



**STATE OF WISCONSIN**  
Department of Safety and Professional Services  
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**Governor Scott Walker      Secretary Dave Ross**

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**CEMETERY BOARD**  
**Room 121A, 1400 East Washington Avenue, Madison, WI**  
**Contact: Berni Mattsson - 608-266-8741**  
**June 19, 2012**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting items may be removed from the agenda. Please consult the meeting minutes for a summary of the actions and deliberations of the Board.*

**ANNUAL REPORT REVIEW COMMITTEE**  
**VIRTUAL LIVE MEETING**  
**8:30 A.M.**

- A. Call Open Session to Order
- B. Adoption of the Agenda
- C. Review of Annual Report submittals

**CONVENE TO CLOSED SESSION** to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

- D. Review of Annual Report submittals

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

- E. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- F. Adjourn

**AMENDED AGENDA**  
**FULL CEMETERY BOARD**  
**VIRTUAL LIVE MEETING**  
**9:30 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes – March 13, 2012 (5-7)**
- C. Executive Director Matters

**D. Auditor Report**

- 1) **Discussion of proposed changes to the Annual Report form for the 2012 reporting year-  
DSPS Auditor Joe Vosen. (9-18)**

**E. Legislation/Administrative Rule Matters**

- 1) **Status of CB 3-5 (19)**

**F. Presentation of Proposed Stipulations, Final Decisions and Orders by the Division of Enforcement including any received after printing of the agenda**

**G. Board Discussion Items including any received after printing of agenda**

- 1) Division of Enforcement Matters
- 2) Education and Examination Issues Matters
- 3) Credentialing Matters
- 4) Practice Questions/Issues
  - a. **FAQ-Legal requirements for disinterment (21-26)**
- 5) Liaison Reports
- 6) Speaking Engagement, Travel, Public Relation Requests
- 7) **Green Ridge Cemetery request for withdrawal from perpetual care account (27)**

**H. Informational Items**

**I. New Business**

**J. Public Comments**

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

**K. Deliberation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda**

**L. Deliberation of other items including any received after printing of agenda**

- 1) Case Closings (29)
  - (a) **Deliberation of 11 RLC 007 (31-36)**
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Summary Suspensions
- 5) Objections and Responses to Objections
- 6) Complaints
- 7) Administrative Warnings
- 8) Matters Relating to Costs
- 9) Monitoring Cases
- 10) Appearances from Requests Received or Renewed
- 11) Examination Issues
- 12) Application Issues
- 13) PAP Cases
- 14) Motions
- 15) Miscellaneous Items

**(a) Green Ridge Cemetery request for withdrawal from perpetual care account.  
(37-46)**

M. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

O. Other Board Business

P. Next Meeting Date: September 25, 2012

**ADJOURNMENT**

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**PRESENT:** E. Glen Porter, III; Cecelia Timmons; Timothy Stanley; and Kathleen Cantu

**BY Phone:** Mary Lehman, W. Ed Greenfield

**STAFF PRESENT:** Berni Mattsson, Executive Director; Sandy Nowack, Legal Counsel; David Carlson, Bureau Assistant; and other Department Staff for portions of the meeting

**OTHERS PRESENT:**

### **CALL TO ORDER**

E. Glen Porter, III called the meeting to order at 9:30 a.m. A quorum of six members was present.

### **APPROVAL OF AGENDA**

**MOTION:** Cantu moved, seconded by Stanley, to approve the Agenda as amended below. Motion carried unanimously.

### **APPROVAL OF MINUTES OF DECEMBER 6, 2011**

**MOTION:** Greenfield moved, seconded by Cantu, to approve the Minutes of December 6, 2011 as published. Motion carried unanimously.

### **ADMINISTRATIVE REPORT**

- **BOARD APPOINTMENTS**-Berni Mattsson reviewed the current Board Appointments and asked if the Board wished to make any new appointments. Chair Porter made the following appointment:
  - **Conveyance/Sales-Stanley (Porter)**
  - **Credentialing-Greenfield**
  - **Screening-Stanley, Lehman (Porter)**
  - **Trustee Approval-Porter**
  - **Monitoring Liaison-Stanley (Porter)**
  - **Legislative-Porter**
- **BOARD MEMBER GUIDEBOOK**-Berni Mattsson reviewed the updated Board Member Guidebook and requested that Board members sign the acknowledgement form at the back of the book and return to the Department.

