

**OPEN MEETING MINUTES**  
**Missouri State Board of Embalmers**  
**and Funeral Directors**

**July 29-30, 2009**  
**Division of Professional Registration**  
**3605 Missouri Boulevard**  
**Jefferson City, Missouri**

**Wednesday, July 29, 2009 – 12:00 p.m.**

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 12:00 p.m. on Wednesday, July 29, 2009, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

**Roll Call**

**Board Members Present**

Martin Vernon, Chairman  
Gary Fraker, Vice-Chairman  
James Reinhard, Member  
John McCulloch, Member  
Joy Gerstein, Public Member

**Board Members Absent**

Todd Mahn, Secretary

**Staff Present**

Becky Dunn, Executive Director  
Lori Hayes, Inspector  
Tabatha Lenzini, Licensure Technician  
Earl Kraus, Senior Legal Counsel  
Sharon Euler, Assistant Attorney General  
Connie Clarkston, Director of Budget & Legislation

**Closed Meeting**

A motion was made by Gary Fraker and seconded by John McCulloch 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 324.001.8 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 324.001.9 RSMo 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), 324.001.8 and 324.001.9 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 closed minutes of previous meetings. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

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**Thursday, July 30, 2009 – 9:00 a.m.**

The open meeting of the Missouri State Board of Embalmers and Funeral Directors reconvened in open session at approximately 9:00 a.m. on Thursday, July 30, 2009. The meeting was called to order by Martin Vernon, Chairman, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

**Roll Call**

**Board Members Present**

Martin Vernon, Chairman  
Gary Fraker, Vice-Chairman  
James Reinhard, Member  
John McCulloch, Member  
Joy Gerstein, Public Member

**Board Members Absent**

Todd Mahn, Secretary

**Staff Present**

Becky Dunn, Executive Director  
Lori Hayes, Inspector  
Tabatha Lenzini, Licensure Technician  
Earl Kraus, Senior Legal Counsel  
Sharon Euler, Assistant Attorney General  
Connie Clarkston, Director of Budget & Legislation

**Public Present**

Sam Licklider, MFDEA  
Mark Warren, Attorney  
Scott Lindley, CFA  
Bill Stalter, Attorney  
Darlene Russell, CFL Preneed  
Don Lakin  
Amy Battagler, Stuart Enterprises  
Bill Stuart

### **Approval of Agenda**

A motion was made by Gary Fraker and seconded by James Reinhard to approve the open agenda as submitted. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.

### **Approval of Minutes**

A motion was made by Joy Gerstein and seconded by Gary Fraker to approve the following open minutes as submitted:

- August 18-20, 2008 Open Meeting Minutes
- October 28, 2008 Open Mail Ballot Meeting Minutes
- October 31, 2008 Open Mail Ballot Meeting Minutes
- December 2-4, 2008 Open Meeting Minutes
- December 8, 2008 Open Meeting Minutes
- December 11, 2008 Open Conference Call Meeting Minutes
- December 16, 2008 Open Meeting Minutes
- December 23, 2008 Open Mail Ballot Meeting Minutes
- January 28, 2009 Open Mail Ballot Meeting Minutes
- February 18, 2009 Open Mail Ballot Meeting Minutes
- March 9, 2009 Open Mail Ballot Meeting Minutes
- April 28, 2009 Open Mail Ballot Meeting Minutes
- June 3, 2009 Open Mail Ballot Meeting Minutes

The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.

### **Executive Director's Report**

Becky Dunn, Executive Director, had nothing new to report.

### **Future Meeting Dates**

The Board discussed future meeting dates to be conducted at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri. They are as follows:

- August 5, 2009, 9:00 a.m.
- August 11, 2009, 9:00 a.m.
- August 19, 2009, 9:00 a.m.
- August 25, 2009, 9:00 a.m.
- September 2, 2009, 9:00 a.m.

### **Legislation**

Connie Clarkston, Director of Budget and Legislation, gave the Board a brief overview of the rulemaking process. A court reporter was present and recorded the discussion. The transcript is a permanent part of the record and as such a summary of the discussion is not made a part of the official minutes of this meeting.

### **Letter from Brad Speaks**

A motion was made by Joy Gerstein and seconded by John McCulloch to instruct Becky Dunn, Executive Director, to work with legal counsel on a response to Mr. Speaks' request. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.

### **Senate Bill 1 Implementation Process**

Discussion was held on the Senate Bill 1 implementation process. A court reporter was present and recorded the discussion. The transcript is a permanent part of the record and as such a summary of the discussion is not made a part of the official minutes of this meeting. Only discussions involving further Board action are referenced in the minutes.

- **Applications:** A motion was made by John McCulloch and seconded by Gary Fraker to direct staff to draft a rule that everyone who wishes to practice as a preneed agent, preneed provider or preneed seller must make application with the board for a Notice of Intent. The application would ask basic questions on the individual's background history and would give timeframes for which the Notice of Intent is valid. The board would like to see these applications on the board's website by next week. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.
- **Annual Reports:** A motion was made by John McCulloch and seconded by Jim Reinhard that the annual reporting requirements for preneed providers and preneed sellers remain the same as last year. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.
- **Fees:** A motion was made by Joy Gerstein and seconded by Gary Fraker that Becky Dunn, Executive Director, work with the Division staff to develop three different options for fees for annual reports, prioritize them based on the effects they would have on the Board and report back at the next meeting. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.
- **Educate the licensees and the public:** A motion was made by Joy Gerstein and seconded by John McCulloch to have Sharon Euler, Assistant Attorney General, and Earl Kraus, Senior Legal Counsel, for the Division to draft an informational brochure that will highlight key areas of Senate Bill 1, and bring it back to the Board for approval. The board requested that this brochure be placed on the website, and a postcard be mailed out to all licensees informing them of the information that is available on the website in regards to Senate Bill 1. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.
  - A motion was made by Gary Fraker and seconded by John McCulloch to instruct the inspectors to hand out the brochures while conducting inspections. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy

Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.

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

Nothing further to report.

**Closed Meeting**

A motion was made by Joy Gerstein and seconded by John McCulloch 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 324.001.8 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 324.001.9 RSMo 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), 324.001.8 and 324.001.9 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 closed minutes of previous meetings. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent from the meeting in its entirety.

**Adjournment**

A motion was made by James Reinhard and seconded by Gary Fraker to adjourn. The motion carried with Gary Fraker, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 12:54 p.m. on Thursday, July 30, 2009. Todd Mahn was absent from the meeting in its entirety.

Executive Director: Sandy Sebastian

Approved by the Board on: 12/8-9/09

MISSOURI STATE BOARD OF EMBALMERS  
AND FUNERAL DIRECTORS

ORIGINAL

TRANSCRIPTION OF MEETING

DIVISION OF PROFESSIONAL REGISTRATION  
3605 MISSOURI BOULEVARD  
JEFFERSON CITY, MISSOURI

JULY 30, 2009  
9:00 A.M. - 12:05 P.M.

RECEIVED  
AUG 14 2009  
STATE BOARD OFFICE

1           CHAIRMAN: We are in session, so call  
2 to order -- or we just called to order, and I  
3 will say welcome to everybody that's here and  
4 came to visit with us today, and glad  
5 everybody could make it. Do a roll call.  
6 Mr. Fraker?

7           MR. FRAKER: Here.

8           CHAIRMAN: Joy Gerstein?

9           MS. GERSTEIN: Here.

10          CHAIRMAN: John McCulloch?

11          MR. McCULLOCH: Here.

12          CHAIRMAN: Jim Reinhard?

13          MR. REINHARD: Here.

14          CHAIRMAN: Todd Mahn? Absent. All  
15 right. We'll make some introductions of  
16 everybody. Actually, we've got a quaint group  
17 this morning, so I think everybody knows  
18 anyway, but we'll go through the officialness  
19 of it. I am Martin Vernon, Chairman of the  
20 Board. Gary Fraker, member; Joy Gerstein,  
21 member; Jim Reinhard, member; John McCulloch,  
22 member. Our legal counsel, Earl Kraus;  
23 executive director, Becky Dunn; assistant  
24 attorney general, Sharon Euler; our -- I'm not  
25 sure what your official title is -- office

1 with the board --

2 MS. LENZINI: Licensure technician.

3 CHAIRMAN: Licensure tech, Tab Lenzini;  
4 director of budget and legislation, Connie  
5 Clarkston; and our court reporter. You can  
6 tell us your name, if you would like.

7 THE REPORTER: Kristy Bradshaw.

8 CHAIRMAN: Thank you, Kristy. So --  
9 and here comes our inspector, Lori Hayes. You  
10 timed that perfect, didn't you? You wanted a  
11 stand-up, walk-in introduction. So, guys,  
12 I'll go around the room and let you tell us  
13 who you are. Start right back here.

14 MS. DUNN: And if you would just say  
15 your name and your organization clearly for  
16 the court reporter.

17 MR. LICKLIDER: Sam Licklider, Missouri  
18 Funeral Directors and Embalmers Association.

19 MR. WARREN: Mark Warren --  
20 (inaudible.)

21 MR. LINDLEY: Scott Lindley, Lindley  
22 Funeral Homes, and I'm president of CFA.

23 MR. STALTER: Bill Stalter, Stalter  
24 Legal -- (inaudible.)

25 MS. BATTAGLER: Amy Battagler of Stuart

1       Enterprises.

2               MS. RUSSELL:   Darlene Russell, CFL  
3       Preneed.

4               CHAIRMAN:   And thank you all, again,  
5       for coming today.

6               MS. DUNN:   And if anyone has a  
7       business card, if you could give that to the  
8       court reporter, it would be helpful, as well.

9               CHAIRMAN:   All right.   So, we need a  
10       motion for the approval of the agenda.

11              MR. FRAKER:   I make the motion.

12              CHAIRMAN:   Gary makes the motion.

13              MR. REINHARD:   Second.

14              CHAIRMAN:   Jim seconds.   John?

15              MR. McCULLOCH:   Yes.

16              CHAIRMAN:   Yes.   Joy?

17              MS. GERSTEIN:   Yes.

18              CHAIRMAN:   Yes.   All right.   Motion  
19       approved.   And now we need another motion for  
20       the approval of the minutes.

21              MS. GERSTEIN:   I so move.

22              CHAIRMAN:   Joy moves.

23              MR. FRAKER:   Second.

24              CHAIRMAN:   Gary seconds.   Jim?

25              MR. REINHARD:   Yes.

1 CHAIRMAN: Yes. John?

2 MR. McCULLOCH: Yes.

3 CHAIRMAN: Yes. And the minutes are  
4 approved. We are moving. Executive director,  
5 would you like anything to say today in a  
6 report?

7 MS. DUNN: Actually, I don't have  
8 anything to report today.

9 CHAIRMAN: Nothing to report today?

10 MS. DUNN: No.

11 CHAIRMAN: All right. Well, I guess  
12 that falls under your category, a future date.  
13 So --

14 MS. DUNN: We have not posted these  
15 meetings yet, but, tentatively, I'll give you  
16 a list of the dates that we're looking at here  
17 at the Division. August 5th at 9:00 a.m.;  
18 August 10th at 9:00 a.m. -- I'm sorry --  
19 August 11th. Correction: August 11th at 9:00  
20 a.m.; August 19th at 9:00 a.m.; August 25th at  
21 9:00 a.m.; and September 2nd at 9:00 a.m.

22 CHAIRMAN: Any further discussion in  
23 the dates? All right. Gary?

24 MR. FRAKER: Did you say August 25th  
25 or August 27th?

1 MS. DUNN: The agenda -- those were  
2 tentative. We didn't have meeting rooms at  
3 the time. So, don't pay attention to the  
4 agenda dates. The dates I just read: August  
5 5th, August 11th, August 19th, August 25th,  
6 and September 2nd.

7 CHAIRMAN: All right. Any other  
8 comments or questions on dates? All right.  
9 We've had Mr. Lakin join us. Everybody else  
10 got their formal introduction. Would you like  
11 yours?

12 MR. LAKIN: No, not really.

13 CHAIRMAN: Okay.

14 MR. LAKIN: Not really.

15 MR. STALTER: Nice shirt you've got  
16 on, Don.

17 MR. LAKIN: Huh?

18 MR. REINHARD: Nice shirt you're got  
19 on.

20 MR. LAKIN: Thank you.

21 MR. STALTER: It still has the tag on  
22 the back.

23 MR. LAKIN: I look like an old man  
24 coming up here, so I got to Springfield and  
25 thought I'd drink a cup of coffee. I got my

1 thermos jug out and got it poured. Screwed  
2 the top off one of them free things that you  
3 get at the convention. Screwed it --  
4 (inaudible.) I had coffee all down my -- so  
5 I had to stop at Wal-Mart somewhere to buy a  
6 shirt, but I did get a bargain. It was only  
7 \$15, and it was regularly \$19.95, because it  
8 was short-sleeved and the season is over.

9 CHAIRMAN: There you go. You did  
10 well. You did well. All right. Moving  
11 along. Under legislation, I understand Becky  
12 and Connie will be addressing us in this  
13 thought this morning.

14 MS. DUNN: Well, actually, Connie, we  
15 thought we'd give you an opportunity to just  
16 give a brief overview of the rule-making  
17 process.

18 MS. CLARKSTON: Okay. I've handed out  
19 a sheet that goes through a flow sheet of the  
20 rule-making process and put together what's in  
21 statute, what our processes are, and  
22 summarizing it in a brief overview.  
23 Obviously, rule -- (inaudible) -- is given by  
24 legislative authority and there's three types  
25 of rules: Either a new rule, an amendment, or

1 a rescission. And each of these types of  
2 rules -- (inaudible) -- may be rules which  
3 we'll be working with. Once -- regardless of  
4 the type of rule that you promulgate, the  
5 process from that point forward is exactly the  
6 same. They all go through Division,  
7 department, and governor's office approval.  
8 There's a filing with the Secretary of State's  
9 Office, the Joint Committee on Administrative  
10 Rules, and the Small Business Regulatory  
11 Fairness Board, and then they appear on a  
12 schedule with the Secretary of State's Office  
13 and a publication called the "Missouri  
14 Register." It is available on-line, and I'm  
15 sure that we'll link that onto the Board's Web  
16 site for easy access for our licensees. Once  
17 the rule appears in the register, there is a  
18 30-day comment period for public comments to  
19 be submitted to the Board. Following that  
20 30-day comment period, the Board is required  
21 to review the comments and respond to that,  
22 and then we summarize those comments and the  
23 Board's response into a document called "The  
24 Final Order of Rule Making." That "Final  
25 Order of Rule Making," again, is on a time

1 line because everything with rules is  
2 statutorily driven by times and dates. So, we  
3 have 90 days to prepare a final order on file  
4 with the Joint Committee on Administrative  
5 Rules. I'm sorry; that's 60 days with them.  
6 Once we file it with JCAR, they have 30 days  
7 in which they need to review that and  
8 determine whether or not they will hold a  
9 hearing. A hearing before JCAR could be  
10 called for any reason, but they are  
11 statutorily driven on what they can affect a  
12 rule for, and that's guided by Chapter 536.  
13 Once the 30 days is over with, the Joint  
14 Committee on Administrative Rules, regardless  
15 of whether or not they hold a hearing, that  
16 rule -- if it -- if they approve it, it goes  
17 on to the Secretary of State's Office, again,  
18 for scheduling to be published in the  
19 "Missouri Register." Once it's published in  
20 the "Missouri Register," it then is published  
21 in the "Code of State Regulations" and  
22 becomes, again, basically, law within 30 days.  
23 So, once the publication occurs, we have 30  
24 days that we allow the office and  
25 administration to get the rule books ready and

1 get those notifications out to the Boards, so  
2 there's -- or to the licensees and available,  
3 and then it becomes law. So, that's a quick  
4 overview of the legislative process -- or the  
5 rule process. Do you have any questions?

