



CEMETERY BOARD
Room N208, 4822 Madison Yards Way, 2nd Floor, Madison
Contact: Christian Albouras (608) 266-2112
January 21, 2020

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 (1-3)**
- B. Approval of Minutes of November 5, 2019 (4-6)**
- C. Conflicts of Interest**
- D. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule 19-148 Relating to Maintenance of Burial Records (7-16)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- E. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule 19-149 Relating to Change of Trustee of Care Funds and Preneed Trust Funds (17-26)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- F. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule 19-150 Relating to Mausoleums (27-40)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- G. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Annual Policy Review **(41)**
 - 3) Election of Officers **(42-43)**
 - 4) Appointment of Liaisons and Alternates **(43)**
 - 5) Delegation of Authorities **(43-49)**
 - 6) 2020 Meeting Dates **(50)**
 - 7) Board Members – Term Expiration Dates
 - a. Patricia Grathen – 7/1/2022
 - b. Francis Groh – 7/1/2020
 - c. E. Glen Porter III – 7/1/2023

- d. John Reinemann – 7/1/2020
- e. Bernard Schroedl – 7/1/2021
- f. Vacant – Public Member

H. Discussion and Consideration of Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Administrative Rule Matters
- 10) Legislative and Policy Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decision and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

I. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), 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.).

J. Credentialing Matters – Discussion and Consideration

- 1) Review Mausoleum Plans for the Village of Colfax – Evergreen Cemetery **(51-52)**

K. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters

- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

L. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

N. Open Session Items Noticed Above Not Completed in the Initial Open Session

O. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

ADJOURNMENT

NEXT MEETING: MAY 12, 2020

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**CEMETERY BOARD
MEETING MINUTES
NOVEMBER 5, 2019**

PRESENT: Patricia Grathen (*via Skype*), Francis Groh (*via Skype*), E. Glen Porter, John Reinemann

EXCUSED: Bernard Schroedl

STAFF: Christian Albouras, Executive Director; Jameson Whitney, Legal Counsel; Megan Glaeser, Bureau Assistant and other Department staff.

CALL TO ORDER

Francis Groh, Chairperson, called the meeting to order at 9:41 a.m. A quorum was confirmed with four (4) board members present.

ADOPTION OF AGENDA

MOTION: Patricia Grathen moved, seconded by E. Glen Porter, to approve the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF AUGUST 20, 2019

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the Minutes of August 20, 2019 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Appointment of Liaisons and Alternates

| LIAISON APPOINTMENTS | |
|------------------------------|--|
| Transactional Liaison | Francis Groh <i>Alternate: E. Glen Porter</i> |

Delegation of Authorities

Transactional Liaison Delegation

MOTION: E. Glen Porter moved, seconded by Patricia Grathen, to delegate authority to the Transactional Liaison to review any requests (excluding conveyance approval requests under §157.08(2)(b) and §157.064) submitted to the Cemetery Board under the Board's statutory and rule oversight, to request additional information as necessary, and to make the final decision to approve or object. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

CB 1, 4 and 5 Relating to Change of Trustee of Care Funds and Preneed Trust Funds

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the preliminary rule draft of CB 1, 4, and 5, relating to change of trustee of care funds and preneed trust funds, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CB 2 Relating to Maintenance of Burial Records

MOTION: E. Glen Porter moved, seconded by Patricia Grathen, to approve the preliminary rule draft of CB 2, relating to maintenance of burial records, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CB 6 Relating to Mausoleums

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the preliminary rule draft of CB 6, relating to mausoleums, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

APPLICATION FOR CHANGE OF TRUSTEE OF A CARE FUND OR PRENEED TRUST FUND

Regions Bank

MOTION: E. Glen Porter moved, seconded by John Reinemann, to table the Regions Bank requests and refer to the Conveyance Liaison for final decision following requests for further information regarding cemetery status. Motion carried unanimously.

SunTrust Bank

MOTION: John Reinemann moved, seconded by Patricia Grathen, to approve the changes in trustees for Woodlawn Cemetery, Arlington Park Cemetery, Forest Hill Memorial Park and Sunset Ridge Memorial Park, as requested by SunTrust Bank and Chicago Trust Company as co-trustees. Motion carried unanimously.

REQUEST TO APPROVE A WITHDRAWAL FROM CEMETERY CARE TRUST FUND PRINCIPAL, PURSUANT TO s.157.15(2)(b)

MOTION: Patricia Grathen moved, seconded by E. Glen Porter, to deny the request from the Highland Memory Gardens Cemetery Association in Trenton (Dodge County), WI for a withdrawal from Cemetery Care Trust Fund Principal. Motion carried unanimously.

CONVENE TO CLOSED SESSION

MOTION: E. Glen Porter moved, seconded by John Reinemann, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to

consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), 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.). Francis Groh, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Patricia Grathen-yes; Francis Groh-yes; E. Glen Porter-yes; and John Reinemann-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:17 p.m.

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closing(s)

18 RLC 002 – D.G.C.A.

MOTION: Patricia Grathen moved, seconded by John Reinemann, to close DLSC Case Number 18 RLC 002 against D.G.C.A., for Prosecutorial Discretion (P2). Motion carried. Abstained: Porter

RECONVENE TO OPEN SESSION

MOTION: John Reinemann moved, seconded by E. Glen Porter, to reconvene in open session. Motion carried unanimously.

The Board reconvened into Open Session at 11:23 a.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Patricia Grathen moved, seconded by John Reinemann, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Patricia Grathen moved, seconded by John Reinemann, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:26 a.m.

