



STATE OF WISCONSIN

Department of Safety and Professional Services
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Governor Scott Walker Secretary Dave Ross

CEMETERY BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Angela Hellenbrand (608) 266-2112
September 17, 2013

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 description of the actions of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-4)

B. Approval of Minutes of June 18, 2013 (5-6)

C. Executive Director Matters

1. Staff Updates

D. Legislative and Administrative Rule Matters – Discussion and Consideration

1. Executive Order 50 **(7-10)**
2. Executive Order 61 **(11-16)**
3. 2013 Bill Proposal **(17-22)**

E. Practice Matters

1. SCI/Stewart Properties Purchase Update **(29-30)**

F. Discussion and Consideration of Items **Received After** Preparation of the Agenda

- 1) Introductions, Announcements and Recognition
- 2) Presentations of Petition(s) for Summary Suspension
- 3) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
- 4) Presentation of Final Decisions
- 5) Disciplinary Matters
- 6) Executive Director Matters
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Class 1 Hearing(s)
- 10) Practice Matters
- 11) Legislation/Administrative Rule Matters
- 12) Liaison Report(s)
- 13) Informational Item(s)
- 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

G. 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.)

H. Practice Matters – Discussion and Consideration

1. Endowment Care Fund – Valhalla Memorial Park **(23-28)**

I. Deliberation of Items **Received After** Preparation of the Agenda

1. Disciplinary Matters
2. Education and Examination Matters
3. Credentialing Matters
4. Class 1 Hearings
5. Monitoring Matters
6. Professional Assistance Procedure (PAP) Matters
7. Petition(s) for Summary Suspensions
8. Petition(s) for Extension of Time
9. Proposed Stipulations, Final Decisions and Orders
10. Administrative Warnings
11. Proposed Decisions
12. Matters Relating to Costs
13. Motions
14. Petitions for Rehearing
15. Formal Complaints
16. Case Closings
17. Appearances from Requests Received or Renewed

J. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

L. Board Member Training **(31-32)**

M. Case Advisor Training **(31-32)**

ADJOURNMENT

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**CEMETERY BOARD
MEETING MINUTES
JUNE 18, 2013**

PRESENT: Ed Greenfield; Kathleen Cantu; and Clyde Rupnow

PRESENT VIA GOTO MEETING: Francis Groh and Mary Lehman

STAFF: Angela Hellenbrand, Executive Director; Matthew C. Niehaus, Bureau Assistant; Joshua Archiquette, Bureau Assistant; and other Department Staff

CALL TO ORDER

Ed Greenfield, Chair, called the meeting to order at 9:29 a.m. A quorum of five (5) members was present.

APPROVAL OF AGENDA

MOTION: Kathleen Cantu moved, seconded by Ed Greenfield, to approve the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 12, 2013

- Page 2 & 3 of the minutes – **CHANGE** “March 12, 2012” to “March 12, 2013”

MOTION: Ed Greenfield moved, seconded by Kathleen Cantu, to approve the Minutes of March 12, 2013 as amended. Motion carried unanimously.

EXECUTIVE DIRECTOR MATTERS

MOTION: Frank Groh moved, seconded by Kathleen Cantu, to delegate authority to the Credentialing Liaisons to address all issues related to credentialing matters with the exception of denials during the application process. Motion carried unanimously.

MOTION: Ed Greenfield moved, seconded by Frank Groh, that the Board delegates authority to the Chair or designated Board member to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair or Board member has the ability to delegate this signature authority to the Executive Director for purposes of facilitating the completion of assignments during or between meetings. The Chair or Board member delegates the authority to the Executive Director, to sign the name of the Chair or Board member on documents as necessary. Motion carried unanimously.

MOTION: Frank Groh moved, seconded by Mary Lehman, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the

Department where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

MOTION: Ed Greenfield moved, seconded by Frank Groh, that, as per Executive Order 50, members of the Board will review the position statements of the Cemetery Examining Board and bring any changes back to the next Board meeting. Motion carried unanimously.

MOTION: Ed Greenfield moved, seconded by Kathleen Cantu, that, as per Executive Order 61, members of the Board will look over CEM 1, CEM 2, CEM 3, CEM 4, and CEM 5 for any changes and bring them back before the full Board for review at the next meeting. Motion carried unanimously.

