

MINUTES
BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES
RULES COMMITTEE MEETING
(ANDREW CLARK, CHAIR – CHRIS JENSEN – DARRIN WILLIAMS)
JULY 10, 2025 – 10:00 A.M

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

Mr. Andrew Clark – Good morning. I'd like to call the meeting to order and turn it over to Ms. Simon for roll call.

Ms. Ellen Simon – Good morning, everyone. My name is Ellen Simon. I'm the Assistant Director for the Division of Funeral, Cemetery, and Consumer Services. Today is Thursday, July 10, 2025, and it's about 10:03 a.m. This is a continuation of the Rules Committee meeting that was set for yesterday, and that was done yesterday, July 9th. This is the second day of the Rules Committee meeting. Agendas and materials have been made available as they were yesterday. Today, we will be going over seventeen (17) rules, and for the purposes of roll call, we have Mr. Clark.

Chair Clark – Present.

Ms. Simon – Mr. Williams?

Mr. Williams – Present.

Ms. Simon – Mr. Jensen?

Mr. Jensen – Present.

Ms. Simon – And the other Board members, if I may announce them, we have Mr. Ferreira, and we have the Board Chair, Ms. Peoples.

Chair Clark – So we'll resume with the Board Rules on Page 153, of our provided materials.

B. Board Rules

(1) 69K-21.007 - Responsibility of Funeral Director in Charge

Ms. Simon – Have the Rules Committee members had the opportunity to review Rule 69K-21.007?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal of this rule needed?

Committee members [Unison] – No.

Ms. Simon – Is any change to this rule needed?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory materials?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are there any updates needed to the rule, whether technical, substantive, references to statutory citations, or references to incorporated materials?

Committee members [Unison] – No.

Mr. Chris Jensen – Yes. Yes, we need to look at this.

Ms. Simon – Okay.

Mr. Jensen – At the bottom where it was submitted, I think it's the wrong rule here that I was mainly interested. I do not like that an FDIC can be available telephonically from anywhere in the world and live eight (8) or ten (10) hours away from the location that they're FDIC of. So, there's two (2) fixes to this. This mainly would fall where we might have a direct disposal establishment, is where I see the views the most, but the two (2) fixes are, we eliminate the word telephonically, or as was suggested before, we given them time to be a funeral establishment, and do away with direct disposers.

Ms. Simon – Are those the only two (2) options that you see?

Mr. Jensen – Those are the two (2) best options that I know of. Somebody may have something better. But I think that, you know, as we all know, there's a lot of people that are hanging their license at a funeral home eight (8) hours from where they live, and it's just not fair to the public. That's just not a good thing. We need to look at the word telephonically and limit that. I would like to see if we're going to stay like it is, I would like to see an FDIC having their home-base or live within seventy-five (75) miles of our location. Not that they got to be there all the time, but that's where their home-base is, because there are literally some that home-base in South Florida and their FDIC funeral home in North Florida. You know, everybody knows there's a scope there.

Ms. Rachelle Munson – If I may ask, what if the FDIC is local, but they respond telephonically locally?

Mr. Jensen – Yes, that's fine, if their home-base is within seventy-five (75) miles of the location that they're FDIC of.

Ms. Munson – So it's not the telephonic part that's a problem --

Mr. Jensen – Well, that would be okay, telephonically, and most people in this room know what I'm talking about, of the problem that we're having in our industry where that's happening. It's not fair to the funeral directors in the local area and it's not fair to the public.

Ms. Simon – So just to reiterate what Ms. Munson was saying, basically the issue is that basically local?

Mr. Jensen – Well or have a home-base within a seventy-five (75) mile. We use the seventy-five (75) mile thing, so they can be, you know, two (2) different FDICs or, you know, but they got to be within seventy-five (75) miles of that location. So that's where I came up with seventy-five (75) miles, since we already use that. And if their home-base, like their home address is within seventy-five (75) miles of their FDIC location, then yes, they can be available telephonically.

Ms. Munson – The question would be determining whether we can require that based on statute.

Mr. Jensen – Well, we require them to be within seventy-five (75) miles to be a FDIC. If they're going to be FDIC of two (2) locations, they have to be within seventy-five (75) miles of each other.

Ms. Simon – Are you worried about rulemaking authority?

Ms. Munson – I'm kind of only because let's say they're responding to something and they're away for whatever reason. I mean, what restrictions are we placing on individuals by rule?

Ms. Simon – Apparently, this is something that would need to be discussed.

Mr. Jensen – I mean, I don't know the exact answer. There's a lot of good ideas I've heard in the last six (6), eight (8) months. Those are the best ideas I've come up with. I know Wendy's probably got a good idea.

Ms. Wendy Wiener – My good idea is there's nothing you can do about this in a rule. This is -- unfortunately for this Rules Committee, the statute does not give you the authorization to put any of these requirements on here, and it doesn't even say in the law that, by rule, you can add new restrictions to the FDIC. So, if you want to talk about those kinds of things, the legislation is going to be the fix for it, and then you could build a rule around that, but there's nothing in the rule.

Mr. Jensen – Or in our purview of the rules, we can just eliminate the word telephonically.

Ms. Wiener – I don't think -- well --

Mr. Jensen – Because that is in the rule. That's not in a statute.

Ms. Wiener – Well, if you do that, then that might mean that I could be available by text or by internet or by fax or by carrier pigeon, or by, however. I mean, telephonically, at least, gives you a little bit of tie in. I'm not even sure telephonically is supported by the statute that is implemented. But if you eliminate telephonically, you certainly couldn't say in person, that goes way beyond the statutory authority. And if you eliminate telephonically, you're probably in a situation where now you've made it even more loose than you think.

Mr. Jensen – Or have someone else taking their place, you know, if they're on vacation or whatever. Like this, for example, 21.007, if you look at number (1), it says on the premises and ready to make funeral arrangements for or to respond to persons entering the establishment. I mean, under FDIC, it doesn't say anything about telephonically, but the same rule when it's applied under the direct disposers, it says telephonically, and that's where I have my {inaudible}, the word telephonically.

Chair Clark – So, can we mark this as possible, and then we can get guidance on what is within our purview?

Mr. Jensen – I'm not so much worried about the FDIC as I am worried about the direct disposers. And back to, you know, what Ms. Coney says, you know, maybe we should give them, or I've heard this from Ms. Peeples too, is maybe we should give them two years to be a funeral establishment and do away with direct disposers.

Ms. Simon – Mr. Jensen, we appreciate that, but that is a statutory fix. For now, I would suggest that we put down that we would like to discuss a possible change.

Mr. Jensen – All right, thank you.

Ms. Simon – So then as to what we discussed before, the changes would be that we are discussing a rule change, and that there may be a substantive change to the rule?

Chair Clark – Correct.

Ms. Jensen – And you see, basically what I said is written right there on summary.

Ms. Simon – Of course, but that's what we're talking about. It might be appropriate at this time for the Committee to make a motion adopting the findings that have been made today regarding this rule.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Darrin Williams seconded the motion, which passed unanimously.

(2) 69K-33.001 - Requirements Regarding Handling and Storing of Human Remains

Ms. Simon – Have the Rules Committee members had the opportunity to review the rule?

Committee members [Unison] – Yes.

Ms. Simon – Mr. Jensen, would you like to discuss your issues with this rule?

Mr. Jensen – We had a case for the Board not long ago with bodies not being covered properly, but we don't have a lot of language to stipulate that. So you see the language here, and this isn't necessarily my language, this is language I got from an esteemed person in this room: to maintain dignity and respect for the deceased, all bodies must be covered and kept inside a recognized rigid container or casket, as described in Chapter 497, "see the alternative container description". With the attached identification of the deceased. Bodies may not be stacked on top of other bodies while in refrigeration or storage, except in times of national emergencies or disasters as declared by the state or federal government. That is the language I would like to see added.

Ms. Simon – May I?

Chair Clark – Sure.

Ms. Simon – Mr. Jensen, when you're talking about stacked bodies that is not appropriate, are you talking about even with a separation between the bodies?

Mr. Jensen – Yes.

Ms. Simon – No, but the separation between the bodies, that's not okay?

Mr. Jensen – That separation between is fine.

Ms. Simon – Okay. So, you're just talking --

Mr. Jensen – But I have seen, and we just don't have the language that states that. I think some people might be confused. I'm not confused. You don't stack bodies on top of other bodies. You know, we kind of had this on a rule yesterday, and Mr. Chair mentioned that he reads it where you're, you know, it's like different shelves, which is fine, but if you notice in this, it doesn't have that particular wording, so it just needs to be clear.

Ms. Simon – Is there any further discussion?

Chair Clark – I do agree with Mr. Jensen. There's probably an opportunity to clarify or even be more restrictive, to prevent that. And, again, as a Board member, how many times do we see where decedents are just wrapped in a sheet, where they're bleeding and there's blood dripping, and there may be an opportunity, again, through the lens of dignity and respect for the deceased, that we could make this more robust for the good of the industry.

Ms. Simon – Any further discussion?