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

AGENDA REQUEST FORM

| | | | |
|--|--|--|--|
| 1) Name and title of person submitting the request: Jon Derenne, Administrative Rules Coordinator | | 2) Date when request submitted: January 6, 2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small> | |
| 3) Name of Board, Committee, Council, Sections: Cemetery Board | | | |
| 4) Meeting Date: January 21, 2020 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? 1. Public Hearing on Clearinghouse Rule 19-148 relating to maintenance of burial records. -Review and respond to Clearinghouse Report and Public Hearing comments. 2. Public Hearing on Clearinghouse Rule 19-149 relating to change of trustee of care funds and preneed trust funds. -Review and respond to Clearinghouse Report and Public Hearing comments. 3. Public Hearing on Clearinghouse Rule 19-150 relating to mausoleums. -Review and respond to Clearinghouse Report and Public Hearing comments. | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: | | | |
| 11) Authorization | | | |
| <i>Jon Derenne</i> | | January 6, 2020 | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Executive Director signature (indicates approval to add post agenda deadline item to agenda) | | Date | |

STATE OF WISCONSIN
CEMETERY BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CEMETERY BOARD
CEMETERY BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Cemetery Board to amend CB 2.06 (1) (intro.) relating to maintenance of burial records.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 157.62 (5), Stats.

Statutory authority: Sections 157.62 (5) and 440.905 (2), Stats.

Explanation of agency authority:

Section 157.62 (5), Stats. provides “[t]he cemetery board shall promulgate rules requiring cemetery authorities and licensees to maintain other records and establishing minimum time periods for the maintenance of those records.”

Section 440.905 (2), Stats. provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salesperson, and cemetery preneed sellers...”

Related statute or rule: Section 157.62 (5), Stats.

Plain language analysis:

This rule brings ch. CB 2 into compliance with state law requiring that the Board set a minimum time period for which a cemetery authority must retain burial records. The rule project amends s. CB 2.06 to require that a cemetery authority retain burial records indefinitely.

Summary of, and comparison with, existing or proposed federal regulation: The federal government does not set time frames for maintaining cemetery burial records.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

A preliminary public hearing on scope was held at the Cemetery Board's August 20, 2019 meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois: Illinois requires cemetery authorities to keep a record of every interment, entombment, and inurnment. The record must include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. (225 ILCS 411/20-5 (d)). Neither statute nor rule specifies the length of time that the record must be retained for.

Iowa: Iowa requires cemeteries to keep a record of each interment in a cemetery, including the date the remains were interred, the name, date of birth, date of death, and a unique identifier for the location of the interment space. There is no specification regarding how long these records must be maintained. (Iowa Stats. s. 523I.311).

Michigan: Michigan does not appear to require that cemeteries maintain burial records.

Minnesota: Minnesota requires cemeteries to keep a register of burials including the date of each burial, entombment, or cremation, and the name, age, sex, nativity, and cause of death of every person interred or cremated in the cemetery. There is no specification regarding how long these records must be maintained. (Minn. Stats. s. 306.03).

Summary of factual data and analytical methodologies:

The Cemetery Board performed a review of its administrative rules pursuant to s. 227.29, Stats. and determined that the rules did not provide for a minimum time period that cemetery authorities must retain burial records, as required by s. 157.62 (5), Stats. This rule project remedies that deficiency. The Cemetery Board determined that due to the importance of burial records, they ought to be retained indefinitely by the cemetery authority.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

This rule will be posted for 14 days to receive public comment on the economic impact of the proposed rule.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be prepared upon the completion of the 14 day economic impact comment period.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 9:30 AM on January 21, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CB 2.06 (1) (intro.) is amended to read:

CB 2.06 (1) (intro.) A cemetery authority or licensee shall maintain indefinitely a record for all human remains buried within a cemetery. This record shall include the following information:

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

| | |
|--|--|
| <p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p> | <p>2. Date November 21, 2019</p> |
| <p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) CB 2</p> | |
| <p>4. Subject Maintenance of burial records</p> | |
| <p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p> | <p>6. Chapter 20, Stats. Appropriations Affected</p> |
| <p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p> | |
| <p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p> | |
| <p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p> | |
| <p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | |
| <p>11. Policy Problem Addressed by the Rule This rule brings ch. CB 2 into compliance with state law requiring that the Board set a minimum time period for which a cemetery authority must retain burial records. The rule project amends s. CB 2.06 to require that a cemetery authority retain burial records indefinitely.</p> | |
| <p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p> | |
| <p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.</p> | |
| <p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole</p> | |
| <p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to bring CB 2 into conformity with the statutory requirement that a minimum time period be set for which a cemetery authority must retain burial records. The alternative of implementing the rule is to leave the rules out of compliance with state statute, or to implement a rule requiring a shorter retention period. In the view of the board, it is reasonable to require a cemetery authority to retain indefinitely a record of the individuals buried within its cemetery.</p> | |
| <p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is that cemetery authorities will have clarity as to how long they must retain burial records.</p> | |

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

17. Compare With Approaches Being Used by Federal Government

The federal government does not set requirements for how long burial records must be retained.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois requires cemetery authorities to keep a record of every interment, entombment, and inurnment. The record must include the deceased's name, age, date of burial, and the specific location of the interred, entombed, or inurned human remains. (225 ILCS 411/20-5 (d)). Neither statute nor rule specifies the length of time that the record must be retained for.

Iowa: Iowa requires cemeteries to keep a record of each interment in a cemetery, including the date the remains were interred, the name, date of birth, date of death, and a unique identifier for the location of the interment space. There is no specification regarding how long these records must be maintained. (Iowa Stats. s. 523I.311).

Michigan: Michigan does not appear to require that cemeteries maintain burial records.

Minnesota: Minnesota requires cemeteries to keep a register of burials including the date of each burial, entombment, or cremation, and the name, age, sex, nativity, and cause of death of every person interred or cremated in the cemetery. There is no specification regarding how long these records must be maintained. (Minn. Stats. s. 306.03).

19. Contact Name

Jon Derenne, Administrative Rules Coordinator

20. Contact Phone Number

(608) 266-0955

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 19-148

AN ORDER to amend CB 2.06 (1) (intro.), relating to maintenance of burial records.

Submitted by **CEMETERY BOARD**

11-22-2019 RECEIVED BY LEGISLATIVE COUNCIL.

12-16-2019 REPORT SENT TO AGENCY.