CONVENE TO CLOSED SESSION

MOTION: Kathleen Cantu moved, seconded by Frank Groh, to convene to closed session pursuant to Wisconsin State statutes 19.85(1)(a)(b)(f) and (g) for the purpose of conducting appearances, reviewing monitoring requests, requests for licensure, deliberate on stipulations, administrative warnings, proposed decisions and orders, consulting with Legal Counsel and Division of Legal Services and Compliance case status reports. Ed Greenfield read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Ed Greenfield-yes; Frank Groh-yes; Mary Lehman-yes; Kathleen Cantu-yes; Clyde Rupnow-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:02 a.m.

RECONVENE TO OPEN SESSION

MOTION: Frank Groh moved, seconded by Ed Greenfield, to reconvene in open session. Motion carried unanimously.

The Board reconvened into open session at 10:13 a.m.

ADJOURNMENT

MOTION: Ed Greenfield moved, seconded by Kathleen Cantu, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:28 a.m.

NEXT MEETING: September 17, 2013

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 11 September 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: 17 September 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative/Administrative Rule Matters Executive Order #50	
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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Relating to Position Statements			
11) Authorization			
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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Positions Statements Related to Cemetery Authorities Issued by the Cemetery Board

WHICH CEMETERIES NEED TO BE LICENSED BY THE CEMETERY BOARD?

According to [Wis. Stat. § 440.91\(1\)\(a\)](#), any cemetery that is 5 or more acres in size, that sells 20 or more cemetery lots or mausoleum spaces in a calendar year, OR has \$100,000 or more in trust fund accounts is required to be licensed.

Cemeteries that meet the requirements of § 440.91(1)(a) may be exempt from licensure pursuant to § 440.91(6m). Exempted cemeteries include: municipal cemeteries, religious cemeteries, and benevolent organizations. Please see the specific section to determine whether or not an exemption is applicable in any particular situation.

WHICH CEMETERIES NEED TO REGISTER WITH THE CEMETERY BOARD?

According to Wis. Stat. § 440.91(1m)(a), a cemetery that is less than 5 acres in size, that sells fewer than 20 cemetery lots during a calendar year, OR has less than \$100,000 in trust fund accounts must register with the Board.

Cemeteries that meet the requirements of § 440.91(1m)(a) may be exempt from licensure pursuant to § 440.91(6m). Exempted cemeteries include: municipal cemeteries, religious cemeteries, and benevolent organizations. Please see the specific section to determine whether or not an exemption is applicable in any particular situation.

WHO MAY OPERATE A CEMETERY?

According to [Wis. Stat. 157.065](#), no cemetery may be used for burials except any of the following:

- A cemetery in use on April 4, 1864
- A cemetery organized and operated by:
 - A municipality
 - A religious organization
 - A fraternal or benevolent society
 - An incorporated college of a religious order
 - A cemetery association created under s. 157.062
 - A corporation organized under Ch. 180 or 181.
 - A limited liability company organized under ch. 183

DO PRIVATE, FAMILY CEMETERIES NEED TO REGISTER WITH THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES?

The Wisconsin Statutes do not define a private, family cemetery or set limitations for their enactment or use. Please see [Wis. Stat. § 157.065](#) for information on cemetery establishment, [Wis. Stat. § 157.128](#) for acreage requirements, and [Wis. Stat. §157.07](#) for platting requirements. You may also wish to call other state agencies, such as the Department of Health Services, or your local municipality, before you continue with a private burial.

WHO NEEDS A CEMETERY SALESPERSON LICENSE?

[Wis. Stat. § 440.91\(2\)](#) states that any person who sells or solicits the sale of a 20 or more plots a year during two consecutive calendar years needs a license from the Department. Wis. Stat. § 440.91(10) sets out an exception if an individual sells only cemetery merchandise or undeveloped spaces under preneed sales contracts.

IS THERE A MINIMUM DEPTH AT WHICH A BODY MUST BE BURIED?

The Wisconsin Statutes and the Wisconsin Administrative Code have no requirements regarding the minimum depth for the burial of human remains. You may wish to reference local ordinances for further information.

HOW MANY BODIES MAY BE BURIED IN A SINGLE PLOT?

The Wisconsin Statutes and the Wisconsin Administrative Code have no requirements regarding the number of bodies buried in a single plot. You may wish to reference local ordinances for further information.

HOW MUCH MONEY MUST BE DEPOSITED IN A CARE FUND FOR THE SALE OF A CEMETERY LOT?