Chair Clark – The only other item that has come up multiple times in my tenure on the Board is I completely understand and agree with refrigerate at forty (40) degrees. I don't think there's a rule change. However, there's a lot of matters that come

before the Board where maybe a refrigeration, you know, was -- it was a super-hot day, and it was one time below forty (40), and then at the end of inspection, it was above, and they were still cited. We've had cases where the door was left open too long, and so it registered at thirty-nine (39) degrees, and the locations got cited. I think the Board has kind of weeded those out and said that's not really a violation. For those that are in the industry, notice that you leave a door open for just a couple minutes, in some circumstance you're going to get below that forty (40). I just think there's some reasonableness as it pertains to like, when do you cite a location? We've had locations that are inspected in the morning and by lunchtime, they've sent the Division a copy showing they got it fixed. Like, to me, if they're remedying any issue with refrigeration in good faith, I think that's reasonable, because, again, it's just that forty (40) degrees. It's appropriate to leave it that way. But as it relates to citing locations that are under, I think it's important to understand how long has it been under, and what are the circumstances for it being under? That's all I have.

Mr. Jensen – Mr. Clark?

Chair Clark – Yes?

Mr. Jensen – I agree with you 100%. One thing that I thought about with that we are all in Florida. Most of these coolers, like my cooler, is in a metal building, so, it's super-hot. You open the door just to take the body out, and the temperature changes pretty dramatically. In the old days, the Department used to give tickets, for infractions like that. I don't know if we want to go back to that for everything, but this would be a good thing to say, hey, you know it was down -- it was, you know, forty-five (45) degrees for certainly the time, pay your ticket.

Ms. Simon – The last time we had a Rules Committee meeting as to changes needed to Rule 69K-30.001, it was discussed that citations were no longer used as part of discipline. So, if we're looking at that, the end game, it would be something that we would need to look at Rule 69K-30.001. That isn't on the table for this 20% that we're talking about during this Rules Committee meeting. But I understand that that's what you're seeing as a possibility, if this rule was kept the way it is, to go to citations as a disciplinary measure, as opposed to the statute. I think it would be good for us to discuss this rule in more detail, and perhaps to get some suggested language on change.

Mr. Jensen – And one of the things that I've seen, we've had people that have been forty-four (44) degrees and fined \$1,250, and that is what I think we should get away from. That is, in my mind, extreme.

Ms. Simon – Is there any other discussion by the Committee?

Committee members [Unison] – No.

Ms. Munson – I have just a question. In Mr. Jensen's statement, his summary that the original -- I'll just read it. It's the sentence, adding language to this rule. "To maintain dignity and respect for the deceased, all bodies must be covered and kept inside a recognized rigid container or casket, as described in Chapter 497." Does that language suggest, Mr. Jensen, that you want to see the language from 497 incorporated in more detail in this rule?

Mr. Jensen – Not necessarily. I would like to see something as minimum as an alternative container with the bodies kept in just for leakage and things of that nature. And I don't know how everybody does their stuff, but somebody comes into one of my facilities, they're immediately going into an alternative container, no questions asked, depending on what's going to end up happening with that person. I mean, they're cheap enough. It's not going to cost you a fortune. It's a biohazard thing, and also just out of respect for the body.

Ms. Munson – And the only reason I'm mentioning it is because I want to bring the attention again back to that one question from this SB108, that is going to be something we're going to have to work through. Does the rule reiterate or paraphrase statutory material? So, I'm almost certain that part of this effort with these rules review is to make sure that there's not a lot of redundancy, that everything is there that needs to be there, that it's not necessarily replicating statute. So, they may be looking to shorten, not expand. So that's why I'm wanting to make sure.

Mr. Jensen – And this is nothing more than a suggestion.

Ms. Munson – Yes. I understand.

Mr. Jensen – I want to make sure that this is a suggestion, and the lawyers and the smarter people will have to clean it up and figure out what's going on or what we can do and what we can't do. I don't know what we can or can't do. This is just what I'm seeing in the industry that might need a little help.

Ms. Simon – So discussion of possible changes to this include that the Committee will need to look at in the future, involve the under forty (40) degrees reference, and to the alternative containers or other stacking methodology for the bodies and refrigeration. Are there any other possible changes? So, is there any further discussion at this point by the Committee members?

Mr. Jensen – I'm good.

Ms. Simon – So, let me start with the questions that must be answered because of SB108. Is any repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change necessary?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Is a technical update needed by this rule?

Committee members [Unison] – No.

Ms. Simon – Substantive update?

Committee members [Unison] – Yes, possible.

Ms. Simon – Is an update needed to reference to statutory citations, or references to incorporate the material?

Committee members [Unison] – I don't believe so.

Ms. Simon – Based upon this, it would be appropriate for the Committee to make a motion adopting the findings that have been made with regards to this rule.

MOTION: Mr. Jensen moved to accept the Committee’s findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

Ms. Wiener – May I ask a procedural question of the Committee? If we're saying a rule is going to be substantively reviewed, and you voted on that, then there's no real reason for us to give public comment on it today, because that means it's going to come to a substantive Rules Committee meeting in the future?

Ms. Simon – That means that there is no need to do that today. However, we will be asking for comments to be submitted.

Ms. Munson – I'm not saying it's not right. I'm just saying whatever comment you may feel you want to make, when it comes back to the Rules Committee, they can incorporate that in their review if you want to share it at this time.

Ms. Wiener – Well, if they're going to open it substantively, and the rule --

Ms. Munson – When you say open it, I don't know what you mean by open. It may not be officially open for rulemaking when it comes back to Rules Committee and they talk about it, and they say, oh, well, I guess we don't need to open this up for rulemaking. This is our decision at this particular panel, before it's voted on by a full Board, to take a look at the rules and see if there's a possible need for opening it up.

Ms. Wiener – So if this Committee votes that it needs a substantive change, then that will be presented to the Board and assuming the Board doesn't override the Rules Committee, then those rules will be on a subsequent Rules meeting to be considered substantively as to whether changes are made, so that industry will have an opportunity later to participate in a substantive discussion of said rule.

Ms. Munson – Yes, that's what should happen. Now the time frame of all of that --

Ms. Wiener – Yes, okay. That's great, because that seems like that will be a good time when we really want to get in need of a changes.

Ms. Simon – That's correct.

(3) 69K-2.003 - Other Official Board Business

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change necessary for this rule?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are updates needed to the rule, such as technical, substantive, references to statutory citations, or references to incorporate the material?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time to entertain a motion adopting the Committee's findings as it pertains to this rule.

Ms. Munson – May I ask? Just for clarification, subsection (5) of this rule says all activity of Board members if authorized by the Board, when grading, proctoring or reviewing examinations given by the Department. Is that applicable?

Mr. Jensen – If I may? If you remember yesterday, we talked about the test, and everything are the responsibility of the Board.

Ms. Munson – So, this happens? I just want to make sure.

Mr. Jensen – I don't know that it happens. I don't know that the Board actually --

Ms. Munson – That's why I'm asking.

Mr. Jensen – {Inaudible} a test either. But that was yesterday.

Ms. Munson – Right. If so, is that language applicable? Are we going to keep that in the rule? Is what I'm trying to say, because that's what they're asking us to do.

Mr. Jensen – I think that's in there as a final oversight, is the way I read it. You know, just in case one of the other processes doesn't go correctly.

Ms. Munson – I turned to the Department on that. I don't know if Board members did that, and you're saying they do?

Mr. Williams – Since I've been on the Board we haven't.

Mr. Jensen – No, physically, we don't do that.

Ms. Munson – That's why I was asking if it was applicable. I don't know. I can only ask that. I'm leaning into the profession.

Chair Clark – There was a discussion yesterday about, I think it was 160. It had to do with Laws and Rules exam. And once we review that rule, there may be changes that then make that pertinent. I don't know.

Ms. Munson – But until we review that, as long as you guys are signing off as this is what you want to stay in the rule I'm bringing it to your attention. That's all I'm saying. That's just my role here. That's all I'm saying. Because that's a charge of what we have to do. We have to read the rule language and determine what's applicable, what should be stricken if it no longer applies or whatever. That's just what this process is about.

Mr. Williams – So, if may I?

Chair Clark – Yes, go ahead.

Ms. Simon – May I ask a historical question? So, what was the purpose, I guess, in putting subsection (5) in here? Did this happen once upon a time, and it just faded away or what?

Chair Clark – That would be my guess, yes.

Ms. Simon – I believe with previous Boards, or at another time, I think the Boards were actively involved in the examination, and I believe that the Board would still like to have that authority in the future. That's why I think that it is still in this rule.

Mr. Jensen – So, they'll have the final oversight?

Ms. Simon – Correct. But if the Board doesn't want to have that authority or doesn't want to have the ability to do that, that's fine.

Mr. Williams – So going back to your point, would the Board see or review at a Board meeting, results or draft of the exam? What would be the Board's participation moving forward?

Ms. Simon – May I?

Chair Clark – Yes.

Ms. Simon – It's a difficult question, Mr. Williams, because that can't be something that could be at an open Board meeting. It cannot be something that's discussed at an open Board meeting, because examination questions are not available to the public. And that would be either a confidential meeting, or somehow it would be under statute that that would be handled. I know it's been done in the past. It just hasn't been done in the last ten (10) years.

Mr. Williams – I'm trying to figure out if we're open and we have sunshine laws, how would you address this if it will not be an open Board meeting?

Ms. Simon – I believe that there are exceptions in the law. I can't tell you as to what they are right now, but I believe that there are exceptions which would allow us to have a closed-door meeting to discuss examination questions.

Mr. Williams – So do our friends at OGC have a position on this?

Ms. Ross – I don't.