### **LEGISLATION/ADMINISTRATIVE RULE MATTERS**

#### **Public Hearing on proposed rule-making CB 3-5**

Porter convened Public Hearing at 9:50 a.m. and reviewed the proposed changes to Rule CB 3-5 and advised those in attendance that copies of the proposed changes are available. Porter explained that anyone wishing to testify must complete an attendance slip. No one appeared to testify.

**MOTION:** Cantu moved, seconded by Lehman, to adjourn the Public Hearing. Motion carried unanimously.

**Review and Discuss public and legislative clearinghouse comments related to CB 3-5**

Kris Anderson reviewed clearinghouse changes.

**MOTION:** Stanley moved, seconded by Timmons to approve for filing the proposed order with the amendments discussed by the board.

**PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS BY THE DIVISION OF ENFORCEMENT**

10 RLC 001-Rienzi Cemetery and Rienzi Cemetery Association. Heather Curnutt reviewed the terms of the Stipulation and FDO.

**INFORMATIONAL ITEMS**

- 1) **2011 AB 523**-Porter reviewed the history of the Legislation which would remove the prohibition in place now which keeps Cemeteries and Funeral Homes being owned by the same entity. Porter said a public hearing was held recently on the bill. Porter said he didn't believe the bill would not progress during this legislative session.
- 2) **2011 AB 547/SB453**-Porter reviewed the bill which is a DSPS "clean-up" bill. The bill cuts most of the remaining ties between the Cemetery Board and Real Estate Boards. Previously, certain cemetery tasks needed to be done by a licensed real estate broker.
- 3) **Conversion of Documents to Electronic Format**-In response to an inquiry by Stewart Enterprises, Board Legal Counsel said that there is nothing that prohibits keeping records in an electronic format, versus a hard copy so long as the records are accessible as specified by law.

**CONVENE TO CLOSED SESSION**

**MOTION:** Timmons moved, seconded by Cantu, to convene in closed session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.); to consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats.), to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and, to confer with legal counsel (s. 19.85(1)(g), Stats.) Roll Call Vote: Roll Call Vote: Kathleen Cantu-yes; Ed Greenfield-yes; Mary Lehman-yes; Glen Porter III-yes; Timothy Stanley-yes and Cecelia Timmons-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:43 a.m.

**RECONVENE TO OPEN SESSION**

**MOTION:** Cantu moved, seconded by Stanley, to reconvene in open session. Motion carried unanimously.

The Board reconvened into open session at 11:24 a.m.

**10 RLC 001-Rienzi Cemetery and Rienzi Cemetery Association**

**MOTION:** Timmons moved, seconded by Cantu, to accept the proposed Stipulation, Final Decision and Order as presented. Motion carried unanimously.

**11 RLC 008**

**MOTION:** Greenfield moved, seconded by Cantu, to close case 11 RLC 008 for no violation. Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Cantu moved, seconded by Timmons, to adjourn the meeting at 11:25 a.m. Motion carried unanimously.

**NEXT MEETING DATE:** June 19, 2012

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Joe Vosen, Auditor - DOE		<b>2) Date When Request Submitted:</b>  May 31, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b> Cemetery Board, Annual Report Ad-Hoc Committee			
<b>4) Meeting Date:</b> June 19th	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Annual Report proposed revisions for 2012 reporting year	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b> <input checked="" type="checkbox"/> Yes by Joe Vosen at the discretion of the board. I have a prior commitment from 10:30 – 11:00 on that day. <input type="checkbox"/>	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b> The auditor is proposing some minor revisions to the 2012 annual report form based on responses to the 2011 revamped report. In addition, the auditor is proposing that a line-by-line instruction sheet be included with the report. A rough draft and commentary accompanies this agenda request, along with a copy of the 2011 report.			
<b>11) Authorization</b>			
Joe Vosen		May 31, 2012	
Signature of person making this request		Date	
Heather Curnutt		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

## Annual Report Proposed Revisions for 2012 Reporting Year

Prepared by Joe Vosen, DOE Auditor  
Submitted May 31, 2012

### **Suggestions by Section**

#### **Section I:**

Re-word as follows:

Line 6a. Name of cemetery (not cemetery authority)

6b. Physical address of cemetery

#### **Section II:**

Number the lines in this section as an aid to cross-referencing the instructions.

