

MINUTES
BOARD OF FUNERAL, CEMETERY AND CONSUMER SERVICES
BOARD MEETING
OCTOBER 12, 2023 - 10:00 A.M.

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

Ms. Jill Peeples – Good morning. This is the Board of Funeral, Cemetery, and Consumer Services Board meeting. It is October 12, 2023, and we're in St. Augustine FL. I'd like to call the meeting to order and turn it over to Ms. Simon.

Ms. Ellen Simon – Thank you, ma'am. Good morning. My name is Ellen Simon. I am the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is October 12, 2023, and it is approximately 10:00 A.M. This is a public meeting of the Board of Funeral, Cemetery, and Consumer Services. This meeting is being held in person at the World Golf Village Renaissance St. Augustine Resort, located in St. Augustine FL. 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 and information concerning this Board meeting has been made available on the Division's website. Ms. LaTonya Bryant is recording the meeting and minutes will be prepared. Persons speaking are requested to identify themselves for the record each time they speak. Participants are respectfully reminded that the Board's Chair, Ms. 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 in your Board packages and instead base your decision solely on information provided in your package 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 made aware that if Public Comment is used as an attempt to relitigate a matter that is heard on this agenda, the Board will be instructed that the comment is not appropriate for a Public Comment item and should not be considered for further discussion. Madam Chair, at this point I will take the roll:

Jill Peeples, Chair
Andrew Clark, Vice Chair
Joseph "Jody" Brandenburg
Sanjena Clay
Vincent "Todd" Ferreira **{EXCUSED}**
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
LaTonya Bryant, Department Staff
Crystal Grant, Department Staff
Kimberly Marshall, Department Legal Counsel
Jared Woliver, Department Legal Counsel

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

Chair Peeples – Thank you, ma'am, and welcome to everyone in the audience. I'm not sure if we have any students from FSCJ Mortuary Program in Jacksonville, but if you're here representing, welcome. Ms. Simon?

B. Disciplinary Proceedings

(1) Settlement Stipulation (Probable Cause Panel B)

(a) Related Cases – Division No. ATN-40280

1. Guerry Funeral Home: DFS Case No. 306763-23-FC; Division No. ATN-40280 (F040535)

Ms. Simon – Thank you, ma’am. Presenting for the Department is Ms. Marshall.

Mr. Darrin Williams – Madam Chair?

Chair Peeples – Yes, sir, Mr. Williams?

Mr. Williams – I would like to recuse myself as I served on Probable Cause Panel B for items (1) (a), (1) (b) and (3).

Chair Peeples – Thank you, Mr. Williams. Ms. Marshall?

Ms. Kimberly Marshall – Thank you, Madam Chair. Good morning, Board members. Guerry Funeral Home (“Respondent”) is a funeral establishment and apprentice/intern training agency holding license number F040535 and doing business in Macclenny, Florida. The Department conducted an investigation of Respondent and found as follows: Respondent’s owner maintained an unlicensed cinerator facility on the premises of another funeral establishment. Respondent utilized this facility to conduct one or more cremations. The disciplinary guidelines for this violation provide as follows:

- Count I: *Aiding, assisting, procuring, employing, or advising the operation of an unlicensed establishment*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$1,500, and Respondent’s license shall be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation in resolution of this matter, and I’m available to answer any questions. Thank you.

Chair Peeples – Ms. Simon, did you have a question?

Ms. Simon – Actually, I’m not sure if I asked in the beginning of your presentation, Ms. Marshall, but is a representative of Guerry Funeral Home here today?

Mr. Luke Grabowski – Good morning, Madam Chair. Luke Grabowski on behalf of the Guerry Funeral Home, William Guerry and Brittnee Milton, which are the next four (4) items on the agenda.

Chair Peeples – Thank you, Mr. Grabowski.

Mr. Grabowski – And I’m just here to answer any questions the Board may have.

Chair Peeples – Thank you, sir. Board members, do you have any questions for Mr. Grabowski? Would you like to present anything to the Board?

Mr. Grabowski – I just want to say that we are very appreciative of the Division and the Division’s staff for working with us on this. Obviously, this is a set of cases all sharing the same operative facts, a very significant violation. We appreciate the Division working with us. We’re appreciate for the opportunity for Mr. Guerry to make up for this mistake through the disciplinary actions that have been proposed, and we appreciate the Board’s time this morning.

Chair Peeples – Thank you, sir. Board members, we need to have a motion to accept the Settlement Stipulation. Mr. Brandenburg?

MOTION: Mr. Jody Brandenburg moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,500 and Respondent’s license shall be placed on probation for one (1) year. Mr. Ken Jones seconded the motion, which passed unanimously.

2. Milton, Brittnee Nicole: DFS Case No. 306765-23-FC; Division No. ATN-40280 (F074152)

Ms. Simon – Mr. Grabowski is here to represent Ms. Milton. Presenting for the Department is Ms. Marshall.

Ms. Marshall – Thank you. Brittnee Nicole Milton (“Respondent”) is a funeral director and embalmer licensed under Chapter 497 and holding license number F074152. At all times material to this case, Respondent was the funeral director in charge of Guerry Funeral Home (“GFH”), a funeral establishment and apprentice/intern training agency holding license number F040535 and doing business in Macclenny, Florida. The Department conducted an investigation of GFH and found as follows: GFH’s owner maintained an unlicensed cinerator facility on the premises of another funeral establishment. GFH utilized this facility to conduct one (1) or more cremations. As the funeral director in charge of GFH, Respondent is responsible for this violation. The disciplinary guidelines for this violation provide as follows:

- Count I: *Aiding, assisting, procuring, employing, or advising the operation of an unlicensed establishment*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$1,500, and Respondent’s license shall be placed on probation for one (1) year. The Department requests that the Board accept this Settlement Stipulation in resolution of this matter, and I’m available to answer any questions. Thank you.

Chair Peeples – Board members, any questions for Ms. Marshall or Mr. Grabowski? Mr. Brandenburg?

Mr. Brandenburg – Does the probation affect the ability to remain funeral director in charge?

Chair Peeples – Ms. Marshall?

Ms. Marshall – No, it does not.

Mr. Brandenburg – Thank you.

Chair Peeples – Thank you, Mr. Brandenburg. Again, any questions for Ms. Marshall or Mr. Grabowski?

MOTION: Mr. Jones moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$1,500 and Respondent’s license shall be placed on probation for one (1) year. Ms. Janis Liotta seconded the motion, which passed unanimously.

(b) Related Cases – Division No. ATN-40164 and ATN-41000

- 1. Guerry Funeral Home: DFS Case Nos. 304779-23-FC and 308191-23-FC; Division Nos. ATN-40164 and ATN-41000 (F040974)***

Ms. Simon – Mr. Grabowski is here to represent the entity. Presenting for the Department is Ms. Marshall.

Ms. Marshall – Thank you. Guerry Funeral Home (“Respondent”) is a funeral establishment and apprentice/intern training agency holding license number F040974 and doing business in Lake City, Florida. The Department conducted an investigation of Respondent and found Respondent maintained an unlicensed cinerator facility on its premises and operated this facility for an extended period of time. The disciplinary guidelines for these violations provide as follows:

- Case No. 304779-23-FC, Count I: *Practicing or offering to practice beyond the scope permitted by law*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.
- Case No. 308191-23-FC, Count I: *Conducting, maintaining, managing, or operating an unlicensed cinerator facility*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$5,000 and Respondent’s license shall be placed on probation for two (2) years. Further, Respondent shall be restricted from selling or offering to sell cremation services to the public until either Respondent obtains a license for its cinerator facility or Respondent sells its retort and successfully petitions the Board to lift the restriction. The Department requests that the Board accept this Settlement Stipulation in resolution of this matter, and I’m available to answer any questions. Thank you.

Chair Peeples – Board members, any questions for Ms. Marshall or Mr. Grabowski? Rabbi Lyons?

Mr. Jay Lyons – Thank you. Good morning, everyone. I thought I saw an application for cinerator facility. That’s going to be a separate item, right? They applied to have a licensed cinerator facility?

Chair Peeples – Ms. Simon?

Ms. Simon – That is not on the table today. No, sir.

Ms. Marshall – That application was heard at the March Board meeting, and it was denied.

Rabbi Lyons – Thank you.

Chair Peeples – Ms. Marshall, I have a question. Our coversheet states that the Respondent shall be restricted from selling or offering to sell cremation services to the public until either Respondent obtains a license for its cinerator facility. Mr. Grabowski, this may be addressed by you, as representative of the entity. Do they plan to reapply? Where are we in that process?

Mr. Grabowski – Yes, Madam Chair. We do plan to reapply and come before the Board to have a discussion, but we are well aware of the terms of the stipulation.

Chair Peeples – Thank you, sir.

Mr. Grabowski – Thank you.

Chair Peeples – Board members, your pleasure?

MOTION: Mr. Chris Jensen moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$5000 and Respondent’s license shall be placed on probation for two (2) years. Ms. Sanjena Clay seconded the motion, which passed unanimously.

Chair Peeples – Thank you.

2. *Guerry, William Lee: DFS Case Nos. 304782-23-FC and 308192-23-FC; Division Nos. ATN-40164 and ATN-41000 (F040044)*

Ms. Simon – Mr. Grabowski is here to represent the Respondent. Presenting for the Department is Ms. Marshall.

Ms. Marshall – Thank you, Ms. Simon. William Lee Guerry (“Respondent”) is a funeral director and embalmer holding license number F040044. At all times material to these cases, Respondent was the funeral director in charge of Guerry Funeral Home (“GFH”), a funeral establishment and apprentice/intern training agency holding license number F040974 and doing business in Lake City, Florida. The Department conducted an investigation of GFH and found as follows: GFH maintained an unlicensed cinerator facility on its premises and operated this facility for an extended period of time. As the funeral director in charge of GFH, Respondent is subject to discipline for these violations. The disciplinary guidelines for these violations provide as follows:

- Case No. 304779-23-FC, Count I: *Practicing or offering to practice beyond the scope permitted by law*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.
- Case No. 308191-23-FC, Count I: *Conducting, maintaining, managing, or operating an unlicensed cinerator facility*: Reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation of the license.

Respondent has entered into a proposed Settlement Stipulation. The proposed stipulation provides that Respondent shall pay a fine of \$5,000.00 and Respondent’s license shall be placed on probation for two (2) years. Further, Respondent shall be

restricted from selling or offering to sell cremation services to the public until either Respondent obtains a license for its cinerator facility or Respondent sells its retort and successfully petitions the Board to lift the restriction. The Department requests that the Board accept this Settlement Stipulation in resolution of this matter, and I'm available to answer any questions. Thank you.

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

Rabbi Lyons – This is the individual funeral director in charge, correct?

Ms. Marshall – Yes.

Rabbi Lyons – So, the language that Respondent shall be restricted from selling or offering to sell cremation services to the public until either Respondent obtains a license for its cinerator facility...

Ms. Marshall – I'm sorry. It should be the cinerator facility.

Rabbi Lyons – He is the owner?

Ms. Marshall – He is the owner, yes.

Rabbi Lyons – Ok. Just to be clear. Let's say he chooses a different course and moves on never get licensed and works for a funeral home. He would in perpetuity now be able to sell a cremation package because he never got his cinerator facility license. Correct?

Ms. Marshall – It's either until the cinerator facility is licensed or until the retort is sold and he petitions the Board to lift the restriction. So, he would always be able to come back and petition to have that restriction removed.

Rabbi Lyons -So, this is restricting the facility, not the individual?

Ms. Marshall – It's both. You previously approved the establishment's settlement. This is for Mr. Guerry. We are asking him to be under a similar restriction.

Rabbi Lyons – Ok, thank you.

Chair Peeples – Does that complete your questions, sir?

Rabbi Lyons – I believe so.

Chair Peeples – Thank you. Any other Board member have questions of Ms. Marshall or Mr. Grabowski? Your pleasure?

MOTION: Ms. Liotta moved to accept this Settlement Stipulation, which provides that the Respondent shall pay a fine of \$5000 and Respondent's license shall be placed on probation for two (2) years. Mr. Jensen seconded the motion, which passed unanimously.

Mr. Grabowski – Thank you, Madam Chair. I appreciate it.

Chair Peeples – You're welcome, sir. Thank you for being here.

(2) Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel A)

(a) Related Cases – ATN-40164 and ATN-40535

1. Brown, Sandra: DFS Case No. 307399-23-FC; Division No. ATN-40535 (F389851)

Ms. Simon – Presenting for the Department is Mr. Woliver.

Mr. Jones – If I may, Madam Chair? I served on Probable Cause Panel A for items (2) (a) and (2) (b), so I would like to recuse myself.

Chair Peeples – Thank you, Mr. Jones. Mr. Woliver?

Mr. Jared Woliver – Thank you. Good morning, Board. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Saundra Brown (Respondent). The Division alleges Respondent advertised preneed services on their website without a corresponding preneed 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 in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has submitted a timely request for an informal hearing.

MOTION: Mr. Andrew Clark moved that Respondent was properly served with the Administrative Complaint and has submitted a timely request for an informal hearing. Mr. Williams seconded the motion, which passed unanimously.

Ms. Simon – Is Ms. Brown or a representative in the audience today. Hearing no response.

Mr. Woliver – Even though she’s not present today, I will mention for the record that at two (2) previous instances, in video conference, Ms. Brown did make the effort to appear before her case was withdrawn before the Board. So, I just wanted to advise the Board that she had appeared twice before this. The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Ms. Liotta moved that there are no material facts in dispute in this case. Mr. Williams seconded the motion, which passed unanimously.

Mr. Woliver – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

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

Mr. Woliver – The Department is offering 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chair to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

MOTION: Ms. Liotta 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. Woliver – Finally, I include that the disciplinary guidelines for this violation provide as follows:

- Count I: *Advertising preneed services without a preneed license:* A reprimand, fine of \$1,000-\$2,500 plus costs. In addition, probation for six (6) months to one (1) year with conditions, suspension up to one (1) year, permanent revocation of license, and/or restitution may be imposed.

Chair Peeples – Board members, your pleasure?

Ms. Simon – May I?

Chair Peeples – Yes, Ms. Simon.

Ms. Simon – In the past, I just wanted to let the Board members know that what we have done previously is when it comes to matters of this nature, if there is no prior history, which there is not in this case, then the penalty against the entity is a \$1,750

fine and one (1) year of probation. And against the individual is a \$1,250 fine and one (1) year of probation. I'm not suggesting that for this case. I'm just giving the Board some history.

Chair Peeples – Thank you, Ms. Simon. Board members, your pleasure? Mr. Brandenburg?

Mr. Brandenburg – Is there any restitution or refund on any preneeds that were written?

Mr. Woliver – Not to my knowledge. They pulled the advertisement as soon as they found out about the violation. I don't believe that any preneed contract took place.

Mr. Brandenburg – No preneed was written?

Mr. Woliver – Not to my understanding.

Mr. Brandenburg – Before the violation was issued?

Mr. Woliver – That's right.

Mr. Brandenburg – Thank you.

Chair Peeples – Thank you, Mr. Brandenburg. Any other questions for Mr. Woliver? Any further discussion? Board members, what's your pleasure on the penalty phase?

MOTION: Mr. Jensen moved that the Respondent shall pay a fine of \$1,250 and Respondent's license shall be placed on probation for one (1) year. Ms. Clay seconded the motion, which passed unanimously.

2. J Brown Funeral & Cremation Services, LLC: DFS Case No. 307398-23-FC; Division No. ATN-40535 (F591779)

Ms. Simon – Is there a representative of this entity here today? Hearing no response. Presenting for the Department is Mr. Woliver.

Mr. Woliver – J Brown Funeral & Cremation Services, LLC ("Respondent") is a funeral establishment, licensed under Chapter 497, Florida Statutes, license number F591779. The Division alleges Respondent advertised preneed services on their website without a corresponding preneed 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 as a waiver, and requests the Board adopt the factual allegations in the Administrative Complaint and issue an appropriate penalty in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and failed to timely respond thus waiving the right to elect a method of resolution in this matter.

Chair Peeples – Thank you, sir. Board members?

MOTION: Ms. Liotta moved that Respondent was properly served with the Administrative Complaint and failed to timely respond thus waiving the right to elect a method of resolution in this matter. Mr. Clark seconded the motion, which passed unanimously.

Mr. Woliver – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Jensen moved that there are no material facts in dispute in this case. Mr. Williams seconded the motion, which passed unanimously.

Mr. Woliver – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

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

Mr. Woliver – The Department is offering 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. Now that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

MOTION: Ms. Liotta moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Mr. Woliver – Finally, I would include the same disciplinary guidelines as before, which provide as follows:

- Count I: *Advertising preneed services without a preneed license:* A reprimand, fine of \$1,000-\$2,500 plus costs. In addition, probation for six (6) months to one (1) year with conditions, suspension up to one (1) year, permanent revocation of license, and/or restitution may be imposed.

Chair Peebles – Board members?

Rabbi Lyons – Were there any preneed contracts written?

Mr. Woliver – Not to my knowledge.

MOTION: Mr. Jensen moved that the Respondent shall pay a fine of \$1,750 and Respondent’s license shall be placed on probation for one (1) year. Ms. Clay seconded the motion, which passed unanimously.

Chair Peebles – Thank you, sir.

Mr. Woliver – Thank you, Board members.

(b) *Lee, Justin Tyler Thomas: DFS Case No. 279222-21-FC; Division No. ATN -35709 (F237232)*

Ms. Simon – Is Mr. Lee or a representative of Mr. Lee here today? Hearing no response. Presenting for the Department is Ms. Marshall.

