

AMENDED OPEN AGENDA
**Missouri State Board of Embalmers
and Funeral Directors**

**August 18-20, 2008
Country Club Hotel and Spa
HH & Carol Roads
Lake Ozark, Missouri**

Monday, August 18, 2008 – 8:00 a.m. – 8:01 a.m.

Call to Order

Roll Call

1. Approval of Agenda

Closed Meeting. The Board may move into closed session pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; 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; Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection (5) RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the open minutes of previous meetings.

Wednesday, August 20, 2008 – 9:00 a.m.

Call to Order

Roll Call

2. Approval of Minutes

- **December 3-5, 2007 Open Meeting Minutes**

3. Executive Director's Report

4. Embalmer and Funeral Directors Renewal Update

5. End of the Year Report

6. **Legal Counsel Report (Kim Grinston)**
7. **Federal Trade Commission**
8. **Rules and Regulations**
 - **New**
9. **Division of Professional Registration 2008 Legislative Summary**
10. **FY 2009 Legislative Proposals**
 - **Legal Counsel**
 - **Full Time Employee**
 - **Other**
11. **St. Louis County Health Medical Examiner – Death Certificates**
12. **Future Meeting Dates**
 - **December 2-4, 2008 – Kansas City**
 - **March 2009**
13. **Chapter 436 Review Committee Update**
14. **10:30 a.m.-Notice of Liquidation Plan and Hearing** <http://lincolnmemoriamlife.com>
15. **Open Discussion – Dialogue with General Public Attending Open Session
Continuation and/or Completion of any Unfinished Open Session Business**

Closed Meeting. The Board may move into closed session pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; 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; Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection (5) RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the open minutes of previous meetings.

Adjournment

dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the open minutes of previous meetings.

Adjournment

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors

December 3-5, 2007
InterContinental Kansas City at the Plaza
401 Ward Parkway
Kansas City, Missouri

Monday, December 3, 2007 – 8:30 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Marcia Shadel, Chairperson, at 9:00 a.m. on Monday, December 3, 2007, at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Missouri.

Board Members Present

Marcia Shadel, Chairperson
James Reinhard, Secretary
Martin Vernon, Member
Gary Fraker, Member
Daniel (Todd) Mahn
Joy Gerstein, Public Member

Staff Present

Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Lori Hayes, Inspector
David Barrett, Division's Legal Counsel

Marcia Shadel introduced Daniel Todd Mahn, appointed by Governor Matt Blunt to replace Kenneth McGhee who has served on the board since 2002. Mr. Mahn is the owner and operator of Mahn Funeral Homes in DeSoto and Festus.

Approval of Agenda

Motion was made by Joy Gerstein and seconded by James Reinhard to approve the open agenda. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Election of Officers

A motion was made by Gary Fraker and seconded by Joy Gerstein to nominate and vote in by acclamation James Reinhard as Chairman of the State Board of Embalmers and Funeral Directors. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

A motion was made by Gary Fraker and seconded by Joy Gerstein to nominate and vote in by acclamation Marcia Shadel as Vice-Chairman of the State Board of Embalmers and

Funeral Directors. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

A motion was made by Gary Fraker and seconded by Joy Gerstein to nominate and vote in by acclamation Martin Vernon as Secretary of the State Board of Embalmers and Funeral Directors. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Closed Meeting

Motion was made by Gary Fraker and seconded by Martin Vernon 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 educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; 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; Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection (5) RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the open minutes of previous meetings. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Charles Sheldon & Deborah Sheldon dba/Sheldon-Goodrich Funeral Home – Probation Violation Hearing

The probation violation hearing scheduled for 1:30 p.m. on today's date did not occur for Charles Sheldon & Deborah Sheldon dba/Sheldon-Goodrich Funeral Home due to the chairman granting continuance.

Charles R. Sheldon – Probation Violation Hearing

The probation violation hearing scheduled for 2:00 p.m. on today's date did not occur for Charles R. Sheldon due to the chairman granting continuance.

Wednesday, December 5, 2007 – 9:00 a.m.

The State Board of Embalmers and Funeral Directors returned to open session on Wednesday, December 5, 2007. The open meeting was called to order by Marcia Shadel, Chairperson, at 9:00 a.m. on Wednesday, December 5, 2007, at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Missouri.