[Wis. Stat. § 157.11\(9g\)](#) states that registered cemeteries are required to deposit 15% of each payment of principal for a cemetery lot into a care fund. The total amount must be equal to 15% of the total amount of payments of principal that have been received, except that the total must be at least \$25.00. The cemetery authority may not withdraw the care fund's principle amount.

HOW MAY A CEMETERY USE THE INCOME FROM THE INVESTMENT OF A CARE FUND?

[Wis. Stat. § 157.11\(9g\)](#) states that the income may be used only to maintain cemetery lots and grounds, except that if the amount of income exceeds the amount necessary to do such maintenance, the excess amount may be used to maintain any other part of the cemetery, including mausoleums.

MAY A CEMETERY COMBINE A PRENEED TRUST FUND AND A CARE FUND FOR INVESTMENT PURPOSES?

[Wis. Stat. §157.19\(6\)](#) allows for the combination of preneed trust funds and care funds for investment purposes. However, the statute also states that “if the cemetery authority maintains separate accountings for each fund.”

HOW MUCH MONEY MUST BE DEPOSITED IN A CARE FUND FOR THE SALE OF A MAUSOLEUM SPACE?

[Wis. Stat. § 157.12\(3\)](#) states that registered cemeteries must deposit 25% of each payment of principal received in the sale of a mausoleum space into the care fund, until the care fund equals 25% of the cost of constructing the mausoleum. If the mausoleum was constructed prior to June 15, 1933, the cemetery shall deposit 15% of each payment of principal received from the sale of a mausoleum space into the care fund, until the care fund equals 10% of the cost of constructing the mausoleum.

WHAT SHOULD I DO IF I FIND AN ABANDONED CEMETERY ON MY PRIVATE PROPERTY?

The Board does not have jurisdiction over abandoned cemeteries. However, if you find an abandoned cemetery on your lot, you should contact the Burial Sites Preservation Office at the [State Historical Society](#) and report the cemetery before you take any further action.

MAY A FUNERAL ESTABLISHMENT BE LOCATED IN A CEMETERY?

No, [Wis. Stat. § 157.067](#) prohibits a cemetery authority or any of its employees or agents to have ownership, operation, or other financial interest in a funeral establishment.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 11 September 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: 17 September 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative/Administrative Rule Matters Executive Order #61	
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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Relating to Small Business			
11) Authorization			
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.			

Chapter CB 1

AUTHORITY AND APPLICATIONS FOR LICENSURE

CB 1 01 Authority

CB 1 02 Applications for cemetery authority, cemetery salesperson and pre-need seller

CB 1.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.905, Stats.

History: CR 07-050; cr. Register February 2008 No. 626, eff. 3-1-08.

CB 1.02 Applications for cemetery authority, cemetery salesperson and preneed seller. (1) OTHER INFORMATION In addition to the information which the board must require of applicants for registration as a cemetery authority, a cemetery salesperson or a preneed seller pursuant to ss. 440.91 and 440.92, Stats., the board may require all of the following:

(a) Information about any crimes committed by the applicant and any charges pending against the applicant.

(b) Information about any surrender, resignation, cancellation or denial of an application for a credential or any disciplinary

action taken against a credential held by the applicant in Wisconsin or another licensing jurisdiction.

(c) Information about any disciplinary action pending against the applicant in any jurisdiction and relating to a credential held by the applicant.

(d) Information about any suits or claims ever having been filed against an applicant as a result of professional services rendered by the applicant in connection with cemetery operations.

(2) BASIS FOR DENIAL OF APPLICATION The board may limit or deny an application for registration as a cemetery authority, cemetery salesperson or preneed seller for any of the grounds for which the department may discipline a credential holder under s. 440.93, Stats.

History: CR 07-050; cr. Register February 2008 No. 626, eff. 3-1-08.

Chapter CB 2

FILING OF ANNUAL REPORTS BY CEMETERY AUTHORITIES AND PRENEED SELLERS

CB 2 01 Authority
CB 2 02 Filing of annual reports

CB 2 03 Reporting period
CB 2 04 Religious society exemption

CB 2.01 Authority. This chapter is adopted pursuant to ss. 157.62 (2) and (7), 157.63, 227.11 (2), 440.905 and 440.92 (6) (k), Stats.

