

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors
Chapter 436 Review Committee

July 15, 2008
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

July 15, 2008
Missouri Council of School Administrators
3550 Amazonas Drive (lower level)
Jefferson City, Missouri

Tuesday, July 15, 2008 – 8:30 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors, was called to order by James Reinhard, Chairman, at 8:50 a.m. on Tuesday, July 15, 2008, at the Missouri Council of School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri.

Board Members Present

James Reinhard, Chairman
Gary Fraker, Secretary
Daniel (Todd) Mahn, Member
John McCulloch, Member
Joy Gerstein, Public Member

Board Members Absent

Martin Vernon, Vice-President

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Kimberly Grinston, Board's Legal Counsel
David Broeker, Director of Division of Professional Registration
Connie Clarkston, Director of Budget & Legislation
Jeana Groose, Division of Professional Registration

Closed Meeting

Motion was made by Joy Gerstein and seconded by Gary Fraker to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was absent from the entire meeting.

July 15, 2008 – 9:30 a.m.

The State Board of Embalmers and Funeral Directors, Chapter 436 Review Committee, was called to order by James Reinhard, Chairman, at 9:40 a.m., at the Missouri Council of School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri.

COMMITTEE REGULATORS

ABSENT - Linda Bohrer, Acting Director-Department of Insurance, Financial Institutions and Professional Registration ("DIFP")

David Broeker, Director, Division of Professional Registration*

Sharon Euler, Office of the Attorney General*

Mary Erickson, Senior Enforcement Counsel- DIFP

Larry McCord, General Counsel- DIFP

Mark Stahlhuth, Senior Counsel- Financial Section, DIFP

Rich Weaver, Deputy Commissioner, Division of Finance

ADDITIONAL COMMITTEE PARTICIPANTS

James Reinhard, Chairman, State Board of Embalmers and Funeral Directors

ABSENT - Martin Vernon, Vice Chairman, State Board of Embalmers and Funeral Directors

Gary Fraker, Secretary, State Board of Embalmers and Funeral Directors

Joy Gerstein, Public Member, State Board of Embalmers and Funeral Directors

Todd Mahn, Member, State Board of Embalmers and Funeral Directors

John McCulloch, Member, State Board of Embalmers and Funeral Directors
and American Prearranged Services

Bob Baker, Wright Baker Hill Funeral Home

Barbara Brown, Layne Renaissance Chapel, LLC

ABSENT - Norma Collins, AARP

ABSENT - Tom Kutis, Kutis Funeral Home, Inc.

George Cline, Kutis Funeral Home, Inc.

Jim Moody, Lobbyist, SCI

ABSENT - Representative Timothy Meadows

ABSENT - Barbara Newman, Representative Meadows' Office

Michael Meierhoffer, Meierhoffer Funeral Home & Crematory, Inc.

Darlene Russell, CFL Preneed

ABSENT - Josh Slocum, Executive Director, Funeral Consumer Alliance

Bill Stalter, Stalter Legal Services

Bill Trimm, Silver Haired Legislature

ABSENT - Jo Walker, Silver Haired Legislature

Don Otto, Executive Director, Missouri Funeral Directors and Embalmers
Association/Missouri Funeral Trust

Mark Warren, Inglish & Monaco- Representing the Missouri Preneed Insurers Coalition of six
(6) life insurers with interests in the Missouri preneed market, including
Forethought Life Insurance Company, Funeral Directors Life, Great Western,

* Did not participate as a voting member of the Working Group. Due to pending litigation, the Missouri Attorney General's Office also refrained from voting, however, the Attorney General's Office assisted in Working Group discussions.

Homesteaders Life, National Guardian Life Insurance Company, and Pekin Life.

ABSENT - Mike Winters, Lobbyist, American Prearranged Services

COMMITTEE SUPPORT STAFF

Connie Clarkston, Director of Budget & Legislation, Division of Professional Registration*
Becky Dunn, Executive Director, State Board*
Jeana Groose, Division of Professional Registration*
Kimberly Grinston, Legal Counsel, Division of Professional Registration*
Lori Hayes, Inspector, State Board*

*Will not participate as a voting member of the Chapter 436 Review Committee Working Group. Due to pending litigation, the Missouri Attorney General's Office will also refrain from voting, however, the Attorney General's Office will assist in Working Group discussions.

Visitors Present:

Deanna Borland, Mike Winter Consultants
Kalene Summerville, Summerville & Patton Funeral Home
Brad Speaks, Speaks Family Legacy Chapels
Sarah Madden, Attorney General's Office
John Perkins
Gerry Kraus, Homesteaders Life Company
Chris Roth, Bopp Chapel, MFDEA
Rodney Gray, Hendren Andrae, LLC
Tom Reichards, Office of Endowed Care Cemeteries/Professional Registration
Dennis Kelly, Austin Layne Mortuary

The State Board of Embalmers and Funeral Directors, Chapter 436 Review Committee, will be discussing the following topics listed, along with the topics listed for the July 8, 2008 not completed. The board has scheduled additional meetings on July 24nd, July 29th and August 12 to address additional concerns.

Approval of Agenda

Motion was made by Todd Mahn and seconded by Joy Gerstein to approve the open agenda. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was absent from the entire meeting.

Discussion will be reasonably limited to the topics identified below. The topics listed below are not suggestions of the Board. These are general topics/suggestions that have been presented to the board prior to the Chapter 436 meetings/discussions. Discussion will not be summarized in the minutes. A copy of the open meeting transcription will be maintained as a part of the meeting minutes. The Chapter 436 Review Committee will take all public suggestions and proposals under review and consideration before or at the next Chapter 436 Review Committee Meeting.