6 MS. RUSSELL: Connie, could you  
7 explain what happens with an emergency rule?

8 MS. CLARKSTON: An emergency rule is  
9 filed, and once it is filed, it becomes  
10 effective within ten days of filing. It is in  
11 effect for 180 days. Typically, when we file  
12 an emergency rule, we also file the  
13 accompanying rule with it so that when the  
14 emergency rule expires, the normal rule  
15 process will take place and there is not a  
16 break between rules. Now, the difference with  
17 an emergency rule is no public comments are  
18 received, so it, basically, goes into effect  
19 within ten days. The public comments would  
20 come through the regular rule process. And an  
21 emergency rule is limited in time, where a  
22 regular rule is not, so that's the difference  
23 between the two. But emergency rules are also  
24 guided by Chapter 536.

25 CHAIRMAN: Okay. Any comments,

1 questions to Connie? Scott?

2 MR. LINDLEY: Do you anticipate --  
3 with that question, do you anticipate this  
4 being an emergency rule?

5 MS. CLARKSTON: I think that's up to  
6 the determination of the Board.

7 CHAIRMAN: Are you talking about the  
8 entire bill?

9 MR. LINDLEY: I'm just asking if  
10 somebody is thinking about pulling the trigger  
11 on the emergency rule, I'd just kind of like  
12 to hear somebody's thoughts about that if  
13 that's what somebody is thinking about.

14 MR. KRAUS: And that's something that  
15 I think the Board is going to address in this  
16 meeting and in subsequent meetings. They'll  
17 be talking about that directly.

18 MR. LINDLEY: Okay. I mean, does  
19 anybody think that we need to do that?

20 MS. RUSSELL: I think there may be  
21 sections in here that they may need to look at  
22 as an emergency rule regarding funding and  
23 things of that nature, and that -- I mean,  
24 like they said, it'll work out as they're  
25 going down the agenda.

1           CHAIRMAN: We'll identify issues as we  
2 go that might fall into that category, might  
3 not. It'll just depend on where the  
4 discussion goes, I guess. So -- okay.

5           MR. LAKIN: Are you going to be able  
6 to make rules without your ten members -- you,  
7 as five members?

8           MS. DUNN: Yes.

9           CHAIRMAN: Yes.

10          MR. LAKIN: You will?

11          CHAIRMAN: Or we can, I guess, is the  
12 answer.

13          MS. EULER: The authority is given to  
14 the Board to make the rules as long as there's  
15 a quorum. Regardless how many members there  
16 are, the Board can act, and the Board will  
17 have a quorum.

18          CHAIRMAN: Any other comments from the  
19 Board? Do you have anything else to follow  
20 with that?

21          MS. DUNN: No. Are you going to  
22 discuss the meeting environment?

23          CHAIRMAN: Uh-huh.

24          MS. DUNN: Okay.

25          CHAIRMAN: Yeah. Once we get there. I

1 thought we'd do this next.

2 MS. DUNN: Okay.

3 CHAIRMAN: So, okay. All right. We  
4 passed out to the Board there a while ago, we  
5 have received an official request from Brad  
6 Speaks -- the Board has -- to formally ask the  
7 attorney general's office to file a motion for  
8 hearing with Texas Court in regard to -- I'm  
9 just going to state it as the listed items  
10 that you're looking at there in what was  
11 handed --

12 MS. DUNN: Can we ask if they want a  
13 copy?

14 CHAIRMAN: And if anybody wants a  
15 copy, we have it. Legal counsel has advised  
16 that the seven listed items would not fall  
17 under the scope of the Board to make that  
18 request, so we need to follow up with action  
19 of the Board to give Becky direction as to  
20 where to go. So, a motion for Becky to  
21 address the requestor?

22 MS. GERSTEIN: I will make a motion  
23 that Becky --

24 MS. DUNN: -- work with legal counsel.

25 MS. GERSTEIN: -- on this.

1 CHAIRMAN: Okay. Need a second.

2 MR. McCULLOCH: Second.

3 CHAIRMAN: John seconds it. Jim?

4 MR. REINHARD: Yes.

5 CHAIRMAN: Gary?

6 MR. FRAKER: Yes.

7 CHAIRMAN: Okay. That passes. So,  
8 you can take care of working with legal and  
9 taking care of that.

10 MS. DUNN: Okay.

11 CHAIRMAN: There was -- yes, sir?

12 MR. LINDLEY: Could I address that a  
13 little bit? Can we have a little discussion  
14 on that? Is that appropriate?

15 MR. KRAUS: I think what the Board had  
16 in mind for this meeting and in subsequent  
17 meetings to have discussion of the agenda  
18 items among the Board members first, and then  
19 have an opportunity after that to have  
20 comments from the public -- I think.

21 CHAIRMAN: It was. He's actually  
22 speaking of this, though.

23 MR. KRAUS: And if you want to make  
24 exception to that for individual items, you  
25 can.

1           CHAIRMAN:   Okay.   Go ahead.

2           MR. LINDLEY:   Did I hear you say that  
3           legal counsel says that the Board has no legal  
4           basis or standing in this; is that what -- I  
5           heard that right?

6           CHAIRMAN:   That is our understanding;  
7           out of the scope of the Board.

8           MR. LINDLEY:   And the reason for that?  
9           Do you know why?

10          CHAIRMAN:   Do you guys want to define  
11          that or --

12          MR. KRAUS:   Well, we're not going to  
13          comment on legal advice in open session.  
14          That's a closed matter.

15          MR. LINDLEY:   Okay.   So, should we  
16          have our attorney get ahold of you then?

17          MR. KRAUS:   I'm not going to discuss  
18          it with anyone, whether they're an attorney or  
19          not, because it's a closed matter and that  
20          would be waiving privilege.

21          CHAIRMAN:   So, I guess, if he really  
22          wants on the agenda with his attorney, get on  
23          the agenda about it?

24          MR. KRAUS:   If you or someone wanted  
25          to make comment on that, then you can.

1 CHAIRMAN: To the Board.

2 MR. KRAUS: To the Board. Sure.

3 CHAIRMAN: Did that answer your  
4 question, Scott?

5 MR. LINDLEY: Well --

6 CHAIRMAN: Within reason?

7 MR. LINDLEY: -- yeah. I mean, it's  
8 -- I mean --

9 CHAIRMAN: Basically, the technical  
10 hoops.

11 MR. LINDLEY: What's that?

12 CHAIRMAN: I said, basically, the  
13 technical hoops. If you want to discuss it  
14 farther, and you would like to really address  
15 it with the -- in a closed session with your  
16 attorney in front of the Board, then --

17 MR. LINDLEY: You just make an  
18 appointment.

19 CHAIRMAN: -- make an appointment.

20 MR. LINDLEY: Okay. That's fine.  
21 We'll do it.

22 CHAIRMAN: All right. In closed.

23 MS. EULER: I'm not sure --

24 MR. KRAUS: I'm not sure that would be  
25 in closed.

1 CHAIRMAN: Specifically?

2 MS. EULER: I'm not sure that there's  
3 -- you know, it falls within -- (inaudible) --  
4 closed sessions.

5 MR. KRAUS: Yeah. That wouldn't be in  
6 closed. That would in open.

7 CHAIRMAN: Okay.

8 MR. KRAUS: Which is why I was saying  
9 in the open forum today, if you want to make  
10 additional comments in the open forum. You  
11 can make additional comments on this or any  
12 other agenda item.

13 CHAIRMAN: Okay.

14 MR. KRAUS: But that wouldn't be in  
15 closed.

16 CHAIRMAN: All right. So, I misread  
17 what I was hearing. So, hang on till the  
18 end, if you really want to address it in  
19 public, I guess you can.

20 MR. LINDLEY: Or do you want us to --  
21 I mean, do you set an appointment and have  
22 counsel there to discuss it, or what's your  
23 thoughts? I mean, which is ever the best way,  
24 just what you want to do.

25 CHAIRMAN: I guess, if it's a debate

1 between legal counsels, whatever, and it is  
2 legal counsel addressing it.

3 MR. LAKIN: (Inaudible.)

4 MR. KRAUS: I mean, if counsel wants  
5 to call and talk to me to -- but, essentially,  
6 they're going to -- they can, but they're,  
7 essentially, going hear the same response  
8 because, essentially, that's asking what's the  
9 substance of your attorney-client  
10 communication, and I'm not going to reveal  
11 that, so --

12 MS. EULER: But if Scott would like an  
13 opportunity to have his attorney present to  
14 meet with the Board, the Board would  
15 accommodate that.

16 MR. KRAUS: Oh, sure.

17 MR. LINDLEY: What's that, Sharon?

18 MS. EULER: I'm sorry. I've got a  
19 cold.

20 MR. LINDLEY: I understand.

21 MS. EULER: If you would like to have  
22 your attorney present to discuss with the  
23 Board, the Board will accommodate that request.

24 MR. LINDLEY: Okay. So, does Robert  
25 need to just call Becky or you or him, or

1 what do you want to do?

2 MS. EULER: You can just ask now if  
3 you can have -- request to be on the agenda.

4 MS. DUNN: I can schedule it for next  
5 week's meeting, if you like.

6 MR. LINDLEY: Okay. That's fine.

7 MS. DUNN: And we can set up a time.  
8 Well, the open agenda is scheduled for -- and  
9 I'll just -- if you call me, I will list it  
10 as an agenda item.

11 MR. LINDLEY: And then do you want to  
12 just kick it off the next time at 9:00 then;  
13 is that kind of your thought?

14 MS. DUNN: If you would prefer to have  
15 your attorney here.

16 MR. LINDLEY: Well, and I don't think  
17 that would be -- I think that would be a more  
18 fruitful discussion; don't you guys?

19 MS. DUNN: Okay.

20 MR. LINDLEY: I mean, you know, what  
21 do you think?

22 CHAIRMAN: Yes. That's fine with me.

23 MR. LAKIN: The problem is, Scott,  
24 they've already discussed and they've already  
25 voted on it. It really is not going to

1 change what they just voted on. MR.

2 LINDLEY: I understand that.

3 CHAIRMAN: But if he wants his  
4 opportunity to try to change our mind, well,  
5 he can.

6 MR. LAKIN: Well, then you shouldn't  
7 be voting on it.

8 CHAIRMAN: No. I know. I know. I  
9 just said that. Okay. Let's go on and then  
10 we'll see about that one. All right. I  
11 think we have covered the agenda items prior  
12 to the big discussion which is the  
13 implementation process of Senate Bill 1. Dah,  
14 dah, dah, dah. Yes. So --

15 MR. LAKIN: (Inaudible.)

16 CHAIRMAN: What's that?

17 MR. LAKIN: All right. Number one, in  
18 the first -- I do -- I have not had a chance,  
19 Sharon, to cross-reference the bills in 333 to  
20 what they have in 436, which I don't  
21 understand why they didn't change the 333  
22 bills and place -- put it into preneed. I  
23 don't understand that at all. But number one  
24 that I am very concerned about is a  
25 discrimination suit against this Board and

1 this law. The way I read this, you have to  
2 be an owner of a funeral home in order to be  
3 on this Board. Now, how are they going to  
4 produce an audit of their -- it's not -- that  
5 needs to be straightened up first thing before  
6 you go any farther because you're going to  
7 have application for Board members.

8 MS. EULER: And that is something that  
9 is really within the purview of the governor's  
10 office. And the way we've got this structured  
11 is today we want to talk about setting out a  
12 game plan and talk about what we need to do  
13 for emergency rules. And then starting with  
14 the next meeting, we're going to go section by  
15 section through the statute and how things are  
16 going to be interpreted. And so, that section  
17 is on the agenda for the next meeting, and  
18 we'll look at that. Because there does need  
19 to be -- I think there needs to be some rules  
20 related to that, but they also need to be  
21 coordinated with the governor's office because  
22 the governor's office is who does the  
23 appointments.

24 MR. LAKIN: This -- according to this  
25 thing, this is going to go into law the 28th

1 of August.

2 MS. EULER: Oh, right.

3 MR. LAKIN: Just the way it reads.

4 MS. EULER: Right. It is what it is.

5 MR. LAKIN: And the way it reads is  
6 you have to have a financial of your at-need  
7 and preneed business, which I don't think my  
8 at-need business -- in fact, I think that's  
9 sort of asinine myself about my at-need  
10 business. When you're talking about Senate  
11 Bill 1 which is supposed to be a preneed bill,  
12 which it's not. It's got so much in there  
13 with 333. But you've got your -- you've got  
14 people that's going to be running for that  
15 board.

16 MS. EULER: Uh-huh. And we're going  
17 to take that up next week.

18 MR. LAKIN: I drove all the way up  
19 here, wasting a shirt, Sharon, and you're  
20 going to put it off till next week.

21 MS. EULER: Yeah.

22 MR. LAKIN: Okay.

23 CHAIRMAN: And add this behind it  
24 because this is kind of like how -- not kind  
25 of like. This is the way we would like to

1 handle the ground rules for this, and this  
2 will help. Comments, the Board would like to  
3 have in written form where we can actually  
4 have those and have some time for legal to  
5 look at those and put in -- all the Board  
6 members put together their list of questions.  
7 Legal has been looking at those and trying to  
8 put everything in a real organized group so  
9 when we get into these discussions of this  
10 section on this date and this section on this  
11 date, and we would like those same comments  
12 from all of you. If you have concerns or  
13 questions, where they have time, we have time  
14 to put it in, the thought was that if we  
15 could get those comments or questions by  
16 Thursday prior to that date, that that could  
17 then be added into the compiled group of those  
18 comments from everyone where it really could  
19 be addressed because a lot of our questions  
20 will be the same from different individuals  
21 coming together. We thought that made a lot  
22 of sense. We thought, to try to keep this  
23 thing flowing really orderly and smooth, we  
24 actually -- and I don't mean any offense. I'm  
25 not picking on you, Don, because you got the

1 first one out there, but we really want to  
2 hold the comments to the end. We actually  
3 have paper and pen over here if you need  
4 something to write, keep thoughts on, or  
5 whatever, to ask at the end, we will have a  
6 comment time at the end, and we may have more  
7 time than we think we'll have here, but,  
8 obviously, we don't have the answers, either.  
9 That's why we're here, to try to figure them  
10 out. So, what did I miss? Oh, if you have  
11 comments, send them to you?