History: CR 07-050: cr Register February 2008 No 626, eff 3-1-08

CB 2.02 Filing of annual reports. Cemetery authorities required to file an annual report under s. 157.62 (2), Stats., and preneed sellers required to file an annual report under s. 440.92 (6), Stats., shall do so on or before March 1 of each year.

History: CR 07-050: cr Register February 2008 No 626, eff 3-1-08

CB 2.03 Reporting period. The annual reports and certifications in lieu of annual reports shall be made on a calendar year

basis unless the board, upon request, approved a different reporting period.

History: CR 07-050: cr Register February 2008 No 626, eff 3-1-08

CB 2.04 Religious society exemption. A cemetery authority of a cemetery that is affiliated with a religious society organized under ch. 187, Stats., or that religious society may file a certification in lieu of an annual report under s. 157.63 or 440.92 (9), Stats. The certification shall be filed on or before the 60th day after the last day of the reporting period.

Note: Forms for the annual report and certification may be obtained upon request from and shall be filed with the Department of Safety and Professional Services, Division of Credentialing Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708

History: CR 07-050: cr Register February 2008 No 626, eff 3-1-08

Chapter CB 3

WAREHOUSES STORING CEMETERY MERCHANDISE SOLD UNDER A PRENEED SALES CONTRACT

CB 3 01	Authority	CB 3 04	Approval of warehouses located outside this state
CB 3 02	Applications	CB 3 05	Term of approval
CB 3 03	Approval of warehouses located in this state	CB 3 06	Cancellation of approval

Note: Chapter RL 52 was renumbered chapter SPS 52 under s 13.92(4)(b)1, Stats., Register November 2011 No. 671. Chapter SPS 52 was repealed and Chapter CB 3, under the same title, was created effective September 1, 2012, Register August 2012 No. 680.

CB 3.01 Authority. This chapter is adopted pursuant to ss. 227.11, 440.905, and 440.92 (7), Stats.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 3.02 Applications. (1) **FORMS** Applications for approval of a warehouse to store cemetery merchandise sold under a preneed sales contract shall be made on forms provided by the department, and shall be delivered through the mails or otherwise to the department's office.

Note: Application forms may be obtained upon request from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708

(2) **COMPLETE ANSWERS; CERTIFICATION** No application shall be processed until all questions appearing on the application are fully completed and certified as accurate, and all required documents are received by the department.

(3) **DETERMINATION OF APPROVAL** The board or its designee shall provide the applicant with its determination upon the application within 60 days after receipt of the completed application and required documents.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 3.03 Approval of warehouses located in this state. The board shall approve a warehouse located in this state only if the person who operates the warehouse is licensed as a public warehouse keeper by the department of agriculture, trade and consumer protection under ch. 99, Stats. Proof of licensure as a public warehouse keeper shall be made through the submission of a copy of the current license with the application.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 3.04 Approval of warehouses located outside this state. The board shall approve a warehouse located outside this state upon the following conditions:

(1) Submission of proof that the warehouse is authorized to store cemetery merchandise within its state of location. Proof of such authorization may be made through the submission of a copy of the current license, permit, certificate, registration, or other document issued by the agency regulating warehouses in that

state, or through the submission of such other information or statements acceptable to the board.

(2) (a) The filing with the board of a bond furnished by a surety company authorized to do business in this state in an amount that is sufficient to guarantee the delivery of cemetery merchandise to purchasers under preneed sales contracts.

(b) The bond shall be payable to the department of safety and professional services for the benefit of purchasers of stored property or their assignees.

(c) The amount of the bond shall be in an amount approved by the board, and in no case less than 100 percent of the wholesale value of the cemetery merchandise that is stored and to be transported to this state as of the date of the application.

(d) The bond shall remain in effect throughout the time that the warehouse remains approved by the board, and the warehouse keeper shall submit a copy of each bond renewal certificate to the board.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 3.05 Term of approval. An approval of a warehouse by the board entitles the warehouse to store cemetery merchandise sold under a preneed sales contract for a period of one year following the issuance of the approval.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 3.06 Cancellation of approval. (1) Any approval previously granted by the board may be cancelled upon the occurrence of any of the following:

(a) The failure to maintain the license in this or any other state necessary to operate a warehouse.

