited school. If you bring in someone that is teaching a class that does not meet the teaching credential, you are in trouble with both your regional accreditor, which, in this case, we can refer to them as national accreditors. That's important because if you were in violation of your national accreditor, you lose the ability to use federal financial aid, or could lose the ability to use federal financial aid in order to have student tuition paid. And then you would also potentially lose your funeral service credential because you're not meeting the minimum standard of education. So, the governor cannot just wave a magic wand, create people, and say, hey, you can go teach at the schools. He could do that. We could hire them, and then our accreditation would likely be pulled or put on probation for just accepting people in. It is not an easy fix. Thank you, Mary.

Ms. Schwantes – Thank you very much. And I saw that Lisa Coney also wanted to speak. Lisa? Ms. Coney, are you still there?

Ms. Lisa Coney – Need to get my mic on. I purposely leave it off. This is a huge problem. It does seem much worse at St. Pete than at some of the other schools. I know many people that we've worked with, both through the association and through my employer, have opted for online programs because of an absolute inability to get classes they need. And it's not just one class. They might try multiple classes with no success. So, the young ladies that spoke about their experiences getting classes, it's not limited to them. This is a huge global problem affecting a lot of people. Just this week in an FCCFA meeting, I heard about a gentleman who's been trying to complete an education requirement for almost four (4) years, and an inability to get the classes he needs is the sole reason that he hasn't been able to go forward. So, when we talk about how this may or may not fall under 497, I think it falls under 497, you know, maybe not in a direct line, but certainly as it applies to our ability to use interns. Many students now with the law change a couple years back are allowed to apply for internship after they've completed half of their education. I would be afraid as a student to apply to be an intern during my education process if I had no idea if I

were going to be able to complete that process, and you're only allowed to be an intern once. So, there's probably people that could be working in funeral homes that are not because they're not going to become an intern if they can't complete their education. We heard from the student that said that she changed from a funeral director embalmer to a funeral director only track. That's great, and obviously there's less embalmings now. We've heard about that already, but that does limit her ability in her future to be a funeral director in charge of a facility that does have body handling tasks. So, we're putting these young professionals in a position to limit their lifelong careers, their callings, because of an inability to get an online class. I understand the school's presentations, but something absolutely has to be done. We are in a position. We've created a bridge for interns where their internship expires that they can continue. How are they going to use that?

We talk about the perfect storm that is brewing, the enormous need for licensed staff, the aging out of funeral directors, the age today is closer to retirement. We need these people to be able to learn and get onboarded. I would love to see meaningful rulemaking happen that looks at some of those ancillary things. There are multiple states that have less requirements, that have on-the-job training, that have certificate programs. I believe it was Connecticut last year that did away with the formal internship that they used to have just so that they could get people to work. More people are moving to Florida at an age where they're going to require our services. If we can't get help, licensed help, I believe licensees will be in the position of having to either perform illegal tasks with people who don't have the license necessary for those tasks or turn families away. Neither of those things is good for our profession or for the families that we serve. While the school, class size, and opening requirements, and all the hundreds of students that wait on their computer literally at 11:59 at night, so when the clock strikes midnight, maybe they can win the lottery and get into the class they need to complete their education, and sadly don't more often than do. That's a huge issue. What I think our task is to look at the ways that Chapter 497 can ease burdens and help get people that want to be in our profession in a responsible way, and there may be changes to intern or apprentice standards, or opportunities for on-the-job training for certain pieces of this that are currently required in a classroom setting. Maybe there are things that we can do as a profession in a rulemaking process. And for the record on all rulemaking, I have always really appreciated the old days when we had in-person rulemaking meetings where we had table conversation, where we could build consensus and understand what these issues are from all sides of the table. That hasn't happened in many years. This is a perfect example of maybe why an in-person rulemaking workshop would be a great benefit to all of us. Thank you for your time.

Ms. Schwantes – Thank you, Ms. Coney. We've now heard from everyone who indicated that they wanted to speak on this topic, and I want to turn it back over to Board members for either further discussion or what is your pleasure? Chair Peeples?