12 MS. DUNN: Uh-huh.

13 CHAIRMAN: So, Becky would be the  
14 person to -- as to where they go.

15 MS. DUNN: E-mail.

16 CHAIRMAN: In e-mail. So --

17 MS. EULER: I think Bill has a  
18 question, though.

19 MS. DUNN: Bill Stalter has a question.

20 CHAIRMAN: Yes.

21 MR. STALTER: Martin, on this, the way  
22 we're going to approach this, you could give  
23 them time, but the problem that we tend to  
24 have is -- (inaudible.)

25 CHAIRMAN: Uh-huh. Well, they're

1 already written, you know.

2 MR. STALTER: That's what I'm saying.  
3 Yeah. With regard to all these questions that  
4 you already, as a group, have found all  
5 together, can you put something out so that we  
6 don't -- we're not hitting the same subjects  
7 -- the same questions?

8 MS. EULER: What we would like to see  
9 is if -- and the Board has submitted some, but  
10 I think there are going to be more. If  
11 everybody could submit those to Becky by the  
12 Thursday before the next meeting, and then  
13 we're going to compile them all by section, so  
14 we're going to have, you know, Section  
15 333.011, or whatever the first one is, and  
16 then all the comments and questions under that  
17 so that we can have those to distribute in  
18 advance of the meeting.

19 MR. STALTER: So, today is the  
20 Thursday before the next meeting; right?

21 MS. EULER: Yes.

22 MR. STALTER: Yeah. So, okay. You're  
23 going to cut this meeting short so we can run  
24 home and write up these questions?

25 MS. EULER: You know that piece of

1 paper --

2 CHAIRMAN: You can leave them today.

3 MR. STALTER: Okay. But you -- I mean

4 --

5 MS. EULER: But we would -- we just set  
6 Thursday as --

7 MR. STALTER: Okay.

8 MS. EULER: Because most of the  
9 meetings are going to be on a Tuesday. So,  
10 for today, we would probably give you till  
11 noon tomorrow, maybe. But get them to us  
12 because we want to compile them all because  
13 things that people have questions about are  
14 the things that we'll need to do rules about  
15 because there will be things that aren't  
16 clear. So, yes, we want to get them all  
17 compiled so everybody has them in front of  
18 them at the meeting, or before the meeting.

19 MR. STALTER: Then did some publish  
20 right before the meeting or up here on the Web  
21 site, then we know what's going on?

22 MS. EULER: Yeah. Yeah.

23 MR. STALTER: Okay.

24 MS. EULER: That's the plan.

25 MR. KRAUS: And if we get them after

1 that time, then it's not that we're not going  
2 to consider them, it's just we can't guarantee  
3 we'll able to get them in and get them  
4 included.

5 MS. EULER: Right.

6 MR. STALTER: Basically, mine is just  
7 look at the list and see if there's anything  
8 that -- you know, make sure we cover each  
9 base, and we can see what you've already done.

10 MS. EULER: Yes. Right.

11 MR. STALTER: Because I don't want to  
12 beat anything to death if you've already got  
13 it on your Web site.

14 CHAIRMAN: Sure.

15 MS. EULER: So -- and we divided the  
16 statute up into three kind of random sections  
17 to try to make it a little more manageable.

18 CHAIRMAN: And some of the comments or  
19 the questions, hopefully, at the end, maybe we  
20 can get some answers on that, too. So --

21 MR. LAKIN: Have you got a list of the  
22 ones you're going to -- maybe I missed out on  
23 this.

24 MR. STALTER: I think you just did.

25 MR. LAKIN: No. Have you got a list

1 of what you're going to discuss next Thursday?

2 MS. EULER: Yeah.

3 CHAIRMAN: It's in the open agenda.

4 MS. EULER: It's on the agenda.

5 CHAIRMAN: All of the dates.

6 MR. STALTER: That's what they look --

7 (inaudible.)

8 MS. EULER: We have group 1, group 2,  
9 and group 3.

10 CHAIRMAN: And then the comments would  
11 be, you know, applied appropriately to  
12 wherever that falls.

13 MR. KRAUS: And as we go forward,  
14 there's bound to be some crossover between  
15 those groups because they relate to each  
16 other, but that's just the way we set them out  
17 to have some kind of organization as to how we  
18 march through this.

19 CHAIRMAN: Okay? So, in that light,  
20 we would like -- see how it goes here, at  
21 least -- hold the questions till the end and  
22 maybe -- and, hopefully, it will be more in  
23 the written form where we can really put some  
24 thought in it. I did forget one thing that I  
25 want to back up on, though. In the request

1 from Brad Speaks, and I was going to add  
2 something behind that, there was a mention of  
3 Mr. Cowherd being the -- considered as the  
4 attorney for the Board. Senate Bill 1 did  
5 give the Board the authority to hire its own  
6 legal counsel, and all I really want to say  
7 about that is we will start pursuing that  
8 thought once we get the information that it  
9 takes to go through that. And I just want to  
10 address that thought that we will start that  
11 process, so that's pretty much just an FYI,  
12 and that's where that ends at the moment, so  
13 -- okay. Okay. The way we thought we would  
14 start, at least, this morning, is Earl and  
15 Sharon have put together, I'll just call it  
16 presentation, for the start of this, and give  
17 it to you guys and let's go.

18 MS. EULER: I'm going to let Earl talk  
19 because my voice is --

20 CHAIRMAN: You're the man.

21 MR. KRAUS: I'll start off. And some  
22 of this has been covered already, but I'll  
23 touch on it briefly. First, Senate Bill 1 has  
24 been passed and signed into law; it goes into  
25 effect August the 28th. There is new

1 provisions, there were repeal provisions,  
2 there is amended provisions in there covering  
3 a lot of different areas, so there's a lot to  
4 cover by the Board. Particularly, to the  
5 extent of potential rules, those can be  
6 regular rules that go through the normal  
7 promulgation process, those can be emergency  
8 rules like Connie was talking about. Of  
9 course, any of those rules can only be to the  
10 extent that it's implementing the current law  
11 or soon-to-be current law on August 28th. It  
12 can't go beyond the scope of that law. So,  
13 if someone says, well, I think -- you know, if  
14 a particular Board member says, well, I think  
15 doing this would be a good idea. Why, let's  
16 just do a rule and say that. Well, if that's  
17 not already set out in law and just simply  
18 further implementing that, it's a whole new  
19 thing, we can't do that. That's not -- it  
20 wouldn't be a properly promulgated rule, and  
21 it would be rejected. So, we want to keep  
22 that in mind when we are going forward, of  
23 course, in implementing just what is in the  
24 law. And that's even if some don't agree with  
25 what's in the law, it's still the law and we

1 all have to follow it. So, as to an  
2 approach, we've kind of talked about that some  
3 already. We've broken down the different  
4 sections of the statute so that we can get  
5 comments from the Board members, from the  
6 public, consider those comments and questions,  
7 counsel and staff can put together some type  
8 of proposals or recommendations, hopefully,  
9 based on discussion today among the Board.  
10 And I think that's what we were hoping to do  
11 primarily in this meeting is have initial  
12 discussions among the Board and get some  
13 direction as to where the Board thinks we may  
14 want to go on particular global ideas and  
15 issues. For example, transition initially.  
16 What happens on August the 28th? What do  
17 people do? Are they -- can they operate?  
18 Can they run their business? And some ideas  
19 on how to address that initially in the short  
20 term, and also in the long term. And maybe  
21 part of that is done in emergency rule for the  
22 short term and by regular rule in the long  
23 term and doing a combination of both of those  
24 things. So, if we can get the different  
25 comments and discussion and ideas, then at the

1 subsequent meeting, then we can walk through  
2 the sections individually, have those comments  
3 in front of everyone so everyone has thought  
4 they had the opportunity to read and think  
5 about those ahead of time and have a more  
6 productive discussion as to what's the best  
7 way to do all this. There is a lot to do in  
8 a relatively short amount of time, and that's  
9 why we really condensed down how we would -- I  
10 think the Board would normally set its  
11 meetings, without -- normally allow a lot more  
12 time between meetings and more time for  
13 comment and all of that. But I think everyone  
14 would agree it's important to get some kind of  
15 clarity out there for the industry before the  
16 28th. Now, I think Connie mentioned that no  
17 rules, emergency or otherwise, can be filed  
18 until the 28th because the law isn't effective  
19 before then. You can't promulgate a rule  
20 based on a statute that's not in effect yet.  
21 So, the Board does have to wait until then,  
22 but I think a lot can be prepared and ready  
23 to just go file so that it could be filed  
24 right on the 28th, hopefully. So, that's kind  
25 of how we talked about going forward. Some of

1 the topics that we could start off on,  
2 actually -- I mean, if the Board members have  
3 certain topics they want to hit on, we could  
4 start with those. Some that Sharon and I have  
5 talked about that, I'm sure, everyone has  
6 thought about and will want to address is the  
7 mission through the transition initially.  
8 There are many different options on how to  
9 address that. We could hit on that first.  
10 There's the issue of fees to talk about.  
11 There's annual reporting; a lot of different  
12 ways to approach that. And I don't know if  
13 this would be one of the easier ones to tackle  
14 first. I think one of the harder ones, but  
15 educating licensees and the public, too, as to  
16 what's -- what do I have to do under this  
17 law? What does it really mean? What are the  
18 really just important things? If you have to  
19 tell me ten things, what's -- about this law,  
20 what would it be? And how to share that with  
21 the public; is that meetings, is that Web  
22 site, is that publications, is that a  
23 combination of things? So, that's a big group  
24 of things to swallow all at once. Martin, do  
25 you or the Board have any one of those you

1 want to jump on first?

2 MS. EULER: Actually, before -- can I

3 --

4 MR. KRAUS: Yeah. Go ahead.

5 MS. EULER: I'd just like to piggyback  
6 on something Earl said to remind everybody  
7 that, you know, whenever we have a new law, I  
8 hear the word "autonomous" floated around.  
9 Well, the Embalmers Board is an autonomous  
10 board and you can do whatever you want. And  
11 Sam is giggling; he hears that, too. But the  
12 thing to remember is that the Board is an  
13 agency of the State created by the  
14 legislature, vested with authority by the  
15 legislature, and the Board can only do those  
16 things the legislature has given them  
17 statutory authority to do. So, the Board is  
18 limited in what it can do by what it has  
19 statutory authority, but the Board also is  
20 under a mandate from the legislature to do  
21 what they've been told, whether we agree with  
22 it or not. So, you know, the Board's charge  
23 is to enforce the law as written, so I know  
24 there are a lot of people in Missouri who  
25 aren't happy with one part of the law or

1 another part of the law or whatever. That  
2 ship has sailed, it's over. The law is what  
3 it is and we need to work with it, with what  
4 we've got moving forward.

5 CHAIRMAN: Okay. All right.

6 MS. EULER: Where would you like to  
7 start? What would you like to start with?

8 CHAIRMAN: You all?

9 MR. McCULLOCH: I've got one. It  
10 would be page 21 in here, 436.435. I'd like  
11 just maybe for the attorneys to tell me what  
12 does that mean exactly in your mind?

13 MR. STALTER: Which one is that, John?  
14 I didn't hear you.

15 MR. McCULLOCH: 436.435, page 21.

16 MR. STALTER: Okay. Of the trust?

17 MR. McCULLOCH: Talking about the  
18 business on August 28th and having till July  
19 10 -- that part.

20 MS. EULER: Is this something that you  
21 think we need an emergency rule about, or is  
22 this something you're just wanting  
23 clarification on?

24 MR. McCULLOCH: I'd just like to know  
25 what you all think about that. I'd like to

1 hear your take on that.

2 MS. EULER: Okay. Because I'm  
3 wondering if maybe we should hold back until  
4 when we talk about this section of the  
5 statute, in general, and we talk today about  
6 what we need emergency rules for. That's just  
7 my suggestion.

8 MR. McCULLOCH: Why? I guess, why do  
9 you think we need to wait?

10 MS. EULER: So that we can address  
11 these things --

12 MR. McCULLOCH: Because that's going  
13 to clear up a lot.

14 MS. EULER: Okay.

15 MR. McCULLOCH: If I can just hear  
16 what you think about that.

17 MS. EULER: Well, I'll tell you what I  
18 think.

19 CHAIRMAN: Do you want -- I may be  
20 inappropriate here, but do you want that  
21 thought at the moment or -- that section,  
22 actually, is referenced in the meeting #3?

23 MS. EULER: Yes.

24 CHAIRMAN: By point. In that agenda  
25 that you look -- in meeting #3.

1           MR. McCULLOCH: Why do you think it's  
2 important to wait till then or --

3           MS. EULER: We can talk about it now,  
4 but we had talked about talking first about  
5 what things needed emergency rules.

6           MR. McCULLOCH: Okay.

7           CHAIRMAN: We may be better prepared  
8 to talk about it --

9           MS. EULER: Yes.

10          CHAIRMAN: -- in meeting #3 or  
11 whatever.

12          MS. EULER: Yes.

13          CHAIRMAN: Okay? Whether the -- how  
14 did you guys break down the subjects? As what?

15          MR. KRAUS: Well, I kind of thought  
16 one of the number-one items is going to be --  
17 let's say I have a registration. I'm  
18 currently registered with the Board, and the  
19 28th gets here and can I open my doors? What  
20 do I do?

21          CHAIRMAN: Okay.

22          MR. KRAUS: And then, again, there are  
23 a lot of different ways to address this. One  
24 potential option may be -- and I'm not  
25 recommending this as the way you should go

1 forward, it's just as a starting point -- is,  
2 basically, an arrangement to maintain the  
3 status quo until permanent rules are in place.  
4 One way to address that -- public rules which  
5 are providing for licensing as required under  
6 the statute -- there is not any way that I  
7 can think of to have someone be able to have  
8 procedures put in place, have someone fill out  
9 an application, have them file it, have them  
10 do some undetermined fee, and then be licensed  
11 on August 28th. It's not possible.

12 CHAIRMAN: Uh-huh.

13 MR. KRAUS: So, one potential way to  
14 address that would be for the Board to -- and  
15 this would have to be through emergency rule  
16 -- provide for there to be either some type of  
17 temporary or provisional license or some type  
18 of statement that the Board is not going to be  
19 taking actions with regard to anyone for  
20 operating without a license under the new  
21 statute because there aren't any provisions  
22 for it yet, until a certain date or until --  
23 and that date can be a set date. You can say  
24 August 31st -- or October 31st, or December,  
25 or whenever you pick. And you could build

1       into that that such registrants should -- will  
2       need to notify the Board in writing that  
3       that's their intent. That gets them in as a  
4       temporary okay person. And then, of course,  
5       they have to actually apply once there is the  
6       application and the process set out, and then  
7       -- and you could even set a date where you  
8       have to apply by a certain date and, if you  
9       don't, you lose your temporary status, but, if  
10      you do, you're still good, and you would  
11      continued to be good until the Board approves  
12      or denies the application; something like  
13      that. That process then would allow someone  
14      who is currently registered, currently fine to  
15      operate before the Board or under the  
16      authority of the Board, to continue doing  
17      that. They have to tell the Board, hey, I'm  
18      intending to get licensed. As soon as you  
19      tell me how I can get licensed, I'm going to  
20      do it. Then they're still okay. Then the  
21      application process is developed, they submit  
22      their application by the stated deadline, so  
23      they're still okay. And then until the Board  
24      rules on it, because it's going to take some  
25      time for the Board to go through all those and

1 actually make a determination on each  
2 application, then they're not penalized for  
3 having to wait for the Board to get around to  
4 their application. But the Board can still,  
5 if they're looking at one and there is some  
6 problem with it, still has the authority to  
7 say yes or no just like with every  
8 application. So, that's one -- of course,  
9 that leaves out a whole lot of details, but  
10 that's one overall potential approach and you  
11 can build in different dates with that or  
12 requirements as you see fit. And so, there's  
13 a starting point.