Re-word the opening sentence as follows:

Complete this section for each trust fund whether held in a financial institution, alternative investments, investment funds or any combination thereof (see instructions). Photocopy this page if you hold more than one trust fund. Note: If the cemetery authority has placed cemetery funds in alternative investments, you must complete both this section and the affidavit (Form #2143).

#### **Section III and IV:**

These two sections should not be on same page, in order to protect the cemetery's sales information from being viewed by financial institution personnel. One suggestion would be to switch Section V (Certification of Cemetery Authority) with section IV.

#### **Instruction sheet - proposed**

The auditor proposes that line-by-line instructions be included with the form. Following is an incomplete rough draft:

#### **Section I: General Information**

##### **Lines 1-5**

Complete the information on the cemetery authority, license number, business office and bookkeeper.

##### **Line 6a – 6d**

These lines pertain to the Cemetery itself, not to the cemetery authority or business office.

## Annual Report Revisions, page 2

### Line 7

A cemetery association created under Wis. Stats. §157.062 is required to file an annual report with the Department of Financial Institutions. A copy of this report as filed should be attached to this Cemetery Authority Annual Report.

A cemetery corporation created under Wis. Stats. §180 or §181 is required to file an annual report with the Department of Financial Institutions. A copy of this report as filed should be attached to this Cemetery Authority Annual Report.

### Line 8a

\*\*\*\*(Define preneed seller)\*\*\*\*

## Section II: Trust Funds

### General Instructions

All cemetery authorities holding trust funds should complete this section. Supplemental materials, such as an investment fund statement, may be included but are not a substitute for completing this form.

For the purpose of this section, a trust fund is any group of funds that have a common purpose. For example, all monies that are entrusted for the purpose of cemetery care constitute a single cemetery care fund, and should be aggregated on one page of this form. This is true whether the monies are held in a financial institution(s), an investment trust, alternative investments, or any combination thereof.

Monies held in alternative investments should be both listed here (ex., included as part of the cemetery care fund) and attested to on the affidavit (Form #2143).

This section pertains only to money that is entrusted to the cemetery care for a designated purpose. Funds that are at the disposal of the cemetery authority (e.g. the business checking account) should not be reported here.

### Line 1

Enter the name of the fund as it is commonly referred to by the cemetery authority (ex., "Cemetery Perpetual Care.")

### Line 2

Enter the name of the person or trust company who oversees the fund to insure that no principal is withdrawn by the cemetery authority.

### Line 3

If a trust company or institution is named in line 2, enter a contact person and their phone number. If an individual guardian is named in line 2, enter their phone number.

## Annual Report Revisions, page 3

### Line 4 - Purpose of Fund

**4a.** Cemetery care: Most cemeteries should complete only one instance of this section to report all funds that are entrusted for the purpose of cemetery care. However, any funds that have a special purpose other than general cemetery care (e.g. “W. Smith Flower and Wreath Fund”) should be reported separately from cemetery care funds.

**4b.** Mausoleum care: Complete a separate instance of this section for each mausoleum that has a care fund.

**4c.** Preneed: If the cemetery authority has specially-designated preneed sales funds, complete a separate instance of this section for each one; otherwise complete one instance for the aggregated preneed funds.

**4d.** Gift fund: Complete a separate instance of this section for each restricted-use gift fund.

**4e.** Other: Complete a separate instance of this section for each other restricted-use fund.

### Line 5 - Institutions(s) or instrument(s) where this fund is held.

List all account numbers where money is held for a particular purpose (e.g. all bank accounts, CDs, investment accounts, etc. that are holding cemetery care funds should be listed here. Attach a separate sheet if needed. Please note that the amount held in each account does not need to be itemized, but it can be itemized if the cemetery authority wishes to do so.

### Lines 7 - 13

Enter the aggregated totals for all monies pertaining to a given purpose (e.g. all monies designated for cemetery care).

### Line 8a – Deposits required by statute

This entry should not exceed the amount that the cemetery authority was required to deposit. For example, if \$2000 was collected from the sale of cemetery graves, the required care fund deposit would be \$300. Any deposits in excess of this amount should be included in line 8b.