(b) The failure of a warehouse located outside this state to maintain the bond required under this chapter. When the board determines that a bond is insufficient, or if the bond lapses or is cancelled, the warehouse shall correct the defect within 30 days after written notice from the board, and if the defect is not corrected within that period, the approval of the warehouse automatically rescinds at the expiration of the 30 day period.

(2) The owner or operator of a warehouse shall notify the board within 30 days after the occurrence of any of the events described in sub. (1).

Note: A current list of the names and addresses of all approved warehouses may be obtained from the department's Division of Professional Credential Processing, 1400 E. Washington Ave., P.O. Box 8935, Madison, Wisconsin 53708

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

Chapter CB 4

CHANGE OF TRUSTEE OF CARE FUNDS AND PRENEED TRUST FUNDS

CB 4 01	Authority
CB 4 015	Definition
CB 4 02	Change of trustee; applications

CB 4 03	Standards for approval
CB 4 04	Compliance with terms of approval
CB 4 05	Verification of deposit

Note: Chapter RL 53 was renumbered chapter SPS 53 under s. 13.92(4)(b)1, Stats. Register November 2011 No. 671. Chapter SPS 53 was repealed and Chapter CB 4, under the same title, was created effective September 1, 2012, Register August 2012 No. 680.

CB 4.01 Authority. This chapter is adopted pursuant to ss. 157.11, 157.19, 227.11, and 440.905, Stats.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.015 Definition. In this chapter, “financial institution” has the meaning set forth in s. 705.01(3), Stats.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.02 Change of trustee; applications.

(1) APPROVAL REQUIRED. A cemetery authority or preneed seller who deposits care funds in a financial institution pursuant to s. 157.19(2)(a), Stats., shall obtain written approval of the board before changing the trustee of a care fund or preneed trust fund.

(2) FORMS. Requests for approval of a change of trustee shall be made on forms provided by the department, and shall be delivered through the mail or otherwise to the board.

Note: Forms may be obtained upon request from the Department of Safety and Professional Services, Division of Professional Credential Processing, 1400 East Washington Avenue, Madison, Wisconsin 53708

(3) COMPLETE ANSWERS; CERTIFICATION. No request for approval shall be processed until all questions appearing on the application are fully completed, the applicant has signed a statement confirming the accuracy of the information provided in the application, and all required documents are received by the board.

(4) DETERMINATION OF APPROVAL. The board or its designee shall provide the applicant with its determination upon the request within 60 days after receipt of the completed application and required documents.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.03 Standards for approval. (1) CARE FUNDS. The board or its designee may grant approval for a change of trustee of a care fund to a cemetery authority applying for the change of trustee if the cemetery authority submits evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. Such evidence shall include, but is not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the care fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that it is authorized to act as a financial institution and is in good standing in this state.

The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the care fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

(2) PRENEED TRUST FUNDS. Preneed sellers applying for the change of trustee of a preneed trust fund shall submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved, including but not necessarily limited to:

(a) The names and addresses of the financial institutions from whom and to whom the preneed trust fund is to be transferred.

(b) A statement of the reason for requesting the change of trustee.

(c) The amount to be transferred, the manner or instrument by which the transfer is to be made, and the anticipated date the transfer is to be effectuated.

(d) An affidavit from an officer or director of the financial institution from whom the transfer is requested that its license is in good standing in this state. The affidavit shall confirm that all deposits into the care funds being transferred to a different trustee were timely, and that the principal has not been withdrawn.

(e) An affidavit from an officer or director of the financial institution to whom the transfer is requested that it is authorized to act as a financial institution, and is in good standing in this state.

(f) A statement of any costs which will accrue to the balance of the preneed fund upon the change of trustee, as well as a statement of the nature and anticipated amounts of any service charges, administrative fees, or other costs which will be imposed against the care fund by the proposed trustee.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.04 Compliance with terms of approval. The board may approve a change of trustee upon such terms and conditions as deemed necessary to assure that the rights and interests of the beneficiary or purchaser will be adequately protected.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

CB 4.05 Verification of deposit. Within 30 days after the transfer of the care fund or preneed trust fund, the trustee shall submit information to the board verifying the transfer, including the amount deposited, the date the deposit was made, and the account number of the fund.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12.

