



**VIRTUAL/TELECONFERENCE
CEMETERY BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Adam Barr (608) 266-2112
November 2, 2021**

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 August 10, 2021 (4-5)**
- 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. Administrative Rule Matters – Discussion and Consideration (6-11)**
 - 1) Preliminary Rule Draft: CB 4, Relating to Care Fund Income
 - 2) Pending and Possible Rulemaking Projects
- G. COVID-19 – Discussion and Consideration**
- 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. 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: FEBRUARY 22, 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, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
CEMETERY BOARD
MEETING MINUTES
AUGUST 10, 2021**

PRESENT: Francis Groh, E. Glen Porter, John Reinemann, Bernard Schroedl

EXCUSED: Patricia Grathen

STAFF: Adam Barr, Executive Director; Jon Derenne, Legal Counsel; Megan Glaeser, Bureau Assistant; Katlin Schwartz, Bureau Assistant; and other Department staff.

CALL TO ORDER

E. Glen Porter, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with four (4) members present.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES OF MAY 11, 2021

MOTION: Bernard Schroedl moved, seconded by Francis Groh, to approve the Minutes of May 11, 2021 as published. Motion carried unanimously.

INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION

Recognition – Lloyd Shepherd, Public Member

MOTION: E. Glen Porter moved, seconded by Bernard Schroedl, to recognize and thank Lloyd Shepherd for his years of dedicated service to the Cemetery Board and State of Wisconsin. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

CB 1, Relating to Applications for Cemetery Salesperson and Pre-Need Seller Credentials

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to approve the Adoption Order for Clearinghouse Rule 20-034 on CB 1, relating to Applications for Cemetery Salesperson and Pre-need Seller Credentials. Motion carried unanimously.

REVIEW OF PREVIOUSLY WITHDRAWN CEMETERY BOARD POSITION STATEMENTS

MOTION: Bernard Schroedl moved, seconded by John Reinemann, to delegate authority to the Chairperson to approve the previously withdrawn position

statements for publication on the board's website, as revised per the board's discussion at the August 10, 2021 meeting and following consultation with Board Member Francis Groh. Motion carried unanimously.

ADJOURNMENT

MOTION: Bernard Schroedl moved, seconded by Francis Groh, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:06 a.m.

DRAFT

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 10/18/21 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: 11/02/21	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. CB 4, Relating to Care Fund Income 2. Pending or Possible Rulemaking Projects																
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: N/A																
10) Describe the issue and action that should be addressed: Work on Preliminary Rule Draft for CB 4; Review of Board Rule Projects Attachments: <ul style="list-style-type: none"> CB 4 Scope Statement WI Admin Code Chapter CB 4 CB 4 Draft Rule Text Rule Projects Chart 																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">11)</td> <td style="width: 60%; text-align: center;">Authorization</td> <td style="width: 30%;"></td> </tr> <tr> <td></td> <td style="text-align: center;"><i>Nilajah D. Hardin</i></td> <td style="text-align: center;">10/18/21</td> </tr> <tr> <td></td> <td style="text-align: center;">Signature of person making this request</td> <td style="text-align: center;">Date</td> </tr> <tr> <td></td> <td style="text-align: center;">Supervisor (if required)</td> <td style="text-align: center;">Date</td> </tr> <tr> <td></td> <td colspan="2" style="text-align: center;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				11)	Authorization			<i>Nilajah D. Hardin</i>	10/18/21		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	
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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.																		

STATEMENT OF SCOPE

CEMETERY BOARD

Rule No.: CB 4

Relating to: Care Fund Income

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed 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. The Cemetery Board will also review and possibly revise CB 4 to bring the code into conformity with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Principal deposits into the care fund required under 157.11 (9g) (c), Stats. must remain intact. Any income earned on the care fund account may be withdrawn and used for the lawful purposes specified in 157.11 (9g) (a) 2., Stats.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

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..."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Cemetery authorities, cemetery salespersons, cemetery preneed sellers, and trustees of care funds and preneed trust funds.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:


None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:


Authorized Signature

6/15/2021
Date Submitted

Approved for implementation:


Authorized Signature

9/29/21
Date Submitted

Chapter CB 4

CHANGE OF TRUSTEE OF CARE FUNDS AND PRENEED TRUST FUNDS

CB 4.01 Authority.

CB 4.02 Change of trustee; applications.

CB 4.03 Standards for approval.

CB 4.04 Compliance with terms of approval.

CB 4.05 Verification of deposit.

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

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

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

CB 4.02 Change of trustee; applications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CB 4.05 Verification of deposit. Within 30 days after the transfer of the care fund or preneed trust fund, the 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.

History: CR 12-021: cr. Register August 2012 No. 680, eff. 9-1-12; CR 19-149: am. Register September 2020 No. 777, eff. 10-1-20.

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 capital gains, interest, and 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), Stats.
- (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)

**Cemetery Board
Rule Projects (updated 10/18/21)**

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
20-034	063-20	12/08/2022	CB 1	Applications for Cemetery Salesperson and Preneed Seller Credentials	Rule Effective on 10/01/21	N/A
Not Assigned Yet	076-21	03/13/2024	CB 4	Care Fund Income	Drafting	Post for EIA Comment and Submission for Clearinghouse Review