

OPEN MEETING MINUTES
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.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by James Reinhard, Chairman, at 8:16 a.m. on Monday, August 18, 2008, at the Country Club Hotel and Spa, HH & Carol Roads, Lake Ozark, Missouri.

Board Members Present

James Reinhard, Chairman
Martin Vernon, Vice-Chairman
Gary Fraker, Secretary
Daniel (Todd) Mahn, Member
John McCulloch, Member – joined at 8:20 a.m.

Board Member Absent

Joy Gerstein, Public Member

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Kimberly Grinston, Board's Legal Counsel – joined at 9:15 a.m.

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, and Todd Mahn voting in favor with no votes in opposition. John McCulloch was absent for this portion of the meeting. Joy Gerstein was absent for the entire meeting.

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

The State Board of Embalmers and Funeral Directors returned to open session. The open meeting was called to order by James Reinhard, Chairman, at 9:07 a.m. on Wednesday, August 20, 2008, at the Country Club Hotel and Spa, HH & Carol Roads, Lake Ozark, Missouri.

Board Members Present

James Reinhard, Chairman
Martin Vernon, Vice-Chairman
Daniel (Todd) Mahn, Member
John McCulloch, Member

Board Members Absent

Gary Fraker, Secretary
Joy Gerstein, Public Member

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Kimberly Grinston, Board's Legal Counsel
Sharon Euler, Assistant Attorney General

Public Present

David Broeker, Director, Division of Professional Registration
Matt Barton, DIFP
Mary Erickson, DIFP
Don Eggen, CIU
James McMullin, CIU
Kevin Lager, CIU
Darlene Russell, CFL Preneed
Representative Tim Meadows, 101st District
Chris Kaiser, MFDEA
Larry Stroud, MFDEA
Bob Baker, MFDEA
Kalene Summerville, MFDEA
Brad Speaks, Speaks Funeral Home
Don Otto, MFDEA/MFT
Dave Hill, Hill Financial
Steve Watkins, MFDEA

Ben Gibson, Meyers Funeral Home
 Marty Meyers, Meyers Funeral Home

Approval of Agenda

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

Approval of Minutes

December 3-5, 2007 Open Meeting Minutes

Motion was made by Martin Vernon and seconded by John McCulloch to approve the December 3-5, 2007 Open Meeting Minutes Open Meeting Minutes as submitted. Motion carried with James Reinhard, Martin Vernon, Todd Mahn and John McCulloch voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting. Joy Gerstein was absent for the entire meeting.

Executive Director's Report

Becky Dunn reported on the FY2008 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

FY2008 Total Cost:

\$8,680.07

Embalmer and Funeral Directors Renewal Update

The Executive Director reported that 1085 embalmers and 2270 funeral directors renewed their licenses during the 2008-2010 biennial renewal period. Renewal statistics will be posted on the board's website in the very near future.

End of the Year Report

The Executive Director reported that an end-of-the-year report will be posted on the board's website in the very near future.

Legal Counsel Update

Kimberly Grinston, Board's Legal Counsel, advised that very preliminary draft recommendations from the Chapter 436 Review Committee went out to the 436 Working Group Committee. The board is asking the 436 Working Group Committee participants to provide comments by no later than Friday, August 22, 2008, so the final draft can be revised if necessary. This will be the format of the final report unless the working group poses objections to formatting or would like another suggestion; we want to make sure everything is formalized correctly. The board will meet again once the final report is compiled, and comments are incorporated into the document from the working group participants. After revisions are completed, a Final Recommendation from the Chapter 436 Review Committee will be submitted to the Joint Committee as the final product.

Note: Let the record reflect that Gary Fraker, Board Member and Joy Gerstein, Public Member joined the meeting via conference call for this portion of discussion and vote.

Ms. Grinston advised that for the purpose of compiling the draft, the board needs to take an official position on the 80/20 funding mechanism of Chapter 436 RSMo.

80/20 Funding of Chapter 436 RSMo. – A motion was made by Martin Vernon and seconded by Todd Mahn to recommend 100% trusting requirements with a maximum of 20% expenses cost to back out by contract. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Portability Funding of Chapter 436 RSMo. – A motion was made by Todd Mahn and seconded by Martin Vernon, to recommend 100% portability plus 1% minimum on the interest cap, payable to the funeral establishment providing the actual funeral service, so families have the option to use the funeral establishment of preference. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Cancellation Funding of Chapter 436 RSMo. – A motion was made by John McCulloch and seconded by Gary Fraker to recommend 100% back on cancellation up to 30 days, and 80% after 30 days, of the money in trust. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Federal Trade Commission (FTC)

March 2007, The State Board of Embalmers and Funeral Directors agreed to settle antitrust charges by the FTC, affirming that they will not prohibit or discourage the sale of rental of caskets, services, or other funeral merchandise by persons not licensed as funeral directors. The agreement reiterates a Missouri law that has been in place since 1965, which specifically authorizes private individuals to sell caskets and other funeral merchandise without a license from the board.

Sharon Euler, Assistant Attorney General, updated the board on the Federal Trade Commission. June 2008, the Federal Trade Commission entered their Final Consent Order in the matter of Missouri State Board of Embalmers and Funeral Directors. The board complied with the requirements of the order within the required time frame. Compliance has been met with the initial stipulation and the board will provide annual compliance reports for the next five (5) years. Thereafter, the order shall terminate June 19, 2018. The Attorney General's Office will be contacting the FTC with regard to the order.

Rules and Regulations

- **New**

The following statute and board rule pages were provided to the board for review and discussion.

333.061. No funeral establishment to be operated by unlicensed person--license requirements, application procedure--license may be suspended or revoked or not renewed.