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Justin Tyler Thomas Lee (Respondent). The Division conducted an investigation of Respondent and alleges as follows: Respondent is a licensed funeral director and embalmer, holding license number F237232. Respondent was previously employed by Covenant Mortuary, Inc., a formerly licensed funeral establishment which held license number F073044 and whose license was voluntarily cancelled as of April 16, 2019. In October 2020, Respondent assisted Covenant with funeral arrangements for one (1) decedent. In doing so, Respondent aided, assisted, procured, employed, or advised any person or entity to operate or in operating an establishment regulated by Chapter 497 without the required licensure. The disciplinary guidelines for these violations are as follows:

- Count I: *Aiding, assisting, procuring, or advising the operation of an unlicensed establishment:* reprimand, fine of \$1,000 to \$2,500 plus costs, probation six (6) months to one (1) year with conditions, suspension up to one (1) year, or permanent revocation.

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 in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has submitted a timely response for an informal hearing.

MOTION: Mr. Clark moved that Respondent was properly served with the Administrative Complaint and has submitted a timely response for an informal hearing. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Ms. Liotta moved that there are no material facts in dispute in this case. Mr. Williams seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

MOTION: Ms. Liotta moved to adopt the allegations of fact as set forth in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – Is Mr. Lee here today? Not seeing any. The Department is offering 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

MOTION: Ms. Clay moved to find the Respondent in violation of the statutes as charged in the Administrative Complaint. Ms. Liotta seconded the motion, which passed unanimously.

Ms. Marshall – Now as to the penalty recommendation, the Department's recommendation in this case is a fine of \$1,500 and one (1) year of probation.

MOTION: Rabbi Lyons moved that the Respondent shall pay a fine of \$1,500 and Respondent's license shall be placed on probation for one (1) year. Mr. Jensen seconded the motion.

Chair Peeples – Any discussion on the motion?

Ms. Clay – Before we move forward, can we get a little history of what has been previous fines in terms of this, and the probationary time for similar offenses?

Chair Peeples – Ms. Simon or Ms. Marshall?

Ms. Marshall – The historical discipline that Ms. Simon has shared on the previous case was with the preneed advertising, which is a very common violation that you all see, so there is a standard penalty for that. This is a little bit more of an unusual case, so we don't have that sort of history to give.

Chair Peeples – Ms. Clay, does that assist you?

Ms. Clay – That answers the question.

Chair Peeples – Any other discussion on the motion? Hearing none. All those in favor of the motion say yes.

Board members – Yes.

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

- (3) *Motion for Determination of Waiver and for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Probable Cause Panel B)***
 - (a) *Related Cases – Division No. ATN-39222***
 - 1. *Macon, Richard Ezell: DFS Case No. 305187-23-FC; Division No. ATN-39222 (F047905)***

Ms. Simon – This matter has been withdrawn from the agenda and will be placed on a future agenda.

2. Samuel's Funeral Home, Inc.: DFS Case No. 305186-23-FC; Division No. ATN-39222 (F074729)

Ms. Simon – Is there a representative of Samuel's Funeral Home here today? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Samuel's Funeral Home (Respondent). The Division conducted an investigation of Respondent and alleges as follows: At all times material to this case, Respondent was a licensed funeral establishment holding license number F074729. Respondent employed a preneed sales agent whose assignment to the establishment had expired for approximately five months. Respondent displayed caskets for sale in a catalog which were not labeled with prices. Further, Respondent's monthly Report of Bodies Handled for the months of October 2021 through February 2022 were incomplete because they lacked the signature of the embalmer and the dates that bodies were embalmed. The disciplinary guidelines for these violations are as follows:

- Count I: *Delegating the performance of professional activities to an unqualified person*: reprimand, fine of \$1,000 to \$2,500 plus costs, probation 6 months to 1 year with conditions, suspension up to 1 year, or permanent revocation of the license.
- Count II: *Failing to clearly label the prices of caskets*: notice of non-compliance.
- Count III: *Incomplete bodies handled reports*: notice of non-compliance.

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 in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and timely submitted a request for an informal hearing.

MOTION: Mr. Jones moved that Respondent was properly served with the Administrative Complaint and timely submitted a request for an informal hearing. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Jones moved that there are no material facts in dispute in this case. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

MOTION: Ms. Clay moved to adopt the allegations of fact as set forth in the Administrative Complaint. Mr. Jones seconded the motion, which passed unanimously.

Ms. Marshall – The Department is offering 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – As to penalty, the Department's recommendation in this case is a fine of \$1,500 and one (1) year of probation.

MOTION: Mr. Jones moved that the Respondent shall pay a fine of \$1,500 and Respondent's license shall be placed on probation for one (1) year. Ms. Clay seconded the motion, which passed unanimously.

Chair Peebles – Thank you, Ms. Marshall. Ms. Simon?

(b) Mena, Geronimo Jr.: DFS Case No. 306755-23-FC; Division No. ATN-40163 (F042156)

Ms. Simon – Is Mr. Mena or a representative of Mr. Mena present today? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Motion for Final Order by Hearing Not Involving Disputed Issues of Material Fact (Motion) in the matter of Geronimo Mena, Jr. (Respondent). The Division conducted an investigation of Respondent and alleges as follows: Respondent is a licensed direct disposer holding license number F042156. At all times material to this case, Respondent was employed by two formerly licensed entities, Guiding Light Funeral Home (GLFH), a formerly licensed funeral establishment which held license number F082011, and Guiding Light Cremations (GLC), a formerly licensed direct disposal establishment which held license number F059114. While working on behalf of GLFH and GLC, Respondent entered into contracts with 3 consumers where the amount of cash advance items was misrepresented. The disciplinary guidelines for these violations are as follows:

- Counts I-III: *Misrepresenting the amount of a cash advance item*: reprimand, fine of \$500 to \$2,000, probation six (6) months to one (1) year.

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 in this matter. At this time, it would be appropriate for the Chair to entertain a motion determining that the Respondent was properly served with the Administrative Complaint and has timely submitted a request for an informal hearing.

MOTION: Mr. Brandenburg moved that Respondent was properly served with the Administrative Complaint and has timely submitted a request for an informal hearing. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – The Department asks that the Chair entertain a motion determining that there are no material facts in dispute in this case.

MOTION: Mr. Jones moved that there are no material facts in dispute in this case. Mr. Clark seconded the motion, which passed unanimously.

Ms. Marshall – Now that the Board has determined that there are no material facts in dispute in this matter, the Department ask the Chair to entertain a motion to adopt the allegations of fact as set forth in the Administrative Complaint.

MOTION: Ms. Liotta moved to adopt the allegations of fact as set forth in the Administrative Complaint. Ms. Clay seconded the motion, which passed unanimously.

Ms. Marshall – The Department is offering 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 established in the Administrative Complaint. Now that the Board has adopted the findings of fact in this case, the Department asks the Chairs to entertain a motion find that these facts constitute a violation of Florida Statutes as set forth in the Administrative Complaint.

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

Ms. Marshall – Now, as to penalty, the Department's recommendation in this case is a fine of \$3,000 and one (1) year of probation. That's \$1,000 for each of the three (3) counts.

Mr. Brandenburg – The customers that were overcharged on the cash advance items, were they reimbursed?

Ms. Marshall – Not to my knowledge, no. The Board can certainly add a term in the Final Order requiring them to reimburse those customers. He was acting as the direct disposer in charge. It was the establishment, which is no longer licensed, who the business was transacted with.

Mr. Brandenburg – Ok.

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

Mr. Brandenburg – It's fine.

Chair Peeples – Mr. Jensen?

Mr. Jensen – So all of these, it's just a \$5 mistake. They were charging \$70 instead of \$65 and put it on the cash advances. There's 123 pages. I'm not missing anything, right?

Ms. Marshall – No, that's correct. It is only those three (3) counts.

Mr. Jensen – I have a question about what you said about the fine. In the disciplinary guidelines it states, "Counts I-III: *Misrepresenting the amount of a cash advance item*: reprimand, fine of \$500 to \$2,000, probation six (6) months to one (1) year". So, you're saying that you're supposed to apply that to each count?

Ms. Marshall – Yes, sir. It's only a recommendation. The Board is free to do what they wish.

Mr. Jensen – I understand.

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

Mr. Jensen – Yes, ma'am. Thank you.

Chair Peeples – Ms. Simon?

Ms. Simon – I want to inform the Board members that as to previous history there was a Consent Order filed against this individual both in 2022 and 2020.

Mr. Jensen – Say what, now?

Ms. Simon – A Consent Order or Final Order. There was a Consent Order in 2022 and a Consent Order in 2020.

Ms. Clay – Were those related to this?

Ms. Simon – No, they were on other issues. They were related to cremated remains, one of them. Not handling cremated remains in an acceptable manner. The other one was...

Mr. Jones – Was there probation with both of those?

Ms. Simon – I apologize, I'm having problems with my computer. There was probation in both of those. In the matter in 2022, there was a \$1,500 fine and probation of one (1) year. In the matter in 2020, I assume, the penalty was a \$2,000 fine and probation for one (1) year.

Mr. Jones – When does the 2023 probation end, if you know?

Ms. Simon – When did it end?

Mr. Jones – Yes, the probation from 2022. When did it end in 2023?

Ms. Simon – It was November 15th that the Order was executed, so it would be November 14th.

Char Peeples – Mr. Jones, do you have any further questions or comments before we go to Rabbi Lyons?

Mr. Jones – No. Thank you.

Chair Peeples – Thank you. Rabbi Lyons?

Rabbi Lyons – Does that mean that Count 1 in May of 2022, Count II in April of 2022, Count III in May of 2022 were all not during the probation period? They were all before the probation period? Correct? April 27th to May 3rd, 2022.

Ms. Simon – It does not appear to be that way. No, sir. If I could just have one moment. The Order that came out in 2020, since it was only one (1) year of probation, and the same for 2022. The 2020 wouldn't lead you to April of 2022.

Chair Peeples – Rabbi, does that complete your question?

Rabbi Lyons – Yes.

Chair Peeples – Thank you. Mr. Jones?

Mr. Jones – I would make a motion with the Department's recommendation.

Ms. Marshall – Excuse me, may I clarify? We request that this new term of probation begin when the current probation ends.

Ms. Clay – Madam Chair, just for clarification?

Chair Peeples – Yes, Ms. Clay?

Ms. Clay – I understand what the motion is. I'm just not sure when the probation ends and begins.

Chair Peeples – Ms. Marshall, or maybe Ms. Simon?

Ms. Marshall – Ms. Simon, I think you would have that.

Ms. Simon – I believe that the probation from the 2022 case would end approximately November 14, 2023. So, then this probation, if that's what the Board wants, would extend to November of 2024.

Mr. Jones – That was my understanding.

Chair Peeples – Thank you, Mr. Jones. Ms. Clay, does that complete your question?

Ms. Clay – Yes.

Chair Peeples – Ms. Munson?

Ms. Munson – So, just to be clear, I want to make sure I understand what the motion is. Is it a motion for a \$3000 fine, which would be \$1000 for each count and one year of probation in total, which is three (3) months+ for each of the counts, not three (3) years of probation? Correct?

Ms. Marshall – A one-year probation to begin upon commencement.

Ms. Munson – And you want the Order to reflect that that probation does not begin until November 14, 2023?

Mr. Jones – Yes, ma'am.

Ms. Marshall – Approximately.

Ms. Munson – It can't be approximately, but is that what we are wanting it to say, because normally it begins the effective the filing date of the Order?

Mr. Jones – Being that they are under probation, I would like to carry out the current probation and start the date the other probation ends.

Ms. Munson – So, if for any reason that this Order is issued prior to November 14th, there may be a period of one (1) or two (2) weeks that this individual is not under probation. I just wanted that to be clear for the Board.

Chair Peeples – Ms. Simon?

Ms. Simon – I'm sorry. Can you say that again?

Ms. Munson – If this Order is issued prior to November 14th, the date certain that I will put in the Order, but it's issued after the other probation ends there may be a period of time, maybe one (1) or two (2) weeks that this individual may not be under probation at all.

Mr. Jones – Possibly? But I'd like it to be a full year of probation. Unless you have another recommendation, Ms. Munson.

Ms. Munson – If you want them to just pick up where they left off, we can go with that.

Mr. Jones – That would be fine. I just want one (1) year of probation. I don't mind when it's enacted. I'd rather not have the two (2) week's lack, if we could. However, you wish to word that. Ms. Clay, do you agree?

Ms. Clay – Yes.

Chair Peeples – Ms. Munson, would it be clearer for the individual if the probation for this particular case starts from the time that the Order is completed? Then we're going to have two (2) probations consecutively from the previous 2022 case and this case in 2023.

Mr. Jones – I'm fine with that either way.

Ms. Munson – Actually, it's not really a problem in this case because by the time this Order is filed, we're going to be so close to that date anyway.

Mr. Jones – That's what I was thinking. I'm good either way.

Chair Peeples – Ms. Clay, will you accept that also?

Ms. Clay – Yes.

Chair Peeples – We've had some discussion. Anyone else?

MOTION: Mr. Jones moved that the Respondent shall pay a fine of \$3,000 and Respondent's license shall be placed on probation for one (1) year to begin when the current probation ends. Ms. Clay seconded the motion, which passed unanimously.

(4) Motion for and Order Dismissing Petition Without Prejudice

(a) Funkhouser, Karla: DFS Case Nos. 292044-22-FC & 297727-22-FC; Division Nos. ATN-37692 & ATN-38536 (F033776)

Ms. Simon – Is Ms. Funkhouser or a representative of Ms. Funkhouser here today? Hearing no response. Ms. Marshall?

Ms. Marshall – Thank you, Ms. Simon. The above-referenced matter is presented to the Board for consideration of the Department’s Motion for an Order Dismissing Petition Without Prejudice (“Motion”). On or about November 21, 2022, the Department filed an Administrative Complaint against Karla Funkhouser (“Respondent”) alleging violations of Chapter 497, Florida Statutes. On or about May 30, 2023, Respondent timely submitted a petition requesting an informal hearing pursuant to section 120.57(2), Florida Statutes. On June 13, 2023, Respondent filed an updated petition requesting a hearing pursuant to section 120.57(1), Florida Statutes, however, the petition failed to identify any dispute issues of material fact. As such the Respondent’s petition failed to meet the requirements for a formal hearing as outlined in Rule 28-106.2015, *Florida Administrative Code*. Accordingly, this Motion requests that the Board dismiss Respondent’s petition without prejudice and enter an Order providing Respondent with an additional twenty-one (21) days in which to file a facially sufficient petition for formal hearing or to request an informal hearing. Furthermore, the Department requests that the Order provide that if Respondent fails to provide a timely response that Respondent will have waived its right to a hearing in this matter. I’m available to answer any questions. Thank you.

Chair Peeples – Board members? Any questions for Ms. Marshall? Mr. Brandenburg?

MOTION: Mr. Brandenburg moved to dismiss Respondent’s petition without prejudice and enter an Order providing Respondent with an additional twenty-one (21) days in which to file a facially sufficient petition for formal hearing or to request an informal hearing. Furthermore, the Department requests that the Order provide that if Respondent fails to provide a timely response that Respondent will have waived its right to a hearing in this matter. Rabbi Lyons seconded the motion, which passed unanimously.

Ms. Marshall – Thank you very much.

Chair Peeples – Thank you, Ms. Marshall.

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

Ms. Simon – This is an informational item pursuant to Section 497.466, Florida Statutes. The applicants on Addendum A have been issued their licenses and appointments as preneed sales agents.

D. Application(s) for Continuing Education
(1) Course Approval - Recommended for Approval without Conditions – Addendum B
(a) Independent Education Institute (135)
(b) Wilbert Funeral Services (39408)

Ms. Simon – The course presented on Addendum B has been reviewed by the CE Committee, and the Committee as well as the Division recommends approval for the number of hours so indicated.

Chair Peeples – Board members?

MOTION: Ms. Liotta moved to approve the applications. Ms. Clay seconded the motion, which passed unanimously.

Mr. Brandenburg – Madam Chair?

Chair Peeples – Yes, Mr. Brandenburg?

Mr. Brandenburg – Would you remind the Board who are the members of the Continuing Education Committee?

Chair Peeples – Ms. Simon, do you have that information?

Mr. Simon – I can get that to you after the meeting, Mr. Brandenburg.

Mr. Brandenburg – They do such a good job and put in a lot of time and effort into it, and we find the final results and usual abide by their recommendation. I think it would be important to recognize those people.

Chair Peeples – Yes, sir. We recognize them, usually in my area at the end of the meeting, everyone that’s involved with that, but thank you for that suggestion and comment. As a former Board member sitting on that Committee, it is a lot of work, as well as Probable Cause, also. So, everybody that has a part, it’s all a great team, all a great environment, and thank you. We appreciate that. Ms. Simon?

Ms. Simon – Actually, Ms. Schwantes found the listing of the Continuing Education Committee: Andrew Clark, Gail Thomas-DeWitt, Tracy Huggins, Steven Miller, and Roy Scott.

Chair Peeples – Thank you, ma’am. Thank you, Mr. Brandenburg. Ms. Simon?

Mr. Brandenburg – Thank you, Mr. Clark.

E. Consumer Protection Trust Fund Claims

(1) Recommended for Approval without Conditions – Addendum C

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

Chair Peeples – Rabbi Lyons?

Rabbi Lyons – A lot of time {inaudible}. Usually, the claimant is the establishment. So, when the claimant is the individual is that some sort of refund or {inaudible}?

Ms. Simon – There are often times that there are individuals that ask for a refund on their actual preneed contract. Others ask, it’s an at-need situation and the entity will often ask for it from the Board and they’ll withdraw that contract.

Rabbi Lyons – So, any time an individual has a claim, we can assume that’s a cancellation?

Ms. Simon – Yes, sir. That is my understanding that it is a refund that they are asking for, and there is also, when going through this process, an understanding of what the rules and regulations are concerning a refund of a preneed contract.

Chair Peeples – Rabbi, does that complete your question, or do you have more questions, sir?

Rabbi Lyons – For example, deliverable merchandise is not refundable, but that probably doesn’t apply to an entity that went bankrupt.