MSK:MS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karis-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-148

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

In the analysis for the proposed rule, the listing of s. 157.62 (5), Stats., under the related statutes or rules should be removed. That section is the statute that is being interpreted and is also one of the two statutes cited for purposes of statutory authority.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The board should consider replacing the term “indefinitely” with the term “permanently”. Pursuant to s. 16.61, Stats., the Public Records Board (PRB) approves records disposition authorizations (RDAs), for the length of time a state agency or local unit of government maintains a public record. The PRB approves either permanent retention or retention for a specific period of time; the PRB does not approve indefinite retention. While cemetery authorities are not required to retain records in accordance with PRB approval, the board could consider being consistent with those recognized standards and should consider clearly specifying how long a record of human remains should be retained. If the board intends that a record for all human remains buried within a cemetery is to be maintained “permanently”, then it should use this term because “indefinitely” implies that at some point the record could be destroyed or thrown away.

STATE OF WISCONSIN
CEMETERY BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CEMETERY BOARD
CEMETERY BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Cemetery Board to repeal CB 2.015, 4.015, and 5.03 (2); to consolidate renumber and amend CB 5.03 (intro) and (1); to amend CB 4.05; and to repeal and recreate CB 1.015 relating to change of trustee of care funds and preneed trust funds.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 157.19 (2) (b), (c), and (d), Stats.

Statutory authority: Sections 157.19 (2) (d) and 440.905 (2), Stats.

Explanation of agency authority:

Section 157.19 (2) (d), Stats., provides that “[t]he cemetery board shall promulgate rules establishing reasonable requirements and standards for the approval of changes under pars. (b) and (c). For approval of changes under par. (b), the rules shall require the cemetery authority to submit evidence that the rights and interests of the beneficiary of the care fund will be adequately protected if the change is approved. For approval of changes under par. (c), the rules shall require the trustee to submit evidence that the rights and interests of the purchaser under the preneed sales contract will be adequately protected if the change is approved.”

Section 440.905 (2), Stats., provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers...”

Related statute or rule: Section 157.19, Stats.

Plain language analysis: This rule project amends CB 4.05 relating to the verification of deposit that must be submitted to the Cemetery Board following a change of trustee. The rule project clarifies that the cemetery authority must submit the verification notice to the Cemetery Board within 30 days of the transfer and must ask that the new trustee also submit a verification notice to the Cemetery Board.

The rule project also creates a definition for “Preneed trust fund” within ch. CB 1, and moves the definitions for “Care fund,” “Financial institution,” and “Cemetery authority” into to ch. CB 1, so that these definitions apply throughout the CB suite.

Summary of, and comparison with, existing or proposed federal regulation: The FTC does regulate preneed funeral and burial agreement sales but does not regulate the process by which a trustee of either a preneed trust fund or care fund is transferred.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

A preliminary public hearing on scope was held at the Cemetery Board’s August 20, 2019 meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois: Illinois statute requires that the trustee notify the Comptroller (a state officer) no less than 28 days prior to the effective date of the trustee change. The provision does not specify whether the transferring or the new trustee needs to inform the Comptroller. (815 ILCS 390/16 (b)).

Iowa: Iowa law does not generally restrict the transfer of care funds from one financial institution to another. (IA Stats. s. 523I.810 4.). Preneed trust funds can be transferred from one financial institution to another if notice is provided to the commissioner within 30 days of the transfer of the trust funds. The party that is required to submit the notice is not specified. (IA Stats. s. 523A.202 4.).

Michigan: Michigan allows cemeteries to change the trustee of care funds at any time, subject to the consent of the commissioner and subject to the terms of the cemetery’s agreement with the trustee. (MI Stats. s. 456.536 (16) (4)). Cemetery preneed sellers or trustees can change the depository or escrow agent of a preneed account at any time, without cause, and without the approval of any other party. The contract purchaser must be notified, however, if the depository or escrow agent is changed. (MI Stats. s. 328.224 (14) (3)).

Minnesota: Minnesota law gives cemetery authorities the ability to appoint multiple trustees to invest their care and improvement fund. Trustee appointments may be revoked by the board of the cemetery authority at any time by a two-third vote of its members. Seven days before any portion of the fund is transferred or withdrawn, the board of the cemetery authority must notify the county auditor of the activity and the destination of the funds withdrawn or transferred. (Minn. Stats. s. 306.77).

Preneed trust fund trustees can be appointed or removed at any time by the purchaser of the preneed contract. The beneficiary of the trust must be made aware of the initial

location of the deposited funds, and any subsequent transfers of funds to a different financial institution. (Minn. Stats. s. 149A.97 (4) and (5)).

Summary of factual data and analytical methodologies:

The Cemetery Board performed a review of its administrative rules pursuant to s. 227.29, Stats., and determined that s. CB 4.05 was ambiguous as to which trustee must submit the verification of trustee transfer to the Cemetery Board required by s. 157.19 (2) (c), Stats. This rule project remedies that ambiguity by revising the rule to require the cemetery authority to submit the verification, as required by the statute. The rule will also be modified to require the cemetery authority to request that the new trustee also submit the verification form to affirm that they are aware of the transfer and have received the funds.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule will be posted for 14 days to receive public comment on the economic impact of the proposed rule.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be prepared upon the completion of the 14 day economic impact comment period.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 9:30 AM on January 21, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CB 1.015 is repealed and recreated to read:

CB 1.015 Definitions. As used in chs. CB 1 to 6:

- (1) “Board” means the cemetery board.
- (2) “Care fund” has the meaning given in s. 157.061 (1m), Stats.
- (2) “Cemetery authority” has the meaning given in s. 157.061 (2), Stats.
- (3) “Financial institution” has the meaning given in s. 705.01 (3), Stats.
- (4) “Preneed trust fund” has the meaning given in s. 157.061 (13), Stats.

SECTION 2. CB 2.015 is repealed.

SECTION 3. CB 4.015 is repealed.

SECTION 4. CB 4.05 is amended to read:

CB 4.05 Verification of deposit. Within 30 days after the transfer of the care fund or preneed trust fund, the ~~trustee-cemetery authority~~ 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. In addition, the cemetery authority shall request that the new trustee submit the same information to the board verifying the receipt of the funds.

SECTION 5. CB 5.03 (intro.) and (1) are consolidated, renumbered, and amended to read:

CB 5.03 Definitions. As used in this chapter “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..