Chair Peeples – I have a question that kind of goes to all of the professors and program chairs that are on this video conference call today. Since the requirements are so involved and have to be approved by these two (2) accreditation-groups to be able to teach, can these programs get together to where FSCJ here in Jacksonville, St. Pete, and Miami to where that they offer to those students if they have online capability to where the students can go from program, you know, each different college? Don't know how. I know there's a lot of paperwork involved and a lot of dynamics, but that just was something that just came to my mind. I do think that we need to address this as we have this other item that has been brought up for discussion today. I think we need to have some kind of rulemaking workshop to kind of talk about this going forward. So, I don't know if there's other Board members that have comments to coincide with my suggestion.

Ms. Schwantes – Thank you, Chair Peeples. Mr. Ferreira?

Mr. Ferreira – I certainly think a face-to-face meeting would certainly be beneficial. I know when I was in school, it was a program at Miami-Dade, and you know, you entered the program this date, and you knew when you were going to graduate. You knew it was a program. It was already laid out, set out, and I could tell my employer I'm going to be out of school on this particular day. And it's hard for me to believe that we are waiting at 11:59 trying to get classes, and these folks can't get classes. I don't understand. I mean, maybe things have completely changed, but maybe look at a program. You know, you have to set classes on your first semester, and you go all the way through, and it's already laid out for you, so you know when you're going to graduate. As an employer, I want to know when my funeral director intern is going to be ready, and I look at that side too. Certainly, having a face-to-face meeting to hammer this out would be very important.

Ms. Schwantes – Thank you. Mr. Ferreira. Mr. Kevin Davis of St. Petersburg has just indicated he would like to speak on this. Mr. Davis, are you available?

Mr. Kevin Davis – This is Kevin Davis, D-A-V-I-S. It seems like we're getting bashed a lot here on the 11:59 deal. Okay, so St. Pete College used to run cohorts, and that's what you guys are talking about graduating on a specific time. Our enrollment went down immensely when we cohort them. Students want to take classes on their own schedule, and so we opened up our doors, let students come in, knowing that it was first-come, first-served, just like the students said, that enrollment was a challenge, and we opened our doors, and thus they came. Students don't want to go on a cohort situation here at St. Pete College. They want to go when they're ready. Many times, students step out due to, they have to take care of their parents, or their kids are sick, so they step out. So, they don't like the cohort plan. I would love to run cohorts. We come in we line your classes out, specifically you graduate on time. We also have students not being successful in classes. When you take a look at class success, lots of times we run about 75% to 80% class success. So, there's lots of issues that we're looking at here, and I want to also support Howard's deal. We haven't had an increase in tuition or funds to the college for over seven (7) years. We've increased our enrollment. Our faculty are teaching classes for free at St. Pete College, trying to meet the needs. We're at about 120% filled in the program right now, which is 20% more which we're not getting paid for. So, I just wanted to bring that out, that online allows great access for students, but it doesn't mean that there's unlimited seats for that. So, there's lots of challenges going on here. We would love to add more sections, but once again tuition does not cover the cost of the cost of instruction. It only covers about a third. The rest of it comes from the State, and until the State is interested in supporting these technical certificates and degrees, we're going to be challenged here. So, I just wanted to make statements on that. Thank you.

Ms. Schwantes – Thank you, Mr. Davis. Let me turn it back over to the Board members. Mr. Jensen, you have your hand up, and then perhaps it's appropriate for the Board to finalize its discussion on this. And Mr. Clark, I see you. Mr. Jensen?

Mr. Jensen – Yes, thank you. With what Mr. Davis just said, so I guess what he's asking is that we tell or suggest or something to the State that they recognize more of these trade type certificates. Is that what I'm to understand? Because I still don't understand. I understand what Ms. Coney said, but what she's saying directly contradicts schooling. She's saying lower the requirements so we don't have to do as much schooling, which would in turn hurt the schools. Again, this looks like a school issue. You know, I'm looking on the ABFSE website right now and St. Pete, I mean, 66% in 2021 are graduating, so that's well over half, so I don't know what we have to do with that. Still can't figure that out. If someone could explain that to me, I would appreciate it.

Ms. Schwantes – Thank you, Mr. Jensen. It may not be something that can get resolved on this call or answered or totally addressed on this call. Mr. Clark, you had your hand up.