Chapter CB 5

APPROVAL OF ALTERNATIVE CARE INVESTMENT FUNDS

CB 5 02 Intent
CB 5 03 Definitions

CB 5 04 Criteria
CB 5 05 Procedures

Note: Chapter RL 54 as it existed on April 30, 1994 was repealed and a new chapter RL 54 was created effective May 1, 1994. Chapter RL 54 was renumbered chapter SPS 54 under s. 13.92(4)(b)1, Stats., Register November 2011 No. 671. Chapter SPS 54 was repealed and Chapter CB 5 was created effective September 1, 2012, Register August 2012 No. 680.

CB 5.02 Intent. The intent of this chapter is to ensure that cemetery authorities that are required to register with the board maintain intact the principal amount in care funds in order to generate sufficient income to maintain cemeteries in perpetuity and to ensure that cemeteries in Wisconsin do not become a financial burden to taxpayers. It is also the intent to prohibit the officers, trustees, and the immediate family of the cemetery authority from directly profiting from the investments that are made by and on behalf of it.

History: CR 12–021; cr. Register August 2012 No. 680, eff. 9–1–12.

CB 5.03 Definitions. As used in this chapter:

(1) “Alternative investment” means the use of care funds received from the sale of cemetery lots by a cemetery authority to purchase investment instruments, rather than depositing the care funds in a financial institution under s. 157.19, Stats., or with the treasurer of the county or city in which the cemetery is located.

(2) “Care funds” has the meaning given in s. 157.061 (1m), Stats.

(3) “Board” means the cemetery board.

History: CR 12–021; cr. Register August 2012 No. 680, eff. 9–1–12.

CB 5.04 Criteria. (1) A cemetery authority shall give due consideration to both long term and short term cash flow needs in selecting alternative investments. The following classes of alternative investments are permissible:

(a) Corporate bonds or bonds or other instruments of indebtedness issued or guaranteed by governmental units in the United States, provided that the bonds or instruments of indebtedness are rated AA or above by Standard & Poor’s or by Moody’s Investor Services. Once one or more of these instruments drops below an A rating and remains below that rating for 2 consecutive quarters, the cemetery authority shall divest those instruments within 180 days or proceed under par. (e).

(b) Publicly traded preferred or common stock of regulated utilities in the United States whose debt is rated AA or above by Standards & Poor’s or by Moody’s Investor Services. Once the debt rating of the issuing utility drops below an A rating and remains below that rating for 2 consecutive quarters, the cemetery authority shall divest those instruments within 180 days or proceed under par. (e).

(c) Fully insured certificates of deposit issued by banks, savings and loan associations, or credit unions located in the United States which are federally insured. Certificates of deposit which are only partially insured are permissible in commercial banks rated BC or above by Thomson Bank Watch, Inc.

(d) Mutual funds, if at least 80 percent of monies in the mutual fund are invested in one or more of the instruments in pars. (a) to (c).

(e) Such other investments which the board determines will provide safety equal to or greater than the investment classes described in pars. (a) to (d).

(2) A cemetery authority shall consider diversification of investments. No cemetery authority may purchase or otherwise invest in one of the instruments in sub. (1) (a) to (c) if the percentage of the care fund invested in the instruments sold by a specific corporation, governmental unit, or financial institution immediately after such purchase or investment will exceed 50 percent of the total market value of the care fund, except for investments in or guaranteed by the United States government, and except for fully insured certificates of deposit in sub. (1) (c).

(3) No cemetery authority may invest in any entity or company in which an officer or trustee of the cemetery authority is a shareholder who beneficially owns, holds, or has the power to vote 5 percent or more of any class of securities issued by the entity or company.

(4) No cemetery authority may invest in any entity or company in which a spouse or child of an officer or trustee of the cemetery authority or other family member who receives one-half of his or her support from an officer or trustee is a shareholder who beneficially owns, holds or has the power to vote 5 percent or more of any class of securities issued by the entity or company.

History: CR 12–021; cr. Register August 2012 No. 680, eff. 9–1–12.

CB 5.05 Procedures. (1) An officer, a trustee who has been elected pursuant to s. 157.062, Stats., or a certified public accountant acting on behalf of the cemetery authority shall file an affidavit with the board which identifies the class and amount of each investment and certifies that each investment is in compliance with the criteria in s. CB 5.04.

(2) If the affidavit submitted to the board pursuant to sub. (1) lists investments in classes other than those described in s. CB 5.04 (1) (a) to (d), the affidavit shall be accompanied by a written statement by a licensed investment advisor or a licensed securities broker stating his or her belief that such investments will provide safety equal to or greater than the investment classes described in s. CB 5.04 (1) (a) to (d).