Ms. Kimberly Marshall – Given that we are, you know, after yesterday, public comments, potentially considering possible changes, revisions to the Laws and Rules exam, I think it would be good for the Board to continue to have the authority to do that.

Mr. Williams – And I'm fine with that. I'm with Ms. Munson, of her recommendation on what she just shared questioning whether we are still going to continue to do it.

Ms. Munson – And to be clear, whatever the decision of the Committee is, and finally, of the Board is, that's not my purview. I just wanted to make sure that we were following the guidance that we've been given with the Senate bill and when I just thought just the length of it, if a Board member was actually involved in the grading or reviewing of an examination, and there was an applicant who took that examination that there would not be any potential conflict involved, that the Board member would know to be recused, because I don't know how it was ever applied. I was trying to make my mind think, how does this actually work? And I couldn't figure that out in my mind. And then I said, I don't have any history of ever knowing this ever took place. So that's why I said is this even still relevant? That's why the question came.

Ms. Wiener – People in this room do have knowledge about this.

Mr. Williams – Mr. Chair, I know it's not public comment, but I wanted to ask Ms. Wiener, since you were there in the beginning, if during public comment, if you could share at that time some of the background of it.

Ms. Wiener – Since we're on such a short agenda today, it would probably behoove everyone just to let the public comments flow. Like for instance, the next rule that's going to come up definitely needs substantive attention, but I don't know that you guys know the substantive attention it needs. But I know what it needs, and I can tell you, and you're probably going to be persuaded that that's true. In this case, this really was something that the 470 Board was very involved with. Lisa knows probably even more than I about how that worked, but the 470 Board had a lot of input into the Laws and Rules exam. This Board has never really taken it out when the regulation came away from 470 and went into 497. But, to the extent that it's supported by legislative authority and not hurting anyone, I don't know that there's any reason to do anything about that one, per se.

Ms. Simon – Mr. Williams, anything further on this one?

Mr. Williams – No, I was just speaking with Mr. Jensen. If we can just pull it.

Chair Clark – You want to mark it as possible?

Mr. Williams – Yes.

Ms. Simon – So, we're looking at changing what was stated as to changes needed or substantive updates?

Ms. Simon – Correct.

Ms. Simon – Any further discussion?

Mr. Jensen – One thing to mention, you might just make a note on there to tie it back in with what we discussed yesterday about the rules and laws, because I think that they would go together. I was just explaining to Mr. Williams how the tests now are done by a third party, but we still want to retain that oversight, and we probably need to get a little more involved with some of the questions and things that are appearing are just not relevant in today's world.

Ms. Simon – Anything else?

Chair Clark – No.

Ms. Simon – It would be appropriate at this time for the Committee to make a motion to accept the findings as previously stated as it pertains to 69K-2.003.

MOTION: Mr. Williams moved to accept the Committee's findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(4) 69K-5.0015 - Preneed Licenses

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is the repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change necessary to this rule?

Committee members [Unison] – No.

Ms. Wiener – Really? Public comment?

Chair Clark – At the end.

Ms. Wiener – All right. But then will you come back and open it again?

Chair Clark – Yes.

Ms. Simon – We may today, or we may decide to do it on another day.

Ms. Wiener – But if you voted no, then there's no chance for it to come back.

Ms. Simon – Actually, there is. There is a chance for it to come back. We may not do it today, but there is a chance that it may come back. Yes. And that may be due to public comment or that may be towards suggestions that are submitted, but it may actually come back to the Committee. Yes. So, is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are updates needed to the rule, whether technical, substantive, references to statutory citations, or references to incorporate a material?

Committee members [Unison] – No.

Ms. Simon – It may be appropriate at this time for a motion to be made adopting the Committee's findings today as to this rule.

Chair Clark – Mr. Jensen?

Mr. Jensen – Well, me personally, I'd like to know what's the problem?

{Inaudible}

Mr. Jensen – Because I'm reading it and I don't get it, so I'm like, what am I missing here? But, maybe you could shed some light. I hate to put my vote on it without knowing.

Chair Clark – Sure. So, I think the plan coming into yesterday and today was well thought out. I think the understanding how yesterday went and as well as feedback from those in attendance is under consideration for future Rules meeting. We did align on a format. And I think, good or bad, we're getting feedback on whether this format is working. I do think for purposes of getting through the original assignment, the plan is to continue with public comments at the end. Like yesterday, there are a number of comments that were made yesterday that I certainly want to go back and open up the rule and have further discussion. That's my understanding of the plan, even for the next meeting is to have the more substantive conversations about what needs to change. That's my understanding.

Mr. Jensen – With that being said, I will yield to the Chair.

Ms. Simon – Is there a motion adopting the Committee's findings?

MOTION: Chair Clark moved to accept the Committee's findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(5) 69K-5.0023 - Temporary Preneed Licenses

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is there any need to repeal this rule?

Committee members [Unison] – No.

Ms. Simon – Is there any change needed to this rule?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any updates needed to the rule whether technical, substantive, references to statutory citations, or references to incorporate materials?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time to entertain a motion adopting the Committee's findings as it pertains to this rule.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(6) 69K-5.0024 - Remittances to the Regulatory Trust Fund

Ms. Simon – Have the Committee members had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Are any changes necessary?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any updates needed to the rule whether technical, substantive, references to statutory citations, or references to incorporated materials?

Committee members [Unison] – No.

Ms. Simon – It may be appropriate at this time to entertain a motion supporting the Committee's findings with relation to this rule.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(7) 69K-6.001 - Grave Spaces; Definition Limited

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Committee members?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change to this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase steps to a material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of the law, which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are there any updates needed, whether technical, substantive, references to statutory citations, or references to incorporate the materials?

Committee members [Unison] – No.

Ms. Simon – It may be appropriate to entertain a motion at this time, adopting Committee's findings as relation to this rule.

MOTION: Mr. Williams moved to accept the Committee's findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(8) 69K-6.0015 - Definition of Established Adult Grave Space

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is any repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change to this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of the law, which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any updates required by this rule, whether technical, substantive, references to statutory citations, or references to incorporate a material?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time to entertain a motion adopting the Committee's findings as it pertains to this rule.

Mr. Jensen – So, in honor of Ms. Munson, the desire to maybe cut back on rules, between this one and the last one, what is the difference? I'm just saying we could probably do away with the whole rule altogether because the grave space pretty much defines it better. My thought is just rolling the paragraph under grave spaces and do away with the old rule all together.

Ms. Simon – Well, what is necessary in this rule, 6.0015, that would need to be in 6.001?

Mr. Jensen – Nothing really, other than the dates I would see are a little more current than probably the original date of 6.001. But I don't see anything that would define it as any different. That's what my question was. What is the difference?

Ms. Simon – Well, the reason why I asked, Mr. Jensen, is while you're discussing this rule, and it sounds like you are suggesting a repeal of this rule may be necessary. Does that necessitate a review of 6.001 or is this going to be discussed on its own?

Mr. Jensen – I would say they probably need to be reviewed together. I think we have an extra rule here that really isn't doing anybody any good. We could probably eliminate one. Am I seeing that wrong, Mr. Clark?

Chair Clark – No, I think you're right. The only difference is grave space general and adult grave space.

Mr. – Yes, which is – a grave space is a grave space.

Ms. Simon – Just to confirm. What you're saying is that we should consider 6.0015 for a repeal, and we should go back to 6.001 and actually suggest the change is necessary?

Mr. Jensen – If any at all. I don't even know that we need to change that. I don't see any wording in 6.0015 really, that's going to make any difference in 6.001. I personally don't, but I don't know the legalities to this.

Ms. Simon – Committee members?

Chair Clark – I am fine with that. I mean, there's a lot of reference to a plan of development that was submitted to the department prior to October 1, 2005, so I'm sure that was in response to something.

Ms. Simon – Then, instead of the answers that we gave before, why don't we check off repeal to consider a repeal of this rule?

Chair Clark – Yes, that's fine.

Ms. Simon – Okay.

Ms. Munson – If we are doing that -- I just want everyone to take a look at the statute that's referenced in 6.001 as well as the other statute 6.0015. Well, it's just referenced in 6.001. It takes us to 497.005(37).

Ms. Simon – Ms. Munson, I'm sorry, can you say that again?

Ms. Munson – In 6.001, it takes us to reviewing the information in 497.005(37).

Mr. Jensen – You say 6.005?

Ms. Munson – Yes. 69K-6.001 takes us to grave space, this definition according to the section 497.005(37). I think this is a little bit off kind of in its entirety. S. 497.005 is the section in the statutes on definitions. And sub (35) of that is the definition of funeral director, if I'm reading it correctly. I don't know how that is applicable to this.

Ms. Simon – Maybe because 6.005 has changed and this is no longer applicable.

Ms. Munson – That's why I'm taking you back to it.

Ms. Simon – If indeed that what you're saying is under 6.005, that's related to what?

Chair Clark – Funeral director.

Ms. Simon – Funeral director. That isn't relevant to 6.001. And I realize that the Committee has already voted on it, but if that's not relevant to 6.001 --

Ms. Munson – Grave space definition is actually sub (40). I am just trying because I don't have to go back and forth with a lot of these. It's a lot.

Ms. Simon – So, let's go back to 6.001. We're looking at the possibility of references to statutory citations being updated and/or references to changing this rule in its entirety. So, is the Committee is okay going back to 6.001?

Committee members [Unison] – Yes.