14 CHAIRMAN: Okay. Anybody on the Board  
15 have a question just about that thought of a  
16 starting point? I actually came up with one,  
17 but --

18 MR. McCULLOCH: So, basically,  
19 anything you do, you just do business as usual?

20 MR. KRAUS: Under that scenario, as  
21 long as you provide whatever notification the  
22 Board determines to the Board that you intend  
23 to continue -- that you intend to get a  
24 license under the new statute, and you're  
25 currently registered, then you would just

1 operate as usual until that happens. And  
2 after you -- let's say you get your license  
3 and you're approved, then you continue doing  
4 business.

5 MS. EULER: And you would have to fill  
6 out the application form by whatever date we  
7 say, but the status quo would be maintained  
8 until your license application is either  
9 denied or a new license is issued. Does that  
10 make sense?

11 MR. McCULLOCH: Yeah. That makes  
12 sense to me.

13 CHAIRMAN: Guys, any other questions  
14 there? You, Joy?

15 MS. GERSTEIN: No.

16 CHAIRMAN: Jim?

17 MR. REINHARD: No.

18 CHAIRMAN: No? I'm just curious, just  
19 as a litmus test, even though we're saving  
20 comments till the end, just out of that one  
21 thought of the discussion, anybody out there  
22 have a question? I'm just curious by hand.  
23 All right. Okay. I just wanted to see. All  
24 right.

25 MR. KRAUS: And, of course, in

1 subsequent meetings, we'll be hitting details  
2 of all this and discussing this again. But  
3 for initial discussion as to whether this is  
4 an approach the Board is interested in the  
5 concept, it's not interested in that concept,  
6 would rather do something else, then I think  
7 to the extent you have -- I mean, I'm -- this  
8 is kind of being sprung on you, but to the  
9 extent you have thoughts on that today, then I  
10 think that can help us prepare for future  
11 meetings.

12 MR. McCULLOCH: It's almost like  
13 you're saying the Board could do nothing and  
14 then no one can do anything on -- after August  
15 28th; is that what you're saying?

16 MS. EULER: That's -- I mean --

17 MR. KRAUS: Well --

18 MS. EULER: That is an option.

19 MR. McCULLOCH: That would be a poor  
20 option --

21 MS. EULER: Yes.

22 MR. KRAUS: That would be a poor  
23 option.

24 MR. McCULLOCH: -- for this Board to  
25 take. I hope they're not thinking that way.

1 MS. EULER: Right. That's why Earl  
2 and I have been talking about some ways that  
3 we can maintain -- keep everybody in business  
4 until the Board gets the application process  
5 up and running, the Board sets the fees, and  
6 we give everybody a little lead time to get  
7 everything together that needs to be done for  
8 the license processing. Plus it's going to be  
9 a bunch of licenses -- license applications  
10 that need to be processed all at once, and  
11 Board staff, physically, is not going to be  
12 able to do that in a day or two days. So, we  
13 were just trying to think of some ways to  
14 maintain the status quo, keep everybody in  
15 business while we transition to the new law.

16 MR. McCULLOCH: Okay.

17 MR. REINHARD: And so, you're going to  
18 give them a grace period?

19 MS. EULER: Yeah, a grace period.

20 MR. REINHARD: And explain -- okay.  
21 What you're talking about here is, like, if  
22 they do charge a fee per contract, like, oh,  
23 \$2. So, they go to \$25. During the grace  
24 period, you wouldn't have to pay that fee.  
25 Like, you're not going to have go back to

1 August 28th and pay forward. You just pay  
2 from September or October or whatever, from  
3 there on.

4 MS. EULER: Well, and that brings up a  
5 related issue in that, you know, the reporting  
6 period under old 436 ends October 31st. Well,  
7 the Board may want to do a rule that says  
8 that for this year, you know, you filed your  
9 annual report on October 31st as you would  
10 have under the old law, and we'll count that  
11 as good for this year, and then we'll start  
12 the new process the next year beginning  
13 October 31st. So that for this year until  
14 October 31st, you kind of maintain status quo  
15 so that everything kind of stays the same, and  
16 then you start with the new reporting year  
17 with the new law.

18 MS. DUNN: But in order to do that --

19 MS. EULER: You need a rule.

20 MS. DUNN: -- an emergency rule would  
21 have to be done.

22 MS. EULER: Yes.

23 MS. DUNN: And so, then we would have  
24 to -- correct me if I'm wrong --

25 MR. McCULLOCH: So, you're saying that

1 the old -- the way we are doing it now, that  
2 this new law would actually say that you have  
3 to file two reports then?

4 MS. EULER: No. That for this year --

5 MR. McCULLOCH: Because that makes no  
6 common sense at all, in my opinion.

7 MS. EULER: That -- no. No. No. No.

8 MR. McCULLOCH: Just go ahead and file  
9 your regular deal.

10 MS. EULER: That for this year, you  
11 file the report like you would have last year.

12 MR. McCULLOCH: You shouldn't even  
13 have to talk about it.

14 MS. EULER: Well, but --

15 MR. McCULLOCH: Should just be the way  
16 it is.

17 MS. EULER: Well, but we need a rule  
18 that says that.

19 MR. McCULLOCH: Really?

20 MS. EULER: Yeah.

21 MR. McCULLOCH: (Inaudible.)

22 MS. EULER: Because the new -- that's  
23 why we need a rule.

24 MR. McCULLOCH: That's crazy.

25 MS. EULER: To make this not crazy.

1 UNIDENTIFIED: Right.

2 MR. KRAUS: Well, because the statute  
3 as written goes into effect the 28th and it has  
4 requirements. And if you don't meet --

5 MR. McCULLOCH: I thought it wasn't  
6 affecting the old stuff.

7 MS. EULER: Yes.

8 MR. KRAUS: Well, but if it says -- if  
9 a statute goes into effect on the 28th and it  
10 says in October, you have to file a report,  
11 well then you have to file a report.

12 MR. McCULLOCH: From the 29th through  
13 October 1st, you would have to file a report?

14 MR. KRAUS: Well, that's not explicit  
15 in the statute. That's why it's best to set  
16 it out in rule what the Board will consider  
17 compliant with that.

18 MR. McCULLOCH: Okay.

19 MS. EULER: And that's why when Earl  
20 and I --

21 MR. KRAUS: So everyone understands  
22 and is doing the same thing.

23 MS. EULER: That's why we thought as a  
24 suggestion to the Board that it made sense,  
25 like he was saying, to maintain the status quo

1       until October 31st of this year because nobody  
2       is set up bookkeepingwise to do an annual  
3       report based on the new law because nobody  
4       knew when it was going to be here.

5               MR. REINHARD: Well, that brings up a  
6       point, though --

7               MR. McCULLOCH: This department is not  
8       set up for it.

9               MS. EULER: Right.

10              MR. McCULLOCH: It's not just  
11       everybody else, this department can't handle  
12       that.

13              MR. KRAUS: And if you're going to do  
14       -- and it also would be very difficult for the  
15       -- and I don't know if this would be  
16       beneficial at all -- to do a report of one  
17       type for one period and another type for  
18       another period --

19              MS. EULER: Right.

20              MR. KRAUS: -- and have that be your  
21       whole report for the year. I mean, that's  
22       just not going to be workable for anyone, I  
23       don't think.

24              MR. REINHARD: Well, Bill has got a  
25       hell of a point here, too, though, and Earl is

1 just saying that if the law says that you have  
2 to put 15 percent in front, you know --  
3 (inaudible) -- so, if that's the law, which  
4 it is -- that's not a rule, that's going to  
5 be the law. So, then it -- August 28th, you  
6 need to start putting whatever you're supposed  
7 to fundwise; right?

8 MR. STALTER: But the bigger issue is  
9 accruing income. Can we continue to  
10 distribute income up to October 31st, or do we  
11 have to start on August 28th? I mean, those,  
12 for me, you know, we can -- there's a lot of  
13 things to work through, but then back to your  
14 issue about July 10th. At what point do we  
15 have to pull the trigger on -- (inaudible.)

16 MS. EULER: Right. Right. And if  
17 you'll notice that that's item #3 on my triage  
18 list.

19 MR. STALTER: But if it ties into this  
20 issue about -- with the provisional license  
21 and the status quo, we have to be careful what  
22 we define as status quo -- (inaudible.)

23 MS. EULER: Exactly. Exactly.

24 MR. KRAUS: And to this point in  
25 talking about transition with regard to

1 licensure, that's what I was referring to.

2 MR. STALTER: Yeah. It's -- yeah.

3 MR. KRAUS: Because registration and  
4 licensure, duties as to payments in trusts, is  
5 something else to address. It's an important  
6 matter.

7 MS. EULER: Right. And if we can get  
8 some ideas from the Board's direction  
9 conceptwise, how the Board wants to go, Earl  
10 and I can work with them together to draft  
11 rules to make the Board's concept -- put it in  
12 writing. But we need direction from the Board  
13 as to what you want conceptwise.

14 MR. KRAUS: And if certain concepts  
15 you think, no, that's not what we want to do,  
16 then we won't spend time on that anymore and  
17 we'll move on to something else.

18 MS. EULER: Yeah. And I hear from  
19 John's thinking that, conceptwise, he would  
20 like to see the annual report for this year be  
21 the same as the annual reporting in the old  
22 436; is that accurate?

23 MR. McCULLOCH: It seems like the  
24 obvious to me.

25 CHAIRMAN: Well, obviously, we're

1 going to have to micromanage every detail of  
2 this to get down to every single issue.

3 MS. EULER: Yeah. Right.

4 CHAIRMAN: So, we kind of started out  
5 that discussion with just how to take care of  
6 business so the office doesn't melt down on  
7 the 28th. How are we going to? Are we going  
8 to? Whatever. So, I guess the discussion,  
9 really, at the moment is, if you have  
10 questions, Board, about the proceeding of  
11 that. Earl made some comment as to just take  
12 care of business as usual until those specific  
13 dates are decided on or whatever as August  
14 28th rolls around here. So, in that one  
15 single subject aspect, any comment? Joy?

16 MS. GERSTEIN: I tend to believe that,  
17 along with Earl, you're going to be working on  
18 new rules, new dates, different things like  
19 that for the future. Why confuse the matter  
20 by putting new things in now that's only going  
21 to last till August 28th. I think it would  
22 be better, also, just that I don't know -- I'm  
23 a public member, guys; it might not be easier  
24 for you -- but, to me, in my mind, it would  
25 be better to continue -- put in the emergency

1 rule to continue at status quo until that date  
2 and you're ready to submit the new things that  
3 we have to do. Why submit new -- small new  
4 things now that's going to change in less than  
5 four months.

6 MR. KRAUS: Well, I think we're  
7 actually suggesting what you're saying --

8 MS. EULER: Yes.

9 MR. KRAUS: -- is file -- we can't file  
10 anything before August the 28th.

11 MS. GERSTEIN: Right.

12 MR. KRAUS: File emergency rules on  
13 the 28th that address the interim time period  
14 until permanent rules with regard to licensure  
15 are in place.

16 MS. GERSTEIN: Right.

17 MR. KRAUS: Typically, as Connie was  
18 saying, when we file -- if we were to file  
19 emergency rules, and along with that filing,  
20 we would file the permanent rules, the  
21 emergency rules would take effect ten days  
22 later; the permanent rules wouldn't take  
23 effect until six months later.

24 MS. GERSTEIN: And that's what I'm  
25 saying.

1           MR. KRAUS:   Hopefully, there wouldn't  
2   be a lag time between the end of the emergency  
3   rule and the beginning of a permanent rule,  
4   hopefully.

5           MS. GERSTEIN:   And that's what I'm  
6   saying, but don't add anything into the  
7   emergency rule that's going to confuse the  
8   issue for the permanent rules.

9           MS. EULER:   So, is what you're saying  
10   is that your thought would be that everybody  
11   who is currently registered as a preneed  
12   seller would either remain so, but if they  
13   want to practice after October 31st, that you  
14   would like to see that be the deadline, so --  
15   because that's the renewal date in the new  
16   statute so that we start with the renewal  
17   process, new licenses issued by October 31st?

18          MS. GERSTEIN:   Now, that item, I think  
19   we need to discuss.

20          MS. EULER:   Okay.

21          MS. GERSTEIN:   But I'm not -- what I'm  
22   saying is that it's going to be confusing  
23   enough for them when the new -- when the old  
24   switches over.   We add some -- a lot of new  
25   stuff with the old, it's going to be a whole

1 lot more confusing.

2 MS. EULER: Yeah.

3 MS. GERSTEIN: To follow what's going  
4 to happen, and so, this date, everything is  
5 going to change. Am I -- do I make sense?

6 MS. EULER: Yeah. Yeah.

7 CHAIRMAN: Okay. Board, anybody else  
8 with a thought on that? I have one and that  
9 would be to you. And what kind of  
10 ramifications -- are there any ramifications  
11 if we just take no -- if we, basically, say  
12 we're just going to keep marching on as we do  
13 while we're pulling this together, are there  
14 ramifications of that?

15 MR. KRAUS: You mean, doing no  
16 emergency rules at all?

17 CHAIRMAN: Well, or making the  
18 emergency rule, but as far as -- well, I guess  
19 that is the ramification.

20 MR. McCULLOCH: Making one rule and  
21 that is that we're just going to not do  
22 anything, let business be as usual until some  
23 --

24 CHAIRMAN: I mean, that makes total  
25 sense to me to do that, but I'm just asking,

1 is there a blind side here I'm not seeing that  
2 there's a problem with that?

3 MS. EULER: The concern is that the  
4 rule needs to be drafted so that it's not  
5 deemed -- (inaudible) -- that you can do  
6 whatever you want with preneed money until  
7 October 31st and with no repercussions. So,  
8 you can drain your trust fund, you can --

9 CHAIRMAN: Well, no.

10 MS. EULER: I mean, but -- but --

11 CHAIRMAN: You know, the current law,  
12 I guess, or whatever.

13 MS. EULER: Well, but there are people  
14 who might interpret, you know, where it says  
15 we're not going to prosecute anybody, "Oh."

16 MR. KRAUS: Yeah. Until you see  
17 somebody do something really bad, you want to  
18 prosecute them where you said you wouldn't.

19 MS. EULER: Yeah.

20 CHAIRMAN: Okay. So --

21 MS. EULER: That's why there needs to  
22 be a rule.

23 CHAIRMAN: Okay.

24 MS. EULER: And that's why there needs  
25 to be a rule on what seems plainly obvious.

1           MR. STALTER: (Inaudible) -- you don't  
2 do anything, and I see this as being a  
3 licensure issue. On August 28th, you have to  
4 be licensed in that sellers license.