SECTION 6. CB 5.03 (2) is repealed.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

| | |
|--|--|
| <p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p> | <p>2. Date November 21, 2019</p> |
| <p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) CB 1, 4, and 5</p> | |
| <p>4. Subject Change of trustee of care funds and preneed trust funds</p> | |
| <p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p> | <p>6. Chapter 20, Stats. Appropriations Affected</p> |
| <p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p> | |
| <p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p> | |
| <p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p> | |
| <p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | |
| <p>11. Policy Problem Addressed by the Rule This rule project amends CB 4.05 relating to the verification of deposit that must be submitted to the Cemetery Board following a change of trustee. The rule project clarifies that, as required by statute, the cemetery authority must submit the verification notice to the Cemetery Board within 30 days of the transfer.</p> | |
| <p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p> | |
| <p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.</p> | |
| <p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.</p> | |
| <p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to bring CB 4.05 into compliance with state statute requiring the cemetery authority to submit a verification of transfer of a preneed trust fund within 30 days following the transfer of the fund to a new trustee.</p> | |
| <p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is to bring the rule into conformity with statutory requirements and provide clarity to cemetery authorities as to what is required of them when a change of trustee is made.</p> | |
| <p>17. Compare With Approaches Being Used by Federal Government</p> | |

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The federal government does not regulate the process for approving a transfer of trustee of a care fund or preneed trust fund.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois statute requires that the trustee notify the Comptroller (a state officer) no less than 28 days prior to the effective date of the trustee change. The provision does not specify whether the transferring or the new trustee needs to inform the Comptroller. (815 ILCS 390/16 (b)).

Iowa: Iowa law does not generally restrict the transfer of care funds from one financial institution to another. (IA Stats. s. 523I.810 4.). Preneed trust funds can be transferred from one financial institution to another if notice is provided to the commissioner within 30 days of the transfer of the trust funds. The party that is required to submit the notice is not specified. (IA Stats. s. 523A.202 4.).

Michigan: Michigan allows cemeteries to change the trustee of care funds at any time, subject to the consent of the commissioner and subject to the terms of the cemetery's agreement with the trustee. (MI Stats. s. 456.536 (16) (4)). Cemetery preneed sellers or trustees can change the depository or escrow agent of a preneed account at any time, without cause, and without the approval of any other party. The contract purchaser must be notified, however, if the depository or escrow agent is changed. (MI Stats. s. 328.224 (14) (3)).

Minnesota: Minnesota law gives cemetery authorities the ability to appoint multiple trustees to invest their care and improvement fund. Trustee appointments may be revoked by the board of the cemetery authority at any time by a two-third vote of its members. Seven days before any portion of the fund is transferred or withdrawn, the board of the cemetery authority must notify the county auditor of the activity and the destination of the funds withdrawn or transferred. (Minn. Stats. s. 306.77).

19. Contact Name

Jon Derenne, Administrative Rules Coordinator

20. Contact Phone Number

(608) 266-0955

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 19-149

AN ORDER to repeal CB 2.015, 4.015, and 5.03 (3); to consolidate, renumber, and amend CB 5.03 (intro.) and (1); to amend CB 4.05; and to repeal and recreate CB 1.015, relating to change of trustee of care funds and preneed trust funds.

Submitted by **CEMETERY BOARD**

11-22-2019 RECEIVED BY LEGISLATIVE COUNCIL.

12-16-2019 REPORT SENT TO AGENCY.

SG:MS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

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Clearinghouse Assistant Director

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Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-149

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The definitions repealed and recreated in the proposed rule are found in ss. 157.106 (1m), (2), and (13) and 159.19 (1), Stats. As such, it would benefit the reader to refer to these statutes in the rule analysis.

2. Form, Style and Placement in Administrative Code

In SECTION 5 of the proposed rule, when consolidating and renumbering two rule sections or subunits, the portions that are deleted are included with strike-throughs and then the amended parts are underscored. Also, the word “alternative” should not be capitalized. As such, the phrase, “As used in this chapter ‘Alternative investment’” should be rewritten, “As used in this chapter: (1) ‘Alternative alternative investment’”. Also, the second period at the end of the Section should be deleted. [ss. 1.01 (4) and 1.068, Manual.]

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STATE OF WISCONSIN
CEMETERY BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CEMETERY BOARD
CEMETERY BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Cemetery Board to amend CB 6.07 (1) and (2) and 6.08; and to create CB 6.085 relating to mausoleums.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 157.12 (2) (b) and (3) (a) 3, Stats.

Statutory authority: Sections 157.12 (3) (a) 3. and 440.905 (2), Stats.

Explanation of agency authority:

Section 440.905 (2), Stats., provides “[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers...”

Section 157.12 (3) (a) 3., Stats., provides “...The municipality in which mausoleum is located may, by ordinance, require a larger fund, but only if the cemetery board notifies the municipality in writing that the cemetery board approves of the requirement. The cemetery board may promulgate rules establishing uniform standards for approvals under this subdivision.”

Related statute or rule: None.

Plain language analysis: This rule project will amend ss. CB 6.07 and 6.08 to revise references to “progress reports” to instead reference “temporary certification” in order to be consistent with the terminology used in statute. Section CB 6.07 will also be revised to clarify that in order to obtain temporary certification status, the minor defects in question must not be structural defects.

Further, s. CB 6.08 will also be revised to bring the rule into conformity with state statute and allow for the sale of mausoleum space and the burial of human remains while a mausoleum has temporary certification status.

Finally, the project creates a uniform procedure for municipalities to request, and criteria for the Cemetery Board to use when deciding whether or not to approve an ordinance under s. 157.12 (3) (a) 3., Stats., requiring a larger mausoleum care fund than what is required by s. 157.12 (3) (a) 1. and 2., Stats.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government does not regulate mausoleum construction or care funds.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

The Cemetery Board held a preliminary hearing on the statement of scope for this rule at its August 20, 2019 meeting. No comments were received.

Comparison with rules in adjacent states:

Illinois: Illinois requires that 50% of the proceeds of sales of undeveloped spaces, be deposited into a preneed trust fund (815 ILCS 390/15 (a)). Sellers of undeveloped space are required to maintain temporary burial facilities for those who die prior to completion of the space (Id. at (d)).