(3) If the investment proposal meets the criteria set forth in s. CB 5.04, the board may issue a letter of approval. A decision by the board not to approve an alternative investment may be appealed under ch. SPS 1.

(4) Affidavits are effective for one year and shall be filed with the board annually. The affidavit shall certify compliance for the period since the last affidavit was filed except that the initial affidavit need only certify compliance as of the date it is made.

(5) Alternative investments made prior to November 1, 1991, are subject to board approval, and the board may require divestiture of any alternative investment which does not meet the criteria in s. CB 5.04. The cemetery authority shall divest such alternative investments within 180 days following notification by the board that an alternative investment does not meet the criteria.

(6) After board approval is obtained, the cemetery authority need not obtain further approval to increase the number of shares or units in the same security or investment if the shares or units meet the criteria set forth in s. CB 5.04 (1) (a) to (d), (3) and (4).

History: CR 12–021; cr. Register August 2012 No. 680, eff. 9–1–12.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 5 September 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: 17 September 2013	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative Matters 2013 Bill Proposal	
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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
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.			



2013 BILL

1 **AN ACT to repeal** 157.067 (title), 157.067 (2) and (2m) and 445.12 (6); **to**
2 **renumber** 157.067 (1); **to renumber and amend** 157.635; **to amend** 70.11
3 (13); and **to create** 157.066, 157.635 (2) and 445.12 (6m) of the statutes;
4 **relating to:** permitting a funeral establishment to be located in a cemetery,
5 prohibiting discrimination against a funeral establishment that has no
6 relationship with a cemetery, prohibiting discrimination against a cemetery
7 that has no relationship with a funeral establishment, and eliminating a
8 property tax exemption for cemetery authority property.

Analysis by the Legislative Reference Bureau

Current law prohibits a licensed funeral director from operating a funeral establishment or mausoleum in a cemetery. Current law also prohibits a cemetery authority from permitting a funeral establishment to be located on cemetery property. With certain exceptions, current law prohibits a cemetery authority from receiving or accepting any commission, fee, remuneration, or benefit of any kind from a funeral establishment or from an owner, employee, or agent of a funeral establishment. This bill eliminates each of those prohibitions.

Under the bill, if a cemetery authority erects, maintains, owns, operates, or is financially connected to a funeral establishment, that cemetery authority may not

BILL

prohibit the burial at the cemetery authority's cemetery of a deceased individual whose human remains were prepared for burial or transportation or whose funeral services were conducted at a funeral establishment other than a funeral establishment that the cemetery authority erects, maintains, owns, or operates, or to which the cemetery authority is financially connected. Also, a funeral establishment that has an ownership or other financial relationship with a cemetery authority may not require the human remains of a decedent to be buried in the cemetery authority's cemetery as a condition of those human remains being cared for or prepared for burial or transportation at that funeral establishment.

Current law authorizes the cemetery authority of a cemetery that is affiliated with a religious society to adopt regulations that prohibit the burial in the cemetery of the human remains of an individual who is not in the class of individuals identified by the religious society for burial in the cemetery. This bill retains that authorization. However, under the bill, a religiously affiliated cemetery authority may not adopt regulations that prohibit the human remains of an individual from being buried at the cemetery authority's cemetery because the human remains were prepared for burial or transportation or the funeral services were conducted at a funeral establishment other than a funeral establishment that the cemetery authority erects, maintains, owns, or operates, or to which the cemetery authority is financially connected.

Under current law, land owned by a cemetery authority that is used exclusively as public burial grounds, tombs, and monuments is exempt from the property tax. In addition, personal property owned by the cemetery authority that is necessary for the care and management of burial grounds and sites is exempt from the property tax. Under the bill, land physically occupied by a funeral establishment, if the land is located in a cemetery, is subject to the property tax.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 70.11 (13) of the statutes is amended to read:

2 70.11 (13) CEMETERIES. Land owned by cemetery authorities, as defined in s.
3 157.061 (2), and used exclusively as public burial grounds and tombs and
4 monuments therein, and privately owned burial lots; land adjoining such burial
5 grounds, owned and occupied exclusively by the cemetery authority for cemetery

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1 purposes; personal property owned by any cemetery authority and necessary for the
2 care and management of burial grounds; burial sites and contiguous lands which are
3 cataloged under s. 157.70 (2) (a). This subsection does not apply to land physically
4 occupied by a funeral establishment, if the land is located in a cemetery.