Ms. Clay – Madam Chair?

Chair Peeples – Yes, Ms. Clay?

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

F. Application(s) for Embalmer Apprentice

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

Cooper Jr, Aaron A F080847

Gibbs, Alexis A F709715

Keller, Jordan E F710352

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.

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

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

- (a) Direct Disposer**
 - 1. *Granger, Steven J*
 - 2. *White, Leon*
- (b) Funeral Directory (Endorsement)**
 - 1. *Dondoneau, Stephanie D*
 - 2. *Regan, Robert W*
- (c) Funeral Director (Internship and Examination)**
 - 1. *Broadnax, Devanshae R*
 - 2. *Sanders, Qwanza R*
 - 3. *Slaughter, Jabre C*
- (d) Funeral Director and Embalmer (Endorsement)**
 - 1. *Morgan, Mindy M*
 - 2. *Murray, Samantha M*
- (e) Funeral Director and Embalmer (Internship and Exam)**
 - 1. *Bodiford III, Wade A*
 - 2. *Boldrey, Kathryn L*
 - 3. *Brunke, Lauren A*
 - 4. *Carter, Lashana N*

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

- (a) Funeral Director (Endorsement)**
 - 1. *Marashio, Mark*

Ms. Simon – Is Mr. Marashio or a representative here today? Please step forward.

Chair Peeples – Sir, we’re going to need to swear you in, so give us just one (1) minute.

Mr. Mark Marashio – Ok.

Chair Peeples – Thank you.

Ms. Simon – In this matter, Mr. Marashio submitted an application for a funeral director license on August 7, 2023, at which time the application was incomplete when received. Mr. Marashio’s was advised his application would go before the Board for final consideration on 9/13/2023. The applicant’s fingerprints returned with no criminal history. The applicant has met the following educational standards set forth by section 497.373(1)(d), Florida Statutes. However, the licensing authority shall issue a funeral director license by endorsement to an applicant who meets the qualifications for licensure pursuant to by ss. 497.373, 497.374, Florida Statutes and Rule 69K-16.002, Florida Administrative Code. The Applicant has passed neither the Arts nor Science sections of the National Board Examination. This is a requirement for licensure. Additionally, the applicant has failed to produce any supporting documentation to indicate he has worked full time in his licensed capacity for a period of five (5) years. The Applicant has not met the requirements for licensure and, as a result, the Division is recommending denial.

Sir, can you 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. Marashio – I do.

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

Mr. Marashio – Mark Marashio, M A R A S H I O.

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

Mr. Marashio – Yes. First and foremost, thank you for hearing my case. I did bring two (2) of the employments, starting in 2017 to 2023. The one in between did not respond to me. He did not get it back to me. So, for six (6) years I've been serving as a funeral director in the Commonwealth of Massachusetts, so I have the letter from Dignity Memorial stating that. And also {inaudible} Funeral Home did email me. I was on for two (2) weeks, but he was unable to get me the letter, but he says if you have any questions, you can call. Starting May 2017, I was licensed up until now and in good standing. No issues. I've been in the funeral business my whole life. My grandfather had a funeral home. I love serving as a funeral director in Massachusetts, and I'd love to continue in the great state of Florida.

Chair Peeples – Ms. Simon?

Ms. Simon – You'll notice in the Board packet that was submitted to the Board members that there were numerous times that there were requests made for any evidentiary proof of this applicant having worked for six (6) years in a full-time capacity, and we were unable to receive any of that. And, candidly, I'm unable to review those documents today in order to determine if they say what is required by our statutes and rules.

Chair Peeples – Thank you, Ms. Simon. Would you like to continue addressing the Board, or may we ask you questions?

Mr. Marashio – Yes, just one thing. When I started the application, when my wife and I moved to Florida three (3) months ago, I was working with Jasmin, and I guess in between there was a transition that she left. So, half of my stuff to Jasmin, half to Ms. Grant. So, she told me two (2) weeks ago, Ms. Grant, that I needed that. So, in those two (2) weeks I've been working on getting the info on working for six (6) years, but I have the license for all those. And the funeral Board in the Commonwealth of Massachusetts did email Ms. Grant directly that everything is in good standing, and I've never had an issue.

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

Ms. Clay – I understand that you're bringing proof of employment. Do you have something to substantiate the qualifications for academic preparations?

Mr. Marashio – I do. So, there was a misunderstanding between me and Ms. Grant. I did email over my transcript from Mount Ida College. It did close in 2018, which in then University of Massachusetts took over the transcripts and they mailed them directly to Ms. Grant, but first to Jasmin, which could never be found. So, Ms. Grant did put that in. So, that's my school academics. As for the test, yes, I did not take the Nationals. Massachusetts didn't require it. So, I did pass both the Science and Arts, which I'm hoping, and I believe, is equivalent, with my years of experience in funeral service. So, I'm just asking for consideration to get a temporary license and then to take the Florida exam and become a funeral director.

Chair Peeples – Question, sir? You mentioned about Arts and Sciences. Are you referring to the college that you attended, classes there? Because you did not take the National Board's Arts and Sciences portion. Is that correct?

Mr. Marashio – I did take them right after I finished school, 2013. I took them right when I got out of school, graduated, but at that time, I was discerning a priesthood and a few months later, I went over to the Holy land and served with the Franciscans of the Holy land. So, there was a gap in between that I didn't take the test. And when I came back the State of Massachusetts didn't require it. So, I just took the State Funeral Arts and Funeral Science. Passed it right away and then started working as a funeral director.

Chair Peeples – So, you're referring to the Commonwealth of Massachusetts' State Test, not the National Board's Arts and Sciences? Correct?

Mr. Marashio – Correct.

Chair Peeples – On your application, which is page 3 of our Board packet, and I think you may have answered this, but it says your residence is in New Hampshire, but your preferred mailing address was Port Charlotte. When did you move to the State of Florida?

Mr. Marashio – Three (3) months ago my wife and I relocated here permanently. My wife moved and she works from home and we both relocated here, sold our house and so we're here in Florida permanently now.

Chair Peeples – Thank you. Welcome.

Mr. Marashio – Thank you.

Chair Peeples – We hear your Massachusetts draw. Mount Ida College is not an accredited college. Is that correct?

Mr. Marashio – It is an accredited college, and Ms. Grant did look it up and it is an accredited college.

Chair Peeples – Thank you. Board members, is there anyone that has a question for the gentleman? Mr. Williams?

Mr. Williams – Good morning. So, maybe I'm missing something. Section 497.373(2)(a), F.S., states the qualification of must pass the licensing authority examination. So, if the applicant has not passed the National examination that disqualifies him from receiving licensure. Am I correct?

Chair Peeples – Mr. Williams, is your question to...

Mr. Williams – Ms. Simon or staff.

Chair Peeples – Ms. Simon?

Ms. Simon – It is our understanding, yes sir, that failure to take the National Examination, he would need to take the National Examination in order to be licensed by endorsement, whether it is by education or by the experience.

Mr. Williams – Ok.

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

Mr. Williams – May I have a follow-up?

Chair Peeples – Yes, sir.

Mr. Williams – In my thought process, we should move forward with denial if they have not met the rule that is set forth in this section. Ms. Simon, is that correct?

Ms. Munson – Ms. Simon can't direct you whether or not to move forward with whatever motion the Board wants to make. That's totally up to the Board. She can identify what she understands the statute to read, and it's written as it is. I know that we've had issues like this come up before. Every case is fact specific, but the statutes are what the statutes are, they say what they say. So, I will say this, if for any reason the Board may be contemplating a denial of this particular application, it is only fair that the applicant knows that rather than have a denial on your particular licensing history, you would have an opportunity to withdraw this application and move forward in whatever manner you may feel is important. You can probably also, and I see someone standing behind you as well, and I'm not sure to what extent, but I'm sure that individual can be properly acknowledged at the podium, but if you have any additional questions for staff, of course you should feel free to contact them. So, the actions again that we are looking at today is to act on the application at this meeting, which will be an approval or denial, or withdraw, if that is the pleasure of the applicant or some other reason the body may contemplate a tabling of the matter if there are any other questions that can't be resolved today. And I'll turn it back over to Madam Chair.

Chair Peeples – Thank you, Ms. Munson. Mr. Jensen, then Mr. Jones and Ms. Clay.

Mr. Jensen – I have a question for you, sir. So, in doing your application, it says on there that there is a clear path forward to reciprocating a license. I looked at the numerous emails from Ms. Grant and she was requesting the information over and over again, but you were not providing it. On the clear path forward and in light of these, there are a lot of people that come from

Massachusetts to be funeral directors in Florida. Florida has a lot of retirees. One of our jobs is to protect the consumers. Not that you don't understand what you're doing, I get it, but why won't you just take the National Board and the Laws and Rules Exam and do it the way that it says in the statutes? Why are you trying to go around it?

Mr. Marashio – I've been removed from school for a long time. Some learning disabilities, to be honest, and I was just hoping to have the Massachusetts State Exam with the science and arts equivalent, and I was hoping some consideration for life experience in the funeral business. Not to go to far, but I've been in the funeral business again my whole life. My grandparents had a funeral home since at the age of eight (8) and was around them all the time. Opening doors at fourteen (14) years old and being involved in every aspect of the funeral business. So, yes, I do know about the National Exam for the arts and what I'm applying for is just funeral directing. So, with that being said about sending Ms. Grant everything, I did call many times. I did email many times because there was lost information that I was mailing and she never got my transcripts or the first part, which the Commonwealth of Massachusetts sent my good standing to Jasmin, and Jasmin, I guess stopped working there at that time, or Ms. Grant took over, and from there, that's why it took long. So, that's why I wrote in a response to Ms. Grant's email back for the deficiency was first the school, Mount Ida College, that it is accredited. It's just no longer in business. And then, I'm just hoping for some consideration, again, for life experience in the funeral business. Been in it my whole life. For just to be able to get the temporary license I'm already endorsed by the Moss-Feaster Funeral Home in Dunedin and Clearwater. I started last week. Not as a funeral director. They just brought me on. Great rapport with everyone. I love working here. Lastly, its my livelihood. That's all I have. That's all I know is the funeral business.

Mr. Jensen – Follow-up, Chair?

Chair Peeples – Yes, sir, Mr. Jensen.

Mr. Jensen – I certainly would consider life experiences. There were just numerous, numerous emails from Ms. Grant requesting the information. It's not up to the Department to prove that your test in Massachusetts is equivalent. It's up to you to show them this is equivalent. And the information was requested a bunch of times and not provided. And again, the statutes are clear. They're black and white. And again, I would welcome funeral directors from other places, but it's not fair to the thousands of funeral directors in the State of Florida that had to go through these statutes, and for someone to want credit for life experience. How is that fair to everybody else that had to go through all of this?

Mr. Marashio – And what I say to that is, again, I sent everything over in a timely fashion to Ms. Jasmin. You can check the emails if you want. I sent them all. I have them all in my sent email. I sent certified mail that they said that they never got that I did mail over. There were numerous emails back and forth, because this was very important to me. I've given up everything. So, I don't want a pass. I don't want a pass at all. I just added life experiences because I know about the National Exam. I just want the opportunity to just take the Florida State Exam and start working as a funeral director, temporary license, what I've been doing for so long. And I did send everything, the Massachusetts equivalent. I sent over the test to Ms. Grant, and she did receive them, and so there was a lot of stress too. We just sold our house, moved everything.

Mr. Jensen – Madam Chair?

Chair Peeples – Yes, Mr. Jensen?

Mr. Jensen – Is it out of turn for me to ask Ms. Grant if she's seen these things that he's alleging she's seen, because it's not in our packet?

Chair Peeples – Yes, sir. It is.

Mr. Jensen – Ok.

Chair Peeples – You cannot. I'm sorry.

Mr. Jensen – That's ok.

Chair Peeples – From that prospective, do you have any other questions, because I need to get to Mr. Jones and Ms. Clay who had questions?

Mr. Jensen – No, go ahead. Thank you.

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

Mr. Jones – You said you’ve been licensed six (6) years practicing with no disciplinary actions. Ms. Simon you mentioned experience in your last sentence a minute ago, equivalent experience (inaudible).

Ms. Simon – Sir, that does not have anything to do with the National Exam. And as to experience, it would be full-time experience for a period of five (5) years, but I cannot verify any information received today. He did have the opportunity; it looks like emails were going back and forth from Ms. Grant for a couple of months.

Mr. Jones – I understand. I just wanted the clarification of experience, which was the five (5) years.

Ms. Simon – It is five (5) years. Yes, sir.

Mr. Jones – Thank you.

Chair Peeples – Mr. Jones, does that conclude your questions?

Mr. Jones – It does.

Chair Peeples – Thank you, sir.

Mr. Marashio – Permission to speak?

Chair Peeples – Yes, sir?

Mr. Marashio – I don’t think it was a couple of months, but it started with Jasmin about a month and a half and maybe with Crystal three (3) weeks when she did get back to me. Everything happened within these three (3) weeks where I had to find out what was happening, where these documents went. She did state that she never received them, and I did have proof that I did send them to Jasmin. They’re just lost wherever they are, but I do have proof that I did send them. So, I was on top of everything. So, that’s just to answer your question.

Mr. Jensen – I understand you have proof, but the Department doesn’t have proof. That’s what I’m looking for.

Mr. Marashio – Do you have the proof that I have everything?

Chair Peeples – No, sir. We do not have any employment.

Mr. Marashio – The employment is what I did bring.

Chair Peeples – Yes, sir, but please understand that you bringing it today has not given each of the Board members an opportunity to review it. So that where we are kind of at a negative, from that perspective. Not against you, but just at this discussion that we’re having now. Mr. Jones completed his question. Ms. Clay?

Ms. Clay – My question is, well I have two (2) questions, so permission for a follow-up after this question?

Chair Peeples – Yes, ma’am.

Ms. Clay – Do you believe that you have met all of the criteria explained in the statutes?

Mr. Marashio – Everything except for the Arts National Exam, which I believe it is equivalent to the Arts Massachusetts State Exam. So, that is why I proceeded forward.

Ms. Clay – Sir, you are aware that you are not in Massachusetts and that the equivalence may not be the same? That's my question.

Mr. Marashio – Yes.

Ms. Clay – Yes. So, my other question is, before I move for denial, would you like to have your application withdrawn for now?

Ms. Munson – I would also like to note that the gentleman also has someone to speak on his behalf. We have to give them an opportunity to present fully before anything else is done with finality, please.

Mr. Jensen – Is he represented by them?

Ms. Munson – No, but it may be a witness or something. As an applicant, he's allowed to have someone speak on his behalf. A document would be the same.

Chair Peebles – Yes, ma'am?

Ms. Lauren Pettine – Thank you. If you wouldn't mind me just briefly addressing the Board and then also having a moment to confer with my client in this matter.

Chair Peebles – One second.

Ms. Pettine – Of course.

Chair Peebles – Do we have a notice that you are representing him?

Ms. Pettine – No, but hopefully this notice right now can suffice for this individual.

Chair Peebles – Ms. Simon?

Ms. Simon – I'm sorry, Ms. Pettine, I don't understand. Can you say that again?

Ms. Pettine – At this time WRW Legal would like to represent Mark in this matter. Would you like us to file a Notice of Appearance?

Ms. Simon – I'm not sure why a Notice of Appearance was not filed before today, even online or electronically, but that's Board counsel's...

Ms. Munson – So, this is clear. If you are filing a Notice of Appearance and if the Board is not willing to accept it, then this would mean we would have to table it, because he's identifying that he has a legal representative. Or you can accept the Notice of Appearance at this meeting and let her do whatever she's here to do. I mean, it's totally up to this body.

Mr. Williams – Madam Chair?

Chair Peebles – Yes, Mr. Williams?

Mr. Williams – Would there need to be a motion made for that?

Ms. Munson – For what?

Mr. Williams – What you just stated in reference to the Board’s options.

Ms. Munson – Sure. The motion would be to either table the matter for additional information, including identification of an attorney for representation or to move forward with the matter and accept the Notice of Appearance today.

Ms. Pettine – I would have loved to have filed a Notice of Appearance earlier. I’ve become familiar with Mark’s case as of today, WRW Legal has. You’ve spoken with Wendy Wiener in the past regarding these matters. They’re relatively common in our firm and it’s one of those matters that I would at least like to make a small presentation. I believe earlier Board member Williams made reference to the law.

Chair Peebles – Just one second.

Ms. Pettine – My apologies.

Chair Peebles – Let’s get this situation decided on Ms. Pettine’s speaking and appearing today. Ms. Munson, what would you suggest? Would you suggest us to have a motion?

Ms. Munson – Is the body willing to move forward accepting the Notice of Appearance on record today?

Mr. Williams – Madam Chair?

Chair Peebles – Yes, Mr. Williams?

MOTION: Mr. Jensen moved to accept the Notice of Appearance and allow Ms. Pettine to represent Mr. Marashio today. Mr. Jones seconded the motion, which passed with three (3) dissenting votes.

Ms. Munson – For the record, please identify yourself because this will be your Notice of Appearance and it will be accepted for the record. Also, as a caveat, having Ms. Pettine represent in this fashion does not necessarily negate the fact that the matter may not be tabled for another reason. I just wanted to say, you may decide to table it for another reason.

Ms. Pettine – Thank you. My name is Lauren Pettine. I work at WRW Legal, and I wanted to bring just one note to the Board’s attention. Earlier we were talking about the statute which applies in this matter, and it was referenced as s. 497.373, F.S. I believe here Mr. Marashio is applying for the funeral director by endorsement, which would be s. 497.374(b)(1) and (2), F.S., which is he holds a valid license to practice funeral directing in another state, providing that when the applicant secured his or her original license the requirements for licensure were substantially equivalent or more stringent. And then (2), meets the qualifications for licensure and has successfully completed a state, regional, or national exam in mortuary science or funeral arts, which is determined has been substantially equivalent or more stringent. We have talked a lot about the requirements being for those National Arts, and of course the Board could determine in this case that the Massachusetts’ test is not substantially equivalent, but here the information provided by Mr. Marashio indicates that it is substantially equivalent, since Massachusetts’ licensing authority takes either the National Examination or the Massachusetts Boards in this case. Thank you.