JULY 15TH
PROPOSED OPEN AGENDA

A. 436 Discussion

PRENEED FUNDS

TOPIC
1. Depositing of preneed funds (when funds are deposited)
2. Collections of funds by preneed providers
3. Record keeping for preneed fund payments
4. Notification to consumers of preneed fund payments, deposits, interest or account statements
5. Amount of funds required to be trusted (100%, 80%, etc.)
6. Refund of preneed funds
7. Amount of funds retained by seller/provider
8. Payments to providers for services rendered (time periods, recordkeeping, amount, etc.)

TRUST ISSUES:

TOPIC
9. Trustee duties/responsibilities
10. Independent investment advisors (prohibiting or restricting IIAs, requirements for selection, clarifying use/duties)
11. Reporting/notification requirements for trustees (reporting/notification to the Bd., consumers sellers, providers, the AG, etc.)
12. Record keeping for trustees
13. Trust disbursements
14. Investment of trust funds (term life, whole life, "reasonable person" standard)
15. Location of trustees/trust accounts (Does the trust/trustee have to be in Missouri?)
16. Location of trust records (Where should records be kept)
17. Commingling of trust funds
18. "Rollover"/transfer of trust funds
19. Notification of trust changes/transfers (i.e.- notification to the Bd., sellers, consumers, etc.)
20. Allocation of preneed interest

HANDLING OF PRENEED CONTRACTS

TOPIC
21. Portability (changing providers or transferring to another seller)

OPEN AGENDA JULY 8, 2008
(HIGHLIGHTED ITEMS IDENTIFIED AS COMPLETED.)

Items not highlighted will be discussed today OR future meeting date.)

A. CHAPTER 436 LEGISLATIVE DISCUSSION:

GENERAL ADMINISTRATION:

TOPIC
1. Transferring Chapter 436 regulatory authority to another agency (i.e.- Insurance, Finance, the Attorney General's Office, etc.) COMPLETED
2. Transferring auditing functions <u>only</u> to another agency (i.e.- Insurance, Finance, the Attorney General's Office, etc.) COMPLETED

PRENEED SELLER ISSUES

TOPIC
3. Allowing/prohibiting third party sellers COMPLETED
4. Allowing insurance funded preneed plans only COMPLETED
5. Restricting preneed sales to insurance agents only COMPLETED
6. Requiring bonding/insurance for preneed sellers

INSURANCE ISSUES

TOPIC
7. Allowed use of insurance funded preneed plans (Including what type of insurance plans may be used)
8. Changing/clarifying regulation of preneed sellers selling insurance funded preneed plans only (Should this go to the Bd. or the Department of Insurance?) COMPLETED

PRENEED PROVIDER ISSUES

TOPIC
9. Clarifying who can be licensed as a preneed provider (i.e.- must all preneed providers be licensed funeral establishments) COMPLETED
10. Requiring bonding/insurance for preneed providers

LICENSING/REGISTRATIONS:

TOPIC
11. Changing a preneed "registration" to a preneed "license" COMPLETED
12. Registering/licensing of individuals selling on behalf of preneed sellers COMPLETED
13. Licensing requirements for preneed registrants
14. Clarifying/changing preneed registration or licensing requirements for cemeteries
15. Clarifying whether trust accounts are required for all preneed sellers COMPLETED

JOINT ACCOUNTS

TOPIC

16. Clarifying/amending persons authorized to use joint accounts (i.e.- should they be allowed for providers, sellers or both) **COMPLETED**

HANDLING OF PRENEED CONTRACTS

TOPIC

17. Changing/clarifying basic requirements for preneed contracts

18. Adopting/requiring standard forms for preneed contracts

19. Requiring the filing or approval of preneed forms & contracts with/by the Bd. or other agency

20. Definition of a "preneed contract"

COMPLAINTS/DISCIPLINE

TOPIC

21. Changing/clarifying the current Chapter 436 investigative/examination/audit process

22. Modifying the current disciplinary authority (Should it be limited/expanded?) **COMPLETED**

23. Allowing/modifying release of complaint information to the public **COMPLETED**

24. Allowing/modifying release of complaint information to providers/sellers with contractual relationships **COMPLETED**

25. Allowing civil penalties/fines for Chapter 436 violations

26. Allowing the regulatory agency for Chapter 436 to hire legal counsel

27. Expanding/modifying investigative, audit or examination powers of the Board/Attorney General's Office/Missouri Department of Insurance, etc.

28. Expanding/modifying criminal/civil authority of the Board/Insurance/Attorney General's Office

B. GENERAL DISCUSSION:

- Summary and general overview of trusting requirements for preneed funds from other states
- Summary and general overview of preneed refund requirements from other states (on cancellation, default, transfer, etc.)

Closed Meeting

Motion was made by Gary Fraker and seconded by Joy Gerstein to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; and Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was absent from the entire meeting.

Recess

The board recessed for a Closed Meeting working lunch at 12:00 p.m. and reconvened at 1:30 p.m.

12:15 p.m. – 1:30 p.m. – Closed Meeting

Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

1:30 p.m. - 5:30 p.m. – Open Meeting

Missouri Council of School Administrators
3550 Amazonas Drive (lower level)
Jefferson City, MO 65109

The State Board of Embalmers and Funeral Directors, Chapter 436 Review Committee, returned to open session. The open meeting was called to order by James Reinhard, Chairman, at 1:30 p.m., at the Missouri Council of School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri.

Chapter 436 Review discussion continued throughout the meeting.

Adjournment

A motion was made by Todd Mahn and seconded by Gary Fraker to adjourn. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was absent from the entire meeting. The meeting adjourned at 4:45 p.m. on Tuesday, July 15, 2008.

Executive Director: Billy Dumas

Approved by the Board on: December 2-4, 2008