Ms. Simon – Okay. Does the Committee think it should be reviewed with references to statutory citations?

Committee members [Unison] – Yes.

Ms. Simon – What about to change the rule? It sounds like the Committee does not feel that anything that is in 6.0015 needs to be in any other rule. It simply needs to be repealed. I think that is what the Committee found.

Mr. Jensen – Wait.

Ms. Munson – Say that again. I think we're mixing numbers.

Ms. Simon – No, we're not. In 6.0015, the one we were just discussing beforehand, Mr. Jensen had mentioned that this is a rule that may need to be repealed, and words were said whether anything at 6.0015 needed to be combined in 6.001. But it sounds as if based on discussion that it was no, that it was only to be looked at for repeal. So, if I'm saying that correctly?

Mr. Williams – No. So, I think what I'm hearing is 69K-6.001 needs to be revised, and 497.005(37) should be (40) versus (37) because --

Mr. Jensen – You are correct.

Ms. Simon – Yes. That's what Ms. Munson was saying.

Mr. Williams – Right, but what you just stated is not accurate. What I believe, and Mr. Jensen can speak also, 497 just needs to be revised to say (40) versus (37) and Mr. Jensen wants to basically almost eliminate 6.0015 because it says the same thing as 6.001.

Ms. Simon – Okay.

Mr. Jensen – And also 6.0015, in 497 there is no definition of adult graves.

Ms. Munson – There is none.

Ms. Simon – Okay.

Chair Clark – Well, 497.274 says a standard adult grave space shall measure at least 42 inches in width to 96 inches in length.

Ms. Munson – But, I think he was saying it's not in the definition section.

Mr. Jensen – Yes, it's not in the definition section.

Chair Clark – But if you read 497.274, I don't see anything in 6.0015 that's not in 497.274.

Ms. Munson – So it's completely redundant?

Ms. Coney – Yes.

Ms. Munson – Which would be that question that they asked you. Is it redundant?

Ms. Simon – So, because of that, when we're talking about Rule 69K-6.001, we were discussing that rule. We are looking at updated references to statutory citations. Is that the only thing that we need to change with regards to the Rules Committee's findings?

Committee members [Unison] – Yes.

Ms. Munson – Unless, unless you want to add a sentence about the adult spaces that I thought Mr. Jensen mentioned before in combining something.

Mr. Jensen – I think the grave space will do it. Because even when you go from grave space to the measurements on the grave space, they're all the same.

Ms. Coney – And they're all in 497.274.

Mr. Jensen – Yes. So, I think that will cover it without having to add anything extra.

Ms. Simon – Okay.

Ms. Munson – Except if you want to reference 497.274. This is going to be the issue just because the funeral rules are so many, it's like voluminous. It's a lot. And they're so technical. I think what happened when these rules were initially established is that there's a lot of redundancy with statute. But that's hindsight not setting any camp there. But if we are trying to develop a set of rules, if we're looking at them, that's going to be user friendly, if you see where there's a cross reference, adding that language in a rule could possibly be helpful to the reader so that they know if they have any additional questions, they can refer to the statute 497.274, regarding adult space or something like that. But when you open it up and you want to look at it, you can decide at that time. I know this discussion is just to determine whether you want to review it again or you have to make a decision about the substance to the extent that you want to review it. But I'm just trying to plant that seed if you want to be helpful to the user, because there's so much redundancy and there are a lot of rules.

Mr. Jensen – Well, and I think under reviewing 69K-6.001, we could probably add the reference to 497.274 there and just get rid of 6.0015 altogether.

Chair Clark – I agree.

Ms. Munson – Possibly, yes. That's all I'm saying.

Ms. Simon – So back to 6.001, the change we're looking at is a change to statutory citation.

Mr. Jensen – That's correct.

Ms. Simon – So, and that's the only thing that needs to be changed on the Rules Committee's findings?

Mr. Jensen – That's right.

Ms. Simon – We're done with that. Everybody agree?

Chair Clark – Yes.

Ms. Simon – We're going to 6.0015 and we're looking at the possibility of repealing this rule, correct?

Committee members [Unison] – Correct.

Ms. Simon – So, we're not looking at a change necessarily. Well, it is a change, but where the options are repealed, no change or change, we're looking at repeal. Based upon that, if we're looking at repeal, we've already discussed this, but let's discuss it again. Forgetting the repeal, forgetting suggesting that, is the rule a valid exercise of delegated legislative authority?

Mr. Jensen – I mean, I would think so.

Chair Clark – I think so. It's just redundant.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Okay. Is the rule consistent with expressed legislative intent pertaining to specific provisions of law, which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – And we've already discussed updates. I guess that would be counted as a substantial update if it's repealed. Is that the understanding?

Committee members [Unison] – Yes.

Ms. Simon – So still a technical update is not necessary. I'd assume that's what everybody's on. And references to statutory citations and references to incorporated materials that doesn't need to be updated.

Mr. Jensen-- You're on 6.001 again, right?

Ms. Simon – 6.0015.

Mr. Jensen—Repeal altogether?

Ms. Simon – Right. So, we're just answering the questions that we have. So based upon this and what the Committee stated essentially, is that that rule needs to be repealed, although still with legislative intent is no longer as relevant, let's say. Is that good?

Committee members [Unison] – Correct.

Ms. Simon – So it might be appropriate for a motion adopting the Committee's findings in relation to this rule.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(9) 69K-6.0016 - Definition of Developed Area

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Mr. Jensen – Number one, if we're going to look at 6.0015 eliminated, I say that we get rid of the word adult grave space and just say grave space and take out the reference for 69K-6.0015.

Ms. Simon – Does everybody agree with that?

Committee members [Unison] – Yes.

Chair Clark – Or you could reference 497.274, and eliminate the reference for Rule 69K, the one that we just repealed.

Ms. Simon – So, based upon that, okay, is a repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is a change to this rule necessary?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory materials?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law, which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Okay. Are technical updates needed to the rule?

Committee members [Unison] – Technical, no.

Ms. Simon – Are substantive updates needed to the rule?

Committee members [Unison] – Yes.

Ms. Simon – And we're looking at updates to statutory citations, yes?

Committee members [Unison] – Correct.

Mr. Jensen – And you were mentioning, Mr. Clark, 497.374?

Chair Clark – 497.274.

Mr. Jensen – I mean, that kind of covers everything.

Chair Clark – It does.

Ms. Simon – And then updated references to incorporated materials?

Committee members [Unison] – No.

Ms. Simon – Based upon this discussion, it may be appropriate at this time to make a motion adopting the Committee's findings as relation to 69K-6.0016.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(10) 69K-6.002 - Care and Maintenance of Existing Cemetery

Ms. Simon – May I make comments?

Ms. Simon – Yes.

Ms. Simon – It seems like when we're talking about the changes and what we need to look at incorporating from SB108, just by a brief review by the department, it seems like this is redundant. I mean, I don't know how anybody else feels. I'm just putting that statement out there. Is there any discussion by the Committee?

Chair Clark – I -would agree. I mean, what's in 497 is significantly longer than this,

Ms. Simon – So, we're looking at a repeal of this, or is it a change?

Chair Clark – The only thing that I see different is the phrase reasonable condition. But I mean, again, 497.005(11) is more descriptive than this. I don't think it's necessary.

Ms. Simon – Does the statute need further implementation as a result of this rule, or is it not necessary to further implement the definition of care and maintenance as in 497.005(11)?

Chair Clark – My opinion is it's not necessary. I mean, it does list all the types of things that are found in the cemetery and it says are in well cared for in dignified condition so that the cemetery has not become a nuisance or a place of reproach, desolation to the community. Talks about upkeep, care and maintenance may include, but it's not limited to overhead. I think what's in 497 is enough.

Ms. Simon – Okay. Then is there any further discussion?

Mr. Jensen – I agree with that.

Ms. Simon – Is the repeal of this rule necessary?

Committee members [Unison] – Yes.

Ms. Simon – Which I guess sort of constitutes a change, I mean, correct?

Committee members [Unison] – Yes, it does.

Ms. Simon – Okay. Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are technical updates needed to this rule?

Committee members [Unison] – No.

Ms. Simon – Are substantive updates needed to this rule?

Committee members [Unison] – Only that we're going to repeal it.

Ms. Simon – References to statutory citations or incorporated materials, are changes needed to those?

Committee members [Unison] – No.

Ms. Simon – It may be appropriate at this time for the Committee to consider a motion adopting the findings as made pursuant to 69K-6.002.

MOTION: Mr. Jensen moved to accept the Committee’s findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

Chair Clark – We're going to take a -morning break. We will come back at 11:20.

*****BREAK*****

Chair Clark – Let’s go ahead and tackle the outstanding rules. Ms. Simon?

Ms. Simon – Thank you.

(11) 69K-6.003 - Cemetery By-laws

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is any repeal of the rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change necessary?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Chair Clark – Ms. Munson?

Ms. Munson – Just wanted to ask, subsection (5), I just needed to confirm that that was in fact the practice that they are published.

Ms. Wiener – They are.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are updates needed to the rule whether technical, substantive, references to statutory citations, or references to incorporated materials?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time for the Committee to entertain a motion adopting the findings made pursuant to 69K-6.003.

MOTION: Mr. Jensen moved to accept the Committee’s findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(12) 69K-6.004 - Safekeeping of Records

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is any repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change necessary?