Chair Peebles – Thank you, Ms. Pettine. Just a comment, I made it for the record in previous situations. He has not taken the National Board’s arts and sciences. He has taken the Commonwealth of Massachusetts’ test, which has an arts and sciences portion. Two (2) different things. Not the same.

Ms. Pettine – Yes. I have indeed reviewed the file, and it does show that. The point is here that the substantial equivalency since the emails with Crystal do indicate that the Massachusetts Commonwealth does accept both the National Boards as well as their individualized test, those could be argued as a substantial equivalency for funeral director licensure.

Chair Peebles – Yes, ma’am. Could be argued, but it is not the National Board’s arts and sciences.

Ms. Pettine – No, Madam Chair. It is not.

Chair Peebles – Thank you. Ms. Simon?

Ms. Simon – I need to bring it up to the Board members one more time. Through all of the conversation that the Division office has had with this applicant, whether it be with one (1) person, whether it be with two (2), it appears that Ms. Grant has been emailing with this applicant for a whole month now. We have not received anything to indicate that this gentleman has had the five (5) years of experience, full-time, working that is required for licensure. And I get that it is here today, but that is not what is before you. I mean you have no idea what that is. The Division's standpoint is that he does not reach the qualifications for licensure without that and without taking the National Exam.

Chair Peeples – Ms. Clay?

Ms. Clay – I ask the question that I asked before, but I didn't get a response. Prior to me moving for denial, would you like to withdraw your application?

Mr. Marashio – Yes and have her representation.

Chair Peeples – Do we need a motion?

Ms. Munson – Yes.

Chair Peeples – Ms. Clay, did that complete your question and did you want to make a motion?

Ms. Clay – I would like to make a motion, but did you want to acknowledge the others first?

Chair Peeples – We need the motion first, right?

Ms. Munson – A motion to accept the withdrawal.

MOTION: Ms. Clay moved to accept the withdrawal of the application. Rabbi Lyons seconded the motion.

Chair Peeples – Any discussion? Mr. Brandenburg?

Mr. Brandenburg – One of the concerns, a major concern for the Division was they didn't have proof of the work history and the gentleman stands before us today, under oath, to tell the truth and he has indicated that he has documentation for his work history that would qualify him on the work history side. So, he's standing before us, under oath, and I think that should be acceptable. Just because we don't have it ahead of time, he has sworn under oath and has a document to indicate that. I just wanted to address that part of the concern.

Chair Peeples – Yes, sir, Mr. Brandenburg, but he also mentioned that one (1) of his employers did not present anything. He did not have anything from one of his employers, so technically he does not have a full five (5) years of employment history to back up what he has stated verbally. So, he really needs time to get that. So, respectfully, I feel that we have a motion, we have a second, we're in discussion on the withdrawal. He's requested to have counsel now. Mr. Jensen, did you have a question, sir?

Mr. Jensen – I keep this statute at ready that Ms. Pettine referenced here. S. 497.374(2), F. S. says that you still must meet the qualifications for licensure in s. 497.373, F.S., except that the applicant may not hold an associate degree or higher, if the applicant holds a diploma or certificate from a program in mortuary science and has successfully completed a state, regional, or national exam in mortuary science, funeral service arts determined by the licensing authority. Again, to make sure it is equivalent, we don't have that information. There were numerous, numerous emails requesting that information and this could have been a lot simpler. And I do think the proper thing is to withdraw it and get your information together, and then we would love to welcome you. But we all have to follow the rules. I think it's only fair that everybody has to. Thank you, Madam Chair.

Chair Peeples – Thank you, Mr. Jensen. We have a motion, and we have a second. Is there any other discussion before we take a vote? Hearing none, all in favor of the motion to allow the applicant to withdraw his application say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries. Good luck, sir. We’re going to take a restroom break. It’s 11:32, so let’s come back at 11:45, please.

*****BREAK*****

Chair Peeples – We are on back. Ms. Simon?

H. Application(s) for Internship

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

- (a) *Embalmer*
 - 3. *Devine, James M F499507*
- (b) *Funeral Director*
 - 1. *Bryant, Sonya Y F706607*
 - 2. *Perez, Vaneeva F710131*
 - 3. *Young, Stacy M F709211*
- (c) *Funeral Director & Embalmer (Concurrent)*
 - 1. *Carney, Niki P F710776*
 - 2. *Fields, Michael A F397366*
 - 3. *Holmes, Codi A F706585*
 - 4. *Miller, Jemma N F540520*
 - 5. *Pattek, Nicole O F710076*
 - 6. *Payne, Amber R F708895*
 - 7. *Sambenedetto, Ellexas G F560836*
 - 8. *Violante II, Matthew J F710775*

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

I. Application(s) for Monument Establishment Sales Agents

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

- (a) *Livingston, Colt F379277*
- (b) *Silber, Eliezer F707380*

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

J. Application(s) for Preneed Branch

(1) Recommended for Approval without Conditions – Addendum H

- (a) *Gratitude and Compassion LLC (F459068) (Ocala)*
- (b) *Gratitude and Compassion LLC (F459068) (Ocala)*

Ms. Simon – Pursuant to s. 497.453(7), Florida Statutes, the Division recommends approval if the applicants listed on Addendum H.

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

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

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

- (a) *Capstone Funeral Holdings of FL LLC d/b/a Settle-Wilder Funeral Home and Cremation Service (F429152)*
- (b) *Neptune Management Corp dba Neptune Society Management Corporation (F064808)*
- (c) *Taylor Family Funeral Home & Cremation Center (F040954)*

Ms. Simon – This is an informational item. The Division has reviewed the application listed on Addendum I and found it to be complete in that the applicant met the requirements to be a training agency. Pursuant to Rules 69K-1.005, Florida Administrative Code, the Division has previously approved this application.

L. Notification(s) of Change in Location

- (1) *Informational Item (Licenses Issued without Conditions) – Addendum J*
 - (a) *Going Home Cremation Services Inc (F262766) (Tarpon Springs)*
 - (b) *Neptune Management Corp d/b/a Neptune Society (F064807) (Longwood)*
 - (c) *Shane Obert Funeral Home Inc d/b/a Obert Funeral Home (054861) (Chipley)*

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

M. Application(s) for Direct Disposal Establishment

- (1) *Recommended for Approval with Conditions*
 - (a) *Cremations America of Broward LLC*

Ms. Simon – Is there a representative of this entity present today? Hearing no response. An application for direct disposal establishment licensure was received on September 13, 2023. The application was incomplete when submitted. A completed application was received on September 20, 2023. The direct disposer in charge will be Steven Helton (F043069). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peoples – Mr. Brandenburg?

Mr. Brandenburg – I think we need clarification on page 10. There’s no indication that their cremations are going to be handled by Valles, only that the refrigeration for cremation services. So, it doesn’t indicate that the cremations are being handled by them. And I don’t see it anywhere else in the packet.

Ms. Simon – It was my impression that Valles was going to be handling both the cremation and the refrigeration. I’m looking to the application to see if that is what is provided. Madam Chair?

Chair Peoples – Yes, ma’am?

Ms. Simon – To make this easier, what I’d like to do is recommend approval subject to the conditions that the establishment pass an onsite inspection and the condition of receiving a letter or contract from another licensed entity that will do the cremations.

MOTION: Mr. Brandenburg moved to approve the application subject to condition that the establishment passes an inspection by a member of Division Staff and receipt of a letter or contract from another licensed entity that will do the cremations. Mr. Clark seconded the motion, which passed unanimously.

N. Application(s) for Funeral Establishment

- (1) *Recommended for Approval with Conditions*
 - (a) *E.W. Lawson & Son Funeral Home, LLC (Palm Coast)*

Ms. Simon – An application for funeral establishment licensure was received on August 3, 2023. The application was incomplete when submitted. A completed application was received on September 7, 2023. The funeral director in charge will be Theodore A Brown (F043852). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peoples – Board members, your pleasure?

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

(b) Ganderson Brothers Mortuary, LLC (Sanford)

Ms. Simon – An application for funeral establishment licensure was received on August 22, 2023. The application was complete when submitted. The funeral director in charge will be Andre Eady (F028501). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

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

(c) Pasco Gainer Sr. Funeral Home, Inc (Panama City)

Ms. Simon – An application for funeral establishment licensure was received on August 10, 2023. The application was incomplete when submitted. A completed application was received on September 4, 2023. The funeral director in charge will be Isaac Miller Jr. (F046777). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peeples – Mr. Brandenburg?

Mr. Brandenburg – Another clarification, please, on page 6. The applicant indicates that they will not be offering cremation by the funeral establishment. I think it's important that, if approved, that subject to inspection that their sales agreement or sales contract does not contain cremation on it and subsequent inspections indicate that they are not selling cremations, because they say that they are not.

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

Ms. Simon – I can only assume, because there is no indication that this establishment will offer cremation services, I would again request that the Board approve subject to the condition of passing an onsite inspection.

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

Chair Peeples – Do we have any other discussion? Mr. Jensen?

Mr. Jensen – Gainer Funeral Home has been here on Martin Luther King for many years, in Panama City. Is this a new application, or what's the deal with this? Is this somebody else in the family?

Ms. Simon – {Inaudible}, I assume that this was based upon a change of ownership due to a death in the family.

Mr. Jensen – Ok. Thank you.

Chair Peeples – Any further questions, Mr. Jensen?

Mr. Jensen – I'm good. Thank you.

Chair Peeples – Ok. We have a motion, and we have a second. Any further discussion? Hearing none. All in favor of the motion say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries.

(d) Professional Funeral Services of Northwest Florida LLC d/b/a Davis-Watkins Funeral Home of Bonifay

Ms. Simon – An application for funeral establishment licensure was received on September 25, 2023. The application was complete when submitted. The Funeral Director in Charge will be Malachi Perkins (F094673). A background check of the principals revealed no criminal history. As a result, the Division recommends approval subject to the condition that the establishment pass an onsite inspection by a member of Division Staff.

Chair Peeples – Board members?

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

O. Application(s) for Monument Establishment Builder
(1) Recommended for Denial (Criminal History)
(a) Florida Monument Company LLC (Lake City)

Ms. Simon – An application for monument establishment builder licensure was received on August 28, 2023. The application was incomplete when submitted. A completed application was received on September 7, 2023. A background check of the principals revealed the following: Joseph A. Benefield was found guilty of battery in February 2019, for which he received one (1) of year probation and restitution. Mr. Benefield was then found guilty of DUI in July 2021, for which he received one (1) year probation and restitution. The Division recommends denial. Is there a representative of this entity present today?

Mr. Joseph Benefield – Yes, ma’am.

Ms. Simon – Please step forward. 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. Benefield – Yes, ma’am.

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

Mr. Benefield – Joseph Andrew Benefield, B E N E F I E L D.

Ms. Simon – Thank you, sir.

Chair Peeples - Thank you, sir. Would you like to address the Board, or are you here for questions if the Board members have any?

Mr. Benefield – Questions.

Chair Peeples – Thank you, sir. Board members, does anyone have any questions or what is your pleasure regarding the application before us?

Mr. Jensen – Question?

Chair Peeples – Yes, sir, Mr. Jensen?

Mr. Jensen – Mr. Benefield, have you completed all of the probation and paid all fines?

Mr. Benefield – Yes, sir.

Mr. Jensen – Everything is complete?

Mr. Benefield – Complete.

Mr. Jensen = Thank you.

Chair Peeples – Thank you, Mr. Jensen. Anyone else have a question for Mr. Benefield? If not, what is the Board’s pleasure?

Mr. Brandenburg – I do have one (1) question. Do you have anything pending that is not on the criminal history part, but is pending?

Mr. Benefield – No, sir.

Mr. Brandenburg – Thank you.

Chair Peeples – Thank you, Mr. Brandenburg. Board members, what is your pleasure?

Mr. Jensen – May I ask one other question?

Chair Peeples – Yes, sir, Mr. Jensen.

Mr. Jensen – So, sir, you’re just going to build monuments? You’re not dealing with the public in a retail capacity? Is that correct?

Mr. Benefield – Yes, sir. Me personally, I just like building them.

Mr. Jensen – But are you building them for a company to resale them? Are you going to resale them yourself?

Mr. Benefield – Yes, sir. I think. I just like to engrave them.

Mr. Jensen – With the disciplinary issues you’ve had, are you dealing with the public and their money?

Mr. Benefield – Yes, sir. Yes, I’m taking money.

Mr. Jensen – So, are you then going to apply for a monument establishment license?

Mr. Benefield – I believe so, if that’s the rule.

Mr. Richard Thomas – Can I speak?

Chair Peeples – Just one second, sir. Mr. Jensen, does that complete your question?

Mr. Jensen – It does.

Chair Peeples – Ok. Sir, please be sworn in.

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. Thomas – Yes, ma’am.

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

Mr. Thomas – Richard Thomas, T H O M A S.

Chair Peeples – Thank you, sir.

Mr. Thomas – So, we will be selling and building the monuments. We put in an application for sales also.

Chair Peeples – Ms. Simon?

Ms. Simon – Are you saying you put in an application for a monument establishment sales agent license as well as a monument retailer license?

Mr. Thomas – We put in an application for a sales license and a builder’s license.

Ms. Simon – I appreciate you saying builder. So, if you are going to be selling to the general public, I’m under the impression that you need a retailer license, as well.

Mr. Thomas – Yes, ma’am.

Ms. Simon – Is that another application you have pending?

Mr. Thomas – I want to say that I’ve only done the sales license.

Ms. Simon – My understanding, Board, is that monuments are unable to be sold until a monument establishment retailer license is obtained, as well as a monument establishment sales agent.

Chair Peeples – Were you aware of that, sir, that there’s two (2) separate applications?

Mr. Thomas – Yes. And, to my knowledge, I presented what I thought to be consistent with what we needed to sell and to build.

Chair Peeples – From the information we have in our packet, and the application that you prepared, on Page 2, at the top it indicates that you applied for a monument builder, which is checked and monument retailer, which is not checked.

Mr. Thomas – Ok.

Chair Peeples – So it’s two (2) separate things. If we approve or deny the application, or whatever, would you submit a monument retailer application?

Mr. Thomas- Yes, ma’am.

Chair Peeples – Ok. Rabbi?

Rabbi Lyons – Monument retailer and monument builder are two (2) different things.

Chair Peeples – Correct. That’s what we are talking about.

Rabbi Lyons – A monument builder can sell without being a monument retailer.

Chair Peeples – But they are going to be selling to the public, per the information Mr. Thomas just gave us.

Rabbi Lyons – They still need to be licensed as a retailer. {Inaudible}, if you’re a builder.

Chair Peeples – There’s two (2) separate license categories under monument. There’s a builder and there’s a retailer. They have submitted the builder, but they have not submitted the retailer. So, if the Board decides to approve it today, they will submit the retailer portion so that they can sell to the public. Is that correct, gentlemen?

Mr. Thomas – Yes, ma’am.

Rabbi Lyons – A builder can sell to the public. That’s what I’m saying. A monument builder can sell to the public. Monument builder isn’t a wholesale license.

Chair Peeples – That would be a question for the staff.

Ms. Simon – I think that we can handle that outside of today’s meeting, because all we are voting on today is the monument establishment builder.

Rabbi Lyons – I just don’t want these gentlemen to commit to something that they don’t need.

Chair Peeples – Thank you, sir.

Mr. Thomas – Thank you, sir.

Chair Peeples – Any other questions for the two (2) gentlemen here?

Mr. Jones – I just want to make sure you all understand, if approved the parameter you’re working in, and if you need to do the retailer, you understand what you need to do so that you don’t violate statute while you’re trying to get this straight. So, let’s just make sure you all are clear.

Mr. Thomas – Yes, sir.

Chair Peeples – Thank you, Mr. Jones. Board, what is your pleasure?

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

Chair Peeples – Gentlemen, thank you for coming today. You’ve been approved as a monument builder, but you may want to talk with staff, after the meeting, either in person or on the phone to discuss the retailer license.

Mr. Thomas – Yes, ma’am. Thank you.

Chair Peeples – Thank you.

Mr. Jones – Good luck.

Mr. Benefield – Have a wonderful day, everyone.

Chair Peeples – Thank you.

P. Application(s) for Preneed Main

(1) Recommended for Approval without Conditions

(a) The Florida Undertaker LLC d/b/a Just Cremation (F278615) (Jacksonville)

Ms. Simon – The Department received an application for a preneed main licensure on August 23, 2023, and no deficiencies were noted on the application. The members of the LLC are Belinda J. and Tyrone S. Warden. A completed background check of all principals was returned to the Division without criminal history. Applicant is submitting this application for a new preneed license due to failure to renew their license. Applicant’s qualifying funeral establishment license is located at the same address. If approved, Applicant will sell insurance-funded preneed through with Great Western Insurance Company and utilize their approved pre-arranged funeral agreement forms. The Division recommends approval.

Chair Peeples – Ms. Munson, this may be a question for you. If we have a case ongoing with one (1) of the owners in another one (1) of their entities, regarding prearrangements, so would this have any precedent from the previous case that we have, because I think that was going to DOAH? Or do we need to take this as a total separate item?

Ms. Munson – This is a separate application.

Chair Peeples – Ok. Thank you, ma’am. Board members?

MOTION: Ms. Liotta moved to approve the application. Mr. Jensen seconded the motion, which passed with one (1) dissenting vote.