### Line 10 – Market gain or loss

Enter the net amount of realized and unrealized gains or losses.

### Line 12a – Withdrawals permitted by statute

This entry should not exceed the amount that the cemetery authority is permitted by statute to withdraw (e.g. for a cemetery care fund, the net current income or earnings from investments). Any withdrawals in excess of this amount should be included on line 12b and explained on line 16. Note, such withdrawals are generally not permitted.

**Annual Report Revisions, page 4**

**Lines 14 & 15**

These questions pertain to investments that the cemetery authority makes on its own behalf.

Enter the total collections from cemetery graves or crypts/niches before any care fund trusting is taken out.

**Section II: Trust Funds**

**Line 1**

Provide the name of the cemetery for whom the sales information is provided

**Line 6**

Provide the total amount collected in the calendar year, before any amount is set aside for cemetery or mausoleum care.

# Wisconsin Department of Safety and Professional Services

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## DIVISION OF PROFESSIONAL CREDENTIAL PROCESSING

### CEMETERY AUTHORITY ANNUAL REPORT

**FILING DEADLINE: On or Before March 1, 2012**

**NO FEE**

**This report must be filed by every cemetery authority which has been licensed as a cemetery authority by the Department of Safety and Professional Services pursuant to Wis. Stats. § 440.91.**

NOTICE: Each cemetery (not cemetery association) must file a separate report per Wis. Stats. 157.061(2) and 157.62(2).

### SECTION I: GENERAL INFORMATION

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1. NAME OF CEMETERY AUTHORITY (exactly as licensed with the Department.)

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2. CEMETERY AUTHORITY LICENSE NUMBER

---

3. COUNTY

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4. Information on business office

4a. Address \_\_\_\_\_

4b. Phone number \_\_\_\_\_

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5. Information on primary bookkeeper

5a. Name \_\_\_\_\_

5b. Work address if different from above \_\_\_\_\_

5c. Phone number if different from above \_\_\_\_\_

5d. Email address \_\_\_\_\_

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6. Information on cemetery holdings. Provide a separate report for each licensed cemetery.

6a. Name of cemetery \_\_\_\_\_

6b. Address \_\_\_\_\_

6c. Phone number \_\_\_\_\_

6d. Number of acres dedicated to cemetery purposes \_\_\_\_\_

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# Wisconsin Department of Safety and Professional Services

7. The above-described cemetery is organized and operated by:

- A cemetery association created under Wis. Stats. § 157.062. We have enclosed, as required, a copy of the annual report filed with the Department of Financial Institutions pursuant to Wis. Stats. § 157.62(1)(a).
- A corporation organized under Wis. Stats. § 180 or 181. We have enclosed, as required, a copy of the annual report filed with the Department of Financial Institutions pursuant to Wis. Stats. § 180.1622 or 181.1622.

8. Additional information about the Cemetery Authority:

- a.  Yes     No            Is this Cemetery Authority licensed as a cemetery preneed seller?
- b.  Yes     No            Did the Cemetery Authority have an operating budget of \$2500 or less during the past 12 months? If YES, stop here and submit this form to the Department.
- c.  Yes     No            Does the Cemetery Authority have on deposit with the treasurer of the County or city in which its cemetery is located care funds which the Cemetery Authority has received for the care of lots?

d. Indicate the dates and locations of all meetings and elections:

Date	Location

e. All cemetery corporations, NOT ASSOCIATIONS, **must** complete the following information for each shareholder who beneficially owns, holds or has the power to vote 5% or more of any class of securities issued by the Cemetery Authority. Attach a separate sheet if necessary.

Name	Residence Address	Business Address

f. All cemetery associations, NOT CORPORATIONS, **must** complete the following information for each officer and member of the board of trustees:

Name	Address	Title or Position with cemetery association

# Wisconsin Department of Safety and Professional Services

## SECTION II: TRUST FUNDS

Complete this form for each trust fund held in a financial institution OR in an alternative investment made by the Cemetery Authority. Photocopy this page if you hold more than one trust fund. Note: If the cemetery authority has placed cemetery funds in alternative investments, you must complete the affidavit (Form #2143).