Chair Clark – I don't know. Mr. Jensen? Mr. Williams? It looks like it's supplemental to 497.276, so I think for purposes, I would mark it as yes, we need to work on new language.

Ms. Simon – To update it?

Chair Clark – Yes.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any technical changes necessary to this rule?

Committee members [Unison] – No.

Ms. Simon – Any substantive updates?

Committee members [Unison] – Yes.

Ms. Simon – Any updated references to statutory citations or incorporated materials?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time for the Committee to entertain a motion adopting the findings made pursuant to 69K-6.004.

MOTION: Mr. Williams moved to accept the Committee’s findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(13) 69K-6.0051 - Accounts Receivable Records

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal necessary?

Chair Clark– No. But similarly, I think this is another one that we should look at to maybe be rewritten. I mean, you're asking to maintain social security number, purchaser information. I feel like this is super dated.

Ms. Simon – So, we should review that for change?

Chair Clark – I think so.

Ms. Simon – Any other discussion on that point?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any technical updates needed?

Committee members [Unison] – No.

Ms. Simon – Substantive updates?

Committee members [Unison] – Possibly.

Ms. Simon – Updated references to statutory citations or appropriate materials?

Committee members [Unison] – No.

Mr. Williams – Question. I know yesterday Ms. Coney and Chair Peoples were having discussion about records in reference to how long to maintain those records. Is this what you were referring to?

Ms. Coney – Not specifically.

Mr. Williams – Okay.

Ms. Simon – It may be appropriate at this time to entertain the motion adopting the findings of the Committee made pursuant to 69K-6.0051.

MOTION: Mr. Jensen moved to accept the Committee’s findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(14) 69K-6.0054 - Written Contracts Required

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal of this rule necessary?

Mr. Jensen – Mr. Chair, this is probably another one that needs to be updated a little bit. I know a lot of people are doing things with DocuSign, possibly.

Ms. Coney – But you'd still have a sequential number.

Mr. Jensen – Well, the first sentence is kind of what I was looking at. Written contracts.

Ms. Coney – It's in writing. It's just electronically.

Mr. Jensen – Well, this is true. Yes. So, I guess that it might be okay. You're right.

Ms. Simon – These comments may not be on the record if they're not made at the podium, I think everybody is aware of that. So, what on this would need to be updated?

Mr. Jensen – I'll withdraw that because it does cover it later down.

Mr. Williams – I mean, we were just discussing, correct?

Mr. Jensen – Yes. It's not exactly done anymore. I remember back in the day they used to take the contracts, and they had a salesperson who would physically write on those.

Chair Clark – So the last sentence of (1), correct?

Mr. Williams – Correct.

Mr. Jensen – Yes.

Chair Clark – Anything else?

Ms. Simon – Anything else that we're looking at? No? Okay. Let me ask again, is a repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – It looks like there would be a change to this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any technical updates needed to the rule?

Committee members [Unison] – No.

Ms. Simon – Substantive updates?

Committee members [Unison] – Yes.

Ms. Simon – Updated references to statutory citations or incorporated materials?

Committee members [Unison] – No.

Ms. Simon – It would be appropriate at this time to entertain a motion adopting the findings of the Rules Committee as related to 69K-6.0054.

MOTION: Mr. Williams moved to accept the Committee’s findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(15) 69K-6.007 - Criteria for Burial; Disinterment; Reinterment

Ms. Simon – Has the Committee had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is a repeal needed?

Committee members [Unison] – No.

Ms. Simon – Is any change needed to this rule?

Committee members [Unison] – No.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Chair Clark – Mr. Jensen, Mr. Williams, we were talking about any of the price disclosure sheets. Sub 0.7 it says the cemetery's price disclosure sheet.

Ms. Munson – As a lay person, I was asking what that was and what it means?

Mr. Jensen – Well, transfer fees would be between consumer to consumer. It used to be \$50. I think they allowed it to go to \$250.

Chair Clark – We were talking about the second line. The second line, it says price disclosures sheet, it's capitalized.

Mr. Jensen – I see.

Chair Clark – It's like the price list.

Mr. Jensen – A price disclosure sheet would be a price list for cemetery spaces. This garden costs this, this garden costs this. That's what I would think.

Chair Clark – Ms. Munson is asking, is that what we call it, and I said it's just a price list.

Ms. Munson – It's capitalized as if it's the type of form that's available in the industry. I don't know. I mean, if this were open for rulemaking, I know JAPC would say, what is a price disclosure sheet? I know that would draw attention. So, I'm just asking if we are cleaning it up, do we remove that? Do we just leave it there even if it means nothing? I just didn't know.

Chair Clark – I think we'd mark it as possible change.

Ms. Simon – Okay.

Ms. Wiener – I think price disclosure sheet is contemplated in the cemetery law.

Ms. Simon – Well, we can look at it.

Chair Clark – Yes, we'll look at it.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are there any technical updates to this rule required?

Committee members [Unison] – No.

Ms. Simon – How about substantive updates?

Committee members [Unison] – Possibly.

Ms. Simon – Are there any updates regarding statutory citations or incorporated materials required by this one?

Chair Clark – I mean, if price disclosure sheet is referenced in 497, I would say yes.

Ms. Coney – It's not, it says it's a full list of prices

Chair Clark – So the answer is no.

Ms. Simon – So based upon this discussion, what we're looking at is opening up this rule possibly to take care of the price disclosure sheet that's referenced in (7). It may be appropriate at this time for a motion to be made adopting the Committee's findings as pertains to 69K-6.007.

MOTION: Mr. Jensen moved to accept the Committee's findings with regards to this rule. Mr. Williams seconded the motion, which passed unanimously.

(16) 69K-6.008 - Minimum Standards for Interment

Ms. Simon – Has everybody on the Committee had the opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is any repeal of this rule necessary?

Chair Clark – One question. So, if we go back to 497.274, it says for interments, except for cremated remains, the covering of soil shall measure no less than 12 inches from the top of the outer barrel container at the time of interment, unless such level of soil is not physically possible.

Ms. Coney – This came up because of the waiver.

Ms. Simon – I mean, because that is an additional part of this rule because it seems, Mr. Clark, the way you were going, that this rule could be repealed because it only reiterates what's in 497.274, but that also includes the waiver.

Chair Clark – I just want to make sure it's not redundant because it says in any interment a legally authorized person may waive the 12-inch coverage minimal.

Ms. Simon – It says that in the statute?

Chair Clark – It says in the statutes.

Ms. Simon – Okay.

Mr. Mixon – Mr. Chair, are you going back at 6.007?

Chair Clark – No. 6.008.

Mr. Mixon – All right. I lost my place and wanted to follow the discussion. Thank you.

Ms. Simon – So based upon the discussion, is everything that's listed in the rule in the statute?

Chair Clark – Unless it's nuanced, I'm not seeing what's different. But I didn't know. I just read what 497.274 says.

Ms. Simon – Committee members?

Mr. Jensen – I don't see any difference either, to be honest with you.

Ms. Simon – So based upon your review, it sounds like this is something you would like to look out for repeal?

Committee members [Unison] – Yes

Ms. Simon – So that would mean that there would be a change.

Chair Clark – The only thing that, again, it may be nuanced, 497 says a legally authorized person may waive, and this says the family or next of kin.

Ms. Wiener – Those are not terms defined under Florida law, so you could get rid of this rule.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to specific provisions of law, which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Are any technical updates necessary?

Committee members [Unison] – No.

Ms. Simon – How about substantive updates?

Committee members [Unison] – In that we want to repeal it, yes.

Ms. Simon – Are any updates required with references to statutory citations or incorporated materials?

Committee members [Unison] – No.

Ms. Simon – Based upon this discussion, it is appropriate at this time for a motion to be made adopting the findings of the Committee with relations to 69K-6.008.

MOTION: Mr. Williams moved to accept the Committee’s findings with regards to this rule. Mr. Jensen seconded the motion, which passed unanimously.

(17) 69K-6.009 - Identification Tags – Acceptable Materials, Locations, and Methods of Affixing

Ms. Simon – Have the Committee members had an opportunity to review this rule?

Committee members [Unison] – Yes.

Ms. Simon – Is any repeal of this rule necessary?

Committee members [Unison] – No.

Ms. Simon – Is any change of this rule necessary?

Chair Clark – No. The only thing that I thought of, and I just don't know, like QR codes, barcodes, it's not considered in this, but I don't know why –

Mr. Jensen – Number (6).

Ms. Simon – Number six?

Mr. Jensen – Yes. Electronic identification.

Chair Clark – It says which users passive radio frequency signal.

Mr. Jensen – Yes.

Chair Clark – So I think we should at least, and I'd love to talk further about what all is being used in the industry. Mr. Jensen? Mr. Williams?

Mr. Jensen – Well, the only question here I would have on these is identification, I've been to some cemeteries where they say, well as a requirement of the cemetery you have to tag this way, but it's not under the law. So, I don't know if we need any reference to something on that. I got this one cemetery I go to, it's a big corporate one, maybe the biggest corporate place, and they are always giving me a hard time about not tagging it a certain way. And I'm like, this is acceptable. And they're like, no, this is not our way.

Ms. Simon – So based upon this discussion is a necessary?

Committee members [Unison] – Yes.

Ms. Simon – Is the rule a valid exercise of delegated legislative authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule have current statutory authority?

Committee members [Unison] – Yes.

Ms. Simon – Does the rule reiterate or paraphrase statutory material?