- Q. Application(s) for Removal Service**
(1) Recommended for Approval with Conditions
(a) Firstcal 24/7 LLC (Tampa)

Ms. Simon – Is there a representative of this entity here today? Hearing no response. An application for removal service licensure was received on August 18, 2023. The application was incomplete when submitted. A completed application was received on September 5, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the removal service pass an onsite inspection by a member of Division Staff. Is there a representative of this entity on the call today? Hearing a response.

Chair Peeples – Board members?

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

- (b) MC Gateway Removal Services Corp (Pensacola)**

Ms. Simon – Is there a representative of this entity here today? Hearing no response. An application for removal service licensure was received on July 6, 2023. The application was incomplete when submitted. A completed application was received on September 8, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the removal service pass an onsite inspection by a member of Division Staff.

MOTION: Mr. Jones moved to approve the application subject to condition that the removal service passes an inspection by a member of Division Staff. Mr. Clark seconded the motion.

Chair Peeples – Any discussion? Mr. Jensen?

Mr. Jensen – So, I see the location of the business is Pensacola FL. The mailing address is Katonah NY, and they live in California. Is that okay?

Mr. Brandenburg – What’s the objection?

Mr. Jensen – The objection is, how are they living in California? Is this a corporation? It is a corporation, but I’d just like some clarification. Who are they? Do we even know anything about them? It seems like they’re all over the place. I don’t know that that matters. Does that matter to the Department?

Ms. Simon – Candidly, we don’t really {inaudible} preferred address and a mailing address. For our purposes, it is the business address, and it was not something my attention was drawn to, Mr. Jensen.

Mr. Jensen – Thank you very much.

Chair Peeples – Mr. Jensen, on Page 10, we have the SunBiz information that they are an active corporate entity.

Mr. Jensen – I did see that.

Chair Peeples – Thank you for your comment. Is there any other discussion on the motion? Hearing none. All those in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – Any opposed, say no. Motion carries.

- (2) *Recommended for Denial*
 - (a) *Charon Mortuary Transport Services LLC (Weston)*

Ms. Simon – This item was withdrawn from the agenda. We expect it will be on the November agenda. They have waived the deemer provision found in Chapter 120, F.S.

- R. *Application(s) for Renewal*
 - (1) *Recommended for Approval with Conditions*
 - (a) *Funeral Director and Embalmer (Criminal History)*
 - 1. *Archer, Kaleb F076751*

Ms. Simon – Is Mr. Archer here today?

Mr. Kaleb Archer – Yes, ma’am.

Ms. Simon – Please step forward. Mr. Archer submitted a license renewal application and payment on August 30, 2023, and answered yes to the criminal history question. Mr. Archer has submitted the criminal history form and court documents, which revealed that on October 4, 2022, Mr. Archer entered a plea and was adjudicated guilty to a 1st offense misdemeanor of driving under the influence (DUI). Mr. Archer’s sentencing includes fines and courts cost totaling \$1,016 to be paid within ten (10) months in monthly payments of \$101.60, twelve (12) months supervised probation, and his driver’s license suspended for six (6) months. The Division recommends approval subject to the condition of the license being placed on one (1) year of probation upon renewal.

Chair Peeples – Mr. Archer, if you would please be sworn in by Ms. Simon.

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

Mr. Archer – Yes, ma’am.

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

Mr. Archer – Kaleb Archer, A R C H E R.

Chair Peeples – Thank you, sir. Are you here to address the Board, or would you like to be available for questions?

Mr. Archer – Questions, please.

Chair Peeples – Thank you.

Mr. Archer – Yes, ma’am.

Chair Peeples – Board members?

Ms. Clay – I just wanted clarification, if I may, Madam Chair?

Chair Peeples – Yes, ma’am?

Ms. Clay – What did your twelve (12) months of supervised probation include?

Mr. Archer – So, that was the babysitting, obviously. That was no alcohol, no drugs of any sort. I have a court date on the 26th of this month to completely release me from probation because it is completed.

Ms. Clay – Was there any testing involved?

Mr. Archer – Yes, drug testing.

Ms. Clay – Thank you.

Chair Peeples – Ms. Clay, does that complete your question?

Ms. Clay – It does. Thank you.

Chair Peeples – Any other discussion or questions for Mr. Archer? Hearing none.

MOTION: Mr. Jensen moved to approve the application and place the license on probation for one (1) year. Mr. Clark seconded the motion, which passed unanimously.

Chair Peeples – Thank you, sir.

Mr. Archer – Thank you.

2. Meyers, Kimberly F079376

Ms. Simon – Is Ms. Meyers here today?

Ms. Kimberly Meyers – Here.

Ms. Simon – Please step forward. Ms. Meyers submitted a license renewal application and payment on August 23, 2023, and answered yes to the criminal history question. Ms. Meyers has submitted the criminal history form and court documents, which revealed that on August 10, 2023, Ms. Meyers entered a plea of nolo contendere to the 2nd degree misdemeanor of reckless driving (reduced from DUI, 1st offense). Ms. Meyer’s sentencing includes fines and courts cost, twelve (12) months’ probation, and driver’s license suspended. Fines and courts cost satisfied on September 7, 2023. The Division recommends approval subject to the condition of the license being placed on one (1) year of probation upon renewal.

Chair Peeples – If you would please let Ms. Simon swear you in.

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

Ms. Meyers – I do.

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

Ms. Meyers – Kimberly R. Meyers, M E Y E R S.

Chair Peeples – Thank you, ma’am. Are you here to address the Board or answer questions?

Ms. Meyers – Questions.

Chair Peeples – Thank you, ma’am. Board members, do you have any questions for Ms. Meyers?

Ms. Clay – I have the same question. Your probation, what did it entail?

Ms. Meyers – Probation has been completed. It was three (3) months.

Mr. Brandenburg – I have a question.

Chair Peeples – Ms. Clay, does that complete your question?

Ms. Clay – You said you had three (3) months? Why is it showing twelve (12), or am I reading it wrong?

Ms. Meyers – They only required the three (3) months.

Ms. Clay – Yes, that completes my question.

Chair Peeples – Thank you. Mr. Brandenburg?

Mr. Brandenburg – Good afternoon. Are you currently working in Lakeland?

Ms. Meyers – No, I'm currently working in Palmetto at Skyway Memorial.

Mr. Brandenburg – Thank you.

Ms. Meyers – Thank you.

Chair Peeples – Thank you, Mr. Brandenburg. Any other questions for Ms. Meyers? If not, what's the Board's pleasure?

MOTION: Mr. Jones moved to approve the application and place the license on probation for one (1) year. Rabbi Lyons seconded the motion, which passed unanimously.

Chair Peeples – Good luck, ma'am.

Ms. Meyers – Thank you.

Chair Peeples – Thank you for coming.

3. Milton, John G F313074

Ms. Simon – Is Mr. Milton or a representative of Mr. Milton here today?

Mr. John Milton – Yes, ma'am.

Ms. Simon – Mr. Milton timely submitted a licensure renewal application and payment on August 28, 2023. However, due to his recent criminal history, this matter is being presented to the Board. Mr. Milton has submitted the criminal history form and court documents, which revealed that on July 12, 2023, Mr. Milton entered a plea of nolo contendere to the 2nd degree misdemeanor of operating a motor vehicle without a valid license. Mr. Milton was assessed fines and court costs totaling \$401. The Division recommends approval subject to the condition of the license being placed on one (1) year of probation upon renewal.

Chair Peeples – If you would please let Ms. Simon swear you in.

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

Mr. Milton – I do.

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

Mr. Milton – John G. Milton, M I L T O N.

Chair Peeples – Thank you, sir. Are you here to address the Board, or are you here for questions?

Mr. Milton – Well, I'll address the Board briefly, if I may, Madam Chair?

Chair Peeples – Thank you.

Mr. Milton – As the previous two (2) cases I heard, the Division recommended one (1) year of probation. Both of those cases had probation from the justice system, as I did not. I just had to obtain a valid driver's license. So, I'm asking for consideration that my probation be dropped, from the Board.

Chair Peeples – Does anyone have any questions? Mr. Jensen?

Mr. Jensen – What caused you not to have a valid license of July of this year?

Mr. Milton – Do you want long or short?

Mr. Jensen – Short.

Mr. Milton – Speeding tickets. As my company has {inaudible} insurance, speeding tickets caused me to be dropped from my insurance. When I got a valid driver's license, I thought that I automatically went back on the insurance. Unbeknownst to me, I did not. So, I got in a vehicle accident with no insurance, and I was financially responsible for that accident. So, until I financially paid for that accident, they suspended my license. I had to pay for the accident, and I got my license back. I have insurance now, too.

Mr. Jensen – Thank you.

Chair Peeples – Does that complete your question?

Mr. Jensen – I'm good.

Chair Peeples – Mr. Brandenburg?

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

Chair Peeples – Good luck. Thank you for coming.

Ms. Milton – Thank you, Madam Chair. Thank you, Board.

Chair Peeples – You're welcome.

- S. **Application(s) to Renew Internship**
 - (1) **Recommended for Approval without Conditions**
 - (a) **Embalmer**
 - 1. **Voss, Beth A F372903**

Ms. Simon – Is Ms. Voss or a representative of Ms. Voss here today? Hearing no response. An application to renew the embalmer internship license due to illness, hardship, or awaiting results was received on August 28, 2023. The application was complete when received. The current license expired on September 5, 2023. The Division recommends approval without conditions.

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

- (b) **Funeral Director and Embalmer (Concurrent)**
 - 1. **Lambe, Robert M F611290**

Ms. Simon – Is Ms. Lambe or a representative here today? Hearing no response. An application to renew the funeral director and embalmer concurrent internship license due to illness, hardship, or awaiting results was received on August 22, 2023. The application was complete when received. The applicant was previously licensed as a funeral director and embalmer concurrent intern pursuant to 69K-18.001 and 69K-18.002, Florida Administrative Code, only permits one internship in a lifetime. The current license expired on August 30, 2023. The Division recommends approval without conditions.

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

T. Related Items

(1) Application(s) for Monument Establishment Retailer and Monument Sales Agreement

(a) Recommended for Approval with Conditions

1. O.T. Davis Monument Company LLC (Gainesville)

Ms. Simon – Is there a representative here today? Hearing no response. An application for monument establishment retailer licensure was received on August 23, 2023. The application was incomplete when submitted. A completed application was received on September 11, 2023. A background check of the principals revealed no criminal history. The Division recommends approval subject to the condition that the establishment passes an inspection by a member of Division Staff.

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

2. O.T. Davis Monument Company LLC (Gainesville)

Ms. Simon – The Division recommends approval of the monument sales 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.

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

(b) Recommended for Denial

1. Family Matters Planning & Consulting, LLC d/b/a Angelic Monuments (Dania Beach)

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

Ms. Eugenia Hankerson – Yes.

Ms. Simon – Please step forward. An application for monument establishment retailer licensure was received on September 7, 2023. The application was incomplete when submitted. A completed application was received on September 11, 2023. A background check of the principals revealed no criminal history. The Division recommends denial, as it has come to the attention of the Division that the applicant who had previously been issued licensure as monument establishment entity, and that licensure expired, continued to advertise on their website and Facebook account, and also on Google. As a result, the Division recommends denial. If the Board rejects the recommendation and approves the application for licensure, the Division recommends the following conditions to be met before licensure: a \$2,500 fine, one (1) year of probation once licensed, and a passing inspection conducted by a Division staff member. 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?

Ms. Hankerson – I do.

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

Ms. Hankerson – My name is Eugenia Hankerson, H A N K E R S O N.

Ms. Simon – Thank you, ma'am.

Chair Peeples – Thank you, ma’am. Are you here to address the Board, or would you like to just be available for questions?

Ms. Hankerson – Both.

Chair Peeples – Ok. Please address us.

Ms. Hankerson – I’ve never had to defend myself, my integrity, my character, my livelihood or any of that, so bear with me a little bit. I just want to bring you up to speed as to how this all came about. In August, I got a call from Ms. Cordero who was an inspector for the State of Florida. She said that she had a complaint filed against me, which was shocking to me. I asked for what reason and she said that I had been named in a complaint that said that I was having an unlicensed location doing business and I was unlicensed. I agree. That’s correct. In 2019, the last time I had my license, I moved to Georgia to assist my sick daughter. So, it was an abrupt move. I just went to Georgia. I was not here. I didn’t have a location. She confirmed that she went to the last location and that I wasn’t there. There was a new business there.

The complaint came as a result of a colleague that we’ve known for over thirty (30), and that someone had named me in that. Yes, I was there, but I wasn’t there to do business. He’s a colleague of mine and he’s also a good acquaintance of mine. We had breaking news on Channel 7 investigation that he had taken all of these people’s monies and had not fulfilled his orders. So, of course, myself and the community, lots of people were there to find out what happened. I didn’t know that nature of him. So, it was some concern for him and the community. As I was there, people were crying, and one gentleman in particular, and I don’t know who it was, but I know I spoke with one gentleman, because the State never told me or showed me the complainant’s information that I was named in. She said it wasn’t a complaint against me. It wasn’t disciplinary action. It was an investigation, and she had investigated and found that I did not have a location and the person said I didn’t exchange money with them. So, I asked if there was a complaint and she said no. She said that I had twenty (20) days to reply. I replied to the State in twenty (20) days explaining to them what happened.

She also mentioned that I had a website up. I told her I did not know that that was the case, but I would check into it. I did. When I checked into it, we’re building, I’m rebranding as Family Matters Planning & Consulting. The web developer had opened it to try and put some of those things on the website. I contacted him and he stated that he failed to close it. He closed it. It was talking about the conversations that I have. I have a lot of conversations. I hold four (4) licenses in the State of Florida. I do life insurance, property and casualty, I am preneed, and I am an insurance agency now. So, my reputation has never been questioned until now, and that’s a big deal for me because I haven’t done anything to the community to hurt them. When I heard about something like that happening before, I contacted Channel 10, some years back, and donated monuments to the family that had been hurt by another monument company in our city who had taken their money and not given them their stuff. So, that is not my character. I wasn’t deliberately advertising anything. Also, the State said that I was mentioning preneed. Well, I am a licensed preneed agent. I was talking about the topics, and that’s what they shared with me. They talked about the conversations. I’m in the community talking about having necessary conversations on things that I’ve done. Having document preparation. Grief support. Those are things that I do, and I am licensed. So, if it was a misunderstanding, I couldn’t say, because that is something that I offer because I am a licensed preneed agent. I wasn’t deliberately having the website open. I told her that. So, I’ve been communicating back and forth.

In September, I get a call from Ms. Simon. I’m at a funeral with one of my agents. I’m a supervising agent for preneed. Ms. Simon told me that I had a disciplinary action, which really gave me a massive headache. I was scared and didn’t know anything about this. She stated that she was not at liberty to tell me for what, because it might compromise the investigation. I told her I knew there was an investigation. I responded, and since I didn’t hear anything, I thought it was closed. She stated I could pay \$2,500 that day and get a year of probation. I asked for what, because I was not aware of what we were talking about. I was very confused and concerned. She said again that she could not tell me, so I requested she send me something in writing. She sent me something after hours. I left the funeral and went home. She stated that she wasn’t going to send me to the General Counsel. I called the General Counsel’s Office. I called the State. Nobody knew about this disciplinary action part of it, which of course I know that I have my license up for today. So, we go back and forth on email. I’m trying to understand what this all means, how did we arrive at this point, and what did I do that was so egregious in the community.

I was at a location as a concern for my friend in the community, just there to see what was going on. He had no license for twelve (12) years, per the television. He had a Cease and Desist Order from the State in November 2022 and 2023. The State had never come. So, all these people hearing this, including myself, it was a lot. It was heartbreaking. So, I don’t know, well, I

understand if that is the case that I had a website up, it was an oversight. It wasn't deliberate. I wasn't trying to do anything to hurt the community. When the investigator went to the last known location, I'm not there. All the information she sent me, there was a Facebook page and I wanted to see, contact old staff. I never managed it. I'm thinking 2015 was the last time we had a posting. I wasn't advertising. I had that taken off. Everything she said to me was taken care of. Google, well there's Google, Yelp, and all these other things. I don't even know how you get on Google, but ok. I made sure that everything was taken care of, because that is not my character. That is not my intention, to hurt the community, nor was I trying to advertise. I wasn't. I wasn't even in the state in 2019. I'm just coming back to the state and coming back to South Florida in May. So, to say that you want to totally take my license away, my livelihood, and give me marks. I've never been in trouble with the law in my life. To say that and to have my whole reputation ruined before our community, I just ask that that not happen.

Chair Peeples – Thank you, ma'am. Rabbi Lyons?

Rabbi Lyons – So, just to understand, in our Board packet the only thing we have in front of us is just the issue of advertising. So, just so I understand, did you used to have a license under this name, Angelic Monuments?

Ms. Hankerson – Yes. I was Angelic Monuments Company, LLC.

Rabbi Lyons – And that license ended when?

Ms. Hankerson – 2019.

Rabbi Lyons – In between 2019 and now, it sounds like you were saying that whatever was happening on Google and Facebook was sort of residual.

Ms. Hankerson – Correct. I owned the website since 2010, when I started in this business. In order to save my name, you have to keep it. It was parked with Go-Daddy, which is where I had it. All that's parked there. That's the only website I had to start, and you can see it says, "Family Planning and Consulting." That's what he was working with. That's the only platform we had because I did not own the names. You have to get approved by the State to own that name, and then that email address or that domain name wasn't available, so we tried to buy it from the person who owned it. So, he was simply sampling n there. That has been parked in private. It was not open, but I have to continue to pay for it in order to keep it, because it wasn't known when I was away that I wasn't going to come back right away and have Angelic Monument Company. It was just a matter of an extended stay with my child.

Rabbi Lyons – {Inaudible} A monument builder will need a preneed license. A monument retailer cannot. You have a preneed license anyways. Your monument retailer, I'm just mentioning, and you may want to consider, you could sell monuments if you were licensed as a monument builder. There are certain other things you need to comply with, but that's just a comment, if you wanted to explore that. Were there Google ads that she was paying for during the time of the lapse?