Board Members Present

Marcia Shadel, Chairperson
James Reinhard, Secretary
Martin Vernon, Member
Gary Fraker, Member
Daniel (Todd) Mahn
Joy Gerstein, Public Member

Staff Present

Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Sharon Euler, Assistant Attorney General

Public Present

Don Lakin, Lakin Funeral Home
John Frownfelter, DW Newcomers
Rusty Shadel, Shadel's Colonial Chapel
Randy Singer
Bill Stalter, DW Newcomers
Don Otto, MFDEA/MFT
Robert Baker, MFDEA
Mike Meierhoffer, Meierhoffer Funeral Home
Cliff Hibbs, Meierhoffer Funeral Home
Greg Russell, Self
John McCulloch, APS

Approval of Minutes

March 27-29, 2007 Open Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 27-29, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

April 24, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the April 24, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

May 2, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 2, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

May 10, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 10, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

May 21, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 21, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 5, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 5, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 12, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 12, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 14, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 14, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 20, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 20, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 27, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 27, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

June 29, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 29, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

July 3, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the July 3, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

July 12, 2007 Open Conference Call Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the July 12, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

July 16, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the July 16, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

August 1, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the August 1, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

August 6, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the August 6, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

August 14, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the August 14, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

August 27-29, 2007 Open Meeting Minutes

August 27- 28, 2007 closed meeting minutes were not completed for approval at this meeting.

August 31, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the August 31, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

September 11, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the September 11, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

September 27, 2007 Open Meeting Minutes

September 27, 2007 closed meeting minutes were not completed for approval at this meeting.

October 10, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the October 10, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

October 18, 2007 Open Mail Ballot Meeting Minutes

October 18, 2007 closed meeting minutes were not completed for approval at this meeting.

October 26, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the October 26, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

November 1, 2007 Open Mail Ballot Meeting Minutes

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the November 1, 2007 Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Marcia Shadel announced and introduced the new Election of Officers to members of the public.

James Reinhard, Chairman

Marcia Shadel, Vice-Chairman

Martin Vernon, Secretary

New officer of the board will take over at the conclusion of this meeting.

Executive Director's Report

Becky Dunn reported on the FY2008 Financial Statement as of September 30, 2007

	Year-To-Date	Projected	Remaining
FY 2008 Beginning Fund Balance	\$1,048,625.29		
Revenue	33,131.51		
Expense and Equipment	8,829.71		
Total Transfers	100,113.44		
Ending Fund Balance	972,813.65		

FY 2008 OA Cost Allocation

Board Cost:

OA Expenditures \$824.00

Auditor Expenditures \$0.00

Governor Expenditures \$93.00

Lt. Governor Expenditures \$22.00

Sec. of State Expenditures \$460.00

Atty General Expenditures \$0.00

Gen. Assembly Expenditures \$1,478.00

Capital Police \$64.00

DOR Receipts \$5,213.00

Total

\$8,152.00

Division Cost:

OA Expenditures \$148.03

Auditor Expenditures \$0.00

Governor Expenditures \$16.74

Lt. Governor Expenditures \$3.92

Sec. of State Expenditures \$82.62

Atty General Expenditures \$0.00

Gen Assembly Expenditures \$265.36

Capitol Police \$11.40

DOR Receipts \$0.00

Total

\$528.07

FY2008 Total Cost:

\$8,680.07

Rules and Regulations

Proposed Amendment 20 CSR 2120-2.060 Funeral Directing and Proposed Amendment 20 CSR 2120-2.070 Funeral Establishments previously reviewed and approved by the board and Division, were filed with the Secretary of State's Office and will be printed in the December 17, 2007 Missouri Register. Comments from the public regarding to the rule must be received no later than January 16, 2008.

Proposed Amendment 20-CSR 2120-2.070 Funeral Establishments, subsection (2)(B)(1) and subsection (2)(B)(2)

September 2007, the board voted to have legal counsel work to clarify language on Proposed Amendment 20-CSR 2120-2.070 Funeral Establishments, subsection (2)(B)(1) and subsection (2)(B)(2). Areas bolded are new language and those in brackets will be deleted.

New Proposed Amendment

(2)(B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment *[must]* shall have *[an operating]* a functioning cremation chamber~~]~~ except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any license or licensed establishment cremate human remains in the same retort used for cremating non-human remains.

(1) Cremation areas shall contain only the articles, instruments and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the entire room where the retort is located and any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber. This subsection (1) shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to May 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.

(2) Any establishment containing an area for the cremation of non-human remains prior to May 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation beings ownership of the establishment. This subsection (2) shall not apply if only the owners of the stock of a corporation changes.

A motion was made by James Reinhard and seconded by Gary Fraker to table the amended language for attorney review and clarification. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Proposed Amendment 20-CSR 2120-2.070 Funeral Establishments, subsection (4)

September 2007, the board voted to table and have legal counsel work to clarify language on Proposed Amendment 20-CSR 2120-2.070 Funeral Establishments, subsection (4). Areas bolded are new language and those in brackets will be deleted.

New Proposed Amendment

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address. **If another business is in the same building as the Missouri licensed funeral establishment, it must be separated by walls from ceiling to floor, with a separate entrance.**

(1) This separation of another business shall not apply to establishments containing multiple businesses prior to May 1, 2008.

(2) Any establishment containing more than one business prior to May 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one

- (1) or more owners or a new corporation beings ownership of the establishment. This subsection (2) shall not apply if only the owners of the stock of a corporation changes.

