



**VIRTUAL/TELECONFERENCE
CEMETERY BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Adam Barr (608) 266-2112
May 10, 2022**

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 22, 2021 (4-9)**
- 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. Groh, Francis J. – 7/1/2020
 - c. Porter, E. Glen – 7/1/2023
 - d. Reinemann, John – 7/1/2020
 - e. Schroedl, Bernard G. – 7/1/2022
- F. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule 22-023 (CB 4) Relating to Care Fund Income (10-19)**
 - 1) Review and Respond to Public Hearing Comments and Clearinghouse Report
- G. Board Chair Meeting and Options to Address Department Resources – Discussion and Consideration**
- H. Administrative Rule Matters – Discussion and Consideration**
 - 1) Pending and Possible Rulemaking Projects
- I. Cemetery Authority and Preneed Seller Annual Report Review and Audit – Discussion and Consideration (20)**

J. COVID-19 – Discussion and Consideration

K. 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

L. 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.).

M. 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

N. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: AUGUST 9, 2022

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. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
CEMETERY BOARD
MEETING MINUTES
FEBRUARY 22, 2022**

PRESENT: Patricia Grathen, Francis Groh, E. Glen Porter, John Reinemann

EXCUSED: Bernard Schroedl

STAFF: Adam Barr, Executive Director; Jon Derenne, Legal Counsel; Dana Denny, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; Kimberly Wood, Program Assistant Supervisor-Adv; and other Department staff.

CALL TO ORDER

E. Glen Porter, Chairperson, called the meeting to order at 9:35 a.m. A quorum was confirmed with four (4) members present.

ADOPTION OF AGENDA

MOTION: Patricia Grathen moved, seconded by Francis Groh, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF NOVEMBER 2, 2021

MOTION: John Reinemann moved, seconded by Francis Groh, to approve the Minutes of November 2, 2021 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Election of Officers

Slate of Officers

NOMINATION: Francis Groh nominated the 2021 slate of officers to continue in 2022. All officers present at the meeting accepted their nominations.

Adam Barr, Executive Director, called for nominations three (3) times.

The Slate of Officers was elected by unanimous voice vote.

ELECTION RESULTS	
Chairperson	E. Glen Porter
Vice Chairperson	Bernard Schroedl
Secretary	Patricia Grathen

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Bernard Schroedl <i>Alternate: Francis Groh</i>
Monitoring Liaison(s)	Bernard Schroedl <i>Alternate: John Reinemann</i>
Professional Assistance Procedure (PAP) Liaison(s)	Bernard Schroedl <i>Alternate: John Reinemann</i>
Legislative Liaison(s)	E. Glen Porter, John Reinemann
Annual Report Liaison(s)	E. Glen Porter
Conveyance Liaison(s)	E. Glen Porter
Transactional Liaison(s)	E. Glen Porter <i>Alternate: Francis Groh</i>
Travel Authorization Liaison(s)	E. Glen Porter <i>Alternate: Bernard Schroedl</i>
Screening Panel	Patricia Grathen, E. Glen Porter <i>Alternate: Bernard Schroedl</i>

Delegation of Authorities

Document Signature Delegations

MOTION: John Reinemann moved, seconded by Patricia Grathen, 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: Francis Groh 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: Patricia Grathen moved, seconded by Francis Groh, 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.

Delegation to Chief Legal Counsel Due to Loss of Quorum

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate the review and authority to act on disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum after one meeting. Motion carried unanimously.

Monitoring Delegations

Delegation of Authorities for Monitoring

MOTION: Francis Groh moved, seconded by John Reinemann, to adopt the "Roles and Authorities Delegated for Monitoring" document as presented in the February 22, 2022 agenda materials on pages 14-15. Motion carried unanimously.

Delegation of Authorities for Legal Counsel to Sign Monitoring Orders

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate to Legal Counsel the authority to sign Monitoring orders that result from Board meetings on behalf of the Board Chairperson. 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 the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegation of Authority for Predetermination Reviews

MOTION: John Reinemann moved, seconded by Patricia Grathen, to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f). Motion carried unanimously.

Delegation of Authority for Conviction Reviews

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the business of cemeteries. Motion carried unanimously.

Delegation to DSPS When Applicant's Conviction History Has Been Previously Reviewed

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous cemetery credential and there is no new conviction record. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Patricia Grathen moved, seconded by John Reinemann, to delegate authority to the Department's Attorney Supervisors 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.

Voluntary Surrenders

MOTION: Francis Groh moved, seconded by Patricia Grathen, 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 Patricia Grathen, to authorize Department staff to provide national regulatory related bodies with all board member contact information that the Department retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Patricia Grathen moved, seconded by Francis Groh, 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: Francis Groh 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.