Mr. Clark – I just wanted to kind of state for the group I completely agree that this is a challenge for us in the State of Florida. I think as a Board member, we would be remiss if we just say that this is up for the mortuary schools to figure out. I mean, we've heard very clearly each school has its unique challenges, and so I would fully support looking at rulemaking, getting together and discussing this further. I know I've had some pretty robust conversations with folks within the industry regarding the internship, and you know, we have apprentice embalmer. Why don't we have apprentice arranger? There's a lot I think that could be on the table that we've never considered, and we should.

Ms. Schwantes – Thank you, Mr. Clark. Madam Chair, there is an existing Rules Committee. It has not been called upon in quite a while. It had Mr. Brandenburg, Ken Jones, and Bill Williams on it. Since we have heard a number of Board members and others speak about possible rulemaking or committee review anyway, it may be appropriate to look at that Rules Committee again and either call upon those people again or reestablish it. I'm not sure what the appropriate action there would be, but I bring that to your attention.

Chair Peeples – Thank you, Ms. Schwantes, I think, maybe after this call, we can discuss that, if you don't mind.

Ms. Schwantes – Not at all. Is that the pleasure of the Board then to have the Committee review this further and make a recommendation back to the Board? That's kind of what I'm hearing, but I don't want to put words in your mouth.

Mr. Ferreira – It is for me.

Unidentified person – Yes, same for me.

Chair Peeples – I think, Ms. Schwantes, not only the committee, but us as a Board team so that we get everyone's thoughts, as well as our consumers there on the Board, because I'd like to have their thoughts and Rabbi Lyons'. So, I think it would be maybe a recommendation for us to move forward to do a possible workshop from that perspective. But if you don't mind, if you and I can kind of chat after the meeting and we'll kind of see what's best from a dialogue perspective.

Ms. Schwantes – Thank you, Chair. I'm certainly fine with that. My next question, really, and maybe Board counsel can address this, is do we need a motion?

Ms. Munson – You don't need a motion for a rule workshop, but I just wanted to clarify so there's no misconception that I believe what I heard in this discussion is that the first order of business would be for this committee, albeit the Rules Committee, to determine whether or not this falls within the purview of the Board regarding rulemaking at all. So, I just wanted that to be clear, especially for members of the public who have presented such compelling information as well.

Ms. Schwantes – Thank you, Ms. Munson. Ms. Clay, I couldn't tell whether you're raising your hand.

Ms. Clay – No. I apologize. I was adjusting my volume.

Ms. Schwantes – Understood. Thank you, ma'am. Okay. I think then that with what has been said, I will of course get with Chair Peeples about this after the meeting and we'll go further with it after that. So, thank you, Board. Thank you, everyone, for talking about that issue, those who came and presented as well as those who asked to speak on it later. And of course, the Board members.

(3) Requirements regarding National Board Exam in Florida

(a) Raised by:

1. Howard Beckham, Funeral Services Program Director and Professor, Florida State College at Jacksonville (see minutes from 8/4/2022 Board Meeting under "Public Comments")

Ms. Schwantes – Mr. Beckham is present today. Mr. Beckham, do you want to address the Board on this issue briefly?

Mr. Beckham – Yes, let me get my stuff up here.

Ms. Schwantes – Thank you, sir. Mr. Beckham?

Mr. Beckham – I think most of you were there and I don't need to rehash things. And I know that Ms. Paull is on the call too from the Conference of International Funeral Examining Boards, and I'm sure she'll have some comments and things to say. One of the great concerns around the American Board of Funeral Service Education among the mortuary schools in Florida have been declining pass rates that have occurred noticeably, especially in sciences, probably over the last ten (10) years or so. This last year's report that I noticed on The Conference's website, there was a little bit of an uptick. But before then, there was a series of years where there was almost 20% decline in test scores nationally. And The Conference is aware of some of the concerns from the different schools about that and whatever contributes to that, what those things may be. But what that ultimately does is test scores, though people don't like to admit it, have a large amount to do with the accreditation of a school. They're looked at, they're published, and they're reviewed, and you're held accountable for the National Board test scores. And if your test scores drop below a certain percentage, you get a nice letter from the American Board of Funeral Service Education to give an explanation of why your test scores have declined. And then if you have a decline in a number of years in a row, you can lose your accreditation. And so, it's happened to schools before, and schools have had to go back in and reapply and programs just close. So, the situation basically is, what's going on? Is there something going on with the National Board? Is this the psychometricians they use for writing the test questions? Not something that we are privy to. The practice exam that the National Board publishes for the students has no relationship to what the National Board actually is as far as the questions or the type of questions that are presented to the students. It does give information about what the categories are, and that's appreciated. And we wish more information was there and we get all these gobbledygook and legalese about why more transparency can't be given. We're just trying to understand things. And, you know, I've actually submitted or requested the test item writers, and maybe I can gain some understanding of how this system works. But some states have just had enough of this. And we have a variety of the fifty (50) states, and I do know we have fifty (50) states in the United States. Some of these states have different laws all together. Everything from no control over the funeral service programs and licensing in