A motion was made by James Reinhard and seconded by Gary Fraker to table the amended language for attorney review and clarification. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Draft of Proposed Amendments 20 CSR 2120-2.070 Funeral Establishments

The board was provided the following draft of proposed amended language to be considered to 20 CSR 2120-2.070 Funeral Establishments, subsection (9). Areas bolded are new language and those in brackets will be deleted.

New Proposed Amendment to be considered

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include ~~[one]~~ **two** ~~[(1)]~~ **(2)** "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location or name of the Missouri licensed establishment is changed, a new license ~~[must]~~ shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room or other facility in a building or portion physically separated from and located at a place, designated by an address differing from the office, chapel or other facilities of the applicant, the chapel, preparation room or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application within thirty (30) days after the change of ownership. This form shall be filled out completely with correct current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license ~~[must]~~ shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

A motion was made by James Reinhard and seconded by Martin Vernon to not pursue the drafted language at this time. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Chapter 436.021 Seller Trust

September 2007, the board discussed concerns relating to Chapter 436.021 Requirements for sellers. Is a preneed seller in need of a trust for registering with the board, versus using insurance or joint accounts? Should the board require proof of having a trust when submitting annual report? The board voted to notify all preneed seller registrants, in writing, by October 31, 2008, that all preneed sellers must have a trust.

The board revisited Chapter 436.021 Seller Trust. A motion was made by James Reinhard and seconded by Gary Fraker to table this issue. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Other Statutes/Rules/Regulations

There was no discussion on this agenda item.

Proposed Legislation

Becky Dunn, Executive Director, reported that the board has provided a legislative proposal to the division for consideration for the ability to hiring outside legal counsel.

Provider and Seller Registration Report

Lori Hayes reported the registered preneed sellers in Missouri reported a total of 29,551 contracts sold with a total face value of \$115,213,843.61 for the 2006-2007 annual reporting period. These totals are not complete at this time.

Future Board Meetings

The board asked the Executive Director to check into board meeting room availability for March 2008 in the Springfield area.

Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business

Don Otto reported April 2008 is the MFDEA Legislative Day at the Capitol, everyone is welcome.

Don Otto reported the Missouri Funeral Directors and Embalmers Association will hold their Annual Convention June 1-4, 2008 at the Lake of the Ozarks.

Becky Dunn, Executive Director advised that a current lawbook and newsletter will be mailed to all licensees soon.

Closed Meeting

Motion was made by Martin Vernon and seconded by Joy Gerstein to move into closed session pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; 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; and Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline Motion carried with James Reinhard, Martin Vernon, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.

Adjournment

A motion was made by Martin Vernon and seconded by Todd Mahn to adjourn. Motion carried with James Reinhard, Martin Vernon, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting. The meeting adjourned at 10:40a.m. on Wednesday, December 5, 2007.

Executive Director: _____

Approved by the Board on: _____

Board of Embalmers Financial Statement as of June 30, 2008			
	Year-To-Date	Projected	Remaining
FY 2008 Beginning Fund Balance	1,048,625.29		
Revenue	986,666.29	987,109.00	442.71
Expense and Equipment	93,108.59	145,393.00	52,284.41
Total Transfers	442,390.63	566,877.76	124,487.13
Ending Fund Balance	1,499,792.36		

**FY 2008 OA Cost Allocation
Board Cost:**

OA Expenditures	Auditor Expenditures	Governor Expenditures	Lt. Governor Expenditures	Sec of State Expenditures	
\$824.00	\$0.00	\$93.00	\$22.00	\$460.00	
Atty General Expenditures	Gen Assembly Expenditures	Capitol Police	DOR Receipts		Total
\$0.00	\$1,476.00	\$64.00	\$5,213.00		\$8,152.00

Division Cost:

OA Expenditures	Auditor Expenditures	Governor Expenditures	Lt. Governor Expenditures	Sec of State Expenditures	
\$148.03	\$0.00	\$16.74	\$3.92	\$82.62	
Atty General Expenditures	Gen Assembly Expenditures	Capitol Police	DOR Receipts		Total
\$0.00	\$265.36	\$11.40	\$0.00		\$528.07

FY 2008 Total Cost:

\$8,680.07







Federal Trade Commission
Protecting America's Consumers

For Your Information: June 24, 2008

FTC Approves Final Consent Order in Matter of Missouri State Board of Embalmers and Funeral Directors

Commission approval of final consent order - Following a public comment period, the FTC has approved the issuance of a final consent order in the matter concerning the Missouri Board of Embalmers and Funeral Directors, as well as a letter responding to the commenter of record. The Commission vote approving the final order was 4-0. (FTC File No. 061-0026; the staff contact is Joel Christie, Bureau of Competition, 202-326-3297; see press release dated March 10, 2008.)

Copies of the documents mentioned in this release are available from the FTC's Web site at <http://www.ftc.gov> and from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Call toll-free: 1-877-FTC-HELP.