Ms. Simon – Madam Chair?

Chair Peeples – Ms. Simon?

Ms. Simon – On your first point, a monument establishment builder may be able to license as preneed, but they would need to be licensed as a preneed main in order to sell preneed. It's not simply that a person has a preneed sales agent license.

Rabbi Lyons – Right. I was just saying that a retailer has no path to sell preneed.

Ms. Simon – It is the Division's understanding that the website was still on and operating, the Facebook account was still on and operating, and the Google page reflected this business, two (2) to three (3) years after the business had closed.

Ms. Hankerson – May I speak, please?

Chair Peeples – Rabbi Lyons, does that complete your question?

Rabbi Lyons – Yes.

Chair Peeples – Ok. Yes, ma'am?

Ms. Hankerson – In reference to, and this is where I believe there's a miscommunication is what they were reading as far as the services that I offer. It's funeral preneed. It's not monument preneed. In order to do monument preneed, you have to be a monument builder, and that allows you to do preneed. That's one big difference between a retailer and a builder. They do sandblast onsite, and they can preneed monuments. I'm not a monument preneed. I am a funeral service preneed. That's it. I don't want to do that part.

Chair Peeples – Thank you, ma'am. Does any other Board member have questions for Ms. Hankerson? Mr. Jensen?

Mr. Jensen – So there was no location between 2019 and 2023? This was just where they put it on Yelp or something out there, is what you're saying?

Ms. Hankerson – Correct.

Mr. Jensen – And the Department doesn't have any examples of the advertising that she did? I don't see them in our packet. Is that correct?

Ms. Simon – Again, this is our understanding of what has happened. That there was a Facebook account. That there was a website for the establishment. My impression is it wasn't through Yelp, but that there was something on Google. Those were the three (3) things.

Mr. Jensen – Ok. Do you have an establishment?

Ms. Hankerson – No, sir, I do not. I'm applying for an establishment.

Mr. Jensen – Did you have a Facebook account set up for this?

Ms. Hankerson – It was old, from 2010, when I first started.

Mr. Jensen – You weren't actively soliciting?

Ms. Hankerson – No, sir,

Mr. Jensen – Thank you, Chair.

Chair Peeples – Thank you. Any other Board members have questions for Ms. Hankerson? Rabbi Lyons?

Rabbi Lyons – It sounds like {inaudible} Go-Daddy let her keep the domain name, so I'll make a motion.

MOTION: Rabbi Lyons moved to approve the application subject to the condition of passing inspection conducted by a Division staff member. Ms. Liotta seconded the motion, which passed unanimously.

Chair Peeples – Thank you, ma'am.

2. Family Matters Planning & Consulting, LLC d/b/a Angelic Monuments (Dania Beach)

Ms. Simon – The Division originally recommended denial because of what was going to be done with the application for a monument establishment.

Chair Peeples – Rabbi Lyons?

MOTION: Rabbi Lyons 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.

Chair Peeples – Good luck, ma’am.

Ms. Hankerson – Thank you. Can you tell me what that condition is?

Ms. Munson – So, that’s a fair question, right? Technically, it says two (2) full sized print-ready copies are received by the Department within sixty (60) days of this Board meeting, but you would not have had previous notice about that condition. So, from today, the Department is expecting you to present that information. You may not receive an Order about this, putting it in writing, but you can call the Department. You might receive an Order within the next two (2) weeks or so, but you can call the Department just to confirm so there’s not a problem saying that you took longer than sixty (60) days of this meeting.

Ms. Hankerson – Thank you. Are there any other charges against me, going forward?

Ms. Simon – The only other item regarding today being licensure is that an onsite inspection was listed as a condition of licensure.

Ms. Hankerson – Can you tell me when that is going to happen? I’ve been ready.

Ms. Simon – No, I can’t provide that to you.

Ms. Hankerson – Ok.

Chair Peeples – It’ll be scheduled, so you’ll be updated and that’ll be forthcoming to you by correspondence by mail or email.

Ms. Hankerson – Ok. Thank you.

Chair Peeples – Thank you for coming today. Good luck.

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

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

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

Chair Peeples – Yes, ma’am.

Ms. Schwantes – First of all, good afternoon, everybody. I want to give to you a legislative report. The first bill of the season that we will follow has been filed, titled Animal Cremation, SB0022, it is also known as “Sevilla’s Law.” This is the same bill as that filed last year. In fact, I believe this is about the 4th year that this bill has been filed. Although it is not expected to impact Chapter 497, we will continue to report on it due to industry interest.

The timing of our fall meetings has been a bit unusual due to the rescheduled meeting following Hurricane Idalia and the need to have this meeting later than normal. We should return to a more normal meeting schedule in November, but there will be another quick turnaround as it is only a few weeks away at this point until our next meeting. The meeting will take place by videoconference at 10 a.m. on Thursday, November 2, 2023. Board packets are expected to go out in about a week and a half. I just want to particularly thank Board members for their diligence and attention to all the material submitted in the packet, particularly when we have a short turnaround. It is much appreciated.

I have a few things I want to cover regarding proposed rule changes. In a few minutes, Ms. Simon will go over proposed rule changes. I want to end this portion of the Executive Director’s Report with a lead into those rulemaking items.

There are nine (9) rules on which the Department is requesting changes. Board discussion on these items should wait until the rule is actually introduced by Ms. Simon. This is only a reminder of the issues involved. Although the rules may be raised by Ms. Simon in numerical order, my summary here concerns the general topics involving the proposed changes. Eight (8) of the rules to be discussed concern our need to slow the drain on the Regulatory Trust Fund, which, as you know, is expected to continue to decrease by about \$500,000 per year, reaching a very low balance of only \$164,000 by FY29-30.

The first proposed rule change involves the rule pertaining to remittances to the Regulatory Trust Fund from the sale of preneed contracts. The Division is requesting that the rule be opened to increase the amount payable to the Regulatory Trust Fund from each preneed contract sold. Currently, preneed licensees pay \$6 to the Regulatory Trust Fund for each preneed contract sold during the year. By statute, under section 497.453, F.S., the maximum that may be charged is \$10. We are requesting that the amount payable be raised to \$10 for each preneed contract sold. In FY22-23, last year, approximately 123,282 preneed contracts were sold. Based on this number as representative of sales over the past few years, using rulemaking to increase the fees paid on each preneed contract to \$10 would result in an increase of approximately \$493,128 in income per year.

The next seven (7) rules to be discussed involve increasing the inspection fees charged to the non-cemetery establishments. Again, as a reminder, cemeteries do not have a separate inspection fee charged. The renewal fees which are paid per statutory table for cemeteries are based upon sales take care of the inspection costs. So, we're only asking to increase the inspection fees on the non-cemetery establishments. Currently, annual inspection fees of \$225 are paid by each non-cemetery establishment (i.e., funeral homes, direct disposal establishments, cinerator facilities, etc.). These fees are paid on a biennial basis with the renewal fees and recognized as revenue at that time. On the biennial renewal cycle, a licensee currently will pay \$450. Again, \$225 each year, but they are paying every other year. The maximum amount that could be charged per relevant statutes is \$300 per year (i.e., \$600 when paid on the biennial renewal cycle). That's an increase of \$150 per non-cemetery establishment every two (2) years. In FY22-23, approximately 1,582 establishment licensees would have been subject to annual inspection fees. Using rulemaking to increase current inspection charges to the current statutory maximum would result in a biennial increase of approximately \$246,150.

So, again, points to make are that these efforts, which are expected to result in at least \$500,000 in additional income each year, should minimize the drain on the Regulatory Trust Fund balances and allow time to develop more adequate long-term funding solutions. These issues will not be finally decided today. Again, our requests today are to open rulemaking on the applicable rules. The rulemaking process will still allow opportunity for public comment on any proposed changes after the rules are open.

The final proposed rule change topic to be discussed today involves the rule relating to the *Description of Merchandise on Preneed Contracts*. Industry representatives brought to our attention that there are often difficulties in obtaining merchandise at-need when, for example, the merchandise is specifically referenced by brand in the preneed contracts. That's just an example of some of the problems they are having when trying to obtain that merchandise at-need. This matter was discussed at the Board's Rules Committee meeting in June 2023. The proposed changes incorporate the changes suggested at that time.

This ends this portion of the Executive Director's Report, and with our Board Chair's permission, I would like to turn the meeting over to Ms. Simon to discuss the rulemaking items.

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

Ms. Schwantes – Thank you.

(2) Rulemaking (Action)

Ms. Simon – In September 2023 and today, Ms. Schwantes' Executive Director's Report referenced proposed rule changes. The first was to change the amount for each preneed contract to be raised from \$6.00 to \$10.00, and that was within the statutory guidelines. The second was to raise the fee for inspections from \$225 to \$300. Both of these proposed monetary changes are within the statutory maximums. The third change Ms. Schwantes discussed was to change the definition of "availability" in Rule 69K-8.006, F.A.C. This change is proposed based upon industry request and is the result of the Rules Committee Meeting in June 2023. Included in your Board package are the Division's proposed rule changes to each of the rules aforementioned.

The specific rules are 69K-5.0024, 69K-8.006, 69K-12.011, 69K-21.004, 69K-22.003, 69K-23.004, 69K-24.020 69K-24.030, and 69K-24.040 FA.C. Further, the Division is requesting that you also approve the proposed changes to those rules that are included within your Board package and have previously been discussed. Again, neither opening up the rules or accepting the proposed changes will end the discussion. It is merely a branch off point to handle our rulemaking. It would be appropriate for a Board member to make a motion to open the outlined rules for rulemaking purposes at this time.

MOTION: Ms. Clay moved to open the outlined rules for rulemaking purposes. Mr. Williams seconded the motion.

Chair Peebles – Is there any discussion on the motion?

Ms. Munson – I may have some discussion.

Chair Peebles – Please ma'am.

Ms. Munson – Just to make sure the Board understands where we are. So, just to clarify, when we open the rule for development, if the body approves it, we will need to do each of these separately, because they each have a separate meaning. We would need to understand that once it's open, and I don't know if everyone really understands the rulemaking steps, so I thought this is a good time to mention it. So, what I will do, if this body approves to open each of these rules for rulemaking, our first step is submitting the documentation to OFARR, Fiscal Responsibility, a separate Department, housed under the Executive Branch with Legislative Function. Some of the questions that they're going to ask is the qualitative and quantitative benefit of why this rule change is being recommended. So, to be clear in that understanding, so before it's even published, it goes to OFARR for their review, then it is published, then it would be available for public comment. If there is no public comment, it's going to sail through. JAPC or other members of the public may have public comment that the Board may need to come back and address before the rulemaking is complete. The only other comment that I have, with each of the rules that have to do with any increase in funds, you do know that if the Board approves them, I will ask the question. I see that the last comment is here that the Department requests that the Board entertain the individual questions, which will follow, to determine whether a SERC is required. So, if you open it for development, one (1) of the questions that the SERC is going to ask is whether or not there is an aggregate cost in excess of \$200,000. So, that is a parameter if the Board determines that there is an aggregate cost, then the Division would have to do a SERC identifying this breakdown. If you determine that it is not, then it's just a minor checklist, which is what we do for most of the rulemaking. So, I just wanted to explain a little bit of the parameters of what you are determining with regard to your decision making with each of these rules. That was the discussion portion of it, so you can vote on each of them as you so wish. If you want to vote collectively, I will ask the three (3) questions on each of them.

Chair Peebles – Thank you, Ms. Munson. So, we have a motion on the table. Mr. Jones?

Mr. Jones – Is the funding for the Division strictly through the trust fund or is there GR associated with it?

Ms. Schwantes – There is no general revenue associated with the Division's funding. Having said that, as I've said before, we do benefit from being part of a large Department. For example, we use State vehicles for travel, and we are not paying for those out of our Division's budget.

Mr. Jones – But your Division's expenses are strictly trust funded?

Ms. Schwantes – Yes, sir. Our Division's expenses are coming out of the Regulatory Trust Fund.

Mr. Jones – And you said that the anticipated draw was down to \$100,000.

Ms. Schwantes - \$164,000 by the end of FY29-30.

Mr. Jones – Thank you.

Ms. Schwantes – You're welcome.

Chair Peeples – Thank you. We have a motion, and we have a second. Is there any other discussion? Ms. Simon?

Ms. Simon – Just to be clear, the motion and the second was to open rulemaking on all the previous mentioned rules?

Rabbi Lyons – Yes.

Chair Peeples – Thank you. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries.

Ms. Simon – The next question I'd like to ask, and I can start doing it in mass or rule by rule, I would like to learn if the Board will approve the proposed rulemaking included within your Board package. We can take that rule by rule or let me just start asking it en masse. It might be appropriate for the Board to make a motion to accept the proposed changes within your Board package, at this time.

Chair Peeples – Board members? If you don't speak up, we're going to be here a while.

Mr. Jensen – So, these were presented to the Rules Committee, and what these gentlemen came back with?

Ms. Simon – No.

Mr. Jensen – Is that what we're talking about?

Chair Peeples – Ms. Schwantes?

Mr. Jensen – That's where I'm a little confused.

Ms. Schwantes – Thank you, Madam Chair. The only rule proposed change here that went before the Rules Committee involves the problems in purchasing merchandise, the availability of merchandise on an at-need contract when things were specified in the preneed contract. That's the only rule that was discussed with the Committee. The funding issues are something that the Department is bringing to your attention with a request for a motion.

Mr. Jensen – So, we basically need two (2) different things, right?

Ms. Munson – Actually it's just one, but it's for each rule. So, I just want to make sure that for this portion of it, you read the language, because you are approving that language to be submitted for rulemaking, which will eventually be published and available for public comment and public review.

Ms. Simon – Why don't I, at this point, change my initial description for it. I think we should take these rule by rule, so we will not do a mass, because it appears that there may be discussion. So, the question is whether the Board wants to make a motion regarding the proposed changes to Rule 69k-5.0024, F.A.C.

69K-5.0024 Remittances to the Regulatory Trust Fund.

The amounts required to be remitted by a preneed licensee to the Regulatory Trust Fund, pursuant to the provisions of section 497.453(9), F.S., shall be determined in accordance with the following criteria:

(1) A preneed contract or arrangement shall be deemed to be written within the meaning of section 497.453, F.S., when a preneed contract or arrangement is executed by both the purchaser and the preneed licensee or its agent. A remittance for a preneed contract or arrangement dated within a specific quarter shall be submitted in the report for such quarter.

(2) Beginning with contracts written July 1, 2009, each preneed licensee shall remit to the Regulatory Trust Fund of the Department of Financial Services a fee of ~~\$106.00~~ for each preneed contract written; regardless of any payments made by the purchaser.

(3) Assessments required to be remitted pursuant to section 497.453, F.S., shall not be payable from funds subject to the trust provisions of sections 497.458 and 497.464, F.S. Refund of a regulatory trust fund fee by a licensee to its customer shall not relieve the licensee of its obligation to remit regarding that contract under section 497.453(6), F.S.

(4) Contracts canceled within thirty days of execution as provided by section 497.453, F.S., shall not be counted as a contract sold for purposes of determining the amount to be remitted to the Regulatory Trust Fund.

(5) If a contract is canceled after thirty days of execution, the preneed licensee shall not be entitled to credit the remittance for that contract against future remittances.

(6) Quarterly preneed remittances must be made by preneed licensees in the following manner:

(a) Servicing agents must follow the procedures in Form DFS-PNS-1, User Manual for Servicing Agents for the Preneed Remittance System (PNRS) (Eff. 04/22), which is hereby incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-14144> or on the Department's website: <https://www.myfloridacfo.com/Division/funeralcemetery/Licensing>.

(b) Appointing agents and third-party users must follow the procedures in Form DFS-PNS-2, User Manual for Appointing Entity Users for the Preneed Remittance System (PNRS) (Eff. 04/22), which is hereby incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-14145> or on the Department's website: <https://www.myfloridacfo.com/Division/funeralcemetery/Licensing>.

(7) No preneed licensee is entitled to a refund of its contribution to the Regulatory Trust Fund. A preneed licensee who overpays the amount due to the Regulatory Trust Fund may make the necessary adjustments in future reports, provided the adjustment is adequately disclosed and includes a reasonable explanation therefor.

(8) It is the responsibility of the preneed licensee to ensure the correct report and remittance is made.

Rulemaking Authority 497.103, 497.161, 497.453 FS. Law Implemented 497.103, 497.152, 497.161, 497.453 FS. History--New 5-13-97, Amended 12-12-00, Formerly 3F-5.0024, Amended 6-22-09, 6-7-10, 5-29-22.

Chair Peeples – Board members, we're starting with the first rule. So, if you'll notice in your Board packet, the changes are in red.

Unidentified person – Do we allow public comment on this?

Chair Peeples – No, ma'am. Not right now. Thank you.

Mr. Brandenburg – Are you saying that we are voting?

Chair Peeples – Yes, sir.

Mr. Brandenburg – On whether this should come before the rulemaking process?

Ms. Munson – The Board is voting whether or not to amend this rule to increase the \$6 to \$10, because that is the language that will be submitted for review. When it's submitted, we will need to identify the qualitative and quantitative benefit for doing so to OFARR and in the questions I will ask you regarding the SERC issue, whether or not it increases regulatory costs to any entity in excess of \$200,000 in the aggregate.

Mr. Brandenburg – So, is this bypassing the Rules Committee?

Ms. Simon – It is not bypassing the rules process, because there are so many steps to this process...

Mr. Brandenburg – I said the Committee.

Ms. Simon - ...comments can be made that alter these rules.

Ms. Munson – All rulemaking technically does not have to go before the Rules Committee. So, in answer to your question, some of these rules did not go before the Rules Committee, and I think that Ms. Schwantes has identified which of those did not. The ultimate decision is based on what this Board wants to do.

Chair Peeples – Yes, sir?