5           MR. KRAUS: I think that's right, that  
6 if you do nothing at all, then you have a  
7 rule saying, well, you're not going to do  
8 anything, but then you have a statute saying  
9 you have to be licensed on the 28th.

10          MS. EULER: Yeah.

11          MR. KRAUS: And you're not. But you're  
12 performing the functions of a seller. You're  
13 doing that unlicensed. That's a violation of  
14 the law, so one could pursue you; okay?

15          MR. McCULLOCH: Well, I'm willing to  
16 get licensed, but you all aren't able to get  
17 me licensed. How's that?

18          MS. EULER: Right.

19          MR. KRAUS: Right.

20          MS. EULER: And therein lies the  
21 problem.

22          MR. KRAUS: And that's the problem.  
23 But that doesn't mean it's not a violation.  
24 It's just you're not doing what you're  
25 supposed to do and neither is the Board.

1           MR. McCULLOCH: I don't think anybody  
2 can be covered, though.

3           MS. EULER: You're not going to sue  
4 the Board for not getting your license.

5           MR. McCULLOCH: And you all aren't  
6 going to sue me, either, because you're just  
7 wasting your time, because nobody is going to  
8 get anywhere on that.

9           MR. KRAUS: Well, and, of course, I  
10 don't want to say that that's not an option of  
11 the Board because it's the Board who decides  
12 what they're going to do. It's my  
13 understanding there are a lot in the industry  
14 that are looking for more comfort than that --  
15 well, no one is going to pursue me, so --

16           MS. GERSTEIN: So, the emergency rule  
17 will protect you until the new rule goes into  
18 effect?

19           MS. EULER: Until you can get your  
20 application processed and license issued.

21           MS. DUNN: In a reasonable time frame  
22 for everybody.

23           MS. EULER: Yeah.

24           MR. KRAUS: And the reason I started  
25 on the registration licensure issue is because

1 I think that the statute builds in a lot of  
2 discretion with the Board as to how that  
3 process is going to work. And so, I think  
4 the Board does have the ability to set out,  
5 well, for this period, we're going to do this,  
6 and then we're going to do this, and then  
7 we're going to permanently do this from here  
8 forward. That may or may not be the case  
9 with regard to other issues in the statute  
10 like payments with regard to trust accounts  
11 and that sort of thing.

12 CHAIRMAN: I'm going to break stride  
13 here for a second in our ground rules because  
14 I'm just -- I feel like I should -- I want to  
15 litmus test it. We want to keep this thing  
16 orderly and precise and micromanaged on single  
17 subjects, so we're not shotgun, chasing  
18 rabbits all over the place, because we'll be  
19 here till next Saturday if we even think that  
20 way. So -- but I'm curious. The ones that  
21 you all raised hands, give us your question.  
22 Short, sweet, and let's see what we can do  
23 with it.

24 MS. EULER: On transition issues.

25 CHAIRMAN: On transition, what we're

1 just talking about right there. Anybody? Go.

2 MS. RUSSELL: I've got a load.

3 MS. DUNN: You need to say your name  
4 and who you are with for the record.

5 MS. RUSSELL: Oh, I'm sorry. Darlene  
6 Russell, CFL Preneed. Earl, I sympathize with  
7 you for going through this. I was originally  
8 there when Senate Bill 644 passed, so -- and I  
9 felt sorry for the staff for what they're  
10 getting ready to go through, having been there  
11 through a transitional period. But I concur  
12 that the fact that August 28th, that people  
13 cannot just sell preneed -- the law prevents  
14 that -- without being registered of some sort.  
15 Your answer to that is perfect at this point,  
16 some kind of a notification and some type of  
17 an application that allows them, until they do  
18 take the test, to continue to have a  
19 livelihood. But my problem is, is what's out  
20 there, without certain questions on that  
21 application, that you're giving them the  
22 go-ahead to go ahead and continue to sell even  
23 though they haven't taken a test, it's three  
24 things need to be covered, just like the  
25 renewal. That would be are you -- have you

1       been convicted of a felony -- the same  
2       questions you ask on the renewal application,  
3       just to streamline it, to make sure you're not  
4       -- the Board is not giving a go-ahead to  
5       somebody who has been convicted of a felony or  
6       has your license been disciplined.

7               MR. KRAUS:   A couple of basic  
8       questions.

9               MS. RUSSELL:  A couple of basic  
10       questions and just a one sheet until the  
11       process goes, but that allows the Board not to  
12       have the problem of letting somebody in who  
13       you know is a convicted felon.

14              MR. KRAUS:  Right.  Would you rely  
15       upon their certified answer?

16              MS. RUSSELL:  You would hope that's  
17       what you do when you do the application  
18       processing.  I know you do the fingerprinting.  
19       But at this stage in the game, it's a starting  
20       point.

21              MR. KRAUS:  Okay.

22              MS. RUSSELL:  But at least the Board  
23       can say, look, they lied to use.

24              MR. KRAUS:  You asked.

25              MS. RUSSELL:  Yes.  Yes.  I'm just

1       trying to look at the Board's part of it, and  
2       then I've got about seven other things, but  
3       I'll let somebody else go first.

4               MR. KRAUS:   All right.

5               CHAIRMAN:   Go ahead.

6               MS. BATTAGLER:  Amy Battagler with  
7       Stuart Enterprises.  We have a lot of people  
8       selling preneed for our company that --  
9       (inaudible) -- people who are going to be  
10      registered as preneed agents who are paranoid  
11      right now that they no longer have a job as  
12      of August 28th.  So, you have huge requests  
13      about the testing that they're going to have  
14      to do to be registered -- (inaudible) -- and  
15      everything else.  So, it's very, very  
16      important for us to get something --  
17      (inaudible) -- continue until you have  
18      everything in place to get the testing done,  
19      and give them plenty of time to get your  
20      applications together and everything.  We've  
21      got some extreme concerns.

22              CHAIRMAN:   So do we.  Understand.  
23      Anybody else?  Scott?

24              MR. LINDLEY:  I would suggest that you  
25      issue the temporary license or application

1       only if they had one prior; okay -- no new  
2       ones -- so that everybody that's operating can  
3       still continue to operate and that you put,  
4       like, if it's January 15th, the day you think  
5       you're going to have all these rules done,  
6       then that be the date, or if it's next May,  
7       or whatever it is, that you do that and, you  
8       know, you require the same thing. Yeah, we  
9       want to know where your bank is, we want to  
10      know, you know, how many contracts you've  
11      sold, and we want to know who you've got  
12      selling for you, and that sort of thing, and  
13      send a fee in based on what it was last time  
14      on the old section, and temporarily operate on  
15      that old section law until you get these rules  
16      done. And along with that, I think you need  
17      to do that today, and I think you need to get  
18      e-mails and communications out to all these  
19      companies and people immediately so they know  
20      what's going on. And that way, this confusion  
21      is over with before you start into this  
22      rule-making process, and you're going to save  
23      yourselves a lot of grief with people and  
24      companies and everything else. And I think  
25      you're going to be as -- under the law, you'll

1 be as covered as you can be.

2 CHAIRMAN. Okay. Next? Anybody?

3 MR. WARREN: I think you have to have  
4 something -- some notice of intent to apply.  
5 You know, there was the law. It's the  
6 discretion of the Board as to whether you're  
7 going to go after people. There are certain  
8 things the Board -- for example, the trust  
9 portions of the new law. Everyone I've talked  
10 to, I've just told them you better be in  
11 compliance by August 28th as best you can.  
12 The licensure is a tougher issue because  
13 there's not a form or test and all that good  
14 stuff yet. But I think if you give people  
15 some assurance that they can continue and give  
16 you something like a notice of intent to apply  
17 or whatever, then you have an idea of what  
18 you're looking at, as well, from your  
19 workload, and that would at least assure  
20 people that if they go out and continue to  
21 sell, they're not going to get hauled back in  
22 at some time later and be accused of doing  
23 something they didn't know they couldn't do.

24 CHAIRMAN: Okay.

25 MR. LAKIN: If you had joint contracts

1 prior to this and you don't have a license  
2 because you didn't have to have a license with  
3 joint contracts, what are you going to do with  
4 those type of people? And this completely  
5 goes against what Scott said because Scott  
6 just wants the ones that are in business now  
7 to have that, but those of us that had a  
8 joint CD, what do you expect those people to  
9 do? And, you know, there are several of those  
10 people out there, and especially anymore. Due  
11 to the present circumstances of the preneed,  
12 there's a lot of people that have that. Would  
13 you just make an application that you -- you  
14 know, because I cannot read by this law -- and  
15 this has nothing to do with it, and that's why  
16 I hate to mention that, but I cannot figure  
17 out whether you need a preneed provider's  
18 license with joint contracts under the new  
19 statute. Can somebody tell me -- that could  
20 answer the question that I'm asking.

21 CHAIRMAN: It sounds like the written  
22 question, so I don't know that we can.

23 MS. EULER: Yeah.

24 MR. LAKIN: No. But in regard to  
25 getting licensed or make applications for a

1 license, if you have to have a license for  
2 joint contracts. If you don't have to have  
3 one, there is no need to worry. The people  
4 that have joint accounts don't have to worry  
5 about it then. So, it is on this issue.

6 CHAIRMAN: Okay.

7 MR. REINHARD: Anybody got an answer  
8 for him? Sharon?

9 MS. EULER: Yes.

10 MR. STALTER: Well, I'll talk first.  
11 Because, I mean, a lot of this is if -- your  
12 application form is kind of like your first  
13 opportunity to really start to educate the  
14 licensees. In this case, our sellers aren't  
15 licensed, they're registrants, you know.

16 UNIDENTIFIED: That's a good point.

17 MR. STALTER: So, we've got to license  
18 sellers and providers, you know. And then a  
19 lot of these guys relied upon somebody else  
20 like this, you know. If we're doing  
21 contracts, we don't have to do this. So, I  
22 think your application forms will be  
23 important, too. This might be the first time  
24 they're ever reading something that's -- you  
25 know, that you're telling them it's important

1 to the Board. And, basically, I think that  
2 they're going to certify, they're going to  
3 just use their best efforts, but we know it's  
4 going to be six months before we start getting  
5 down into -- you know, till it's going to be  
6 enforced. But it is, like -- like I said, a  
7 provisional license, you know. We're going to  
8 -- we just need to get all the names down of  
9 who intends to sell. And beyond that then,  
10 you know, we'll start educating them.

11 CHAIRMAN: And your point well taken  
12 in the thought that I guarantee you 90 percent  
13 of them think their registration is a license.  
14 So, anybody else with just a comment?

15 MS. RUSSELL: Just one quick thing.  
16 It's important for the funeral directors, you  
17 know. They know that if you have a  
18 funeral-director's license, you do not have to  
19 take the exam, you know. But letting them  
20 know that, you know, you'll be obtaining other  
21 information from them as required, but the  
22 most important part is getting the individual  
23 agents who have their livelihood at stake  
24 right now, you know. So, I mean, letting the  
25 funeral director -- if you've got a funeral

1 director, you're okay, in a sense. But if  
2 you're -- you know, if you've got the people  
3 out there that don't have a funeral-director's  
4 license, you know, they're really worried.

5 CHAIRMAN: Sure.

6 MS. RUSSELL: It's like Amy said.

7 CHAIRMAN: Absolutely. So, Board,  
8 anything following? Should we even pursue  
9 that thought? A request has been made that we  
10 take a short break, so we'll break.

11 (Off the record)

12 CHAIRMAN: Everybody is back, so let's  
13 proceed. During the break, I spoke with  
14 staff, and we've got a little concept here  
15 that could be beneficial, I think. So, I'm  
16 just going to ask that that be --

17 MS. EULER: Summarized?

18 CHAIRMAN: -- summarized. Yeah.

19 There's the good word.

20 MS. EULER: Do you want me to go ahead?

21 CHAIRMAN: Yeah, go ahead.

22 MS. EULER: Earl and I kind of put our  
23 heads together, and what we're hearing the  
24 Board say -- and please correct me if I'm  
25 wrong -- but what we're hearing the Board

1 saying is that, one, the Board wants to do  
2 something to make sure that business continues  
3 on August 28th; two, that the Board would like  
4 to have some sort of process, like, I think  
5 we've marked the term notice of intent to  
6 apply. That the Board could develop a form,  
7 notice of intent to apply, ask a few  
8 questions, name, rank, and serial number, what  
9 kind of license do you intend to apply for.  
10 And once people submit that form, they have a  
11 short-term provisional permit to operate until  
12 such time as their application process goes  
13 forward. It would be a good for a very short  
14 period of time. The Board should work on  
15 getting forms together for the application  
16 process, maybe even have the applications  
17 ready by October 1, potential deadline.

18 CHAIRMAN: At least a goal.

19 MS. EULER: A goal, so that the  
20 provisional permits could be for a month.  
21 Licenses. And so, everybody who will need a  
22 license under the new law -- that includes  
23 people who are currently registered as preneed  
24 sellers or providers, people who will be  
25 joint-account-funded contracts who will need a

1 seller license, people who sell insurance  
2 under contract, all of those people will need  
3 a seller license, agents who will need to be  
4 registered, all of those people would fill out  
5 this one form, check the box, and a copy of  
6 that would serve as their permit until such  
7 time as we get the application processed.

8 CHAIRMAN: And the thought being that  
9 possibly that form of notice of intent could  
10 be maybe, like, on the Web site by, like, next  
11 week, or something like that.

12 MS. EULER: Yes. Yeah.

13 CHAIRMAN: Okay. So --

14 MS. EULER: Does that summarize what  
15 the Board is thinking? Would you like to  
16 direct us to draft an emergency rule?

17 MR. FRAKER: I'd like to see us maybe  
18 pin down the date today. I think if we do  
19 nothing other than -- (inaudible) -- selling,  
20 possibly, or at least give them some direction  
21 -- (inaudible.)

22 MS. EULER: Okay. Give us date.

23 MR. REINHARD: Well, I think we -- and  
24 we've got short staff here now. We've got a  
25 problem there, so, I mean, I think we need to

1 be aware of that. So --

2 CHAIRMAN: I heard a date of October  
3 1st as a possibility. As far as just this  
4 notice of intent in the office thinking, would  
5 that be something you could see happening?

6 MS. DUNN: The form?

7 CHAIRMAN: Just the form.

8 MS. DUNN: Uh-huh.

9 MS. EULER: To get the form for the  
10 application is what he's saying.

11 MS. DUNN: On the Web site?

12 CHAIRMAN: And that would be good,  
13 again, just a date that was chatted was, if  
14 that would be good till October 1st, with the  
15 real form being, hopefully, in place by that  
16 date and that point in time where people could  
17 really apply. So --

18 MS. GERSTEIN: Is that feasible?

19 CHAIRMAN: We think. It would be a  
20 goal.

21 MS. DUNN: We're going to be working  
22 very much on Web site. I mean, if everybody  
23 can make sure that people use our Web site.  
24 The least that we have to mail out, the better  
25 for us expensewise and staffing.