MEDIA CONTACT:

Office of Public Affairs
202-326-2180

(FYI 32.2008.wpd)

E-mail this News Release

If you send this link to someone else, the FTC will not collect any personal information about you or the recipient.

Related Items:

In the Matter of Missouri Board of Embalmers and Funeral Directors
FTC File No. 061-0026

Last Modified: Tuesday, 24-Jun-2008 10:57:00 EDT

UNITED STATES OF AMERICA

BEFORE

FEDERAL TRADE COMMISSION

DOCKET NO.

C-4223

IN THE MATTER OF:

**MISSOURI BOARD OF EMBALMERS AND
FUNERAL DIRECTORS**

**COMPLAINT
and
ORDER**

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: William E. Kovacic, Chairman
Pamela Jones Harbour
Jon Leibowitz
J. Thomas Rosch

In the Matter of

MISSOURI BOARD OF EMBALMERS AND
FUNERAL DIRECTORS

Docket No. C-4223

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Missouri Board of Embalmers and Funeral Directors has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

NATURE OF THE CASE

This case involves Respondent Missouri Board of Embalmers and Funeral Directors (the "Board"), which is the sole licensing authority for the practices of embalming and funeral directing in Missouri. The Board is composed of six members, five of whom must be licensed embalmers or funeral directors. At the time it adopted the regulation at issue in this matter, the Board included five licensed funeral directors. Funeral directors compete in the sale of funeral caskets at-need to consumers in Missouri. Respondent is authorized to promulgate, adopt and enforce rules that it deems necessary for the public good and consistent with the laws of the State of Missouri. The Missouri statute that created and empowered Respondent to regulate the professions of embalming and funeral directing includes a provision stating that its licensing qualifications and conditions (Mo. Rev. Stat. Chapter 333 (2005)) shall not apply "to any person engaged simply in the furnishing of burial receptacles for the dead." Mo. Rev. Stat. § 333.251 (2005). The Board promulgated a regulation that defined the practice of funeral directing to include selling funeral merchandise on an at-need basis to consumers in the State of Missouri. This regulation deterred competitive entry into the retail sale of funeral caskets.

RESPONDENT

1. The Board is an agency of the State of Missouri, established and existing pursuant to Mo. Rev. Stat. § 333.151, for the purpose of administering and enforcing Chapter 333 and portions of Chapter 436, Mo. Rev. Stat., and the regulations promulgated thereunder. It has authority to license and regulate those persons in the businesses of embalming and funeral directing in Missouri.
2. The Board's principal office and place of business is located at 3605 Missouri Boulevard, Jefferson City, Missouri, 65102-0423.
3. The Board is comprised of six members; one public member and five members that hold a license in either funeral directing or embalming, or both. Each member is appointed by the governor with the advice and consent of the state senate.
4. Except to the extent that competition has been restrained as alleged below, and depending on their geographic location, licensed funeral directors in Missouri compete with each other and with funeral director members of the Board in, among other activities, the sale of funeral caskets at-need to the public.
5. The Board is the sole licensing authority for those who engage in the business of embalming and funeral directing in Missouri. It is unlawful for an individual to practice or offer to practice embalming or funeral directing in Missouri unless he or she holds a current license to practice.
6. Under Mo. Rev. Stat. § 333.241 (2005), the Board is empowered to seek a court order to enjoin any person from engaging or offering to engage in any act that would require a license from the Board.
7. The unlicensed practice of embalming or funeral directing in Missouri may be prosecuted as a class A misdemeanor under Mo. Rev. Stat. § 333.261 (2005).

JURISDICTION

8. The Board is a state agency and is a "person" within the meaning of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.
9. The acts and practices of the Board, including the acts and practices alleged herein, have been or are affecting "commerce" within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44. In particular, funeral directors in Missouri purchase and receive funeral caskets and other funeral merchandise that are shipped across state lines by manufacturers and suppliers in other locations, transfer substantial sums of money that cross state lines in payment for that merchandise, perform funerals for residents of other states, and receive substantial sums of money that cross state lines in payment for funeral services and merchandise including funeral caskets. Furthermore, the regulation at issue deterred competitors

in other states from selling funeral caskets to Missouri consumers at need, and affected interstate commerce in funeral merchandise in neighboring states.

10. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

THE CHALLENGED CONDUCT

11. The "practice of funeral directing" is defined in Mo. Rev. Stat. § 333.011(7) (2005) as "[E]ngaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control or supervision or management of the operations of a funeral establishment."

12. Mo. Rev. Stat. § 333.251 (2005) states that: "Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing."

13. Beginning on or about June 30, 1998, and continuing through approximately July 29, 2004, Regulation 4 CSR 120-2.060(18) stated that: "No person other than a duly licensed and registered funeral director may make the following at-need arrangements with the person having the right to control the incidents of burial: . . . (C) For the sale or rental to the public of funeral merchandise, services or paraphernalia from a funeral establishment."