Name of this fund: \_\_\_\_\_

Name of fiduciary (guardian) for this fund: \_\_\_\_\_

Contact name and phone number of fiduciary: \_\_\_\_\_

Purpose of fund (check only one):

Cemetery care     Mausoleum care     Preneed     Gift fund     Other (describe):

Institution(s) or instrument(s) where this fund is held (attach separate sheet if needed):

Financial institution or fund name	Account number	Type (checking, CD, bond, mutual fund, etc.)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total fund balance, beginning of year: \$ \_\_\_\_\_

Deposits:

Required by statute \$ \_\_\_\_\_

Other deposits \$ \_\_\_\_\_

Total deposits + \$ \_\_\_\_\_

Interest and dividends accruing to fund: + \$ \_\_\_\_\_

Market gain or loss +/- \$ \_\_\_\_\_

Fees - \$ \_\_\_\_\_

Withdrawals:

Permitted by statute \$ \_\_\_\_\_

Other withdrawals\* \$ \_\_\_\_\_

Total withdrawals - \$ \_\_\_\_\_

Fund balance, end of year: \$ \_\_\_\_\_

Were any new alternative investments created in 2011?     Yes     No

Did the state cemetery board approve the investment?     Yes     No

\*If withdrawals were made in excess of what is permitted by statute, please explain:

# Wisconsin Department of Safety and Professional Services

## SECTION III: SALES INFORMATION

1. Name of cemetery \_\_\_\_\_
2. Number of graves sold \_\_\_\_\_
3. Number of crypts and niches sold \_\_\_\_\_
4. Number of burials of cremated remains or caskets \_\_\_\_\_
5. Number of entombments of cremated remains or caskets \_\_\_\_\_
6. Collections for calendar year 2011:
  - 6a. Cemetery graves \$ \_\_\_\_\_
  - 6b. Crypts and niches \$ \_\_\_\_\_

## SECTION IV: CERTIFICATION OF FINANCIAL INSTITUTION

*The Cemetery Authority filing an annual report with the Department of Safety and Professional Services shall submit this CERTIFICATE OF FINANCIAL INSTITUTION FOR EACH account identified in Section II of the report.*

**Market Balance in Account on 12-31-11**

The undersigned, a duly authorized official of the \_\_\_\_\_  
(Financial Institution)  
at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,  
(Street) (City) (State)

on behalf of this institution, does certify that \_\_\_\_\_,  
a Cemetery Authority, maintains at this institution trust account number \_\_\_\_\_ with a with a  
balance as listed above and agrees the institution will allow an authorized representative of the Department of Safety and  
Professional Services to examine and audit the account upon demand, and certifies that the following person(s) are the  
only ones authorized to withdraw funds from this account:

_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
Signature of Officer of Institution Title Date

\_\_\_\_\_  
Print Name of Officer

# Wisconsin Department of Safety and Professional Services

## SECTION V: CERTIFICATION OF CEMETERY AUTHORITY

**NOTE: Authorized Representative of Cemetery Authority MUST sign in the presence of a Notary Public.**

I hereby swear and affirm that the information reported on this form is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Authorized Representative of Cemetery Authority

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Representative

\_\_\_\_\_  
Email address of Representative

\_\_\_\_\_  
Phone number of Representative

Subscribed and sworn before me this \_\_\_\_\_, day of \_\_\_\_\_, 20 \_\_\_\_\_.

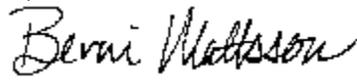
\_\_\_\_\_  
Signature of Notary Public

(Seal)