Committee members [Unison] – No.

Ms. Simon – Is the rule in proper form?

Committee members [Unison] – Yes.

Ms. Simon – Is it consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements?

Committee members [Unison] – Yes.

Ms. Simon – Is any technical change necessary to this rule?

Committee members [Unison] – No.

Ms. Simon – Substantive updates?

Committee members [Unison] – Yes.

Ms. Simon – Any updates required for references to statutory citations or incorporated materials?

Committee members [Unison] – No.

Ms. Simon – Based upon this discussion, it would be appropriate at this time for a motion made to adopt the Committee's findings and relationship to 69K-6.009.

MOTION: Mr. Williams moved to accept the Committee's findings with regards to this rule. Chair Clark seconded the motion, which passed unanimously.

Ms. Munson – May I just ask, and I didn't get a chance to check with the Director, these Board rules involved like 90% of the rules involved in Chapter 6 with the exception of 6.005, 6.0052 and 6.006. Do we know why they might not have been included?

Chair Clark – I don't know.

Ms. Simon – Because I think if we go through Chapter 6, we could just take care of all of them. So, I just would like the Committee to consider revisiting to just clean up practice and procedures.

Ms. Simon – The reason why these rules were selective was because they were 20%, and so that is why these rules were selected. Of course, the Board could do what the Board wants to do. It's just that that was the requirement.

Ms. Munson – I'm asking the Committee to consider circling back to include the other three (3) rules in Chapter 3, just to not leave those dangling out there. That's all. It won't happen today, but when we submit our twenty (20), perhaps include them.

Ms. Simon – Okay.

Chair Clark – Okay. We will move to public comments.

C. Public Comments

Ms. Wiener – Can I get you guys to go to Page 158 in the PDF? It's preneed licenses, 6.0015. The first, parenthetical one, for purposes of a corporation qualifying for a preneed license pursuant to 497.452(3) by use of a corporate agent, such corporate agent should have common ownership in excess of 50%. Okay, fine. Now, the next sentence says, if the applicant or the preneed licensed is a not-for-profit corporation, then it must have common membership with any corporate agent through which it plans to solve preneed contracts in accordance with subsection s. 497.452(3). S. 497.452(3) says, and I quote, "No person may obtain a preneed license under this chapter for a preneed sale of merchandise for services unless such person or its agent in the case of a corporate entity, holds a license as a funeral establishment, cemetery company, direct disposal establishment or monument establishment." That doesn't say anything at all about limitation on a nonprofit or anything. I represent nonprofit entities that own and validly operate cemeteries that are licensed, and they also hold preneed licenses. So that subsection, this rule needs attention.

Ms. Munson – Can I ask?

Ms. Wiener – Yes ma'am.

Ms. Munson – Attorney Wiener, do you know why that language was included?

Ms. Wiener – No. Unless it is a holdover from the days before. So, if you look at the preneed law, in the very end of the preneed law, subsection (4) of 452, there's a thing about you don't have to have a preneed license if you're a religious institution that was exempt under 497.261(d) in a county with a population of 960,000 people in 1996. So back in the day, there was a Board member named Rita Freixas, and she was part of the diocese of Miami-Dade County. And they got themselves an exemption built into the law that they could sell preneed without getting a license. So, the only thing I can think is that this had something to do with them, and then somehow anybody else who was a nonprofit was going to have to have a corporate agent. But there's nothing in this law that says anything about that.

Ms. Munson – And that's why I was curious because I said if whoever was aware when these rules were established included it, even though I know the statute hasn't shown there must have been a reason for it, so --

Ms. Wiener – I think that was probably a protection by Rita to carve out for just Miami-Dade County the capacity to be an exempt cemetery that sold preneed. So that's what I think that was about. Anyway, this rule, you voted that it does not need substantive attention. It does need substantive attention because there are nonprofits that are cemeteries and sell preneed. So that's one.

Ms. Peeples – Excuse me. It goes back to 470 when I was on the 470 Board, Ms. Munson, to where, as Ms. Wiener stated, there were different entities that were not-for-profit. So, they were able to get legislative language in here. So, it goes back to the early '90s, early and middle '90s is where it goes to.

Ms. Munson – Thank you. So, the legislative language was there originally, you're saying?

Ms. Peeples – Correct.

Ms. Munson – Okay.

Ms. Wiener – That language probably was not there in '93, but I bet you that that language came in '96 during the change. We had a big cleanup bill because '93 is when we brought preneed over from Chapter 639. It was part of the insurance code. We brought it over to 497 and we parked it under Banking and Finance, the Comptroller's Office.

Ms. Munson – And it was amended in '04.

Ms. Wiener – Yes. And so, if you look at that rule, the rule dates to 1996. So, I have a feeling that's what it was about.

Ms. Munson – Yes. It was '95 then it was amended in '04.

Ms. Wiener – But that one needs attention. So, we voted it doesn't need attention, but I would urge you to reopen that one and consider that it needs attention.

Mr. James Ross – Are there currently entities that are utilizing that exemption now that we're aware?

Ms. Wiener – No.

Ms. Coney – What about Jacksonville [inaudible]?

Ms. Wiener – Right. And it should be able to sell preneed without having a corporate agent.

Mr. Ross – So there are?

Ms. Wiener – They are technically violating this rule because this rule suggests that you have to have a corporate agent. But yet the Board regularly licenses nonprofits to solve preneed.

Ms. Coney – Board of trustees.

Ms. Wiener – Right.

Mr. Ross – Okay.

Ms. Wiener – And there's nothing in the statute that would say you couldn't license a non-profit to sell preneed.

Ms. Peeples – That probably doesn't help you, does it?

Mr. Ross – I'm just thinking about cost overall.

Ms. Munson – Because we are going to open a lot of these different rules. It's going to be expensive.

Ms. Wiener – I mean it's certainly not consistent with the statute. It lacks statutory authority for sure.

Ms. Munson – That's why I was curious why it ended up there in the first place.

Ms. Wiener – Yes. Well, yes.

Ms. Peeples – It goes way back to 470

Ms. Wiener – And the early '90s.

Ms. Peeples – And then moving over to 497. And then as Ms. Wiener said, 639, which is all now incorporated under 497.

Ms. Wiener – The other one, if you will go to Page 160 in your packet.

Mr. Jensen – Just a procedural question. I mean, do we need to go back to the one that she just mentioned?

Ms. Munson – Well, I thought and let me see if I understood this.

Ms. Simon – If I may, that is not what we're doing as a committee, today. It was decided that we are going to be looking at that at our next Rules Committee meeting. Looking at the ones that have been brought up during public comment.

Mr. Jensen – Well, there was a time earlier when someone mentioned something from the gallery and Mr. Clark said, because their specific question was, will we go back to that when we have public comment?

Ms. Wiener – And he said, yes.

Chair Clark – So yes, but it won't be at this meeting.

Mr. Jensen – Okay.

Ms. Simon – Correct.

Chair Clark – Part of the next meeting is also talking in more detail about what specifically we want the language to change to. And at that time, if we want to go back and reopen one up, that's the plan.

Mr. Jensen – Well, from a procedural issue, my question, I guess what I was wondering is do we need to revisit on this last one and say, because we originally voted no, it doesn't need any change or to be looked at it.

Chair Clark – We will but it won't be today.

Ms. Munson – It won't be today.

Chair Clark – It'll be the next meeting.

Ms. Wiener – So you're not going to cull out all those that don't need attention and put them to the side?

Ms. Simon – Not today. We're not going to be discussing them today, but we are going to put them aside for future.

Ms. Munson – Sorry, so again from the gallery, I appreciate the comment, but there is one very, very, very important goal is to take 20% of the rules and review them as required by this legislation. Which one of those rules will be -- these are the rules that our director initially selected. If she has to open up 300 rules or something, they may decide to not open some of those rules right now. So, they may say, okay, this is noted that this is a rule that needs some substantive change. It may not fall in that first patch. You have to allow the Department and the Board, and I know you want the entire layout. What we can guarantee is that if any rule is presented in that first 20%, it will be determined whether based on comment and Board review, whether any type of amendment was necessary, or an appeal was necessary. We are not identifying necessarily what each of those rule numbers are, we're not there yet. But this was, like I said, this is a very early effort to -- and we could rule --

Ms. Coney – And we understand that, and we heard that many, many times.

Ms. Munson – An when we say how, at another meeting, at another meeting.

Ms. Coney – But if you voted in the negative, what is the mechanism for pulling this back up?

Chair Clark – I just said at the next meeting. I just said that.

Ms. Coney – But how would you do that if you voted in the negative?

Ms. Simon – Ms. Coney, we have already determined based on public comment that we're going to call those out.

Ms. Wiener – Here's my other one. And this is more a question than needs attention. But something I learned, Page 160, this is on 0024. Look at subsection (3). Everybody in the industry pay attention. Look at subsection (3). The second sentence says, "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 the law". Who here thinks you can charge a customer a Regulatory Trust Fund fee? Can't do it. But this seems to suggest that you can. So, licensees, should you all be passing on your Regulatory Trust Fund fees to everybody? I mean that's news to me. I don't think that's intended. I think other places in the law, we're not allowed to pass on the CPTF or the Regulatory Trust Fund fee to customers. And I I think that's fine, but this rule seems to suggest that you can.

Mr. Jensen – Where would that have come from?