14. Prior to July 30, 2004, Regulation 4 CSR 120-2.060 (18) prohibited the sale of at-need funeral merchandise "from a funeral establishment" by anyone other than a licensed funeral director.

15. Beginning on or about July 30, 2004, and continuing through approximately September 29, 2006, 4 CSR 120-2.060(18) stated that: "No person other than a Missouri licensed funeral director shall be allowed to make the following at-need arrangements with the person having the right to control the incidents of disposition: . . . (C) Sale or rental to the public of funeral merchandise, services or paraphernalia."

16. During the process leading up to the amendment of 4 CSR 120-2.060 that took effect in July 2004, the Board sought to amend other portions of the regulation but not 4 CSR 120-2.060(18)(C).

17. After the period for public comments for amending 4 CSR 120-2.060 was completed, the Board amended subsection 4 CSR 120-2.060(18)(C) by deleting the phrase "from a funeral establishment."

18. Regulation 4 CSR 120-2.060(18)(C) as amended was published in the Missouri Register on June 1, 2004. This amended regulation, which was in effect beginning on or about July 30, 2004, and continuing through approximately September 29, 2006, is hereinafter referred to as the "Regulation at Issue."

19. Funeral directors in Missouri sell funeral caskets and provide funeral services to consumers.

20. Non-licensed persons who market and sell funeral caskets to consumers in Missouri compete with funeral directors for those sales.

21. Adoption and publication of the Regulation at Issue had the effect of restraining competition and injuring consumers in the following ways, among others:

- A. discouraging non-licensed persons from selling funeral caskets to the public at-need in Missouri;
- B. depriving consumers of the benefits of price competition that could have been offered by retail sellers of funeral caskets who were not licensed funeral directors; and
- C. reducing consumer choices in Missouri concerning the purchase of funeral caskets.

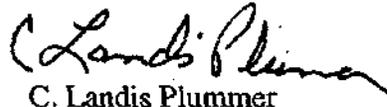
22. The Board filed an amended order of rulemaking on February 16, 2006 to initiate the process for rescinding the Regulation at Issue. After receiving public comment on a proposed amendment, the Board voted unanimously to rescind the Regulation at Issue on May 10, 2006. The amended regulation, published at 20 CSR 2120-2.060(18)(C), became effective on September 30, 2006.

VIOLATION

23. The combination, conspiracy, acts and practices described above constitute anticompetitive and unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. Such combination, conspiracy, acts, and practices or the effects thereof, continued for approximately two years and may recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this nineteenth day of June, 2008, issues its Complaint against Respondent Missouri Board of Embalmers and Funeral Directors.

By the Commission.


C. Landis Plummer
Acting Secretary

SEAL

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS:

**William E. Kovacic, Chairman
Pamela Jones Harbour
Jon Leibowitz
J. Thomas Rosch**

In the Matter of

**MISSOURI BOARD OF EMBALMERS AND
FUNERAL DIRECTORS**

Docket No. C-4223

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of certain acts and practices of the Missouri Board of Embalmers and Funeral Directors (the "Board"), hereinafter sometimes referred to as "Respondent," and Respondent having been furnished thereafter with a copy of the draft Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission have voluntarily executed an Agreement Containing Consent Order ("Consent Agreement"), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the aforementioned Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comment filed by an interested person, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34 (2004), the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. Respondent, the Missouri Board of Embalmers and Funeral Directors, is an industry regulatory board established by the State of Missouri with its principle office and place of business located at 3605 Missouri Boulevard, Jefferson City, Missouri 65102-0423.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that for the purposes of this Order, the following definitions shall apply:

- A. "Respondent" or "Board" means the Missouri Board of Embalmers and Funeral Directors, its officers, members, employees, consultants, agents, successors and assigns.
- B. "Licensee" means any person licensed to practice as an embalmer and/or funeral director in the State of Missouri.
- C. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.

II.

IT IS FURTHER ORDERED that Respondent, in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, shall forthwith cease and desist from prohibiting, restricting, impeding or discouraging any person from engaging in the sale or rental to the public of funeral merchandise or burial receptacles for the dead, directly or indirectly, or through any rule, regulation, policy, or other conduct authorized by MO. REV. STAT. § 333.251 (2005).

III.