Illinois law does not require the establishment of care funds for mausoleums. However, if a cemetery authority requires the establishment of a care fund, or a deposit to an existing care fund as a condition of the sale of a plot, the cemetery authority is required by law to deposit certain percentages of the sale into the care fund:

1. For interment rights, \$1 per square foot of the space sold or 15% of the sales price or imputed value, whichever is the greater, with a minimum of \$25 for each individual interment right.
2. For entombment rights, not less than 10% of the sales price or imputed value with a minimum of \$25 for each individual entombment right.
3. For inurnment rights, not less than 10% of the sales price or imputed value with a minimum of \$15 for each individual inurnment right.
4. For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, excepting only transfers between members of the immediate family of the transferor, a minimum of \$25 for each such right transferred. For the purposes of this paragraph “immediate family of the transferor” means the spouse, parents, grandparents, children, grandchildren, and siblings of the transferor.
5. Upon an interment, entombment, or inurnment in a grave, crypt, or niche in which rights of interment, entombment, or inurnment were originally acquired from a cemetery authority prior to January 1, 1948, a minimum of \$25 for each such right exercised.
6. For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, the full amount received (760 ILCS 100/4).

Illinois does not appear to provide municipalities with the option of requiring greater deposits.

Iowa: Iowa law requires that an amount equal to or greater than fifty dollars or twenty percent of the gross selling price received by the cemetery for each sale of interment rights, whichever is greater, must be deposited into a care fund for the cemetery's perpetual care (IA Code s. 523I.807 (1)). Iowa does not appear to specifically provide that a municipality may require a greater deposit. Iowa does not allow for the sale of interment rights in a mausoleum that will be completed in the future unless the commissioner has approved the cemetery authority to make sales. The cemetery authority is required to submit a notification to the cemetery commissioner for approval including the following information:

- a. A description of the new facility or the proposed expansion, including a description of the interment rights to be offered to prospective purchasers.
- b. A statement of the financial resources available for the project.
- c. A copy of the proposed interment rights agreement to be used, which shall include the following:
 - (1) That purchase payments will be held in trust in accordance with the requirements of chapter 523A until construction of the mausoleum or columbarium is complete.
 - (2) That the purchaser may request a refund of the purchase amount, if construction does not begin within five years of the purchaser's first payment.
 - (3) That the new facility will operate as a perpetual care cemetery in compliance with this chapter, even if the facility is located at a nonperpetual care cemetery.
 - (4) That the purchaser will receive an ownership certificate upon payment in full or, if later, when construction is complete.

(IA Code s. 523I.314).

Michigan: Preconstruction sales of crypts or niches in a mausoleum or columbarium are prohibited unless the cemetery authority does one of the following:

- (a) Agrees to complete the mausoleum or columbarium within 4 years after the date of the first sale of an entombment or inurnment right in the proposed mausoleum or columbarium or, if construction is not completed within that time and upon the request of the purchaser, agrees to offer to the purchaser a refund of 100% of the purchase price with interest calculated at the rate of 4% per annum.
- (b) Agrees that if the person for whom the entombment or inurnment right in the proposed mausoleum or columbarium dies before completion of the mausoleum or columbarium, an alternative disposition of the remains shall be provided until completion of the mausoleum or columbarium or until a refund is made of 100% of the purchase price with interest calculated at the rate of 4% per annum. (MCL s. 456.536a).

Michigan law requires the establishment of a perpetual care fund of \$50,000 before any sales may be made. Each month thereafter, the cemetery must deposit not less than 15% of its proceeds received from the sales of burial rights, entombment rights, or

columbarium rights (MCL 456.536 (5) and (6)). Michigan does not appear to have a specific provision allowing individual municipalities to increase the required deposit percentage.

Minnesota: Cemetery authorities may sell burial space in a mausoleum or columbarium prior to completion if they have obtained a performance bond sufficient to cover all construction costs associated with building the mausoleum or columbarium at the time of sale (Minn. Stats. s. 306.90). Minnesota law requires that cemetery authorities deposit 10% of the proceeds of all sales of mausoleum burial spaces into the cemetery's permanent care and improvement fund. Minnesota does not appear to have a specific provision allowing individual municipalities to increase the required deposit percentage.

Summary of factual data and analytical methodologies:

The cemetery board reviewed its rules in advance of its report due to the legislature under s. 227.29, Stats. The changes in this rule project were deemed necessary to bring the rules into compliance with state law, and to enhance the clarity of the rules and provide better guidance to stakeholders.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 9:30 AM on January 21, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CB 6.07 (1) and (2) are amended to read:

CB 6.07 (1) If the board or its designee determines that, except for certain minor non-structural defects, the construction, alteration, or conversion complies with the approved plans, the board or its designee may provide the cemetery authority with a written ~~progress report~~ temporary certification that is contingent on the correction of those minor defects.

(2) If a cemetery authority with a ~~progress report~~ temporary certification notifies the board or its designee in writing before the expiration date of the temporary certification that the defects in the construction, alteration, or conversion of the public mausoleum have been corrected, the board or its designee shall, within 30 days after receiving the notice, reinspect the public mausoleum and provide the cemetery authority with a final inspection report as to whether the construction, alteration, or conversion complies with the approved plans.

SECTION 2. CB 6.08 is amended to read:

CB 6.08 Mausoleum sales. No person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, Stats., or bury human remains in the public mausoleum until either the board has issued a temporary certification that the mausoleum contains only minor, non-structural defects, or all inspection defects are corrected and the board or its designee reinspects the public mausoleum and provides the cemetery authority with a final inspection report that indicates the construction, alteration, or conversion complies with the approved plans.