those states to funeral directors are licensed different than embalmers. You don't have to go to school to become a funeral director. And even in some states, things like that, you can be an apprentice and learn. There's a variety of different options that are out there. I don't know what the one answer is.

Texas, Alabama, I believe Massachusetts, and perhaps some other states, I've heard Indiana, have gone and considered a state license where they have a state exam created by people from the mortuary schools in the state by funeral service educators to have a state laws and rules exam. We know now also to add the arts and sciences test just specifically to a particular state written by the education or educators inside that state. I don't know if there's a single one answer. I know one study I saw or privy to said that if the test scores were changed from the scoring of 75 to a 70 that a large number of students would pass. I know that I see these scores that we have for our students that don't pass and they're right on the cusp of passing. And we're trying to figure out what it is they're not doing or that we're not teaching that we can do. Kevin Davis, I'll slander you for a minute here. Kevin told me he's been teaching the same thing for thirty (30) years. Why are the scores going down? That's a good question. You know, I've only been teaching, you know, basically for a little over three (3) years now, and our scores are back on the uptake. But it's a concern of what's going on. And because one, we want to see these students be successful. We're not here to just fill seats. I'm here to fill funeral homes. That's what I'm here for. And I think that's the goal of all three of us. Gary Brown, who's another educator, is on the call. That's what we're trying to do is fill funeral homes. You know, I've read a lot of different things. I've looked at different things that different people have said. Something's going on and we got to find some sort of answer that's going to be working to help us to get the funeral directors to fill the seats where we know the train's coming. We can hear the engine. So that's basically where I'm at, is do we need to look at creating a state exam? Do we need to look at having The Conference, tell them Florida's going to accept a grade of 70? There are consequences for these things. What's going to happen to help us to staff our funeral homes with competent people for the future? We don't want to lower the standards. We want to get qualified people in there and we have to do it.

Ms. Schwantes – Thank you, Mr. Beckham. I think before we go on to Board discussion on this or questions, you may want to hear from Dalene Paull. Dalene Paull is with The Conference. She is online as well. Ms. Paull, if you want to go ahead and present.

Ms. Dalene Paull – Sure. Thank you, Madam Chair, and the Board. I just wanted to sort of put a face with the name for the International Conference, and to note that our typical point of contact is Ms. Simon in the office, but we are here to help answer any questions that the Florida Board might have regarding the exam. Mr. Beckham has brought up several points that I would just sort of boil down to say that we are happy to be a resource and answer any questions that the Board would have. That's probably more information than you all want to get into at the tail end of a long meeting that you've had. With regard to the pass rates on the National Exam, the National Exam has not changed. Talking about the pass rates and potential downward spiral of the pass rates, we put a lot of information online as far as by individual programs. So, you can see those program pass rates. You can see the national pass rate. We also have noticed a decline across national licensing exams, not just in funeral service, and the pass rates due a lot to the pandemic, and online learning for people that were in-person learners and that sort of thing. So, there are a lot of reasons that we do see the pass rate being lower. It's not a 20-year situation, as was suggested by any means. But those statistics or any reporting that you all would like to see, we're happy to share that with you or, like I said, answer any questions. It's important to note that typically the enabling legislation for any particular state Board talks about the mandate of public protection. And so, when you talk about the examination and whether you would lower the pass rate or whether you would lower the standard of what it takes to be a minimally competent funeral service professional, those are not complicated ideas. Mr. Beckham, I think, was trying to reference psychometricians, which are the people who look at the statistical data behind the items on every exam that we do. And psychometricians are employed to help make the exams legally defensible. There's no smoke and mirrors there. It's a term that you can Google, and it's a job that is done for every licensure exam out there. It doesn't matter if it's nursing, funeral directors, architecture. Psychometricians are involved in all of that. So again, it's a complicated discussion. He mentioned Gary Brown has done some work for us. Kevin Davis was actually part of our Board for a short time. So many of the other educators have volunteered time and spent time understanding a little bit more about the exam process, and we always welcome them to do that. So, with that, if anyone has any questions or if there's anything that we can address for you after this meeting, we're very happy to do that. And again, there's a lot of discussion that Mr. Beckham brought up, that other states are looking at doing different things, and those discussions are taking place, for sure. But that is completely with, like, for instance, Indiana. We've been invited there specifically to speak on this, and the Board is setting aside time just to talk about the exams with all the stakeholders and their entire licensure scheme. It's not just about “getting rid of the exam” and that sort of thing. So, I just bring that up just for