(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

20 CSR 2120-1.040 Definitions

(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.

20 CSR 2120-2.070 Funeral Establishments

(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).

The following Drafted Language was provided to the board for review and discussion.

Draft Language - Limitations for FD Apprenticeship

The funeral director apprentice is intended for those persons training to become a funeral director and is not intended as a long-term method of performing funeral directing services under the supervision of a Missouri licensed funeral director in the absence of progress toward licensure. As

a result, the board may impose deadlines for achieving license, or for satisfying certain prerequisites toward licensure, for those persons who apply to be a funeral director apprenticeship more than two times following May 31, 2009. Deadline, if any, would be imposed as a condition for the third or subsequent application after May 31, 2009.

After discussion, the board felt that four may be probably more acceptable, four years as opposed to six year window, and there should be a requirement that the apprentice at least attempt to take the examinations. Becky Dunn, Executive Director and Kimberly Grinston, Board's Legal Counsel will draft language and provide to the board for review.

Division of Professional Registration 2008 Legislative Summary

The board was provided a list of bills that were passed by the 94th General Assembly affecting the division and its boards. This was provided for informational purposes.

FY 2009 Legislative Proposals

Becky Dunn, Executive Director, reported that the board has provided the following legislative proposals to the division for consideration:

Request for hiring outside legal counsel

Request for a full-time Licensing Technician II

St. Louis County Health Medical Examiner – Death Certificates

Suzanne McCure, Forensic Office Administrator, St. Louis County Health, provided information to the St. Louis funeral homes, cremation and mortuary services, announcing an improvement in the process for completion of death certificates to be signed by the Chief Medical Examiners.

Future Board Meetings

A board meeting has been scheduled for December 2-4, 2008 at the InterContinental Kansas City at the Plaza (Fairmont), Kansas City, Missouri.

March 2009 - To be determined

Chapter 436 Review Committee Update

Kimberly Grinston, Board's Legal Counsel, addressed this matter previously in the meeting, and again asked the 436 Working Group Committee participants to provide comments by no later than Friday, August 22, 2008, so the final draft can be revised if necessary.

10:30 a.m.-Notice of Liquidation Plan and Hearing

Chuck Renn, Executive Director of the Missouri Guarantee Association, met with the board and members of public to discuss the Liquidation Plan of Memorial Service Life Insurance Company (Memorial Service), Lincoln Memorial Life Insurance Company (Lincoln Memorial) and National Prearranged Services (NPS) Inc., and the role and significance of the Guaranty Associations. Presentation and statements are not summarized in the minutes. A copy of the open meeting transcription will be maintained on file at the Board office.

Joining the meet including the following:

Via Conference Call:

Rich Weaver, Division of Finance – via conference call

Robert Coward – Attorney from Chillicothe
Keith Thornburg – Division of Finance – via conference call
Donna Garrett – Special Deputy Receiver – via conference call
Chris Fuller – Legal Counsel for Special Deputy Receiver
Mary Erickson – Senior Enforcement Counsel, DIFP
David Boeker – Director of Division of Professional Registration
Representative Tim Meadows, 101st District
Charlie Ballard – Chief of Staff for Senator Delbert Scott
Matt Barton – Spokesperson for DIFP

Memorial Service Life Insurance Company, Lincoln Memorial Life Insurance Company and National Prearranged Services (NPS) Inc. were placed in Receivership for rehabilitation on May 14, 2008 by Court order at the request of the Texas Department of Insurance. The Commissioner of Insurance for the State of Texas was named Receiver.

The Receiver appointed Donna J. Garrett as the Special Deputy Receiver of all three companies on May 14, 2008. At this time, the Special Deputy Receiver is responsible for the management of the companies and their operations.

Memorial Service Life Insurance Company (Memorial Service) and Lincoln Memorial Service Life Insurance Company (Lincoln Memorial) have ceased writing new business. NPS has suspended the sale of pre-need contracts.

On August 11, 2008, the Receiver filed an Application seeking a finding of insolvency and approval of a Liquidation Plan for the companies. As part of the Liquidation Plan, NOLHGA (the National Organization of Life and Health Guaranty Associations) will provide payment for covered obligations of the two insurance companies. The IGAs (insurance guaranty associations) provide coverage for insolvent insurance companies. They do not cover non insurance contracts. Participating guaranty associations would cover the insurance policy death benefits issued by Lincoln Memorial and Memorial Service. To be eligible for IGA coverage consumers must continue to pay premiums.

Due to the insolvency, the SDR is no longer paying claims. Death claims will continue to be processed so that upon court approval of the Application for Liquidation and the activation of the guaranty associations approved claims can be promptly funded and released. Funeral Establishments are to continue to submit death claims in accordance with previous filing instructions. Insured are to continue to pay premiums to assure that coverage remains in force.

The SDR has established a website to provide information regarding the receivership. Copies of relevant court documents, including the Application for Liquidation, are posted to their website. The website also includes a FAQ section and links to the relevant regulatory agencies.

Donna Garrett advised that once the plan is final, the order approving the plan will be posted on the website, and then a joint notice from the SDR and the Missouri Guaranty Associations will immediately be mailed out to all of the affected policy holders.

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

Don Otto advised that the Missouri Funeral Directors and Embalmers Association will hold next year's Annual Convention, May 27, 28 and 29, 2009, at the Lake of the Ozarks.

Adjournment

A motion was made by Martin Vernon and seconded by John McCulloch to adjourn. Motion carried with Martin Vernon, Todd Mahn and John McCulloch voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting. Joy Gerstein was absent for the entire meeting. The meeting adjourned at 12:30 p.m. on Wednesday, August 20, 2008.

Executive Director: Saudey Sebastian

Approved by the Board on: 7/29-30/09