SECTION 3. CB 6.085 is created to read:

CB 6.085 Municipal requests for larger mausoleum care funds. A municipality may require by ordinance, with the written permission of the board, that cemetery authorities within its jurisdiction maintain a larger mausoleum care fund than what is required under s. 157.12 (3) (a) 1. and 2, Stats. The board may issue a written approval of such an ordinance if the municipality submits a request containing the following:

- (1)** A copy of the proposed ordinance.
- (2)** A statement demonstrating a need for deviating from the statutory requirements.
- (3)** The requirements under the ordinance are reasonable as determined by the board.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

| | |
|--|--|
| 1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected | 2. Date November 21, 2019 |
| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) CB 6 | |
| 4. Subject Mausoleums | |
| 5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | 6. Chapter 20, Stats. Appropriations Affected |
| 7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget | |
| 8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A) | |
| 9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0 | |
| 10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 11. Policy Problem Addressed by the Rule This rule project will amend ss. CB 6.07 and 6.08 to revise references to "progress reports" to instead reference "temporary certification" in order to be consistent with the terminology used in statute. Section CB 6.07 will also be revised to clarify that in order to obtain temporary certification status, the minor defects in question must not be structural defects. Further, s. CB 6.08 will also be revised to bring the rule into conformity with state statute and allow for the sale of mausoleum space and the burial of human remains while a mausoleum has temporary certification status. Finally, the project creates a uniform procedure for municipalities to request, and criteria for the Cemetery Board to use when deciding whether or not to approve an ordinance under s. 157.12 (3) (a) 3., Stats., requiring a larger mausoleum care fund than what is required by s. 157.12 (3) (a) 1. and 2., Stats. | |
| 12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services's website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received. | |
| 13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA. | |
| 14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole | |
| 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule | |

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The benefits of implementing the rule will be to allow for the sale of mausoleum space and the burial of human remains while a mausoleum has temporary certification status, as anticipated by statute. The rule will also provide greater clarity for cemetery authorities constructing mausoleums as to what a minor defect is. Finally, the rule will provide criteria for approval of requests from municipalities seeking to require a greater care fund for mausoleums than what is required under statute.

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is that the rule will be brought into conformity with statutory requirements and will give stakeholders greater clarity as to what is allowable under the law.

17. Compare With Approaches Being Used by Federal Government

The federal government does not regulate the construction of mausoleums or the maintenance of mausoleum care funds.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois requires that 50% of the proceeds of sales of undeveloped spaces, be deposited into a preneed trust fund (815 ILCS 390/15 (a)). Sellers of undeveloped space are required to maintain temporary burial facilities for those who die prior to completion of the space (Id. at (d)).

Illinois law does not require the establishment of care funds for mausoleums. However, if a cemetery authority requires the establishment of a care fund, or a deposit to an existing care fund as a condition of the sale of a plot, the cemetery authority is required by law to deposit certain percentages of the sale into the care fund:

1. For interment rights, \$1 per square foot of the space sold or 15% of the sales price or imputed value, whichever is the greater, with a minimum of \$25 for each individual interment right.
2. For entombment rights, not less than 10% of the sales price or imputed value with a minimum of \$25 for each individual entombment right.
3. For inurnment rights, not less than 10% of the sales price or imputed value with a minimum of \$15 for each individual inurnment right.
4. For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, excepting only transfers between members of the immediate family of the transferor, a minimum of \$25 for each such right transferred. For the purposes of this paragraph “immediate family of the transferor” means the spouse, parents, grandparents, children, grandchildren, and siblings of the transferor.
5. Upon an interment, entombment, or inurnment in a grave, crypt, or niche in which rights of interment, entombment, or inurnment were originally acquired from a cemetery authority prior to January 1, 1948, a minimum of \$25 for each such right exercised.
6. For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, the full amount received (760 ILCS 100/4).

Illinois does not appear to provide municipalities with the option of requiring greater deposits.

Iowa: Iowa law requires that an amount equal to or greater than fifty dollars or twenty percent of the gross selling price received by the cemetery for each sale of interment rights, whichever is greater, must be deposited into a care fund for the cemetery’s perpetual care (IA Code s. 523I.807 (1)). Iowa does not appear to specifically provide that a municipality may require a greater deposit. Iowa does not allow for the sale of interment rights in a mausoleum that will be completed in the future unless the commissioner has approved the cemetery authority to make sales. The cemetery authority is required to submit a notification to the cemetery commissioner for approval including the following information:

- a. A description of the new facility or the proposed expansion, including a description of the interment rights to be offered to prospective purchasers.
-

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

- b. A statement of the financial resources available for the project.
- c. A copy of the proposed interment rights agreement to be used, which shall include the following:
 - (1) That purchase payments will be held in trust in accordance with the requirements of chapter 523A until construction of the mausoleum or columbarium is complete.
 - (2) That the purchaser may request a refund of the purchase amount, if construction does not begin within five years of the purchaser's first payment.
 - (3) That the new facility will operate as a perpetual care cemetery in compliance with this chapter, even if the facility is located at a nonperpetual care cemetery.
 - (4) That the purchaser will receive an ownership certificate upon payment in full or, if later, when construction is complete.

(IA Code s. 523I.314).

Michigan: Preconstruction sales of crypts or niches in a mausoleum or columbarium are prohibited unless the cemetery authority does one of the following:

- (a) Agrees to complete the mausoleum or columbarium within 4 years after the date of the first sale of an entombment or inurnment right in the proposed mausoleum or columbarium or, if construction is not completed within that time and upon the request of the purchaser, agrees to offer to the purchaser a refund of 100% of the purchase price with interest calculated at the rate of 4% per annum.
- (b) Agrees that if the person for whom the entombment or inurnment right in the proposed mausoleum or columbarium dies before completion of the mausoleum or columbarium, an alternative disposition of the remains shall be provided until completion of the mausoleum or columbarium or until a refund is made of 100% of the purchase price with interest calculated at the rate of 4% per annum. (MCL s. 456.536a).

Michigan law requires the establishment of a perpetual care fund of \$50,000 before any sales may be made. Each month thereafter, the cemetery must deposit not less than 15% of its proceeds received from the sales of burial rights, entombment rights, or columbarium rights (MCL 456.536 (5) and (6)). Michigan does not appear to have a specific provision allowing individual municipalities to increase the required deposit percentage.