background reference. And again, we're happy to put a face with the organization and answer anything that you all might have.

Ms. Schwantes – Thank you, Ms. Paull. Board members, what is your pleasure? Mr. Jensen?

Mr. Jensen – Yes, I was just wondering, Ms. Schwantes, does the Department have any sort of stance as to the Florida Laws and Rules test versus the National Boards? I hear more people have problems with the Florida Laws and Rules test than they do with the National Boards, so I'm just kind of curious. What is the pass rate there?

Ms. Schwantes – Thank you. I don't have those at my fingertips. We did present those to the Board last spring, I believe it was, and they're part of the Board minutes. But those would probably have been for the prior year. We'd have to go back and take a look and would be glad to present that to the Board at another meeting.

Mr. Jensen – Ok, follow up, please? Who sets the 75%? Is that set by the State? By the Department?

Ms. Schwantes – Ms. Simon, isn't that statutory? You're muted.

Ms. Simon – Yes. I believe it is statutory, but I believe that's also what The Conference considers a passing rate.

Ms. Schwantes – Mr. Jensen, and then I think Mr. Ferreira has something to add.

Mr. Jensen – Ms. Paull, if The Conference sets that, is that set nationwide or is that individual states depending on what they want? Is that number set nationwide for the national Boards, a 75 percentile?

Ms. Paull – It's actually not 75%. It's a scaled score of 75, and it is set nationwide. We actually just had the standard setting meeting, which is a group of licensees from across the country that comes together to set the ability level at minimum competency calibration for the National Exam program as a whole. So, it's a nationwide applicable standard, and that's what allows you to have the mobility across state lines and to transfer your passing score. And that's one of the big reasons that states use the National Exam. The other is because, again, it's done according to legally defensible processes. So, if anyone were ever to challenge it in court, The Conference defends that and defends the process, how that passing standard was set. And it's all done entirely by licensees that are licensed as both funeral directors and embalmers and have passed the National Board exam in the past. And when you reference if a particular state could lower that, there was a point in time where Alabama, very early on, say, probably twenty (20) years ago, accepted a 70 on the exam. So, the states do have that ability if they want to. If it's not statutorily set, it be that higher 75 standard. All that does is restrict your mobility across state lines if you accept a lower standard.

Ms. Schwantes – Thank you, Ms. Paull. Mr. Jensen, I know you have your hand up again, but I think Mr. Ferreira had his hand up earlier. Can I come back to you? Mr. Ferreira?

Mr. Ferreira – Does The Conference supply a study guide? When I was in school, we called it the Funeral Service Compound. It was a big book, you know, about an inch thick that we just, you know, studied, studied, studied, studied. Is that kind of material out there for these students?