5 **SECTION 2.** 157.066 of the statutes is created to read:

6 **157.066 Discrimination against funeral establishments prohibited.**

7 (2) No cemetery authority that erects, maintains, owns, operates, or is
8 financially connected to a funeral establishment may prohibit the human remains
9 of an individual from being buried in the cemetery for any of the following reasons:

10 (a) The funeral services for the deceased individual were conducted at a funeral
11 establishment other than a funeral establishment erected, maintained, owned,
12 operated, or financially connected to the cemetery authority's cemetery.

13 (b) The human remains of the deceased individual were cared for or prepared
14 for burial or transportation at a funeral establishment other than a funeral
15 establishment erected, maintained, owned, operated, or financially connected to the
16 cemetery authority's cemetery.

17 **SECTION 3.** 157.067 (title) of the statutes is repealed.

18 **SECTION 4.** 157.067 (1) of the statutes is renumbered 157.066 (1).

19 **SECTION 5.** 157.067 (2) and (2m) of the statutes are repealed.

20 **SECTION 6.** 157.635 of the statutes is renumbered 157.635 (1) and amended to
21 read:

22 157.635 (1) ~~Nothing~~ Subject to sub. (2), nothing in this subchapter prohibits
23 a cemetery authority of a cemetery that is affiliated with a religious society organized
24 under ch. 187 from prohibiting the burial of the human remains of an individual in
25 the cemetery if the individual was in a class of individuals who are prohibited under

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1 regulations adopted by the cemetery authority or religious society from being buried
2 in the cemetery.

3 **SECTION 7.** 157.635 (2) of the statutes is created to read:

4 157.635 (2) A cemetery authority described in sub. (1) may not adopt a
5 regulation that prohibits the human remains of an individual from being buried in
6 the cemetery for any of the following reasons:

7 (a) The funeral services for the deceased individual were conducted at a funeral
8 establishment other than a funeral establishment erected, maintained, owned,
9 operated, or financially connected to the cemetery authority's cemetery.

10 (b) The human remains of the deceased individual were cared for or prepared
11 for burial or transportation at a funeral establishment other than a funeral
12 establishment erected, maintained, owned, operated, or financially connected to the
13 cemetery authority's cemetery.

14 **SECTION 8.** 445.12 (6) of the statutes is repealed.

15 **SECTION 9.** 445.12 (6m) of the statutes is created to read:

16 445.12 (6m) No licensed funeral director or operator of a funeral establishment
17 that is erected, maintained, owned, or operated by a cemetery authority or a financial
18 interest of which is held by a cemetery authority may require the human remains of
19 an individual to be buried in the cemetery authority's cemetery as a condition of
20 caring for or preparing for burial or transportation of the deceased individual or as
21 a condition of conducting funeral services for the deceased individual.

22 **SECTION 10. Initial applicability.**

23 (1) The treatment of section 70.11 (13) of the statutes first applies to the
24 property tax assessments as of January 1, 2014.

25 (END)

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 10 September 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: 17 Sept 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Practice Matters SCI/Stewart Properties purchase – Update	
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 type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: <p style="color: blue;">Thank you again for speaking with me this afternoon. I have attached a link to the press release regarding Service Corporation International’s acquisition of Stewart Enterprises.</p> <p style="color: blue;">We recognize that Wisconsin has a law which prohibits a company from owning and operating both funeral homes and cemeteries. Stewart owns and operates cemeteries in Wisconsin, and as you know, our company operates funeral homes. In that regard, we intend to make a decision as to which business line that we will operate. At which time, the other business line will be sold. The transaction is expected to close toward the end of this year. In the interim, each company will continue to independently operate its respective businesses with no involvement from the other.</p> <p style="color: blue;">Please feel free to share this information with the appropriate individuals in your department and do not hesitate to contact me if questions arise. Also, if you wouldn’t mind, I don’t have Executive Director Hellenbrand’s contact information, but would you forward this to her attention?</p> <p style="color: blue;">Best Regards,</p> <p style="color: blue;">Scott Ahrendt (713) 525-7463</p>			
11) Authorization			
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

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 12 July 2013 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: 17 September 2013	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Board Member Training & Case Advisor Training (before adjournment)	
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 checked="" type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
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Signature of person making this request			Date
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