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**VIRTUAL/TELECONFERENCE  
CEMETERY BOARD  
Virtual, 4822 Madison Yards Way, Madison  
Contact: Will Johnson (608) 266-2112  
May 9, 2023**

*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 February 21, 2023 (4-11)**
- C. Introductions, Announcements, and Recognition**
- D. Reminders: Conflicts of Interest, Scheduling Concerns**
- E. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff and Board Updates
  - 2) Board Members – Term Expiration Dates
    - a. Grathen, Patricia A. – 7/1/2022
    - b. Marshall, Izzy C. – 7/1/2024
    - c. Porter, E. Glen – 7/1/2023
    - d. Reinemann, John – 7/1/2024
    - e. Schroedl, Bernard G. – 7/1/2022
- F. Administrative Rule Matters – Discussion and Consideration (12)**
  - 1) Adoption Order: CB 4, Relating to Care Fund Income (**Additional Materials**)
  - 2) Pending or Possible Rulemaking Projects (**13**)
- G. Addition to the Cemetery Board Position Statement Page – Discussion and Consideration**
  - 1) Relating to the Statutory Requirement, 157.114 Duty to Provide for Burials
- 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) Public Health Emergencies
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Division of Legal Services and Compliance (DLSC) Matters
- 16) Presentations of Petitions for Summary Suspension
- 17) Petitions for Designation of Hearing Examiner
- 18) Presentation of Stipulations, Final Decisions and Orders
- 19) Presentation of Proposed Final Decision and Orders
- 20) Presentation of Interim Orders
- 21) Petitions for Re-Hearing
- 22) Petitions for Assessments
- 23) Petitions to Vacate Orders
- 24) Requests for Disciplinary Proceeding Presentations
- 25) Motions
- 26) Petitions
- 27) Appearances from Requests Received or Renewed
- 28) 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. 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

K. Consulting with Legal Counsel

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

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

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

**ADJOURNMENT**

**NEXT MEETING: AUGUST 8, 2023**

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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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dps.wi.gov>. 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. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or the Meeting Staff at 608-267-7213.

STATE OF WISCONSIN  
CEMETERY BOARD

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IN THE MATTER OF RULEMAKING : ORDER OF THE  
PROCEEDINGS BEFORE THE : CEMETERY BOARD  
CEMETERY BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 22-023)  
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ORDER

An order of the Cemetery Board to amend Ch. CB 4 (title), and to create s. CB 4.06 relating to care fund income.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** ss. 157.11 (9g) (a) 2, 157.11 (9g) (c), 157.19 (2), and 440.905 (2), Stats.

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

**Explanation of agency authority:**

Section 157.19 (2)(d), Stats., provides “the cemetery board shall promulgate rules establishing reasonable requirements and standards for the approval of changes under pars.(b) and (c).”

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:** N/A

**Plain language analysis:**

The objective of the proposed rule is to revise CB 4 to reflect the Cemetery Board’s position that care fund income consisting of interest income, dividends, and capital gains, may be withdrawn by the cemetery authority for legal use without Cemetery Board approval.

**Summary of, and comparison with, existing or proposed federal regulation:** None.

**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:** N/A

### **Comparison with rules in adjacent states:**

**Illinois:** According to Illinois Compiled Statutes chapter 760 section 3, net income earned on invested care funds “shall be allocated and used for the purposes specified in the transaction by which the principal was established in the proportion that each contribution bears to the entire sum invested.” [760 ILCS 100/3]

**Iowa:** According to Iowa Administrative Code chapter 191, Iowa uses the total return distribution method to plan for distributing care fund income. The income is to be used in the best interest of the cemetery and must be authorized by the instrument that established the care fund. [191 IAC 101.8(2) and (3)(d)]

**Michigan:** According to Michigan Compiled Laws Section 456.536, each cemetery is required to maintain an “irrevocable endowment and perpetual care trust fund.” Income on this fund “shall be used only for endowment care”. [MCL 456.536(16)(1)]

**Minnesota:** According to Minnesota Statutes Section 306.42, interest accrued on a permanent care and improvement fund is to be used by the cemetery’s board of directors to care for that cemetery. [2021 Minnesota Statutes 306.42]

**Summary of factual data and analytical methodologies:** The Board previously clarified the use of care fund income in a position statement available on the Department of Safety and Professional Services’ website. Upon further review, the Board then determined that a clarification laid out in rule would also be beneficial to its licensees.

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

The proposed rules were 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. None were received.

### **Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis are 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 [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov), or by calling (608) 266-6795.

**Agency contact person:**

Dana Denny, 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) 287-3748; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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TEXT OF RULE

SECTION 1 Chapter CB 4 (title) is amended to read:

**Chapter CB 4**  
**~~CHANGE OF TRUSTEE OF CARE FUNDS AND PRENEED TRUST FUNDS~~**

SECTION 2 CB 4.06 is created to read:

**CB 4.06 Income from care funds. (1)** In this section, “income earned” means and includes any capital gains, any interest, and any dividends earned on a cemetery care fund account.

- (2) Only the principal deposits into cemetery care funds required under s. 157.11 (9g) (c), Stats., must remain intact.
- (3) Income earned on a cemetery care fund may be withdrawn from the care fund by the cemetery authority and be used for the purposes specified in s. 157.11 (9g) (a) 2., Stats.
- (4) Board approval is not required to withdraw income earned on a cemetery care fund account.

SECTION 3 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.

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(END OF TEXT OF RULE)

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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chair, Cemetery Board