Ms. Paull – It is. We still produce a study guide, and we have two (2) versions of a practice exam that they are able to take to prepare. We share with them. I hope some of you all were able to participate in the job task analysis survey that we did earlier this year. So, the exam is based on a nationwide survey of practitioners as to the actual job that you do as funeral directors and embalmers. And then that information is sent back, that is analyzed by licensees. And that becomes what we refer to as the blueprint for the exam. So, no item on the exam appears without being tied to a blueprint that is also given to the candidates that can be found in that study guide that tells them exactly what information they're going to be tested on. All items on the exam are also tied to the curriculum from the American Board of Funeral Service Education. And they're also tied to a reference book that is on an approved textbook list that is put together based on not just the number of mortuary science programs that use a textbook, but the actual number of candidates who use a textbook. So those are all the things that are out there for candidates to use. Yes.

Ms. Schwantes – Thank you, Ms. Paull. Mr. Jensen, you had one more question?

Mr. Jensen – Yes, I was just wanting to follow up with Ms. Paull there. So, have you had any other states, you know, I think Mr. Beckham may be on the right path here of maybe lowering that percentile just a hair to, you know, maybe 70 to get more funeral directors out there? And that may be a good solve for us. But have you had other states considering lowering that as this is a nationwide problem?

Ms. Paull – We've had some states ask about it. And I will say that in the discussion becomes a little complicated because mostly people don't want to lower the standard, but they want just more people to pass the exam. And so, it becomes a little bit of an intricate discussion because the standard is set at that minimum competency level. So, when you talk about the pass rate being lower, you have to you have to look at the things. I see Mr. Ferreira shaking his head. I'm not sure what it is. I'm saying, that's it. The pass rate on the exam is it takes a lot of focus. But the reality is you heard Mr. Beckham himself just talk about the fact that they have entrance requirements, and they can't accept just everyone into the program. And the state Boards that use the exam as part of the licensure process do so because their mandate is public protection. It's not about if you have people, and also even the American Board is not even looking at the statistics on the exam for accreditation for the past couple of years, because they are saying that there was a loss of learning, and these students are struggling, and they don't find it fair to hold the particular school's accreditation accountable to that. And that was a decision made by the American Board. So again, if you're sort of interested in the testing industry, you're seeing loss of learning being a problem. It's not unique to funeral service. And so, it's more than just a low passing rate. It's a bigger discussion than that. It really is. It's about minimum competency. It's about public protection. It's about the profession is having, you know, a problem getting people in. But every profession I know of is having these same discussions. These things are not just unique to funeral service.

Mr. Jensen – That's sort of what I suspected. Thank you, Ms. Paull. Thank you for answering that.

Ms. Schwantes – Thank you. I don't see any others with questions on this. So, it would be an appropriate time at this point, if there's no further discussion for the Board to, again, not take action, take action. What is your pleasure? Chair Peeples, do you have suggestions?

Chair Peeples – As with the other two (2) items that we have discussed under agenda item W, this item needs to be moved forward and the discussion continued from this perspective. And I'm not sure if this is going to be a rules workshop item. May we do this, Ms. Schwantes and Ms. Simon? May we be able to kind of talk after this meeting and then present to the Board what are some options going forward? Would that be appropriate?

Ms. Schwantes – It's certainly appropriate. Absolutely.

Chair Peeples – Thank you, ma'am, and I appreciate you taking care of this section of the agenda.

Ms. Schwantes – Thank you, ma'am.

Chair Peeples – Ms. Simon, do we need to continue on? Would you like to continue on with the agenda items, please?

Ms. Simon – Madam Chair, I believe that the next item on the agenda is Public Comment.

X. Public Comments (Verbal)

Ms. Simon – Is there anybody on the line that would like to speak as to public comment? Hearing no response. Madam Chair?

Y. Upcoming Meeting(s)

(1) December 1st (Videoconference)
(2) January 5th (Videoconference)
(3) February 2nd (Videoconference)
(4) March 2nd (Videoconference)
(5) April 4th (Tallahassee)
(6) May 4th (Videoconference)

(7) June 29th (Videoconference)

Z. Adjournment

Chair Peeples – Yes, ma'am. Thank you, Ms. Simon. I just want to reflect for the record at two o'clock Rabbi Lyons and Mr. Brandenburg had to depart, so they were not on this call, for the last 38 minutes, which is now at 2:38, I just want to reflect that in the minutes. And thank you for everybody that has participated today. For the educators, the public, the licensees, Ms. Paull, thank you for your participation also, and we will be adjourned at 2:38 on Thursday. Thank you.

The meeting was adjourned at 2:38.