Annual Report Liaison(s) Delegation

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate authority to the Annual Report Liaison(s) 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.

Conveyance Liaison Delegation

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

Transactional Liaison Delegation

MOTION: John Reinemann moved, seconded by Patricia Grathen, to delegate authority to the Transactional Liaison(s) to review any requests (excluding conveyance approval requests under Wis. Stats. § 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.

Travel Authorization Liaison Delegation

MOTION: Francis Groh moved, seconded by Patricia Grathen, to delegate authority to the Travel Authorization Liaison to approve any board member travel to and/or participation in events germane to the board, and to designate representatives from the Board to speak and/or act on the Board's behalf at such events. Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 10:38 a.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Dana Denny		2) Date when request submitted: 04/28/2022 <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: 05/10/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 9:30 A.M. Public Hearing : Clearinghouse Rule CR 22-023 (CB 4) Relating to Care Fund Income 1. Review and Respond to Preliminary Public Hearing Comments and Clearinghouse Report	
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: The Board will hold a Public Hearing on this rule as required by the rulemaking process. Attachments: Proposed Permanent Rule Language – CB 4, Relating to Care Fund Income CB 4 Fiscal Estimate and Economic Impact Analysis Clearinghouse Report 22-023 Clearinghouse Rule Comments 22-023 Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
Signature of person making this request <hr/> Dana Denny		Date <hr/> 04/28/22	
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.			

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 create CB 4.06 relating to care fund income.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 157.11 (9g) (a) 2 and 157.11 (9g) (c), 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 it’s 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 at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

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.

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

Comments may be submitted to Dana Denny, 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 public hearing which will be held on May 10, 2022, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1 CB 4.06 is created to read:

CB 4.06 Income from care funds. Income earned on a cemetery care fund account includes any capital gains, any interest, and any dividends.

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

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

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date January 25, 2022
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) CB 4	
4. Subject Care Fund Income	
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 The objective of the proposed rule is to revise CB 4, relating to care fund income, 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.	
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 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. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
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) None.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to clarify how care fund income can be used in Wisconsin. The alternative to implementing the rule is that the Wisconsin Administrative Code CB 4 will remain as is, without clarification on how care fund income can be used.	
16. Long Range Implications of Implementing the Rule The long range implications are clear practices surrounding the management of cemetery care funds.	
17. Compare With Approaches Being Used by Federal Government None	
18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

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]

19. Contact Name Dana Denny, Administrative Rules Coordinator	20. Contact Phone Number 608-287-3718
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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 Kelley
Clearinghouse Assistant 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 **22-023**

AN ORDER to create CB 4.06, relating to care fund income.

Submitted by **CEMETERY BOARD**

03-04-2022 RECEIVED BY LEGISLATIVE COUNCIL.

03-28-2022 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

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 22-023

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. It appears that the rule is interpreting s. 159.19 (2), Stats., particularly par. (b). The board should consider listing this statute in the “Statutes Interpreted” section of the rule summary.

b. It is unclear whether the first sentence in s. CB 4.06 is introductory material or a definition. If it is a definition, it should be restructured and formatted as a definition, and the term should be used consistently throughout the rule. [s. 1.07 (2), Manual.] If it is introductory material, it should be formatted as described in s. 1.11 of the Manual. The board should review its intent of the provision and revise accordingly.

c. The proposed rule promulgates a provision in ch. CB 4, which is entitled, “Change of Trustee of Care Funds and Preneed Trust Funds”. The proposed rule, however, relates to care fund income earned, not changes to trustees of a care fund or preneed trust fund. The board should consider either renaming the title of the chapter, or promulgating the rule in another chapter of the administrative code.

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

a. In s. CB 4.06 (1), it is unclear what it means for principal deposits to “remain intact”. The board should review the intent of this rule and clarify what this phrase means. Also, in this provision, “.” should follow “Stats”.

b. In s. CB 4.06 (2), it is unclear from where income earned may be withdrawn. The board should review its intent for this rule and more precisely articulate in the rule from where this income earned could be withdrawn. Also, in this provision, “,” Stats.” should follow “s. 157.11 (9g) (a) 2.”.

c. In s. CB 4.06 (3), it is unclear who may withdraw earned income on a cemetery care fund account without board approval. The board should review the intent of the proposed rule and clarify who may withdraw this income earned without the board’s approval.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jon Derenne, Attorney		2) Date when request submitted: April 25, 2022 <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: May 10, 2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Cemetery Authority and Preneed Seller Annual Report Review and Audit	
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 applicable: N/A	
10) Describe the issue and action that should be addressed: The board will discuss with DPD and DMS staff the process for auditing the annual reports received from licensed/registered cemetery authorities and preneed sellers.			
11) Authorization			
<i>Jon Derenne</i>		April 25, 2022	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 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.			