IT IS FURTHER ORDERED that Respondent shall:

1. Publish in the Newsletter of the Board of Embalmers and Funeral Directors the full text of MO. REV. STAT. § 333.251 (2005), this Order, and an accompanying statement that: "The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri," with such prominence as is given to regularly featured articles, and distribute such Newsletter to all Licensees within one hundred and twenty (120) days after the date this Order becomes final. Respondent shall similarly publish the full text of MO. REV. STAT. § 333.251 (2005) and an accompanying statement that: "The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri" in subsequent issues of such Newsletter, which shall be distributed to all Licensees at least once each calendar year, for the years 2007, 2008 and 2009;
2. Display an advisory on its public website (<http://pr.mo.gov/embalmers.asp>) that: "The Federal Trade Commission and the Board Have Agreed to Settle FTC Allegations Regarding Restrictions and Prohibitions on the Sale of Funeral Merchandise or Caskets." Such advisory shall link to a new web page on the Board's website that contains the full text of MO. REV. STAT. § 333.251 (2005), a statement that: "The Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri," a link to MO. CODE REGS. ANN. tit. 20, § 2120-2.060 (2006), and a link to this Order. Respondent shall modify its website as described above no later than ten (10) business days after the date the Order becomes final, and shall display such modifications for no less than ninety (90) days from the date this Order becomes final. The advisory and this Order shall remain publicly accessible through common search terms and archives on the website for five (5) years from the date this Order becomes final, except in the event that the Missouri Office of Administration changes the structure or functionality of the Board's public website, in which case the Board shall notify the Commission and propose alternative means of access to the advisory, the information on the new web page and this Order;
3. Publish notice of this Order in three consecutive issues of *Missouri Funeral Director's Association Magazine*, beginning with the next available placement opportunity for the Board to include its notice in the magazine following publication of this Order on the Board's website. For purposes of this provision, such notice will be deemed satisfactory if it includes the following language: "The Missouri Board of Embalmers and Funeral Directors (the "Board") announces agreement with the Federal Trade Commission

regarding the FTC's allegations of restrictions and prohibitions on the sale of funeral merchandise or caskets. Persons may offer for retail sale caskets and other funeral merchandise to customers in Missouri without obtaining a license from the Board. Full details of the settlement are posted on the Board's website at www.pr.mo.gov.embalmers.asp." The minimum size of such notice shall be one-half of one page in *Missouri Funeral Director's Association Magazine*;

4. Publish the statement: "The Missouri Board of Embalmers and Funeral Directors (the "Board") has settled antitrust allegations by the FTC regarding restrictions and prohibitions on the sale of funeral merchandise or caskets. Persons may offer for retail sale caskets and other funeral merchandise to customers in Missouri without obtaining a license from the Board. Full details of the settlement are posted on the Board's website at www.pr.mo.gov.embalmers.asp." on Page 1 in the next version of the Missouri State Board of Embalmers and Funeral Directors Rules and Regulations, Chapters 333, 436, 193, 194, which shall be provided to all Licensees within one (1) year from the date this Order becomes final; and,
5. Notify the Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue N.W., Washington, D.C. 20580, at least thirty (30) days prior to: a) filing with the Missouri Secretary of State any Proposed Order of Rulemaking concerning the Board's rules or regulations; or b) proposing any change in Respondent; if such proposed change may affect compliance obligations arising out of this Order.

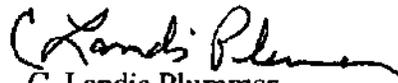
IV.

IT IS FURTHER ORDERED that Respondent shall file a written report within six (6) months of the date this Order becomes final, and annually on the anniversary date of the original report for each of the five (5) years thereafter, and at such other times as the Commission may require by written notice to Respondent, setting forth in detail the manner and form in which it has complied with this Order.

V.

IT IS FURTHER ORDERED that this Order shall terminate on June 19, 2018.

By the Commission.


C. Landis Plummer
Acting Secretary

SEAL
ISSUED: June 19, 2008

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

(L. 1965 p. 522 § 6, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

333.071. Business to be conducted where.

The business or profession of an individual licensed to practice embalming or funeral directing shall be conducted and engaged in at a funeral establishment. This section does not prevent a licensed funeral director owning or employed by a licensed funeral establishment from conducting an individual funeral from another and different funeral establishment or at a church, a residence, public hall, or lodge room.

(L. 1965 p. 522 § 7, A.L. 1981 S.B. 16)

333.081. License renewal, fee--failure to renew, effect--business address required.

1. Each license issued to a funeral director or embalmer pursuant to this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his or her license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he or she is practicing or proposes to practice and shall notify the board of any termination of his or her connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his or her permanent address.

3. The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he or she has paid delinquent renewal fees. Any license not renewed within two years shall be void.

4. Failure of the licensee to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his or her license.

(L. 1965 p. 522 § 8, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

(16) Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:

- (A) Removal;
- (B) Entering into contractual agreements for the provision of funeral services;
- (C) Arranging, planning, conducting and/or supervising visitations and funeral ceremonies;
- (D) Interment;
- (E) Cremation;
- (F) Disinterment;
- (G) Burial; and
- (H) Entombment.

(17) Interment—burial in the ground or entombment of dead human remains.

(18) Limited license—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

(19) Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for final disposition.

(20) Reciprocity examination—shall consist of the Missouri Law Examination.