1 MR. STALTER: I think you call them  
2 pdf forms?

3 MS. DUNN: Yes.

4 CHAIRMAN: Connie has a comment.

5 MS. CLARKSTON: Just a question, and I  
6 go back to when I worked at nursing private  
7 practice. Will October 1st give you enough  
8 time to get that form out, issue those  
9 licenses, or what's your process there? I  
10 mean, are you thinking temporaries end October  
11 1st, and then they apply? I mean, is there a  
12 lag time there we need to cover?

13 MS. EULER: I think that the temporary  
14 license is good until October 1st.

15 MS. DUNN: Permit.

16 CHAIRMAN: Permit.

17 MS. EULER: Permit. Thank you.

18 CHAIRMAN: Yeah. Lose the license.

19 MS. EULER: And they need to apply by  
20 October 1st. And so long as they apply, their  
21 temporary stays into effect until the Board  
22 denies or grants.

23 CHAIRMAN: Now, in saying what you  
24 just said, we're actually going to mail  
25 something out to that individual or this is

1 just fill out the intent and send back?

2 MS. EULER: They need to fill out the  
3 intent. They need to download it off the  
4 Board's Web site and send it in.

5 CHAIRMAN: But we --

6 MS. EULER: We're not going to mail  
7 anything out.

8 CHAIRMAN: Okay.

9 MR. STALTER: Yeah. But I think  
10 that's going to be problematic. If they don't  
11 know about it, you know.

12 MS. EULER: Well, we'll get the word  
13 out.

14 MR. STALTER: Okay. Well, that's --  
15 you said we won't mail anything out.

16 MS. EULER: I mean, we'll work out  
17 those details. Right now, we're looking at  
18 the concept of just focus on the intent to  
19 apply.

20 MR. McCULLOCH: Why the rush?

21 MS. EULER: So, that people aren't out  
22 of business on August 29th.

23 MR. McCULLOCH: They're not going to  
24 be. You're going to let them continue on.  
25 You're just going to try to get these forms.

1 MS. EULER: That's why we need a rule  
2 for. That's what we need a rule for.

3 MR. McCULLOCH: Do the rule, that's  
4 done.

5 MR. LAKIN: (Inaudible) for ten days,  
6 though, Sharon, because there's ten days in  
7 there --

8 MS. EULER: Right.

9 MR. LAKIN: There's ten days that  
10 you're not going to be able to sell preneeds  
11 legally.

12 MS. EULER: And we will address that  
13 in the rule.

14 MR. KRAUS: You're right. And there's  
15 nothing that we can do about that because the  
16 earliest we can have anything take effect is  
17 ten days after the 28th.

18 MR. LAKIN: How are you --

19 MR. KRAUS: But we can -- the Board --  
20 we could draft wording --

21 MR. McCULLOCH: What are you going to  
22 do to someone that writes a preneed in that  
23 ten-day period when you find out about it?

24 MR. KRAUS: We could draft wording in  
25 that rule that is filed on the 28th that

1 discusses the Board's position with respect to  
2 those ten days.

3 MS. EULER: Right. Then if you --

4 MR. KRAUS: That won't take effect  
5 until ten days later, I understand, but  
6 there's -- again, there is nothing we can do  
7 about that. But we could insert wording in  
8 the rule that talks about those ten days that,  
9 as of the effective date, the emergency rule  
10 have already passed, but people will see that  
11 wording as of the date of filing, and that's  
12 really the best you can do about those ten  
13 days, I think.

14 MS. EULER: Uh-huh. And that that  
15 temporary permit covers you from August 28th  
16 until whatever date.

17 MS. DUNN: They would address in the  
18 emergency rule.

19 MS. EULER: Right.

20 MS. DUNN: But you can't -- the State  
21 system doesn't allow us to do anything else.

22 MS. EULER: Right.

23 CHAIRMAN: Okay. So, anybody with a  
24 question in that regard or a motion to proceed  
25 in that way or comments?

1 MR. KRAUS: Thoughts about other dates?

2 MR. LINDLEY: I think your October 1st  
3 is pretty -- you know, is a tough thing for  
4 you. I really think -- and if you're going  
5 to allow that application to dovetail into  
6 your temporary, and by doing both of them,  
7 you're good to go, and keep going, then that's  
8 going to be fine if that's explained in that  
9 rule, or I would, you know -- you might want  
10 to back that date up to give yourself plenty  
11 of time. You can always come in before the  
12 date, you know, but that's something we need  
13 to think about.

14 CHAIRMAN: My thought would be that  
15 that notice of intent really wouldn't dovetail  
16 into the -- if you're saying that is possibly  
17 the application, because there will be a new  
18 real application with a fee with all that goes  
19 with it that's going to have to come out  
20 behind that, so --

21 MS. DUNN: Well, if we could get a  
22 motion of the Board for the attorneys to  
23 draft, and then if we can think about this  
24 date that is reasonable for staff and the  
25 profession, then we can modify the date at the

1 next meeting because staffing and the ability  
2 to do what we're talking about is one thing,  
3 and the profession to be able to comply. And  
4 then the other thing is, direct them to write  
5 the rule and let's work with that date. I  
6 think that would be reasonable.

7 MR. McCULLOCH: I'll make that motion,  
8 whatever you just said.

9 CHAIRMAN: John made the motion.

10 MR. McCULLOCH: How's that?

11 MR. REINHARD: Yes.

12 CHAIRMAN: There's a yes. It's done.  
13 So, you are directed to do that.

14 MS. DUNN: Lori, do you have a  
15 question?

16 MS. HAYES: I need the motion.

17 MR. McCULLOCH: It's what she just  
18 said.

19 CHAIRMAN: Sharon, could you state all  
20 that again? Or Becky. I'm sorry.

21 MS. GERSTEIN: Whatever Becky said.

22 MS. EULER: I believe what I  
23 understood you to say is that your motion is  
24 to direct staff to draft a rule to provide for  
25 some temporary practice provisions --

1 MR. McCULLOCH: Yeah.

2 MS. EULER: -- including submission of  
3 a notice of intent to apply for a license,  
4 check the boxes to which license people want  
5 to apply for, some basic questions that it  
6 would cover the ten days from August 28th till  
7 the time the emergency rule went into effect,  
8 would include a date by which time they need  
9 to file their application, which may or may  
10 not be October 1, and would apply to everybody  
11 who needs a license or a registration, whether  
12 it's an agent, a seller, or a provider.

13 MR. McCULLOCH: That's exactly what I  
14 said.

15 MS. EULER: It's just a draft of a  
16 rule --

17 MR. STALTER: Something to work with.

18 MS. EULER: -- and we'll bring the  
19 rule back next week and we can work with the  
20 dates. Is that an accurate summary of your  
21 motion?

22 MR. McCULLOCH: That is. That is.

23 MR. FRAKER: The only thing I would  
24 add to that is I think it's important this  
25 needs to be going today. This needs to be

1 started or at least the industry needs to know  
2 that it's in the works.

3 MS. EULER: Our plan is to have a  
4 draft rule to bring back next week.

5 MS. GERSTEIN: I think what he's  
6 saying is --

7 MR. FRAKER: Leave the discussion open  
8 and it would be publicly available.

9 MS. EULER: Uh-huh.

10 MR. FRAKER: Yeah. I mean, we're  
11 going to have questions for a week until this  
12 thing comes out, so I'm just trying to take  
13 care of some of that.

14 MS. EULER: When we get a rule  
15 drafted, we can probably get it posted on the  
16 Web site.

17 MR. KRAUS: Of course, that will  
18 generate more questions.

19 MS. EULER: Yeah.

20 UNIDENTIFIED: Well, people need to get  
21 answers.

22 MS. GERSTEIN: It's not leaving them  
23 out there with nothing.

24 UNIDENTIFIED: Right. Right. That's  
25 true.

1 MS. EULER: That may have been part of  
2 John's motion, as well.

3 CHAIRMAN: Joy and Jim, all voted yea?  
4 So, it was done. All right. I guess,  
5 actually, next subject.

6 MR. KRAUS: Yeah. Which, again, can  
7 be a number of different items. Do you have  
8 ? Sharon?

9 CHAIRMAN: The most important.

10 MS. EULER: Do we want to cover the  
11 annual reports, which seems to be a no-brainer?

12 MR. McCULLOCH: Say it again.

13 MS. EULER: The annual reports; do we  
14 want to do a rule -- a temporary rule on  
15 annual report and saying that for this  
16 reporting year, you'll file a report like last  
17 year?

18 MR. STALTER: That's what I think,  
19 yeah. Status quo.

20 MR. McCULLOCH: Yeah.

21 MS. EULER: John, would you like to  
22 direct staff to draft a rule on that?

23 MR. McCULLOCH: I would. I would like  
24 to make that motion that we keep the status  
25 quo on the annual report; is that okay?

1 MR. REINHARD: Second.

2 CHAIRMAN: Jim seconds. Gary?

3 MR. FRAKER: Yes.

4 CHAIRMAN: Joy?

5 MS. DUNN: Did you get that, Lori?

6 CHAIRMAN: It is passed.

7 MR. KRAUS: And, again, that's for a  
8 draft rule.

9 MS. EULER: For a draft of the rule.

10 MR. KRAUS: Not a final decision.

11 MS. EULER: Back on the notice of  
12 intent to apply, do you want any sort of fee  
13 associated with that or just sending in the  
14 form?

15 MR. FRAKER: They're going to be  
16 paying the fee anyway.

17 MS. EULER: Okay. Just thought I'd  
18 bring it up.

19 MS. DUNN: You know, the only concern  
20 I would have is -- of course, it's the vote  
21 of the Board. One, we need money to operate,  
22 but, secondly, I don't want to confuse the  
23 profession with setting a fee and then another  
24 fee and then another fee and another fee.

25

1 CHAIRMAN: I agree.

2 MS. DUNN: So, we might consider that  
3 when we're -- as we proceed with the  
4 discussion of the rule.

5 MS. EULER: I just know that sometimes  
6 people take things more seriously if there's  
7 money attached to it.

8 MS. DUNN: Okay.

9 MS. EULER: And you could credit them  
10 towards their application fee with what they  
11 pay with the preliminary, but I just throw  
12 that out. It's an option. I'm just throwing  
13 it in as an option. That's my job. I'm not  
14 the decision maker.

15 MS. DUNN: Okay. It would be a very  
16 difficult process for us, so I --

17 MR. LAKIN: Sharon, is the Hancock  
18 Amendment still in effect, or we never did --  
19 I want to know about the Hancock Amendment.

20 MS. EULER: I don't believe that's on  
21 the agenda, Don.

22 MR. LAKIN: Well, if we're going to  
23 raise all this money, does the Hancock  
24 Amendment affect what you are talking about  
25 now in regard to fees?

1 MS. EULER: No. Next topic.

2 MR. KRAUS: Well, but, you know, that  
3 does lead to something that we had talked  
4 about, which is fees.

5 MS. EULER: I tried to move on, Earl.

6 MR. KRAUS: I am moving on. That's an  
7 excellent segue, Sharon and Don. We talked  
8 about talking about fees, not necessarily  
9 setting any kind of dollar amounts today  
10 because we're going to go through in  
11 subsequent meetings and talk about various  
12 specific sections. But if the Board wanted  
13 to, you could have a discussion as, again,  
14 conceptwise, like is the goal of today. Talk  
15 about how you envision the fees as they relate  
16 to each other. Do you envision there being an  
17 equal breakdown of all the different fees  
18 across the feat? Or do you envision the ones  
19 for applications being higher and the contract  
20 being lower, or the contracts being higher and  
21 the applications being lower, renewal fees  
22 being higher than the rest? I mean, there's a  
23 lot of different ways to address that. That  
24 may not be something that we want to get into  
25 today, and, of course, that's up to the Board,

1 but I think related to that -- and, Connie, I  
2 don't know if you want to --

3 MS. EULER: And that is --

4 MR. KRAUS: -- address anything  
5 generically today as to how money goes from  
6 the Board to the Division to the Board, how  
7 that works and the sweeping and that sort of  
8 thing.

9 MS. CLARKSTON: I guess I would shoot  
10 for the agenda. That's a lengthier  
11 conversation and probably something we need to  
12 have handouts for, so if we could get on the  
13 agenda for next week.

14 MR. KRAUS: Okay. All right.

15 MS. CLARKSTON: And have a more  
16 detailed conversation, I think that would be  
17 more fruitful.

18 MR. KRAUS: Because it is a very  
19 involved process as to money coming in for  
20 fees, the upper limits of how much the Board  
21 can have, how that's split then, how it  
22 relates to the Division, and how the Division  
23 pays for some things, the Board pays for other  
24 things, and then it's billed back. But we can  
25 address that. That is -- it's a significant

1 discussion.

2 MS. DUNN: So, do you want to discuss  
3 that with Sherri, as well, or just you, or how  
4 do you want to do that?

5 MS. CLARKSTON: Maybe we should visit  
6 with Sherri and let's come together and figure  
7 that out.

8 MS. DUNN: Okay.

9 CHAIRMAN: And then you all will make  
10 an agenda item out of that next go?

11 MS. DUNN: Uh-huh.

12 CHAIRMAN: All right. So, he  
13 mentioned does the Board want to have any just  
14 questions of the fee structure or whatever  
15 that he just -- do you have something specific  
16 or something -- give you that opportunity  
17 quickly.

18 MS. EULER: Or any thoughts in terms  
19 of just in a general sense, do you want -- on  
20 how the fees should be apportioned. I know  
21 that, you know, on the fiscal note, we had to  
22 -- when Connie and Becky worked on preparing  
23 that, we had to submit some numbers which are  
24 being tossed around in the industry as sacred  
25 and golden, but they're not. Do you want to

1 talk about do you want to have a higher  
2 per-contract fee? Do you want to have a high  
3 application fee? Do you want to equalize them  
4 across the board?

5 MR. KRAUS: And something that I  
6 hadn't really thought about is that it  
7 wouldn't -- certain fees, like, say, the  
8 contract fee, wouldn't necessarily have to be  
9 this much dollar amount per contract. It  
10 could be this much dollar amount per 1 to 20.

11 MS. EULER: Right. So, there's one  
12 fee.

13 MR. KRAUS: Or 40 to 80. I mean,  
14 there are different ways to structure that  
15 than just dollar per contract. You don't have  
16 to do anything like that, but there are --  
17 that's a possibility.

18 MS. EULER: Right.

19 MS. CLARKSTON: And just from someone  
20 that works on projections, just so the Board  
21 is aware and so Becky is aware, when you do  
22 that, it becomes a little more difficult to do  
23 your projections and plan ahead. So, we do  
24 have to take that into consideration,  
25 obviously, Becky, for your planning on knowing

1 the size of your -- the entities and your  
2 sellers that will be submitting fees. So, you  
3 know, we can look at some areas, obviously,  
4 with Sherri, but just be aware that's going to  
5 take some additional considerations for the  
6 Board.