\_\_\_\_\_  
Date Commission Expires

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Berni Mattsson</b>		2) Date When Request Submitted:  <b>6/5/12</b>	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: <b>Cemetery Board</b>			
4) Meeting Date: <b>6/19/12</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Under Legislation/Administrative Rule Matters, Status of CB 3-5</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p>The proposal (CR 12-021) was referred to JCRAR on 6/5/12.</p> <p>If the JCRAR takes no action by 7/5/12, the Cemetery Board can then adopt and sign the rule-making order, and we can file a certified copy with the LRB for final publication and effective date. If we can file the certified copy by 7/15/12, the order would be published on 8/31/12, making it effective on 9/1/12.</p> <p>Since a 7/15/12 filing date would occur before the Board's next meeting (9/25/12), <u>the Board should consider a motion to adopt the proposal upon completion of the JCRAR's review, and to authorize the Executive Director to sign the Order on the Board's behalf.</u></p> <p>If the Board waits until its next meeting to adopt and sign the Order, the earliest publication would be 11/30/12, with effective date of 12/1/12.</p>			
11) 		Authorization  <div style="text-align: right;">6/5/12</div>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Sandy Nowack Legal Counsel		<b>2) Date When Request Submitted:</b>  May 21, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others	
<b>3) Name of Board, Committee, Council, Sections:</b> Cemetery Board			
<b>4) Meeting Date:</b> June 19, 2012	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> FAQ Legal requirements for disinterment	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  The Board will review attached legal opinion and decide whether or not to adopt the opinion as an FAQ.			
<b>11) Authorization</b>			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			





State of Wisconsin

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

CORRESPONDENCE / MEMORANDUM

**DATE:** May 20, 2012

**TO:** Glen Porter  
Chair, Wisconsin Cemetery Board

**FROM:** Sandy Nowack  
Legal Counsel to Wisconsin Cemetery Board

**RE:** **DISINTERMENT AND REINTERMENT OF A CORPSE, CASKET AND BURIAL VAULT FROM ONE WISCONSIN CEMETERY TO ANOTHER IS WITHIN THE SCOPE OF PRACTICE OF CEMETERY AUTHORITIES**

The question arose in the context of a family seeking to disinter and move a corpse, casket and burial vault from one cemetery in Wisconsin to another. You ask whether doing so is within the scope of practice of a cemetery authority.

The short answer is yes. A cemetery authority is legally authorized, with a disinterment permit, to disinter and reinter a body, casket and burial vault from one Wisconsin cemetery to another. *Wisconsin law does not require funeral homes directors to be involved in the process or any part of the process of disinterment and reinterment.*

**RELEVANT STATUTES AND RULES**

**69.18(4) AUTHORIZATION FOR DISINTERMENT AND REINTERMENT.**

(a) Subject to s. 157.111, the coroner or medical examiner of the county in which a decedent's corpse is interred shall issue an authorization for disinterment and reinterment upon receipt of an order of a court of competent jurisdiction or upon receipt of a written application for disinterment and reinterment signed by the person in charge of the disinterment and by any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of application, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class:

- 1g. An individual specified under s. 154.30 (2) (b).
- 1m. The decedent's spouse.
2. An adult son or daughter of the decedent.
3. Either parent of the decedent.
4. An adult brother or sister of the decedent.
5. A guardian of the person of the decedent at the time of the decedent's death.
6. Any other person authorized or under obligation to dispose of the decedent's corpse.

(bm) A cemetery authority may disinter and reinter buried human remains as provided under s. 157.112 without first obtaining an authorization under par. (a).

**157.111 Opening and closing of burial places.** If a grave, mausoleum space or other place used or intended to be used for the burial of human remains is located in a cemetery owned or operated by a cemetery authority, only the cemetery authority or a person designated by the cemetery authority may open or close the grave, mausoleum space or other place used or intended to be used for the burial of human remains.

**157.061(3)** "Cemetery merchandise" means goods associated with the burial of human remains, including monuments, markers, nameplates, vases and urns, and any services that are associated with supplying or delivering those goods or with the burial of human remains and that may be lawfully provided by a cemetery authority. The term does not include caskets or outer burial containers.

**157.061(11g)** "Outer burial container" means any container that is placed or intended to be placed into the burial excavation of a grave and into which a casket is placed or intended to be placed at the time of burial.

**DHS 135.02 Definitions.** In this chapter... **(5)** "Disinterment permit" means the form prescribed by the coroner or medical examiner to authorize removal of a human corpse from a grave or tomb and which contains items of information that are necessary to identify the deceased, the date and place of death, the current place of interment, the intended place of interment, the name of the person requesting the disinterment and the name of the person in charge of the disinterment.