Ms. Munson – That's what I am coming back to. When the rules were made, how did it get there?

Ms. Wiener – Honestly, and if you look at the law that is cited, 453(6), is about getting a preneed license. In addition to other amounts required to be paid by this section, each preneed license fee shall pay to the Regulatory Trust Fund an amount established by rule not to exceed blah, blah, blah for preneed contracts, they have to be paid. The funds shall be used to defray the cost of administering provisions of the rule. I always thought that you could not pass these fees on, and I think that's somewhere else in the law. Because if you could pass them on, people would've been passing them on all along.

Mr. Jensen – Could this be referring to the care and maintenance?

Ms. Wiener – No. This is your Regulatory Trust Fund fee that gets paid by the preneed licensees. Every quarter you pay.

Mr. Jensen – I am just trying to figure out where it would've been coming from.

Ms. Wiener – Why it's in the rule?

Mr. Jensen – Yes.

Ms. Wiener – I don't think it belongs in the rule. I think we should strike it because it's not consumer friendly.

Mr. Jensen – If you look at number (2) there were some things here that were obviously looked over in 2009 and this was way before 2009. So, there must be some reason. Number (2), it says contracts written July 1, 2009. So that tells me that this rule was looked at in 2009.

Ms. Wiener – Yes, I agree.

Ms. Munson – And this is why I said I'm glad the historical perspective is here because when we make changes, I want to make sure we aren't missing some legislative intent or some historical influence that resulted in the language that --

Ms. Wiener – My point is, I don't think anyone in Florida passes their Regulatory Trust Fund fee to a customer, and this rule implies that you can do so. And so, in as much as a regulator, you don't want that to be the case, you should open that rule and take out that language.

Ms. Coney – First one, 69K-21.007, I believe we flagged for review. I wanted to go on record as saying not only should we substantively review this, but I would ask that that substantive review consider the purpose of an FDIC for any reason and consider perhaps --

Mr. Jensen – Wait a minute. Say that again.

Ms. Coney – The FDIC, we are all licensed entities and every licensee working for those licensed entities that has contact with the consumer would be held responsible should they have any, you know, malfeasance in the performance of their duties. So, FDIC has become a little more than a way to double fine an establishment. An FDIC, to Mr. Jensen's point, we're hanging shingle. We have people that no longer want to hang their shingle because they're going to be fined because of what so and so did who doesn't get a fine. Or having to pay people extra to hang their shingle. It just doesn't make sense. It might have made sense in a rooftop where somebody walks into this building, turns on the lights, he's now fully staffed, and he's the FDIC. In that single rooftop environment, that makes sense. That is not really the course of our business today, even with smaller independent firms. That's just not a practicality. So, if we're doing this just for discipline, just for fining, we can fine people who are involved with things and not have an FDIC protocol in our regulatory scheme at all. But if we're going to have one, I sure want them to be available by phone.

Mr. Jensen – Well, yes, and of course this is going to be open for discussion. So, there may be even better ideas. I don't know. How do we eliminate the problem? I have two (2) solutions.

Ms. Coney – I'd say eliminate FDIC and hold people responsible who are responsible. If that's me as the establishment or if that's my licensed employee who was involved in whatever you're concerned with, you have all the authority to go to the person holding the license rather than just hit somebody who was brave enough to hang their license on the door.

Mr. Jensen – Well, I think the purpose of the FDIC is you've got to have somebody in charge because I mean, in a bigger funeral home, somebody walks in the front door, as you said, is not correct. Everybody is not licensed.

Ms. Coney – You're absolutely right. But if they're doing a license task, they have a license for that task. If they don't, you get them for unlicensed activity. If they do, they have a license for that purpose. And either way, it's a licensed funeral home, direct disposal, monument establishment, cemetery, whatever it is so you still have the establishment responsible and the ownership. I mean, if we had somebody responsible in something, we are the ones responsible. Our establishment is responsible.

Mr. Jensen – Yes. No, I agree with that part.

Ms. Coney – We take the responsibility and represent them and pay their fines. But the FDIC concept as a whole is very dated. And as we struggle with staff and good staff, good funeral directors coming out, the ability to be an FDIC if you're not an embalmer over certain locations, it's becoming more and more restrictive, more impractical, more problematic, and it truly, from this side of the desk, seems like its only purpose is so that you can fine twice instead of once. 69K-33.001, The Requirements for The Handling and Storage of Remains. This whole rule came about as a result of a terrible case. And it was specific to mold and maggot infestation. This didn't have anything to do with the forty (40) degree. That's going to be found in a different section. So, my recommendation would be that we have another expert subcommittee like we used to have. We used to have a Financial Preneed Rules Committee that were experts in that and gave advice to the Board or to the Rules Committee. We had an expert subcommittee in what would be dignified care of remains that were, you know, maybe extended refrigeration, whether or not embalming, you know. So, the word dignity is obviously very loose. Stacking could mean a hundred different things. Forty (40) degrees isn't even in here. So, I'd say that if we're going to look at that substantively, that we look at all the rules related to that, bring them together so that licensees are looking at one set of standards, that this is what happens when someone's in your care, and this is what dignified means. Otherwise, it's vague and gray and it's not going to be consistently ruled on. And we see that in the application of Board considerations and settlement agreements, that there's a lack of consistency related to those very subjective terms. On the next one, number (3), 69K-2.003, Other Official Board Business, we had extensive discussion around the exam. Obviously that dates back to 470 and when we actually did exam. But there are consistent concerns about the Florida Laws and Rules having very little to do with the actual practice of funeral directing. Funeral directors don't need to know, is this a second-degree felony or third-degree felony? They need to know how to interact with a family. And if you're not committing crimes, it doesn't matter what degree felony it is, it matters that you know how to write a contract, and you know how to describe a casket. So, I think that the Laws and Rules exam is when you get the study book, it's literally every single law and rule it has. 90% of that doesn't apply to an actual funeral director intern that wants to know how to talk to a family. So, I would love to see the exam oversight part of that in whatever format come back to a group of experts in our profession so that we can make that exam meaningful to the people who have to take it.

Ms. Munson – So is that comment in support of not making any changes to this rule?

Ms. Coney – Well, it's at least keeping the exam review part of it because the way that it's done now by regulators and not by industry professionals, I think loses some of the import to the people coming into our field.

Ms. Munson – So you are supporting keeping in sub (5)?

Ms. Coney – Yes. Even though we may not be using certain components of that, I don't think we want that to be taken away from the right to use them in the future.

Ms. Munson – Okay.

Mr. Williams – May I ask a question? So, with that, sub (5), Ms. Coney, you mentioned about a group of people, but sub (5) says Board members.

Ms. Coney – Well, there are people in our profession on the Board. So that Board would be represented by professionals that have funeral --

Mr. Williams – I'm just trying to get clarity. So, you mean the Board members?

Ms. Munson – And that's why I want to make sure you want to keep that.

Ms. Coney – It's a professional Board with the exception of consumer reps. This is a professional Board.

Mr. Williams – No, I get it.

Ms. Coney – {Inaudible} by category. So, yes, I think that's appropriate.

Mr. Williams – No, definitely I get it, I just thought you meant a separate group.

Ms. Coney – No, our professional Board, I don't want that to be removed from their purview.

Mr. Jensen – But, you know, even further than that, perhaps, the Board Chair may assign a special committee such as Mr. Beckham and a couple other people who will look at that.

Ms. Coney – Maybe even somebody opinionated like me, who knows.

Mr. Jensen – Looking at people without special interest.

Ms. Munson – Except that this rule doesn't speak to that.

Ms. Coney – It is the Board, and we have professionals on the Board that we don't want to lose that overview. On 69K-5.0024, Remittances to the Regulatory Trust Fund, I would echo Ms. Wiener's remarks.

Ms. Wiener – Maybe not so fast. Lauren, you want to jump in here?

Ms. Coney – I want to know if I can charge that on my contract now.

Ms. Wiener – Apparently you can since '09.

Ms. Lauren Pettine – I just did a deep dive on some of the legislative or the equivalent of the legislative history, the proposed notices on this to see if I can track it down. I was digging back through the rule, in 2000 when this rule was initially put together, it was explicitly banned to pass the remittance onto to a consumer. However, an adjustment was made with appropriate proposed rule and public comment period, and I am having trouble pulling up any public comments, that an

adjustment was made in the summary language of the purpose from that says, The proposed rule amendment deletes language from subsection 3 that prohibits preneed license fees from making direct line item charges to customers on preneed contracts for the fee that's remitted to the Regulatory Trust Fund. But the new language is added to clarify that any refund of such fees that is passed along does not relieve preneed licensees of their obligation to remit. So, I suspect this is some form of compromise where it is actually permitted to pass it along to the consumer now, but you don't get that money back when you do a refund.

Ms. Wiener – So everybody start charging your customers your fee, but you have to refund it if they cancel.

Ms. Pettine – So it is clear to me from looking through the evolution of this rule, that at some point it was prohibited to pass along to the consumer. And the summary language and the purpose language in the notice explicitly states the intention to make it legal to pass it along.

Mr. Jensen – But there was never any fee for a trust fund. Well, I'm still confusing, but where in the world is it going to come from? Because I've never known a trust fund charge of a fee.

{Multiple speakers

Mr. Jensen – Could this be referring to an administrative fee?

Ms. Coney – No, it specifically says regulatory protection.

Mr. Jensen – Okay.