➤ (21) Register log—a written record or log kept in the preparation/embalming room of a Missouri licensed funeral establishment available at all times in full view for a board inspector, which shall include the following:

- (A) The name of the deceased;
- (B) The date and time the dead human body arrived at the funeral establishment;
- (C) The date and time the embalming took place, if applicable;
- (D) The name and signature of the Missouri licensed embalmer, if applicable;
- (E) The name and signature of the Missouri registered apprentice embalmer, if any;
- (F) The Missouri licensed embalmer's license number, if applicable;
- (G) The Missouri apprentice embalmer registration number, if any; and
- (H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

(22) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.011 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

**Original authority: 333.011, RSMo 1965 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 2120—State Board of
Embalmers and Funeral Directors
Chapter 2—General Rules**

**20 CSR 2120-2.010 Embalmer's Registration and
Apprenticeship**

PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications

souri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

➤ (27) Each funeral establishment shall maintain a register log, as defined by 20 CSR 2120-1.040(9). The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room, the log shall be kept on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall contain the information required by 20 CSR 2120-1.040(9).

(28) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(29) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the State of Missouri.

(30) Whenever a dead human body is donated to a medical or educational institution for medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

(31) The rules in this division are declared severable. If

any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2007 and sections 333.091, 333.111 and 333.145, RSMo 2000. This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008.*

20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

(1) Definitions.

(A) Cremated remains—the bone fragments which remain after the cremation process is completed.

(B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; a final disposition of dead human remains.

(C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.

(D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.



**DIVISION OF PROFESSIONAL REGISTRATION
2008 LEGISLATIVE SUMMARY**

Below are the bills that were passed by the 94th General Assembly affecting the division and its boards. The status of Truly Agreed to and Finally Passed Bills can be viewed at <http://governor.mo.gov/la2008-bybill.htm>. Complete copies of bills can be viewed at the following websites.

Senate Bills - <http://www.senate.mo.gov>

House Bills - <http://www.house.state.mo.us>

SB724 (Sen. Delbert Scott) - APRN Prescriptive Authority for Scheduled Drugs

- Updates Missouri's controlled substance schedules;
- Amends Missouri's anti-methamphetamine law;
- Authorizes prescriptive authority of Schedule III, IV & V controlled substance for advanced practice registered nurses; and
- Modifies Christian Science nurse titling exemption.

SB788 (Sen. Delbert Scott) - DIFP Reorganization Act

- Implements Executive Order 06-04 moving the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration (DIFP) from the Department of Economic Development by type III transfer;
- Creates a Joint Committee on Preneed Funeral Contracts;
- Revises the right of sepulcher;
- Establishes the Accountancy Mobility Act;
- Modifies the definition of the practice of embalming;
- Revised physical therapy provisions;
- Modifies real estate brokers provisions relating to commercial property; and
- Authorizes the Division of Professional Registration and its boards to reduce licensure fees by emergency rules under certain circumstances.

SB850 (Sen. Jolie Justus) - Board of Optometry Meeting Notices

- Modifies meeting notice requirements to members of the Board of Optometry.

SB1177 (Sen. Frank Barnitz) and HB1791 – (Rep. Wayne Cooper) – Licensed Professional Counselors - DMH Provisions

- Designates LPCs as mental health professionals in certain circumstances.

SB1190 (Sen. Gary Nodler) - Division of Professional Registration Fees

- Authorizes the Division of Professional Registration and its boards to reduce licensure fees by emergency rules under certain circumstances.

HB1419 – (Rep. Dr. Charles Portwood) - Massage Therapy Licensing Provisions

- Amends massage therapy licensing provisions.

HB2065 – (Rep. Jay Wasson) – Psychology Reciprocity Requirements

- Repeals a duplicative section regarding psychologist reciprocity; and
- Allows records of meritless claims against psychologists by sexually violent predators to be destroyed in certain circumstances.

HB2188 – (Rep. David Pearce) - Mortgage Fraud

- Creates civil and criminal penalties for individuals who commit mortgage fraud.

The laws governing the boards within the division require that fees be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the appropriate chapter. Each board's governing statute contains biennium sweep language that prevents a board from charging excessive fees. When a fund balance exceeds the allowed limit, funds are swept to general revenue. In order for a fee to be reduced, an administrative rule must be filed. The normal rulemaking process takes from 6-9 months and there are times when the boards simply can not meet the 6-9 month period of time to allow a fee decrease to go into effect prior to a renewal period. The emergency rule process allows a rule to become effective within 10 days of filing with the Joint Committee on Administrative Rules and the Secretary of States Office. Currently, the division and its boards do not have the authority to file an emergency rule to lower licensing fees to prevent funds from sweeping to general revenue. SB788 and SB1190 contain provisions authorizing the boards within the Division of Professional Registration to lower fees through the emergency rule process. This legislation benefits all professionals licensed with the Division of Professional Registration and would like to thank Sen. Nodler for sponsoring the legislation.