Minnesota: Cemetery authorities may sell burial space in a mausoleum or columbarium prior to completion if they have obtained a performance bond sufficient to cover all construction costs associated with building the mausoleum or columbarium at the time of sale (Minn. Stats. s. 306.90). Minnesota law requires that cemetery authorities deposit 10% of the proceeds of all sales of mausoleum burial spaces into the cemetery's permanent care and improvement fund. Minnesota does not appear to have a specific provision allowing individual municipalities to increase the required deposit percentage.

| | |
|---|--|
| 19. Contact Name Jon Derenne, Administrative Rules Coordinator | 20. Contact Phone Number (608) 266-0955 |
|---|--|

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 19-150

AN ORDER to amend CB 6.07 (1) and (2) and 6.08; and to create CB 6.085, relating to mausoleums.

Submitted by **CEMETERY BOARD**

11-22-2019 RECEIVED BY LEGISLATIVE COUNCIL.

12-19-2019 REPORT SENT TO AGENCY.

MSK:MS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

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Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-150

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

Section 157.12 (2) (a), Stats., authorizes the board to approve the construction of a mausoleum and the conversion of a building or other structure to a mausoleum, as well as to promulgate rules providing reasonable requirements governing the location, material, and construction of a mausoleum. However, this provision is not cited as statutory authority in the board’s analysis for the proposed rule. The board should consider citing this provision among the other provisions cited as statutory authority in the analysis.

2. Form, Style and Placement in Administrative Code

Because s. 157.12 (3) (a) 1. and 2., Stats., contain the general care fund requirements that are applicable to mausoleums, these two subdivisions should also be cited in the statutes interpreted section of the analysis. As such, the reference to par. (a) 3. should be revised to reference to par. (a) in its entirety, in order to also include subs. 1. and 2.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. For purposes of ss. CB 6.07 and 6.08, the board should consider defining the term “temporary certification” and what this process or documentation entails.

b. In s. CB 6.085 (intro.), the terms “written permission” and “written approval” appear to both refer to “written approval” that is contemplated in s. 157.12 (3) (a) 3., Stats. The board

should review its intent with these two terms and consider replacing the term "written permission" with the term "written approval", for consistency.

c. In s. CB 6.085 (3), it is unclear why a municipality would submit a request that contains the "requirements under the ordinance are reasonable as determined by the board". This appears to be a standalone subsection to s. CB 6.085. The board should review its intent with this provision. For example, the board could consider dividing s. CB 6.085 into subs. (1) and (2) to separate the municipality's actions from the board's actions, or rephrasing the provision to clearly identify how the municipality would show that its requirements are reasonable.

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

AGENDA REQUEST FORM

| | | | |
|---|---|--|--|
| 1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor-Adv. | | 2) Date When Request Submitted: 1/7/2020 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small> | |
| 3) Name of Board, Committee, Council, Sections: All Boards | | | |
| 4) Meeting Date: | 5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6) How should the item be titled on the agenda page? Annual Policy Review | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: N/A | |
| 10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. Attendance/Quorum – Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting, we ask that you let us know ASAP as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. DSPS Boards-Open Meetings Resources 2. Walking Quorum – Please refrain from discussing Board/Section/Council business with other members outside of legally noticed meetings so to avoid walking quorum issues pursuant to Open Meetings Law. DSPS Boards-Open Meetings Resources 3. Agenda Deadlines – Please let your executive Director know if you have items to be considered on an upcoming agenda no less than 8 business days prior to a meeting when possible. DSPS Boards-Reference Materials-Meeting Timeline 4. Travel Voucher and Per Diem Submissions – Please submit all Per Diem and Reimbursement Claims to DSPS within 30 days of date an expense is incurred. DSPS Boards-Travel and Reimbursement-Travel and Reimbursement Overview 5. Lodging Accommodations/Hotel Cancellation Policy – Lodging accommodations are provided to members who must leave home before 6:00 a.m. to attend a meeting. If you cannot attend a meeting it is the board member’s responsibility to cancel their reservation within the stated cancellation timeframe. If a meeting is changed to a teleconference or cancelled or rescheduled, DSPS staff will make lodging cancellations or modifications as needed. DSPS Boards-Travel and Reimbursement-Travel and Reimbursement Overview 6. Inclement Weather Policy – In the event of inclement weather the agency may change a meeting from an in-person meeting to a teleconference. | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;"> <i>Kimberly Wood</i> </div> <div style="width: 35%; border-bottom: 1px solid black; padding-bottom: 5px;"> 1/7/2020 </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 5px;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;"> Signature of person making this request </div> <div style="width: 35%; border-bottom: 1px solid black; padding-bottom: 5px;"> Date </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 5px;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;"> Supervisor (if required) </div> <div style="width: 35%; border-bottom: 1px solid black; padding-bottom: 5px;"> Date </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 5px;"> <div style="width: 60%; border-bottom: 1px solid black; padding-bottom: 5px;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="width: 35%; border-bottom: 1px solid black; padding-bottom: 5px;"> Date </div> </div> | | | |
| Directions for including supporting documents: <ol style="list-style-type: none"> 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 Policy Development Executive 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 & Professional Services**

AGENDA REQUEST FORM

| | | | | | | | | | | | |
|---|--|--|--|------------------------|----------|---|------|--------------------------|------|--|--|
| 1) Name and Title of Person Submitting the Request: Brice McCluskey, Operations Program Associate | | 2) Date When Request Submitted: 1/7/2020 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting | | | | | | | | | |
| 3) Name of Board, Committee, Council, Sections: Cemetery Board | | | | | | | | | | | |
| 4) Meeting Date: 1/21/2020 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Administrative Matters: 1) Election of Officers 2) Appointment of Liaisons and Alternates 3) Delegation of Authorities | | | | | | | | | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: N/A | | | | | | | | |
| 10) Describe the issue and action that should be addressed: 1) The Board should conduct Election of its Officers for 2020 2) The Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate 3) The Board should review and then consider continuation or modification of previously delegated authorities or any additional delegations that may be deemed necessary | | | | | | | | | | | |
| 11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;"><i>Brice McCluskey</i></td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;">1/7/2020</td> </tr> <tr> <td style="text-align: right;">Signature of person making this request</td> <td style="text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (if required)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table> | | | | <i>Brice McCluskey</i> | 1/7/2020 | Signature of person making this request | Date | Supervisor (if required) | Date | Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date | |
| <i>Brice McCluskey</i> | 1/7/2020 | | | | | | | | | | |
| Signature of person making this request | Date | | | | | | | | | | |
| Supervisor (if required) | Date | | | | | | | | | | |
| Executive 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | | | | | | | | | |

CEMETERY BOARD

2019 Elections and Liaison Appointments

The 2018 Slate of Officers were re-elected to continue in 2019.

| ELECTION RESULTS | |
|-------------------------------|--|
| Board Chair | Francis Groh |
| Vice Chair | Bernard Schroedl |
| Secretary | Patricia Grathen |
| LIAISON APPOINTMENTS | |
| Credentialing Liaisons | Bernard Schroedl <i>Alternate: Francis Groh</i> |
| Monitoring/PAP Liaison | Bernard Schroedl <i>Alternate: John Reinemann</i> |
| Legislative Liaisons | Francis Groh, John Reinemann |
| Annual Report Liaison | Francis Groh |
| Conveyance Liaison | Francis Groh |
| Travel Liaison | Francis Groh <i>Alternate: Bernard Schroedl</i> |
| Screening Panel | Patricia Grathen, Francis Groh <i>Alternate: Bernard Schroedl</i> |

Liaison added at the 11/5/2019 meeting:

| LIAISON APPOINTMENTS | |
|------------------------------|--|
| Transactional Liaison | Francis Groh <i>Alternate: E. Glen Porter</i> |

Document Signature Delegations

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: John Reinemann moved, seconded by Patricia Grathen, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: John Reinemann moved, seconded by Bernard Schroedl, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Monitoring Delegations

MOTION: John Reinemann moved, seconded by Patricia Grathen, to adopt the “Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor” as presented. Motion carried unanimously.

Conveyance Liaison Delegation

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Conveyance Liaison to review any requests submitted to the Cemetery Board under Wis. Stat. s. 157.08(2)(b), to request additional information as necessary, and make the final decision to approve or object. Motion carried unanimously.

Added at 11/5/2019 meeting:

Transactional Liaison Delegation

MOTION: E. Glen Porter moved, seconded by Patricia Grathen, to delegate authority to the Transactional Liaison to review any requests (excluding conveyance approval requests under §157.08(2)(b) and §157.064) submitted to the Cemetery Board under the Board’s statutory and rule oversight, to request additional information as necessary, and to make the final decision to approve or object. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: John Reinemann moved, seconded by Patricia Grathen, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between DSPS and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate credentialing authority to DSPS to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: John Reinemann moved, seconded by Bernard Schroedl, that the Department's Attorney Supervisors, DLSC Administrator, or their designee are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

Annual Report Liaison Delegation

MOTION: John Reinemann moved, seconded by Patricia Grathen, to delegate authority to the Annual Report Liaison to review with DSPS staff annual reports and make recommendations as needed. DSPS staff will follow-up with the Annual Report Liaison as to recommendations that were made. Motion carried unanimously.

Voluntary Surrenders

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to authorize DSPS staff to provide national regulatory related bodies with all Board member contact information that DSPS retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: John Reinemann moved, seconded by Bernard Schroedl to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Legislative Liaison Delegation

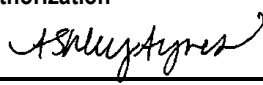
MOTION: John Reinemann moved, seconded by Patricia Grathen, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Travel Delegation

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to delegate authority to the Travel Liaison to approve any board member travel. Motion carried unanimously.

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

AGENDA REQUEST FORM

| | | | |
|--|--|--|--|
| 1) Name and Title of Person Submitting the Request: Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance | | 2) Date When Request Submitted: December 31, 2019 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: January 21, 2020 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? Appointment of Monitoring Liaison and Delegated Authorities | |
| 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? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: | |
| 10) Describe the issue and action that should be addressed: 1. Appoint primary and alternate Monitoring liaisons. 2. Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. 3. Delegate authority to Board Counsel to sign Monitoring orders on behalf of the Board/Section, after the Board/Section has taken action on Monitoring agenda items. <i>Current practice is for Department Monitors to draft Monitoring orders after Board meetings, send them to Board Counsel for review, and then send them to the Executive Director for subsequent review and signature. With the new proposed process, Department Monitors would only send their orders to Board Counsel for review and signature, eliminating the need for a second review by the Executive Director.</i> | | | |
| 11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  <hr/> Signature of person making this request </div> <div style="text-align: center;"> December 31, 2019 <hr/> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> Supervisor (if required) </div> <div style="text-align: center;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </div> <div style="text-align: center;"> Date </div> </div> | | | |
| 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | |

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
8. Grant or deny a request to appear before the Board/Section in closed session.
9. Board Monitoring Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
10. (*Except Pharmacy*) Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.
11. (*Except Pharmacy*) Grant Respondent’s petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.
 - a. Year 1: 49 screens (including 1 hair test, if required by original order)
 - b. Year 2: 36 screens (plus 1 hair test, if required by original order)
 - c. Year 3: 28 screens plus 1 hair test
 - d. Year 4: 28 screens plus 1 hair test
 - e. Year 5: 14 screens plus 1 hair test

12. (*Dentistry only*) – Ability to approve or deny all requests from a respondent.

13. (*Except Nursing*) – Board Monitoring Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
 2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.
 3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
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**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

| | | | |
|--|---|---|--|
| 1) Name and Title of Person Submitting the Request: Kimberly Wood, Program Assistant Supervisor-Adv. | | 2) Date When Request Submitted: 1/8/2020 | |
| Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting | | | |
| 3) Name of Board, Committee, Council, Sections: Cemetery Board | | | |
| 4) Meeting Date: 1/21/2020 | 5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 6) How should the item be titled on the agenda page? 2020 Meeting Dates | |
| 7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session | 8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9) Name of Case Advisor(s), if required: N/A | |
| 10) Describe the issue and action that should be addressed: Please review the finalized 2020 meeting dates. Any conflicts should be identified so to ensure quorum. 1/21/2020 5/12/2020 8/11/2020 11/3/2020 | | | |
| 11) Authorization | | | |
| Kimberly Wood | | 1/8/2020 | |
| Signature of person making this request | | Date | |
| Supervisor (if required) | | Date | |
| Executive 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 Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. | | | |