Ms. Pettine – This is a rule. I went back to track the rules history.

Ms. Munson – So what are we saying? Are we changing the opinion that we do not think there's a need for a change?

Ms. Wiener – I mean, leave it how it is. And I guess people can assess whether or not they want to take advantage of this rule change from '09 that no one ever took advantage of.

Mr. Jensen – So what you're saying is you can now put on the contract a \$10 fee and say that's what the state makes us charge?

Ms. Munson – The statute is not necessarily clearly saying that, but the legislative history as to how they got to the language --

Ms. Munson – Not the legislative history, the rule history. So, the rule at one point prohibited it, and now the rule is yes.

Ms. Wiener – The law doesn't speak to it at all, whether you can pass it on or not. And so originally, up until starting in 2000, the rule said you cannot pass this on. Apparently in '09 when I'm certain Lisa and I and Bill and others were there, somehow, we changed this rule to allow for the passing on of the Regulatory Trust Fund fee, but nobody ever did it. And I'm not aware of any licensee, and I represent a lot of licensees, that passes that fee on, but the rule, according to what Lauren found in '09, the rule was changed, which is consistent with what it says now, which is if you pass it on, but your customer cancels, you have to refund the fee even though you've already remitted it to the state.

Ms. Munson – But I think all of this discussion is still rooted in the fact that it was presented by public comment that even if that's what they decided back then, there was no statutory authority to support it.

Ms. Wiener – I don't know that there's statutory authority to do anything. I don't think that as a Board you can say you can charge it or you cannot charge it because there's nothing that says you can, and there's nothing that says you can't.

Ms. Munson – So for the basis of this public comment, what is the recommendation to the Rules Committee regarding this rule?

Ms. Coney – My recommendation is if we're going to charge it and we're going to refund it, it would've been considered delivered so I shouldn't have to remit it, but that's a whole different conversation.

Ms. Munson – So is that a no change? Again, we are just trying to conform to some type of protocol. We want to acknowledge the public comment. We just want to identify what that public comment is.

Ms. Coney – That it's muddy waters.

Ms. Munson – Okay. Well thank you for that. If that's where we are, okay, we'll move forward.

Ms. Wiener – I would say we're putting on the list to review but put it towards the bottom of the list.

Ms. Coney – The next two are related to grave spaces, 69K-6.001 and 6.0015. Both of those serve no purpose because both of those are better covered in 497.274. However, the following one, 69K-6.0016, Definition of a Developed Area, we talked about striking the word adult, and I would take exception to that because only adult standard grave spaces are referred to in the statute as being 42 x 90 in dimension. So, I do have the ability in any cemetery to have burial spaces that do not meet standard adult grave spaces. Babyland, an ossuary, a cremation scattering garden, those are all forms of disposition in a cemetery that are not standard adult grave spaces. So, if we were going to have a substantive review of that, my suggestion might only be not removing the word adult because it has a very specific application in every cemetery, and it defines the grave space size per the statutory standard. But in that same section, it references adding four (4) spaces, and I remember the Rules Committee meeting about this, and there was a lot of discussion. And I think that the statute is very clear about the requirement to have grave spaces on a map surveyed and on a map. I don't know why we would limit that to a four-space minimum addition. If I have a change in my cemetery, an easement area, and I have Mr. Jensen's family here, and I no longer have an easement there, or I've redeveloped a roadway, and now Mr. Jensen's family has the opportunity to get one (1) more space, as long as it is surveyed and on a map and those control points relate to that one (1) space why can't I add it? So, I would request this does have substantive review and it be for that consumer-friendly practice of being able to accommodate family's wishes with additions of less than four (4) spaces in our cemeteries.

Next on care and maintenance deleted those redundant for sure. All these dated languages that we talked about are deleted. We are currently picking sales journals, which are very dated practices under 6.0054. The criteria for burial could be price list. It doesn't matter what you call it because the statute specifically just says a list of all prices. One of the things on criteria for burial that comes up quite frequently, we are seeing an increasing frequency of people who do not have next of kin, and maybe it's just a living a longer time or not liking their spouse anymore. I don't know, there's nobody. And I'm aware of a case right now where a decedent has fully funded a preneed contract, and the only person that exists is a landlord and the cemetery, not my cemetery, is not allowing anyone to sign for her interment. So, she's in an extended storage with no one to sign. When in reality, if they were represented by Ms. Wiener, she'd say anybody can act as a legally authorized person. This was the decedent's wish. But if we were going to have a substantive review of that for the technical price list thing, we might want to address this continuing burden on cemeteries of understanding when they can make an interment of someone when no one is present that meets our legally authorized person's specific definitions. Funeral directors think next of kin and family, you know, the niece can do it, but if it's a personal representative or if death has already occurred and the POA is not active anymore, if it's the freaking mailman, if the contract's paid for and the mailman's willing to help this person go into a grave space, we want to see that happen. In the absence of clear law, I would say, how would I feel about talking about something on the evening news? And I feel a lot more comfortable talking about giving somebody the dignified burial that they paid for than saying, I couldn't find the right person to sign your form because 69K-6.007 is not clear. And on the 69K-6.009, the last one. I remember this Rule Committee meeting too and we listed everything under the sun for how to tag various things. We could make our Governor happy and delete that down to a couple sentences to say they should be indelible, permanent, and standardized.

Ms. Munson – Which ones?

Ms. Coney – 69K-6.009, Identification Tags, Acceptable Materials, Locations, and Method of Affixing. That way Chris doesn't have to complain that the big corporate cemetery over his way puts a tag on. We put the tag in the same space every time because we want it to comply and be standard. So even if somebody else is coming in, we're going to apply our own tag to comply. I feel like this was four (4) pages that should have been four (4) sentences.

Ms. Munson – So tell me what you think it should say. I'm sorry.

Ms. Coney – Indelible or intended to be permanent and in standardized closeness.

Ms. Munson – What does that mean?

Ms. Coney – Permanent and standard.

Mr. Ross – Standard for the entities?

Ms. Munson – I'm just thinking about rule language.

Ms. Coney – Yes, standard for the person who's applying the tag. So, if there's a funeral tag going on a casket that's being applied by funeral home, if there's a cemetery tag going on a vault. If somebody's coming in with an old urn and I'm putting it in a glass [inaudible], I'm putting it on the bottom so somebody's not looking at something affixed to the top.

Ms. Munson – So do you understand from what you just explained why the standard cannot just say standard, well, can't be as simple as you're suggesting?

Ms. Coney – Well, the standardized --

Ms. Wiener – Maybe consistent placement?

Ms. Munson – I'm just trying to create the picture of what you're suggesting.

Ms. Coney – But if you look at that rule, it's this long and it still doesn't address new technology. So, are we going to make one rule about ID placement that is very rarely accessed, four (4) more pages to address everything that technology might come up with in the future? I mean, if we're looking to slim things down and make them clean and consistent and understood, if something is permanently applied in a way that is indelible and permanent and standard, whether that's to that licensee is specific, because I can tell Chris exactly where to find the tag on everything we put in.

Ms. Munson – I understand what you're saying. I'm just trying to help. I understand the issue. Only for rulemaking, it must be understood, not just by those who are using it. It must be understood just by who's reading it.

Ms. Coney – But this is another one we were talking about opening to add QR codes and whatever else might come up. I think that there's probably ways for us to make this cleaner and not four (4) pages long. And that ends my comments for the moment.

Ms. Munson – Thank you.

Ms. Simon – Before any other comments are made, whenever people speak up and they are not at the microphone, it makes the notes of the meeting very, very difficult. So, if there is anything pertinent that is being said at the meeting, please say it at the microphone. Otherwise, it will not be reflected in the minutes, that's anybody in here. Thank you. Ms. Peeples? Sorry.

Chair Clark – That's all right.

Ms. Peeples – Item number (15), 69K-6.007, Criteria for Burial Disinterment, Reinterment. If you'll look at the rule on Page 27 of 173, (1)(a) says, an original completed burial transit permit. Our firm has handled disinterments that we were not involved with the original burial. So that form is kind of, you can't get it, you don't have it, but it's a requirement here. Then if you look at (4)(a), it says that a disinterment cannot be completed until all required permits. There is no permit now in the state of Florida. This is what I brought up yesterday. If you'll reference item number (43) yesterday, which was 69K-21.009, these two (2) need to have language updated. with items taken out of the rules that don't pertain today, because this is where I brought up the comment that when we do a disinterment, there is no record with the Health Department through a death certificate that that cemetery change has been denoted. When we used to get a disinterment permit, we had to go to the Health

Department physically get it, then they would update the record, so that it would reflect whether it was still in the state, out of state. So, I'd just like to see that language kind of adopted. Thank you, Mr. Chair.

D. Chair's Remarks

Chair Clark – Thank you. Any other public comments? Anything further? All right. So, I know Ms. Simon mentioned earlier, but for anticipation for our next meeting, feel free to submit comments in writing to the Division two (2) weeks prior to the next meeting. The Committee will have a chance to review those and consider those as we continue the discussion on all the items from yesterday and today. Tentatively, our next meeting is scheduled for August 19th. Do we have a location, is it here or we don't know yet?

Ms. Simon – Right now it's expected to be in Tallahassee, and we're going to try and get this room. I don't know that we'll be able to, but that will be determined at a later date.

E. Adjournment

Chair Clark – And with that, the meeting is adjourned.

The meeting was adjourned at 2:23.