**(13)** "Interment" means, in reference to a human corpse, burial or entombment in a mausoleum or separate vault.

**DHS 135.06 Transportation and burial or other disposition. (1)** REPORT FOR FINAL DISPOSITION. **(a)1.** *Except for transportation under s. DHS 135.07 for purposes of reinterment,* a report for final disposition completed by the funeral director or other person preparing the body for burial or other final disposition shall accompany each human corpse shipped by common carrier.

**DHS 135.07 Disinterment. (1)** No human remains that are buried or resting in a permanent vault may be disinterred, transported and reinterred unless a disinterment permit is first obtained from the coroner or medical examiner of the county in which the disinterment is to take place.

**(2)** The coroner or medical examiner shall issue a disinterment permit, without requiring as a condition the presentation of a death certificate or report for final disposition, upon receipt of an order of a court of competent jurisdiction or upon receipt of a written application signed by the person in charge of the disinterment and by any person listed in s. 69.18 (4) (a), Stats., in order of priority stated and under the stated conditions.

**(3)** The disinterment permit shall constitute authorization to transport and reinter the disinterred remains.

## EXPLANATION

Ordinarily funeral directors are authorized to “prepare human corpses for burial or other disposition, or *to direct and supervise the burial of other disposition of human corpses.*” See Wis. Admin. Code § DHS 135.02(10); see also Wis. Stat. § 445.04. Whenever a corpse is shipped by common carrier, the funeral director or other persons preparing a body are required to complete a report for final disposition. Wis. Stat. Admin. Code § DHS 135.06(1). Exceptions for supervision of burials of human corpses and for transportation of human courses exist when the transportation and burial involve disinterment and reinterment. *See, e.g.,* Wis. Stat. Admin. Code § DHS 135.06(1).

When a family member or other authorized person seeks to move a corpse, casket and burial vault that were previously buried in a Wisconsin cemetery, the disinterment must be authorized through a court order or permit issued by a coroner or medical examiner in the county of burial *before* disinterment may occur. Wis. Stat. § 69.18(4). Wisconsin Admin Code § DHS 135.07 controls disinterment in Wisconsin. If disinterment is sought through a means other than a court order, the person in charge of the disinterment and the person requesting disinterment must complete a DHS form entitled, “Request for Disinterment of Body Buried in Wisconsin” (“application for disinterment permit”). Wis. Admin Code § DHS 135.07. See attached application for disinterment permit.

Wisconsin Admin Code § DHS 135.07(2) states unambiguously that a disinterment permit shall be issued, “without requiring as a condition the presentation of a death certificate or report for final disposition”. Further, § DHS 135(3) specifies that a disinterment permit authorizes transportation and reinterment of the disinterred remains. Preparation of the report for final disposition and authority to transport corpses ordinarily lies in the purview of funeral directors, while burial does not. However, because the application for a disinterment permit provides information necessary to identify, *inter alia*, name, date and place of death, etc., the death certificate or report for final disposition would be redundant. In specifically excepting these documents from reinterment procedures, the plain language of the rule eliminates the requirement that a funeral director be involved in the process of disinterment and reinterment.<sup>1</sup>

The law recognizes that disinterment and reinterment from one licensed cemetery to another cemetery lies within the scope of practice for licensed cemetery authorities. Wisconsin Stat. § 157.111 specifies that after burial in a lawfully organized cemetery, “only the cemetery authority or a person designated by the cemetery authority may open or close the grave..used or intended to be used for the burial of human remains.” Consequently, disinterment from a licensed cemetery requires the authority of a cemetery authority or its designee.

Support for this analysis is found on the application for disinterment permit itself. The application for disinterment permit requires signatures of the person requesting disinterment and the cemetery official approving the disinterment process. The permit application affirmatively

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<sup>1</sup> No funeral home director may solicit the right to prepare a dead body for transportation in connection with sale of a vault. Wis. Stat. § 445.12(3).

states that use of funeral homes or the services of a funeral home directors are "not required". See application for disinterment permit, attached.

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  Berni Mattsson		2) Date When Request Submitted:  5/18/12 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: <b>Cemetery Board</b>			
4) Meeting Date: June 19, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Green Ridge Cemetery request to make a withdrawal from a perpetual care account	
7) Place Item in: Open Session <input type="checkbox"/> Closed Session <input checked="" type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Please review and take action on the request from Green Ridge Cemetery.			
11) Authorization			
		5-18-12	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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