7 MS. DUNN: And we'll get into that  
8 next week to just kind of provide an overview  
9 of how we decide and we project what we're  
10 taking in and how we're going to pay our bills  
11 for the next year, and where we look to have  
12 a fee increase, because this Board, for  
13 funeral directors, embalmers, and  
14 establishments, has not had a fee increase  
15 since, I believe, possibly early 2002. It  
16 wasn't during my tenure with the Board. So,  
17 we try to keep that -- we try to watch our  
18 expenses very, very closely, and watch what  
19 we're spending versus what we're taking in and  
20 what we're going to project out. So, that's  
21 what Connie is stating, that when you do those  
22 variances, that's going to be a little bit  
23 harder to project. And, of course, everyone  
24 knows that our money intake dropped last year,  
25 and will again, because of this transition,

1 and also with NPS.

2 MS. CLARKSTON: And, additionally, I  
3 think it's important to note that this Board  
4 was, prior to Senate Bill 1 and the fall of  
5 NPS and all of that, was getting close to  
6 having to consider a fee increase for its  
7 licensees. So, that factoring in with the  
8 events of the last year and a half puts you  
9 in a different position. But I think once, if  
10 Becky and I can visit with Sherri, and kind of  
11 look at scenarios, maybe we can bring  
12 something forth to next week's meeting.

13 MS. EULER: Does everybody on the  
14 Board know who Sherri is?

15 MS. CLARKSTON: Sherri is our  
16 financial chief executive officer, so she  
17 oversees all the financial aspects for the  
18 Division and assists the Boards. She also  
19 does five-year projections, and this is  
20 getting a little bit kind of off subject, but  
21 I think it will make sense. When we look at  
22 five-year projections, we also have to make  
23 sure that your fund balance doesn't exceed  
24 statutory limits, and all of the Boards have a  
25 statutory limit of three times your

1       appropriation.  If it's -- if we collect more  
2       money than that, all the money from licensees'  
3       fees are swept into general revenue, so we try  
4       to protect licensees from the appearance of  
5       paying double taxes, so we try to set fees at  
6       a level to keep you at a safe balance, but  
7       also have enough reserves, should you have a  
8       big case or unexpected expenses come up, that  
9       you have the fees to cover that.  So, it's a  
10      magic act, I think, sometimes, and Sherri does  
11      a wonderful job of that.  It just requires a  
12      lot of input from the executive director, a  
13      lot of work on Sherri's part and her financial  
14      wizards that she works with, to come up with  
15      ideal situations and fees and fee structures,  
16      and we monitor those very, very closely.

17               CHAIRMAN:  So, in hearing the bringing  
18      Sherri in and explaining those issues, who is  
19      it -- Sherri, you -- that with Becky's  
20      assistance that could at least -- and like  
21      Earl mentioned, we could do it this way, we  
22      could do it that way -- can we get some  
23      possible avenues to accomplish this?

24               MS. CLARKSTON:  I think that we can  
25      present a couple of options for the Board to

1 look at, obviously. I think that the way we  
2 looked at the fiscal note was we tried to look  
3 at different scenarios of implementation, and  
4 figuring the expenses for that and projecting  
5 revenue to cover those expenses. That's the  
6 bottom line. We need to bring in enough  
7 revenue to cover your expenses, and how we  
8 come up with that revenue is up to the  
9 discretion of the Board. The only thing I  
10 caution, and I just say it publicly because it  
11 is an option for the Board to put forth a  
12 sliding scale. But if we do that, there's  
13 consequences for your staff to do that, so I  
14 just want you to be aware of that. But it is  
15 options, I think, that we can present next  
16 week and work with Sherri. Sherri is out next  
17 week. Becky, we may need to do it the  
18 following week.

19 MS. DUNN: Okay.

20 CHAIRMAN: Whatever works.

21 MS. CLARKSTON: Okay.

22 MS. GERSTEIN: I would like to make a  
23 motion that Sherri and you and Becky get  
24 together, work on three different options, and  
25 number them by the best option, the second,

1 and the third, it would be best for us to  
2 work with, with the effect that it would have  
3 on the Board. So, like, option third is, in  
4 fact, the worst scenario. And because Sherri  
5 is out, to bring it back in two weeks.

6 MS. CLARKSTON: She'll be gone next  
7 week, she'll be back the following week.

8 MS. GERSTEIN: Okay. So, you need  
9 three weeks.

10 MS. CLARKSTON: Becky and I can do a  
11 lot of the preliminary work and work on that  
12 and get with Sherri. If it's not available  
13 next week, I think Becky can communicate to  
14 the Board we need a little more time, but we  
15 will certainly try to meet those deadlines.

16 MS. GERSTEIN: Okay. Back to my  
17 motion.

18 CHAIRMAN: Or at least an update by  
19 next week. So, motion on the floor. Somebody  
20 second.

21 MR. FRAKER: I'll second it.

22 CHAIRMAN: Gary seconds. John?

23 MR. McCULLOCH: (Mr. McCulloch nods  
24 head affirmatively.)

25 CHAIRMAN: Jim?

1 MR. REINHARD: Yes.

2 CHAIRMAN: Okay.

3 MS. CLARKSTON: If I could add one  
4 more thing. One thing to remember about fees  
5 is just -- because this is unknown. We're  
6 still not certain how many agents you're going  
7 to have coming in to register. We're still  
8 not real sure about the number of sellers,  
9 providers, and how those numbers are going to  
10 play out, what the actual decrease will be for  
11 NPS fees. Because a fee is set at this time  
12 does not mean the Board cannot revisit it  
13 after we get a better handle or you get a  
14 better handle on where things are at and  
15 adjust fees accordingly. So, I guess, just  
16 for the record, I want that said, that just  
17 because we set something now doesn't mean it's  
18 that way eternally.

19 CHAIRMAN: Locked in stone. Okay.

20 MR. KRAUS: And I assume, Connie,  
21 that's also true that all of the revenue  
22 projections are then -- the projected revenue  
23 needed is, of course, a projection.

24 MS. CLARKSTON: It is a projection.

25 MR. KRAUS: And it may turn out to be

1 high, it may turn out to be low, but it's a  
2 projection, and so, with that, as we discover  
3 what is really going to happen.

4 MS. GERSTEIN: So, we can revisit this  
5 in a year. I mean, if we see that, oh, okay,  
6 you know, we can actually lower this in  
7 another year or two years.

8 MS. CLARKSTON: Uh-huh. And I believe  
9 --

10 MS. DUNN: Now, there's a rule-making  
11 process with that.

12 MS. CLARKSTON: There is a rule-making  
13 process.

14 MR. KRAUS: Every time you change a  
15 fee, you have to change the rule.

16 MS. CLARKSTON: It would go through  
17 the same six- to nine-month period. But I  
18 believe that, Becky -- I think that you do  
19 financial updates, if not all meetings,  
20 periodically at a meeting?

21 MS. DUNN: Uh-huh.

22 MS. CLARKSTON: And that's a good time  
23 to visit about these. Additionally, because  
24 of the way that we do the financial  
25 projections within the Division, that's an

1 ongoing communication between Sherri and  
2 Becky, and so, those are monitored very, very  
3 closely. So, if, at any time, it looks like  
4 we're going to get you into a sweep, Becky is  
5 alerted and then things start taking place.

6 MS. DUNN: We haven't been in that  
7 position.

8 MS. CLARKSTON: Last year -- no.  
9 Another good thing that's happened through the  
10 general assembly that they have granted us was  
11 last year they allowed us the ability to lower  
12 fees via an emergency rule, which has never  
13 been an authority that this Division has had.  
14 So, if we were going to lower fees, we had to  
15 go through the six- to nine-month process  
16 which put us in a potential to collect more  
17 licensing fees or renewal fees than what we  
18 actually needed. So, we worked really hard  
19 last year with senate appropriation leadership  
20 to say we don't want to collect any more than  
21 what we have, but sometimes we get in a  
22 situation, due to the economy -- when real  
23 estate is good, real estate commission just  
24 booms and we can't project. It's just  
25 unbelievable. Massage therapy is the exact

1 same way. When economy starts declining,  
2 licensee accounts decline, then we need to  
3 raise fees, so it's kind of a ping-pong effect  
4 for some of our boards. So, one of the  
5 authorities that we sought was be able to  
6 lower fees via the emergency rule. We've been  
7 granted that. So, if we get in the situation  
8 where we're taking in too much money, within  
9 ten days we can turn that around, as well.  
10 So, you have some options here, so I just  
11 really want to emphasize that just because you  
12 set a fee within the next couple of weeks and  
13 we file that on August 28th, it's not set in  
14 stone. So, we have some parameters we have to  
15 work within. I know your Board is concerned  
16 about the licensee -- the effects on  
17 licensees. We're all on the same page with  
18 that. And so, I think we have the tools in  
19 place to address those issues.

20 CHAIRMAN: Okay. That sounds good.

21 MR. KRAUS: Along those lines, a year  
22 or two down the road, there could be an issue  
23 if, let's say, you determine you have to raise  
24 fees. And if we're still under the four-year  
25 moratorium regarding new rules, particularly

1 with regard to raising fees, that could be an  
2 issue.

3 MS. CLARKSTON: It could be, but it  
4 may be --

5 MR. KRAUS: It may fall within one of  
6 the exceptions in that moratorium, but there  
7 is -- it's under the big government  
8 get-off-my-back act that was just passed this  
9 last session, and you have to fall under  
10 certain exceptions to be able to promulgate  
11 rules that affect small business, particularly  
12 if you're raising fees.

13 MS. CLARKSTON: But if a Board is  
14 unable to meet their obligations to pay their  
15 expenses, there may be reason to file an  
16 emergency which allows the same effect;  
17 correct?

18 MR. KRAUS: We would need to look at  
19 that.

20 MS. CLARKSTON: We would need to look  
21 at that.

22 MR. KRAUS: Yeah.

23 MS. CLARKSTON: But that is something  
24 to consider.

25 MS. DUNN: Now, Earl and Sharon, do

1     you need a directive for rule-making on  
2     anything with regard to the fees or anything  
3     at this time? No. I just wanted to get back  
4     on track.

5             MR. KRAUS: I don't think so.

6             CHAIRMAN: Okay. So far, it's you  
7     guys are just going to look at it, come back  
8     with some thoughts, and then we'll go into the  
9     rule-making thought, I guess. Okay. All  
10    right. I'm going to break again, as in  
11    stride. Quickly, to the point, I liked what  
12    happened a while ago. Quick comment on fees.  
13    Anybody?

14            MS. RUSSELL: I think you have to have  
15    a fee with your application for them to  
16    consider it serious, you know, your intent for  
17    applying -- that you're applying.

18            CHAIRMAN: Okay.

19            MS. BATTAGLER: As far as structuring  
20    how you are going to come up with an amount  
21    for fees, we go back to the customer to  
22    collect the State premium contract fees. So,  
23    if you do, say, 1 through 20 contracts or 1  
24    through 40 contracts, it's this dollar amount,  
25    we don't know how much to charge the customer.

1           CHAIRMAN:    Good point.

2           MR. LINDLEY:   There's -- you know,  
3           there's going -- there is not going to be any  
4           resources in this operations, basically,  
5           anymore once these, you know, rules hit --  
6           very little; okay?  And so, you're going to  
7           have to take into consideration that this is  
8           -- a lot of these fees and everything are  
9           going to have to come out of operation  
10          expenses of the funeral home; okay?  So, I  
11          would be very gingerly going about that kind  
12          of in the beginning.  And I think you're going  
13          to have a huge push back when these  
14          joint-account owners find out that they've got  
15          to register and do all that kind of stuff and  
16          everything else, and you need to prepare  
17          yourself for that.

18          CHAIRMAN:    Guys, anything?

19          MR. LAKIN:    I just remember when we  
20          lowered the fees one time.  Lowered them by  
21          \$25, \$50 back several years ago.  I don't know  
22          why we can't look at that again.

23          MR. STUART:   (Inaudible.)

24          MS. DUNN:     Thank you, Don.

25          CHAIRMAN:    We'll be here next week and

1 hear the proposals of what it takes to keep  
2 this Board floating, so -- and I'll even add,  
3 other than Joy, but she can relate because of  
4 her personal family business and all that, but  
5 everybody around this table, it's affecting  
6 them, too, so it's -- what we're talking about  
7 is coming home, so -- okay. Next and most  
8 needed to talk about subject?

9 MR. KRAUS: Well, this will be  
10 changing gears a little bit, but we can have a  
11 discussion as to how the Board would like to,  
12 how the Board has time to, how the Board would  
13 prefer to and to what extent to educate  
14 licensees and the public. Some of the things  
15 that could potentially include would be, of  
16 course, open meetings like this, potentially  
17 separate meetings, essentially public  
18 hearings, where it would just be a forum for  
19 the public. There's Web site postings,  
20 there's publications, there's taking it on the  
21 road, you know, going around the state, either  
22 the Board or certain people, and there's a lot  
23 of different options there. And, of course,  
24 different ones involve different amounts of  
25 time and cost. So, that's something to --

1           CHAIRMAN:   Okay.

2           MR. KRAUS:   But I think if that  
3           discussion is to be had, the earlier you have  
4           that discussion, the better, so whatever you  
5           want to do to get started with that.

6           MS. EULER:   Uh-huh.   So people know  
7           what to expect.

8           CHAIRMAN:   Board, any comments?   Well,  
9           obviously, computer and e-mail and that, just  
10          checking the Web site of the Board is probably  
11          going to expedite, even to the licensees, just  
12          you check your own e-mail on a daily basis.  
13          Maybe it's time to start checking the Board's  
14          notices on a daily basis.

15          MS. EULER:   Does the Board want Earl  
16          and I and staff to prepare some informational  
17          brochures this weekend?

18          UNIDENTIFIED:   Yes.

19          CHAIRMAN:   Board?

20          MR. FRAKER:   I think that's a good  
21          idea, certainly.

22          MS. GERSTEIN:   If we -- and you do a  
23          mass mailing, is what you're talking about?

24          MS. DUNN:   No.

25          CHAIRMAN:   That affects fees.

1           MR. KRAUS:  How that's distributed, I  
2 think, can be another --

3           MS. EULER:  Yeah.

4           MS. DUNN:  I mean, if they don't have  
5 Internet -- we're trying to save money through  
6 this process.

7           MS. GERSTEIN:  Right.  That's why I was  
8 wondering why we're going to do a brochure.

9           MS. DUNN:  And mailings are -- there's  
10 going to be some new postal restrictions that  
11 are going to cause postal increases for us.  
12 So, anything we can prepare and post on our  
13 Web site and encourage individuals to download  
14 is going to be --

15           MS. GERSTEIN:  Okay.  Then let's  
16 clarify this.  You're talking about a brochure  
17 for -- to put on the Web site?

18           MS. EULER:  Right.

19           MS. GERSTEIN:  Okay.  I think that's a  
20 good idea.

21           MS. DUNN:  Yes.

22           MS. GERSTEIN:  I was -- wouldn't think  
23 the mailing, no.

24           CHAIRMAN:  So, why don't you make a  
25 motion that they do that?

1 MS. GERSTEIN: Okay. I so make the  
2 motion as to what we just talked about.

3 MS. EULER: What would you like us --  
4 okay.

5 MR. STALTER: Can we make suggestions?

6 CHAIRMAN: We'll go there. Let's  
7 finish the motion that we do it. Joy made a  
8 motion. Somebody second.

9 MS. GERSTEIN: But if he has a  
10 suggestion, I don't mind waiting for my  
11 motion. Does your suggestion have to do with  
12 my motion?