Mr. Brandenburg – My concern is any feedback that we get from the industry and from the profession, they haven't had an opportunity to give any feedback on any of this, as they would in the Rules Committee process.

Ms. Munson – They will have an opportunity. That information, that statement is actually true, but they will have an opportunity to make as many comments as they want when it's published and they'll do so during public comment, at which time the Board will need to address.

Mr. Jensen – So, what are we approving? What are we voting for?

Ms. Munson – You're voting to determine whether or not you want this rule to change to state there will be an increase from \$6 to \$10.

Mr. Jensen – And Mr. Brandenburg is stating it's hard to vote on that without having the public, or rulemaking people looking at this.

Ms. Munson – Every Board is different. You have the authority to make these types of proposals without taking a temperature check with what the industry wants. But I will tell you once it's public, you probably will get some type of comment, and you will hear then. You're either going to hear about it before, or you're going to hear about it after. If, for example, if you did this prior to publishing the proposed changes and you determine that well based on the industry we don't think we should make this change, that's a possible outcome. The ultimate decision is whether this body feels the need to make this change. I believe the Division has indicated why they are "encouraging" these types of monetary changes to be made, despite what the industry comment may be. That's just, I believe, the temperature of where this situation rests.

Ms. Schwantes – Madam Chair?

Chair Peeples – Yes, Ms. Schwantes?

Ms. Schwantes – I think Ms. Munson correctly stated that in that we know there's a funding problem. We've discussed this for years with the Board and with the industry at other meetings. We want to get this moving in a fashion that we can slow the drain. It's not going to cure it but slow the drain on the Regulatory Trust Fund so that we can come up with better long-term funding solutions. In starting the process here with the Board in trying to open rulemaking, we know it's going to go through the rulemaking process. We expect industry comment and public comment to be made during the process. The only thing that this is really doing is taking it directly through that process, which is the official, normal, must-follow kind of a process, rather than having it go through the Rules Committee with the Board first.

Ms. Simon – And, you have already done what is absolutely necessary. You have opened up these rules for rulemaking and that process will begin. Now I am simply asking, I have submitted to the Board the proposed changes to each rule impacted. If the Board wants to vote to approve those proposed changes, the Board can do so, but again, this is not the last step in the process. This is simply to move it on through rulemaking. If the Board does not want to do it, the only difference is the length of time that it will be in rulemaking, but the Board can choose whatever the Board wants to do. If the Board wants to accept the proposed changes, make a motion to do so. If the Board does not want to, don't.

Rabbi Lyons – {Inaudible} public domain at this point?

Ms. Munson – No. If there's no language to present to the public, it's not in the public domain. It's just a Board item that this rule was open for discussion. Until there is language that is presented to move forward, it stays right here. There will be no movement in it. If you vote on (i.e., 5.0024) the language as printed, it will then move forward and then fall into the public domain for review. This will never be published unless you vote to approve the language in red.

Chair Peebles – Mr. Jones?

Mr. Jones – Ms. Munson, the Division cannot move forward with rulemaking without approval by the Board?

Ms. Munson – Not on a Board rule. Only on Department rules.

Mr. Jones – That’s what I was wondering.

Chair Peebles – What is the Board’s pleasure? We’re on Rule 69K-5.0024, F.A.C., Remittance into the Regulatory Trust Fund, increasing the fee from \$6 for each agreement written to \$10. What is the Board’s pleasure?

Rabbi Lyons – Madam Chair?

Mr. Brandenburg – I have one question.

Chair Peebles – I’m sorry. Thank you.

Mr. Brandenburg – Why did the Division choose to go in this direction rather than through the Rules Committee? Why?

Ms. Munson – May I?

Chair Peebles – Yes, ma’am.

Ms. Schwantes – Again, this starts the process a little bit quicker. Again, leaving opportunity for public comment and industry comment still open. It is the Board’s choice at this point, but this is the request that the Department is making.

Mr. Brandenburg – Thank you.

Mr. Jensen – May I, Madam Chair?

Chair Peebles – Yes, sir.

Mr. Jensen – So, basic, if we approve this, this is something that shows the Board approved it when you go down the line for the other approvals. Is that basically what I’m understanding?

Ms. Munson – I will tell you that every presentation of these rules will be taken separately, because you have different considerations whether you want to agree to the proposed language in one and not the proposed language in another.

Chair Peebles – I’m sorry, we’re not taking public comments from the audience. This is just Board items right now. Thank you. So, what is the Board’s pleasure? Rabbi Lyons?

Rabbi Lyons – You’re asking we approve the language here?

Ms. Munson – Wherever you see red. It’s increasing from \$6 to \$10.

Rabbi Lyons – Are we suggesting that as a rule?

Ms. Munson – It’s the proposed language.

Rabbi Lyons – We are proposing that language?

Ms. Munson – Yes. If there is no dispute in any of this rulemaking process to it, that would be the new rule. \$10 instead of \$6.

Rabbi Lyons – I don't necessarily think this is a good idea, but in order to put it into the public domain and encourage public discussion I will propose that we accept the change to \$10.

Chair Peebles – Is that your motion, sir?

MOTION: Ms. Clay moved to accept the proposed changes for Rule 69K -5.0024.

Mr. Clark – Madam Chair?

Chair Peebles – Yes, sir?

Mr. Clark – So, by bypassing the Rules Committee, what's the value of having public comment if we're going to just vote and say that this is good? What's the step after public comment? Do they have the opportunity to influence, if we've already said that it is good?

Ms. Munson – Absolutely so. To that extent, what happens when anybody gives public comment? You can find yourself in a rule challenge. That can be the result of it, depending on what the comment is. You may find yourself in a rules hearing, so that there is a public forum to discuss what this proposed change will actually impact. Some individuals may choose to do that on the front end so that when it goes through the rulemaking official process you've already ironed those types of issues out, but it's not uncommon to propose language and move forward with it in that fashion as well. We can't anticipate what type of comment you may or may not receive, but the opportunity will be there. If you have a rule hearing and the information is challenged, it could be a lengthy process because there may be multiple hearings. I can't predict any of that, but whenever you are increasing fees, it is not unlikely that there will be some type of comment to follow. I will openly say that.

Mr. Brandenburg – Will the Board get a vote after the public comments?

Ms. Munson – Your vote will be at this moment today. This is what we as a Board approve. That is what this vote is.

Rabbi Lyons – Does it mean that we approve it or that we're sending it into the realm of public comment?

Ms. Munson – It means that it is approved, and if no one says anything that's what the rule will be.

Rabbi Lyons – If people say stuff that we'd like to hear, then what?

Ms. Munson – You'd have an opportunity to change the language. We'd consider that a Notice of Change. That's also an approved part of the rulemaking process. It would be a Notice of Change to the proposed language. It lengthens the process, but it's a part of the process. It's a recognized part of the process.

Rabbi Lyons – What triggers that part of the process?

Ms. Munson – I'll give you an example. I just recently did a rule for another board and the way that the proposed language was written. The Board received a comment from JAPC that said they believed that the language as written violated statute. You can't write a rule that violates statute. And so, we had to take the rule language back to the Board. They tweaked the language a little bit so that it was consistent with statute. We had to issue a Notice of Change to comply with it. When we submitted the new language, it started the rulemaking process kind of over again a little bit. But as long as the final language was consistent, it ended up going through the rulemaking process without any further glitches or hangups or holdups. So, you're going to have an opportunity through the rulemaking process to make changes. Rulemaking takes an average of maybe ninety (90) days. Whenever you have to do something in the interim of it, it simply lengthens the process. Sometimes if the rule is not finalized within a year, it will expire, and you'll have to start the process all over again. Sometimes during the process, because the Board or significant parties involved, which again this is a Board decision, it may influence you, but it is your final authority to make the decisions. You may decide to withdraw it complete and decide to get rid of it for now and maybe look at it a little later. You have the authority to do all of that, but you have a year from beginning to end.

Chair Peebles – Mr. Williams?

Mr. Williams – Ms. Simon, could you share if there are any pros and cons, and also could you restate your motion? Well, your recommendation. I'm sorry.

Ms. Munson – Yes, because she can't make the motion.

Mr. Williams – Recommendation. I'm sorry.

Ms. Simon – The recommendation from the Division, based on the reasons stated by Ms. Schwantes, regarding this rule was to increase the fee from each preneed contract from \$6 to \$10. That is within the statutory guidelines and that is permitted. And that is needed, from my estimation, in order to help fund the Division and the work of the Board. Did you have another specific question?

Mr. Williams – No. I just had a follow up, Madam Chair?

Chair Peebles – Yes, sir.

Mr. Williams – So, may I make a motion on the recommendation that Ms. Simon just stated?

Chair Peebles – Well, we already have a motion by Rabbi Lyons.

Mr. Williams – Ok.

Ms. Munson – And the motion on the table is to accept the language that you see, increasing it from \$6 to \$10. That is the motion.

Rabbi Lyons – I just want to make sure. {Inaudible} Sometimes they take a year and then they die out. Is this going to not die after a year because we're approving it?

Ms. Munson – It will die after a year if we have not completed the rulemaking.

Rabbi Lyons – But this is not the final approval. Something is going to occur. Something to come back to the Board.

Ms. Munson – Maybe not. If no one says anything, this will sail through the rulemaking process. Within ninety (90) days it will be a new rule.

Rabbi Lyons – That's only if no residents of Florida say anything.

Ms. Munson – Or JAPC or any other individual or body that has any authority to speak to it.

Ms. Simon – If I may?

Chair Peebles – Ms. Simon?

Ms. Simon – During this process, because the rulemaking process is delineated in Chapter 120, F.S., there is automatically a workshop upon request. So, anybody that wants to discuss the issues can discuss the issues during the workshop. Sometimes those are heated, debated. Then there's another opportunity, and that opportunity is for a hearing, whether requested or not. During the hearing, again there can be heavily debated issues. And if a rule is put in place and there are issues that come up or have come up that weren't addressed, there's often times a rule challenge that can be started. Of course, we do not want a rule challenge. You have the ability to have input during both the workshop and the hearing, if there's only one workshop. There could be more than one workshop.

Ms. Schwantes – Madam Chair, may I?

Chair Peebles – Yes, ma'am.

Ms. Schwantes – I also want to point out to the Board that even the rules that were discussed at a Rules Committee meeting go through this same process. Even the rule that had to do with the availability of merchandise will go through this same process. Again, trying to get this language into the process immediately rather than go through the Rules Committee right now is the reason for doing this. With the understanding that there's plenty of opportunity for public comment. We expect public comment and industry comment, and we go from there.

Ms. Munson – The rule challenge is the most extreme scenario that could happen. I'm not saying it won't happen, but I will tell you that rule challenges go before DOAH, and they are a lot to defend. So, you would need to really be prepared to stand behind any of the proposed language. As Ms. Simon indicated, you can have as many workshops as you may find necessary. You can have rule hearings, but if the process is not completed within the twelve (12) months, you will start all over again. It will die.

Chair Peeples – So, we have a motion by Rabbi Lyons to accept the proposed language in Rule 69K.5.0024, F.A.C., increasing the amount from \$6 to \$10. We never got a second.

Ms. Munson – *“Beginning with contracts written July 1, 2009, each preneed licensee shall remit into the Regulatory Trust Fund of the Department of Financial Services a fee of \$10 for each preneed contract written, regardless of any payments made by the purchaser.”* I'm reading verbatim what the proposed change is so that you understand. Whenever there's any type of fee increase, it kind of turns on a light bulb with folk, and with a microscope they look real closely at that type of stuff. Again, I can share that much as well. And then we'll have to deal with the SERC portion of this as well.

Mr. Brandenburg – Does the date need to be addressed on that?

Ms. Schwantes – Mr. Brandenburg, I appreciate your comment. Actually, once it's read out loud, because we were focusing on the dollar amount, but I would expect that the date would get changed during the rulemaking process.

Ms. Munson – If we need to change it, we can change it now.

Ms. Schwantes – Let's do that.

Mr. Brandenburg – July?

Chair Peeples – We have a motion by Rabbi Lyons, so this is something he would have to add to his motion. If you'll notice on Rule 69K.5.0024(2), F.A.C., it says *“Beginning with contracts written July 1, 2009,”* so we'll have to change the date to have an effective date when the rule becomes effective, so that would need to be a part of your motion.

Rabbi Lyons – The new date would be the actual date of the rule?

Chair Peeples – Ms. Simon, or Ms. Munson?

Ms. Simon – It's my understanding that once you enter into rulemaking and a rule changes, it's prospective in nature. It's not like we're going back to the contracts from 2009.

Rabbi Lyons – I hope not. In terms of a proposal, there's no proposed date, so are we going to leave it open ended to whatever the date that the rule becomes effective?

Ms. Simon – You could include that in your motion. You could say as of 2023.

Ms. Munson – You would need to say when you want the rule to become effective. Rule changes cannot be retroactive. That is a factual statement. But leaving it the way it states now is problematic. You would need to correct the date. I don't know what you want to make it effective.

Rabbi Lyons – It sounds like something that should've gone through the Rules Committee. Why is it problematic if there is no such thing as a retroactive rule?

Ms. Schwantes – May I?

Chair Peebles – Yes, ma’am.

Ms. Schwantes – We certainly have no problem date. I can understand why {inaudible}. But if we’re going to make it an effective date, let’s go ahead and amend it to July 1, 2024. Again, with the idea that there will be plenty opportunity for feedback. As I explained in September, in my Executive Director’s Report, even going through the rulemaking process, even assuming the rule is approved, it’s not expected to take effect immediately. It can’t. We need to modify our systems and be ready to accept an increase in fees. So, July 1, 2024, is probably a good date. And that is under the assumption that it all goes through. A big assumption.

Chair Peebles – Mr. Brandenburg, do you have a comment that you’d like to address to us?

Mr. Brandenburg – No. The date then would be July 1, 2024?

Chair Peebles – Correct. Now, we’re talking about these items that are on the agenda today that Ms. Schwantes has brought up. If the Board decides as a group that they want this to go to the Rules Committee, we can decide that. The rule that we have on merchandise, we talked about that in June in Tallahassee. So, we’re at the middle of October. So, that was the reason for kind of going forward on these fee increases, to get the process going faster, because we only have one (1) year of time from beginning to end. So, it’s the pleasure of the Board, but we do have a motion by Rabbi Lyons that we need to address. So, you’re either withdrawing your motion...

Rabbi Lyons – I’ll amend it to be July 1, 2024.

Ms. Munson – When you vote on something it has to be clear with exactly the language that you are voting on, and the minutes will so reflect that.

Rabbi Lyons – I will restate that I am doing this in order to move everything to the domain of public comment, but I do not necessarily think this is a good idea. Approve the suggested change in Rule 69K-5.0024(2), and it will read as follows: *Beginning with contracts written July 1, 2024, each preneed licensee shall remit into the Regulatory Trust Fund of the Department of Financial Services a fee of \$10 for each preneed contract written, regardless of any payments made by the purchaser.*

Ms. Munson – And that, sir, will be a new sentence, because “*Beginning with contracts written July 1, 2009*”, is still a part of the rule. That language stays. I just want to make sure you understand, because it’s not written out for you. You have added a second sentence to say the same thing as the first sentence with the exception of the *July 1, 2024*. You’re going to continue with the rest of it and change the fee from \$6 to \$10. So, the first sentence without any changes will remain the same. The second sentence will be effective July 1, 2024, with the change from \$6 to \$10.

Rabbi Lyons – We have to do this in two (2) separate...

Ms. Munson – No, that’s just a requirement of rulemaking. When you rule on language, the body needs to know the language that they’re ruling on. So, I just needed to make that clear.

Rabbi Lyons – Correct. So, the two (2) changes are we changed July 1, 2009, to July 1, 2024...

Ms. Munson – No, you’re leaving that because we have to leave that, because \$6 is still in effect and has been in effect since 2009. So, you need that coverage there. You’re adding a second sentence, which will say the same thing as the first sentence except it will say, *Effective July 1, 2024*...

Ms. Schwantes – It shows the history of what was due at one point in time.

Ms. Munson – I just need to clarify what you want the sentence to say. Do you want the second sentence to say, *Effective July 1, 2024, the fee will be increased to \$10 for each preneed contract*? That’s a way you could write it, but the minutes need to reflect what you want it to say.

Chair Peeples – We can continue going forward, or we can withdraw your motion and have a Rules Committee meeting. Mr. Jones?

Mr. Jones – If there's not a second, I'll make a recommendation. If it goes to the Rules Committee, we can do comments there, because we're going to do comments either way. Only if there is not a second.

Rabbi Lyons – I'll withdraw my motion. I'll second Mr. Jones motion to send it to Rules Committee.

Ms. Munson – So, Rule 69K-5.0024, the motion is to move this to Rules Committee to workshop the language and further discuss the merits.

Mr. Jones – We spent thirty (30) minutes on a \$4 fee, I don't even want to get to these.

Ms. Munson – We haven't addressed any of the other rules yet.

MOTION: Mr. Jones moved to present Rule 69K-5.0024, F.A.C. to the Rules Committee. Rabbi Lyons seconded the motion, which passed unanimously.

Rabbi Lyons – Every time you take up a rule you have to have the law of what it was before that?

Ms. Munson – Just imagine what you'd have if you do not have that type of clarification. Say that you want to change it to \$10, and that rule becomes effective March 2024. How will an individual know what the fee would be prior to the effective date of July 1, if you no longer have the old language?

Rabbi Lyons – I understand, but what happened before July 1, 2009? Was there no fee?

Ms. Munson – I have no idea. I don't know the history on that.

69K-12.011 Annual Inspection Fees for Monument Establishments.

Each monument establishment shall pay an annual inspection fee of ~~\$300.00~~ that is payable upon application for licensure and upon each renewal of such license.

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

69K-21.004 Fees.

(1) The application fee for a funeral establishment shall be \$300.00 and will include licensure for the remainder of the biennium during which license application is granted.