Charlie A. Dooley
County Executive

Saint Louis
COUNTY
HEALTH

Dolores J. Gunn, MD
Director

April 2, 2008

To: St. Louis funeral homes, cremation and mortuary services

From: Suzanne McCune,
Forensic Office Administrator *Suzanne McCune*

Re: Death certificates

We're pleased to announce an improvement in the process for completion of death certificates to be signed by the Chief Medical Examiner. Effective immediately, the entire death certificate will be prepared in our office and mailed to you for signatures and filing when complete. The Office of the Medical Examiner will maintain a digital copy of the death certificate along with the rest of the file.

Beginning immediately, we ask that you prepare a dummy copy of the top portion of each death certificate with information provided by the next-of-kin and mail or fax to us at 314-522-0955.

This new system offers a number of advantages for everyone. For example, errors can be corrected immediately; you don't have to mail a new death certificate. If you fax the information for the top portion of the document, you save time and postage. We ask only that you be sure to keep us supplied with stamped, self-addressed envelopes so that the documents can go out in the mail immediately.

Please feel free to contact Angie, Sue or myself with questions or comments.

MEDICAL EXAMINER

Tentative Meeting Date
State Board of Embalmers and Funeral Directors
Board Meeting

December 2-4, 2008
InterContinental Kansas City at the Plaza (Fairmont)
401 Ward Parkway
Kansas City, Missouri

Notice and Agenda to be posted at a later date.

2008

JANUARY 2008							FEBRUARY 2008							MARCH 2008							APRIL 2008												
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S						
	1	2	3	4	5						1	2								1									1	2	3	4	5
6	7	8	9	10	11	12	3	4	5	6	7	8	9	2	3	4	5	6	7	8	6	7	8	9	10	11	12						
13	14	15	16	17	18	19	10	11	12	13	14	15	16	9	10	11	12	13	14	15	13	14	15	16	17	18	19						
20	21	22	23	24	25	26	17	18	19	20	21	22	23	16	17	18	19	20	21	22	20	21	22	23	24	25	26						
27	28	29	30	31			24	25	26	27	28	29	23	24	25	26	27	28	29	27	28	29	30										
													30	31																			
MAY 2008							JUNE 2008							JULY 2008							AUGUST 2008												
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S						
				1	2	3	1	2	3	4	5	6	7				1	2	3	4	5							1	2				
4	5	6	7	8	9	10	8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9						
11	12	13	14	15	16	17	15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16						
18	19	20	21	22	23	24	22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23						
25	26	27	28	29	30	31	29	30					27	28	29	30	31			24	25	26	27	28	29	30							
																			31														
SEPTEMBER 2008							OCTOBER 2008							NOVEMBER 2008							DECEMBER 2008												
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S						
	1	2	3	4	5	6				1	2	3	4							1				1	2	3	4	5	6				
7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13						
14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20						
21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27						
28	29	30					26	27	28	29	30	31	23	24	25	26	27	28	29	28	29	30	31										
													30																				

2009

JANUARY 2009	FEBRUARY 2009	MARCH 2009	APRIL 2009
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2 3	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4
4 5 6 7 8 9 10	8 9 10 11 12 13 14	8 9 10 11 12 13 14	5 6 7 8 9 10 11
11 12 13 14 15 16 17	15 16 17 18 19 20 21	15 16 17 18 19 20 21	12 13 14 15 16 17 18
18 19 20 21 22 23 24	22 23 24 25 26 27 28	22 23 24 25 26 27 28	19 20 21 22 23 24 25
25 26 27 28 29 30 31		29 30 31	26 27 28 29 30
MAY 2009	JUNE 2009	JULY 2009	AUGUST 2009
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2	1 2 3 4 5 6	1 2 3 4	1
3 4 5 6 7 8 9	7 8 9 10 11 12 13	5 6 7 8 9 10 11	2 3 4 5 6 7 8
10 11 12 13 14 15 16	14 15 16 17 18 19 20	12 13 14 15 16 17 18	9 10 11 12 13 14 15
17 18 19 20 21 22 23	21 22 23 24 25 26 27	19 20 21 22 23 24 25	16 17 18 19 20 21 22
24 25 26 27 28 29 30	28 29 30	26 27 28 29 30 31	23 24 25 26 27 28 29
31			30 31
SEPTEMBER 2009	OCTOBER 2009	NOVEMBER 2009	DECEMBER 2009
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5	1 2 3	1 2 3 4 5 6 7	1 2 3 4 5
6 7 8 9 10 11 12	4 5 6 7 8 9 10	8 9 10 11 12 13 14	6 7 8 9 10 11 12
13 14 15 16 17 18 19	11 12 13 14 15 16 17	15 16 17 18 19 20 21	13 14 15 16 17 18 19
20 21 22 23 24 25 26	18 19 20 21 22 23 24	22 23 24 25 26 27 28	20 21 22 23 24 25 26
27 28 29 30	25 26 27 28 29 30 31	29 30	27 28 29 30 31