(2) The biennial renewal fee for funeral establishments shall be \$450.00.

(3) Each funeral establishment shall pay an annual inspection fee of ~~\$300.00~~ payable upon application and upon each biennial renewal.

(4) The initial annual inspection fee and the initial application fee shall be due at the same time and shall be paid together and the subsequent annual inspection fee and the biennial renewal fee shall be due at the same time and shall be paid together.

(5) A delinquent fee of fifty dollars (\$50.00) shall be paid. This fee is owed when due.

(6) The fee for each duplicate license shall be \$25.00. To obtain a duplicate license, a licensee must inform the Department that the licensee needs a duplicate license and pay the duplicate license fee to the Department.

(7) In the event that a licensed establishment changes its licensed name, the Board office shall be notified within 30 days. Such notification shall include documentation of the name change as well as a \$25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

(8) In the event that a licensed individual changes his or her name, legal documentation must be submitted to the Board office. A fee of \$25.00 will be required, in addition to the original license. A duplicate license, reflecting the new name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

Rulemaking Authority 497.103, 497.140, 497.380 FS. Law Implemented 497.140, 497.146, 497.365(7), 497.380 FS. History—New 2-13-80, Formerly 21J-21.04, Amended 3-29-90, 12-18-90, Formerly 21J-21.004, Amended 3-30-94, 5-1-96, 9-17-97, 10-29-97, 2-16-98, 11-17-99, 12-28-00, Formerly 61GS-21.004, Amended 6-15-09.

69K-22.003 Fees.

(1) The application fee for a cinerator facility shall be \$450.00 and will include licensure for the remainder of the biennium during which license application is granted.

(2) The biennial renewal fee for cinerator facilities shall be \$450.00.

(3) Each cinerator facility shall be charged ~~\$300.225~~.00 for each annual inspection. These shall be paid biennially, at the same time as the renewal fee.

(4) The fee for each duplicate license shall be \$25.00. To obtain a duplicate license, a licensee must inform the Department that the licensee needs a duplicate license and pay the duplicate license fee to the Department.

(5) In the event that a licensed establishment changes its licensed business name, the Board office shall be notified within 30 days. Such notification shall include documentation of the name change as well as a \$25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

Rulemaking Authority 497.103, 497.140, 497.606 FS. Law Implemented 497.140, 497.606 FS. History--New 2-13-80, Formerly 21J-22.03, Amended 4-1-90, 12-18-90, Formerly 21J-22.003, Amended 2-21-95, 7-4-95, 9-17-97, 2-16-98, 11-17-99, Formerly 61GS-22.003, Amended 7-3-06, 5-19-09.

69K-23.004 Direct Disposal Establishments.

(1) At least thirty (30) days before the beginning of operation, a direct disposal establishment owner shall apply to the Department on a form provided by the Department for approval. Information to be provided shall include the correct street address, all telephone numbers and any Post Office box numbers. The owner shall also provide the name of the establishment.

(2) Prior to the issuance and renewal of its license a direct disposal establishment shall be approved by the Department if upon inspection by the Department it is shown that:

(a) There is available to the establishment adequate refrigerated storage space at a temperature of 40 degrees F or below for the average daily number of bodies stored;

(b) There are suitable containers available, including both cardboard boxes and airtight containers; and

(c) At least one licensed direct disposer is available at all times.

(d) The establishment shall be at a fixed, non-residential location in a building owned or leased by the direct disposer.

(e) The establishment shall be at least 625 square feet in size.

(f) If the establishment does not itself provide removal services, refrigeration facilities or cinerator facilities at or from its physical location address (profile location), upon application for registration, the establishment shall provide copies of its contracts with a removal service, refrigeration facility, retort or any appropriate combination thereof, located within 75 miles of the establishment's profile location.

(3) A direct disposal establishment shall be inspected by the Department under the following circumstances, and the Department shall be notified by the owner of the establishment at least 10 days before paragraph (a) or (b) occur:

(a) When a direct disposal establishment moves to a new location;

(b) When ownership of a direct disposal establishment is changed or otherwise transferred; and

(c) When a consumer complaint is made regarding a specific direct disposal establishment.

(4) There shall be one full-time registered direct disposer in charge at each establishment.

(5) In the event that the registered direct disposer in charge of establishment leaves the employ of that business, the owner shall notify the Department within twenty (20) days of the separation and shall identify the registered direct disposer who will be responsible for the establishment. Such notification shall consist of a statement signed by the new direct disposer in charge and the owner, and shall contain the name of the former direct disposer in charge, their registration numbers, the registration number of the direct disposal facility, and the date the change became effective.

(6) The biennial renewal fee for direct disposal establishments shall be \$400.

(7) There shall be an annual inspection fee of ~~\$300.00225~~ for each direct disposal establishment.

(8) A late renewal penalty fee of fifty dollars (\$50.00) shall be paid. This fee is owed when due, and failure to make payment will be a violation of this rule which will be cause to deny any subsequent applications for licensure pursuant to Chapter 497, F.S.

(9) In the event that a licensed establishment changes its licensed business name, the Board office shall be notified within 30 days. Such notification shall include legal documentation of the name change as well as a \$25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

Rulemaking Authority 497.103, 497.140, 497.604 FS. Law Implemented 497.140, 497.604 FS. History--New 2-13-80, Amended 11-8-82, 8-16-83, Formerly 21J-23.04, Amended 6-5-90, Formerly 21J-23.004, Amended 4-10-94, 9-17-97, 1-4-98, 2-16-98, 5-17-98, 2-17-00, 6-14-00, 11-20-00, Formerly 61GS-23.004, Amended 5-19-09.

69K-24.020 Licensure of Removal Services.

(1) Removal services that are operated independently of funeral establishments and direct disposal establishments shall register with the Board of Funeral, Cemetery, and Consumer Services.

(2) Removal services shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 together with an annual inspection fee of ~~\$300.00~~ for each year for which the initial license will be issued.

(3) Removal services shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of ~~\$300.00~~ for each year for which the license will be issued.

(4) Removal services shall include the registration number issued by the Board on all forms, including the Report of Bodies Handled as required by rule 69K-20.001, F.A.C., and on advertisements or solicitations to funeral homes or direct disposal establishments.

Rulemaking Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History—New 5-21-95, Amended 9-18-95, 9-17-97, 2-16-98, Formerly 61G8-24.020, Amended 5-19-09.

69K-24.030 Licensure of Refrigeration Services.

(1) Refrigeration services that are operated independently of funeral establishments and direct disposal establishments shall register with the Board of Funeral, Cemetery, and Consumer Services.

(2) Refrigeration services shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 together with an annual inspection fee of ~~\$300.00~~ for each year for which the initial license will be issued.

(3) Refrigeration services shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of ~~\$300.00~~ for each year for which the license will be issued.

(4) Refrigeration services shall include the registration number issued by the Board on all forms, including the Report of Bodies Handled as required by rule 69K-20.001, F.A.C., and on advertisements or solicitations to funeral homes or direct disposal establishments.

Rulemaking Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History—New 5-21-95, Amended 9-17-97, 8-10-98, Formerly 61G8-24.030, Amended 5-19-09.

69K-24.040 Licensure of Centralized Embalming Facilities.

(1) Centralized embalming facilities that are operated independently of funeral establishments shall register with the Board of Funeral, Cemetery, and Consumer Services.

(2) Centralized embalming facilities shall apply to the Department to be registered and shall pay a nonrefundable application fee of \$300 together with an annual inspection fee of ~~\$300.00~~ for each year for which the initial license will be issued.

(3) Centralized embalming facilities shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of ~~\$300.00~~ for each year for which the license will be issued.

(4) Centralized embalming facilities shall include the registration number issued by the Board on all forms, including the Report of Bodies Handled as required by rule 69K-20.001, F.A.C., and on advertisements or solicitations to funeral homes or direct disposal establishments.

(5) A full-time embalmer in charge shall be responsible for no more than one centralized embalming facility.

Rulemaking Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History—New 7-14-99, Formerly 61G8-24.040, Amended 5-19-09, 12-13-09.

Chair Peeples – Ms. Munson, on each of these, because all except for Rule 69K-8.006, F.A.C., have to do with dollar amounts. So, do we have to go back and take a motion for those each to go to Rules Committee?

Ms. Munson – I can't make that decision.

Chair Peeples – I'm just asking whether we would need a separate motion for each of those or can we do it collective and deal with the one regarding description of merchandise today?

Ms. Munson – The motion would then have to be on Rules A B C and D, we move...that's how it would need to be.

Chair Peeples – We're on the same page that we take the other rules, except for Rule 69K-8.006, F.A.C...

Mr. Jones – That was my intent when I made the recommendation. I wasn't clear on that.

Chair Peeples – Let's amend the motion. Rabbi Lyons, do you second?

Rabbi Lyons – I'll second that.

Chair Peeples – Any discussion on the motion? What we're doing, if you didn't hear, we're taking all the rules, except for Rule 69K-8.006, F.A.C., and we're going to collectively have just one motion that those will all go to Rules Committee. All those in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries. So now we need to go to 69K-8.006, F.A.C

69K-8.006 Description of Merchandise on Preneed Contracts.

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

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

(a) For all types of merchandise.

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

(b) For caskets.

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

2. Color: exterior and interior.

3. Interior material.

4. Full or half couch.

5. Gasketed or non-gasketed.

(c) For memorials or monuments.

1. Size.

2. Design.

(d) For outer burial containers.

1. Lined (including types of lining).

2. Adhesive lid/non adhesive lid.

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

~~(4) If subsection (3) applies, then for all contracts written after January 1, 1997, or the effective date of this rule, the preneed licensee shall deliver the specific product (manufacturer and model) which was sold if the product is available at the time of need or fulfillment unless the purchaser or next of kin authorizes the delivery of a different product.~~

~~(45) If at the time of need or fulfillment, the product which was sold is unavailable, the preneed licensee shall deliver a product which is of comparable or better quality and design.~~

~~(56) For the purposes of this rule, merchandise shall be considered available for delivery if the merchandise can be attained from a licensee's regular supply sources at the time of need or fulfillment in the market place within twenty-four hours.~~

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

Chair Peeples – So we need to have a motion first to accept the proposed language that is written in your Board package.

MOTION: Mr. Jones moved to accept the proposed changes. Mr. Jensen seconded the motion, which passed unanimously.

Chair Peeples – Ms. Munson, will you have to do your SERC questions?

Ms. Munson – I will. Will the proposed rule amendment have an adverse impact on small businesses, or will the proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity, including Government, in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule?

Board members – No.

Chair Peeples – Do you need a motion, or do you just need collective responses?

Ms. Munson – I need the motion.

MOTION: Rabbi Lyons moved that the proposed rule amendment will not have an adverse impact on small businesses or will the proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity, including Government, in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule. Mr. Jones seconded the motion, which passed unanimously.

Ms. Munson – Should a violation of this rule or any part of this rule be designated a minor violation? It was not previously designated as a minor violation.

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

Ms. Munson – Should this rule have a Sunset provision, which reads, *“This rule shall be reviewed, and if necessary, repealed, modified or renewed through the rulemaking process five (5) years from the effective date of the rule”*?

Mr. Jones – Ms. Munson, what’s your opinion on the Sunset provision?

Ms. Munson – Again, if the language is required by statute, once you go into rulemaking now, the Sunset issue is always prevalent. If the rule is required by statute, then it is recommended that there is not a need to include a Sunset provision. If it is not recommended or required by statute, it is suggested that a sunset provision is included. If you move to not include it, I will tell you that OFARR, upon their initial review, will ask us the basis as to why we are not including it and if I respond with anything other than because it is required by statute, you may have to provide additional information.

MOTION: Mr. Jones moved to include the Sunset provision. Ms. Clay seconded the motion.

Chair Peeples – Any further discussion?

Rabbi Lyons – Part of this is that you’re deleting language. How do you imply this will address the issue of the administrative review? How could you apply a concept language to this if you wanted to?

Ms. Munson – You apply it because it’s going to require you, and I’ll tell you what the Sunset provision generally does. It requires you to go into your rules on a more regular basis to see if changes need to be made. This rule, the way it’s written, which is previously item 6, which is now item 5, the definition was in the marketplace within twenty-four (24) hours for I don’t know how long. But now, you’re going to have to look at your new language to redefine it to mean at the time of need or fulfillment. In five (5) years you’re going to have to look at that and see if that’s still applicable to you. The Sunset provision requires you to do a dive into your rule to see if it still says what you want it or needed it to say. You may decide it doesn’t need to have any changes or you may decide to change it, but it triggers the review. And it will require us to stay on top of it.

Chair Peeples – So, we have a motion by Mr. Jones to include the Sunset provision. We have a second by Ms. Clay. Any other discussion on the motion? Hearing none. All in favor of the motion, say yes.

Board members – Yes.

Chair Peeples – All opposed, say no. Motion carries. So, that’s the three (3) questions you needed.

Ms. Munson – That’s it, for the one (1) rule that we’ve approved.

Chair Peeples – Ms. Schwantes, does that include your items?

Ms. Schwantes – Yes.

Chair Peeples – Ms. Simon?

(3) Report on 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: :October 12, 2023
 Date report was prepared:October 3, 2023

Licensee	Board Meeting	Case No.	Total Fine	Date Due	Paid in Full?	Comments
Carly Schiro	3-Aug-23	306005-23-FC	\$5,000	14-Sep-23	Paid in Full	
Michael Shortlar	3-Aug-23	292655-23-FC	\$500	11-Sep-23	Paid in Full	
Ruben Rojas	13-Jul-23	292034-22-FC	\$6,000	11-Sep-23		
Holmes Funeral Directors	13-Jul-23	276841-22-FC	\$250	11-Sep-23	Paid in Full	
Ozzie Christopher McLemore	13-Jul-23	279221-21-FC	\$2,500	11-Sep-23		
Mary Lou Boyd-Elliott	13-Jul-23	292035-22-FC	\$500	11-Sep-23		
Nelson's Elite Care	13-Jul-23	301514-22-FC	\$500	11-Sep-23		
Brian James Bonar	6/29/2023	293064-22-FC	\$11,000	4-Sep-23		
Melinda Mezeline Jackson	4-May-23	298708-21-FC	\$3,000	17-Jul-23		Sent to OGC
Harry Oldham III	4-May-23	282704-21-FC	\$3,000	17-Jul-23		Sent to OGC
Charles Hancock	4-May-23	301849-22-FC & 304154-22-FC	\$5,000	17-Jul-23		Sent to OGC
Hancock Funeral Home, Inc.	4-May-23	301848-22-FC & 304151-22-FC	\$5,000	17-Jul-23		Sent to OGC

ES 10-3-2023

V. Chair's Report (Verbal)

Chair Peebles – As I always do, I thank everyone for their participation. Whether you’re a committee member, a Board member, support team at the Office, our Director, Assistant Director, prosecuting attorneys, Board attorney, counsel here, it all has to come together. Thank you, Board members, for all the hard work you do. You will see something on the website soon about unlimited life license for writing preneed funeral contracts, which is under the Division of Agents and Agency Services. So, that will be coming up on the website soon. Ms. Simon?

**W. Office of Attorney General's Report
 (1) Attorney General's Rules Report (Informational)**

Ms. Simon – Ms. Munson?

Ms. Munson – This is provided for informational in posture. It reflects an October report. We are required, in the Office of the Attorney General, to hand the reports in a little bit early, so you don’t see anything on it, don’t feel dismay. At our September 20th meeting, you approved language, which is very much in line with our rulemaking process to change 69K-18.004. That language was approved. It’s been submitted to OFARR. It’s past that level. It’s published, and I haven’t had a question about the publication of it. There’s been no comments so far. So, on your next Rules Report, you will see that information reflected and where it is in the rulemaking process. So far, no glitches. Thank you.

**BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES RULES REPORT
OCTOBER 2023**

Rule Number	Rule Title	Date Rule Language Approved by Board	Date Sent to OFARR	Rule Development Published	Notice Published	Adopted	Effective

There are currently no rules in the rulemaking process.

X. Public Comments (Verbal)

Ms. Simon – Are there any public comments to be made at this point in the meeting? Yes, ma’am?

Ms. Lisa Coney – Thank you for referring everything to the Rules Committee, because I think that’s an excellent opportunity for us all to work together. Another rule to consider that is germane to what you’re already considering, and I’m in no way saying that I’m in favor of any fee increases, however, burial brokers do mass records that relate to funeral and cemetery sales, and they hold contracts. Under s. 497.281(5), Burial Records Brokers, *Department, by rule, can establish inspection criteria for burial rights brokers*. Those inspections are not currently occurring in any way, shape, or form. As the cottage industry of burial brokering continues to grow and become more predatory, I think it’s incredibly important that the Division get a handle on the nature and scope of that business activity. So, if we’re considering rules related to inspections and those related inspection fees, I would like to see that class of license be included in your considerations. Thank you.

Mr. John Ricco – Good afternoon. I just wanted to thank you all for referring those rules to the Rules Committee. It goes back to the decades of practice before this Board where there was a deliberation among the industry and the Board to try and resolve any issues like that before they got too far down a path. A good example of that was the work that we did with regard to fines and fees where we got together and uniformly looked at the high and low ends of the fees and tried to come up with a consistent methodology for applying the fines that you all levy on those who violate rules. So, I think that’s a perfect example. We’re glad to see that happen and we look forward to working with you all through that process.

Chair Peeples – Nice to meet you and thank you, Ms. Simon?

Ms. Simon – Are there any additional public comments? Madam Chair?

Y. Administrative Report

Z. Disciplinary Report

The information for both items was provided on the agenda.

AA. Upcoming Meeting(s)

This information was provided on the agenda.

BB. Adjournment

Chair Peeples – We are adjourning this meeting. Thank you all for coming.

The meeting was adjourned at 1:41.