13 CHAIRMAN: Does the suggestion have to  
14 do with the motion that she made?

15 MR. STALTER: I think it's just to  
16 elaborate on what Sharon was suggesting.

17 CHAIRMAN: Okay. But it's not going  
18 to affect her motion to --

19 MR. STALTER: No.

20 CHAIRMAN: Okay. Go ahead.

21 MS. GERSTEIN: Okay. I still make --

22 MR. KRAUS: It would be my  
23 understanding that something like that  
24 prepared by Sharon and I would describe,  
25 basically, what's in the statute. I think it

1 would be difficult for -- I don't know that we  
2 would be able to include specific legal advise  
3 as to we think this section means this.

4 MS. EULER: Right. Right.

5 MR. KRAUS: That's not what this kind  
6 of document would say, but it could say, you  
7 know, here's what you have to do -- here's  
8 what's set out in the statute, bullet point,  
9 bullet point, bullet point, bullet point, as  
10 kind of a shorthand for people to look at.

11 CHAIRMAN: And that could be a work in  
12 progress as opposed to -- couldn't it -- as  
13 opposed to being here's the whole ball of wax  
14 in one throw?

15 MS. EULER: Here's an alert.

16 MR. KRAUS: Yeah. Oh, yeah.

17 CHAIRMAN: Because if we have to wait  
18 till it's all finished before we do that, then  
19 -- okay. So, still a motion on the floor.  
20 Did you second?

21 MS. GERSTEIN: Okay. Wait. Before I  
22 continue, is there a second yet?

23 CHAIRMAN: Was there?

24 MS. GERSTEIN: I have a question on my  
25 own motion.

1 CHAIRMAN: Okay.

2 MS. GERSTEIN: Now, who is going to  
3 work on this brochure?

4 MR. KRAUS: I will.

5 MS. GERSTEIN: And you'll pass it  
6 through Becky or --

7 MS. EULER: We'll bring it back to the  
8 Board.

9 MS. GERSTEIN: Okay. Okay. Then I  
10 stand with my motion.

11 CHAIRMAN: Okay.

12 MS. GERSTEIN: Okay. I need a second.

13 CHAIRMAN: Need a second.

14 MR. McCULLOCH: Tell me what the  
15 motion is again.

16 CHAIRMAN: Basically, that Earl and  
17 Sharon would create -- basically, to notify  
18 licensees of what's going on with it. I  
19 mentioned the thing about work in progress. I  
20 visually see that myself as maybe here are a  
21 few things about where we're at today. Next  
22 week, maybe some other things could be added  
23 to it. I may not have that exactly right,  
24 but where -- this is -- you guys are working  
25 on it.

1 MR. McCULLOCH: And this is going out  
2 over the Internet.

3 MR. KRAUS: Over the Internet.

4 CHAIRMAN: On the Board Web site.

5 MR. KRAUS: If we're getting a lot of  
6 questions on a certain topic, we can put  
7 something up about that.

8 MR. McCULLOCH: I'll second that.

9 CHAIRMAN: All right. So, John  
10 seconded. Gary?

11 MR. FRAKER: Yes.

12 CHAIRMAN: Jim?

13 MR. REINHARD: Yes.

14 CHAIRMAN: There you have it. Okay.  
15 Now, again, I like what happened. We keep it  
16 short. We keep it -- any comments? Scott?

17 MR. LINDLEY: I think that's great. I  
18 think we need a lot of industry application to  
19 that process, and not -- and I think you need  
20 to be open to accepting a lot of that industry  
21 application to make it a balanced situation  
22 for not only the profession, but for the  
23 consumer, too, because, you know, what Earl  
24 and Sharon deem to be great, you know, you've  
25 got to be out there and practicing and knowing

1     what these people are doing and thinking and  
2     everything else, because something that we can  
3     come up with doesn't sometimes always work  
4     very well.  And, you know, I --

5             MS. GERSTEIN:  But I think, if I can  
6     answer that, with our motion, that's what  
7     we're saying, and it will come back to the  
8     Board.  And those that are sitting here within  
9     the field will certainly have a lot of input.

10            CHAIRMAN:  Well, I like the words "the  
11     work in progress," because I don't see it  
12     being a solidified deal, just boom and it's  
13     done, so -- anybody else?

14            MR. STALTER:  I mean, there's a ton of  
15     that.  I mean, basically, what we're trying to  
16     do is we're not trying to educate the Board of  
17     what's going on in the industry.  It's really  
18     to educate the industry about what goes on  
19     with this Board.

20            MS. EULER:  Right.

21            MS. GERSTEIN:  Right.

22            CHAIRMAN:  Good point.

23            MR. LINDLEY:  As long as it works that  
24     way.

25            MR. STALTER:  Well, they have to -- I

1 mean, this is how it does work.

2 MR. LINDLEY: I understand.

3 MR. STALTER: Okay.

4 MR. REINHARD: Well, but, you know, if  
5 you want to make a comment on this. Here's a  
6 bill that we passed. How many people are here  
7 from the industry? You're one, I'm one, he's  
8 one, Bill is one. That's five.

9 MR. LINDLEY: And my point is --

10 CHAIRMAN: Well, there's four others  
11 around this table.

12 MR. STUART: (Inaudible) -- there's  
13 eight of us.

14 MR. REINHARD: That's what I'm saying,  
15 that there's, like, four guys here that are  
16 from the industry here.

17 MR. LAKIN: Hey, there's people in the  
18 funeral industry who don't even know Senate  
19 Bill 1 has been passed.

20 CHAIRMAN: I agree with that.

21 MS. DUNN: I know.

22 MR. LINDLEY: My comment on that is,  
23 Jim, how much actual -- I know we've all got  
24 to have the input into that, but I can share  
25 one thing with you right now. Our group

1 wasn't at that table last summer and got to  
2 speak, and the things that we asked and wanted  
3 in that stuff, it didn't hit over there in the  
4 legislature; okay? And I wanted to make sure  
5 that when we get into this rule process, that  
6 what we do ask for and try and negotiate here,  
7 it does get done, because if we don't, then  
8 we're going to have pure hell going forward  
9 for everybody. I mean, because it's going to  
10 be hard to comply. The environment for this  
11 out there is not very good right now. Bill  
12 knows that, I know that, Amy knows that. It's  
13 tough out there and, you know -- you know,  
14 there's not a whole lot of sales going on,  
15 and, you know, it's all got to be rebuilt  
16 again and it's -- you know, we want to make  
17 sure that, you know, we have the ability to  
18 get that done.

19 CHAIRMAN: Sure. And I would even  
20 follow your comment with everything you just  
21 spoke of that's happening at your funeral home  
22 is happening at mine.

23 MR. LINDLEY: I understand that.

24 CHAIRMAN: So -- Darlene?

25 MS. RUSSELL: Way back when Senate

1 Bill 644 passed -- and, Bill, I think you can  
2 remember this -- we sent out notices, we did  
3 all of the appropriate things. The State  
4 Board did everything that they could to notify  
5 people. Two years later, people said I didn't  
6 know anything about that bill, and the Board  
7 actually hired people to go out to register  
8 people that thought they didn't need to. So,  
9 ignorance of the law is no excuse, and you're  
10 going to always have that. No matter how hard  
11 you try, you're just going to have people that  
12 aren't going to be paying attention. You  
13 know, you'll do your best.

14 MR. LAKIN: This bill is going to make  
15 everybody honest.

16 MS. BATTAGLER: We hope so.

17 MR. KRAUS: It's in the record.

18 CHAIRMAN: That's right. It's in the  
19 record. It's in the record.

20 MR. LICKLIDER: It's been this way for  
21 years.

22 CHAIRMAN: Okay. Next? Have you guys  
23 got --

24 MR. KRAUS: Well, we talked about  
25 putting a few things together. I didn't know

1 if there was any other discussion as for or  
2 against doing other things.

3 MS. EULER: Does the Board want to  
4 consider sending speakers out to various parts  
5 of the state? Do we want to do anything like  
6 that? Do you want to think about doing things  
7 like that?

8 MR. KRAUS: And I don't want to appear  
9 as if I'm promoting any of those.

10 MS. EULER: Right. We're just throwing  
11 options out.

12 MR. KRAUS: We're just throwing  
13 options out for discussion.

14 MS. RUSSELL: Are there other ways  
15 that you want to try to educate licensees?

16 MS. GERSTEIN: May I ask a question at  
17 this point? You all tell us what you think.  
18 If we send speakers out there, are people  
19 going to attend?

20 MR. STUART: No.

21 MR. STALTER: How much time -- it  
22 takes a lot of time just to come in to attend  
23 that meeting.

24 MR. McCULLOCH: They don't go to the  
25 district meetings now.

1 MS. EULER: No.

2 MR. McCULLOCH: I travel around.  
3 There's nobody there. The salespeople are up  
4 on it, though. They know what's going on.

5 MS. EULER: Should we develop  
6 something to send out with our inspectors so  
7 they know what to expect?

8 MR. McCULLOCH: I'm telling you:  
9 Salespeople know.

10 MR. LAKIN: I think that would be a  
11 good idea. Send something with the inspectors.

12 MS. DUNN: Sharon suggested possibly  
13 some information with the inspection process.

14 CHAIRMAN: That's a good one.

15 MS. DUNN: So, then do we want a  
16 motion on the attorneys --

17 MR. LAKIN: I think it's your  
18 responsibility. It's not a motion. It's the  
19 Board's responsibility to get this out to the  
20 licensees. However, when you look down at it,  
21 your responsibility is to the consumers and to  
22 get their right law to the --

23 MS. DUNN: Well, and Don, we put -- we  
24 are putting things on our Web site and, you  
25 know, why can't licensees look at --

1           MR. LAKIN: Well, I haven't got a  
2 computer. We can't afford one.

3           MS. DUNN: Oh. Because of your  
4 backflow.

5           UNIDENTIFIED: It's a decision,  
6 plumbing or a computer.

7           MS. GERSTEIN: Do I need to make that a  
8 motion?

9           MS. DUNN: Well, the only thing I  
10 thought about is in having -- instead of  
11 having -- possibly when you hand it to them at  
12 the time of inspection, maybe they'll look at  
13 it, but we're going to have the same thing on  
14 our Web site, too.

15          MS. EULER: Uh-huh.

16          MS. DUNN: And I'm just trying to cut  
17 down on copying and costs that will impact you  
18 eventually.

19          MR. LAKIN: Don't you think, though,  
20 when the inspector gives it to a -- whoever is  
21 in charge of running the inspection, showing  
22 inspection, don't you think that they'll  
23 probably pay a little more attention to it,  
24 Becky?

25          MS. DUNN: Sure.

1           MR. LAKIN: I don't think funeral  
2 directors get up in the morning and say I'm  
3 going to go to the Web site. (Inaudible) --  
4 Web site right away this morning. I think,  
5 generally, they have more things to do than  
6 that. But if the inspector handed them a  
7 piece of paper at the time of inspection, I  
8 think they would be impressive to -- I think  
9 they would come closer to reading it.

10           MS. DUNN: Okay.

11           MR. LAKIN: I don't know. I might be  
12 wrong.

13           CHAIRMAN: I agree with that.

14           MS. DUNN: That occurs throughout the  
15 entire year, though?

16           CHAIRMAN: Do what?

17           MS. DUNN: That starts July 1 and we  
18 do it through the whole year. So, they may  
19 not get it until May of next year. I'm just  
20 making --

21           (Several people talking simultaneously.)

22           CHAIRMAN: Just a comment of my own in  
23 the thought of notifying. You know, we can't  
24 just have massive mailings all the time and  
25 whatever, but in the list of possibilities,

1 you know, it might be worth one mailout from  
2 the Board or something that says, look, you  
3 all better start looking for this stuff and  
4 see what's going on. Just, you know, giant  
5 print on one piece of paper or something.

6 MS. BATTAGLER: I was going to suggest  
7 a postcard that goes out to the operators that  
8 says this is going to be on our Web site.  
9 Please continually look on there. If you  
10 don't have access, you can write to us or call  
11 us and then we'll send you the --

12 CHAIRMAN: Yeah. Something like that.  
13 Something like that.

14 MS. GERSTEIN: Over and above having  
15 this go out with the inspectors?

16 CHAIRMAN: Yes. I think it's fine.  
17 The inspectors maybe could carry a broader  
18 version or something that really --

19 MS. EULER: And the application forms.

20 MS. GERSTEIN: I'll be honest with  
21 you. I get a lot of mail. I get a little  
22 postcard in the mail. Unless it's from  
23 something I'm waiting for, I lay it to one  
24 side. I'm lucky if I look at that postcard  
25 in a week.

1           CHAIRMAN: But if it gets your  
2 interest, you know.

3           MS. EULER: But if I get a postcard  
4 from the Missouri Bar, I open it. And I  
5 would think funeral directors would be the  
6 same way if you get something from the State.

7           MS. GERSTEIN: Are you guys the same  
8 way?

9           UNIDENTIFIED: Yeah.

10          MS. GERSTEIN: Okay.

11          CHAIRMAN: Any other just thoughts,  
12 suggestions, Board? Okay. Do you guys have  
13 the next subject or --

14          MS. HAYES: Is there a motion or is it  
15 just directive. Sending out to the inspectors  
16 and postcard thing, is that a motion or is  
17 that a directive?

18          CHAIRMAN: Can we do a directive? So,  
19 need a motion then?

20          MR. KRAUS: To put one together.

21          MS. EULER: Yes.

22          CHAIRMAN: Motion then to put one  
23 together that the inspectors or whatever would  
24 use.

25          MR. FRAKER: So moved.

1 CHAIRMAN: Gary makes that motion.

2 MR. McCULLOCH: Second.

3 CHAIRMAN: John seconds it. Joy?  
4 Yes. Jim? Yes. Okay. So, that sounds  
5 good. All right. Do you all have the next  
6 subject to isolate?

7 MR. KRAUS: And we're going to have  
8 something put together to go with the  
9 inspectors or we're not?

10 CHAIRMAN: We are.

11 MR. KRAUS: We are.

12 CHAIRMAN: But that's later, obviously.

13 MR. LICKLIDER: When do you think you  
14 might have the first draft of that?

15 CHAIRMAN: Well, I think the thought  
16 was you guys will bring something back.

17 MR. KRAUS: We'll try to bring  
18 something to the next meeting.

19 CHAIRMAN: Try something for the next  
20 meeting? Okay. Hopefully, we will try for  
21 next meeting.

22 MS. GERSTEIN: To at least alert them  
23 that this is happening.

24 CHAIRMAN: Okay.

25 MS. DUNN: And if the information that

1 we're going to distribute for the agendas, if  
2 everyone is okay with it, we'll just send it  
3 on the e-mail like we have been because we  
4 have short time frames. And, Don, I'm sorry.

5 MR. LAKIN: That's all right. Just  
6 send it and I'll try to get it open.

7 MR. LINDLEY: Do we have faxes?

8 MS. DUNN: Do we have faxes? Well, we  
9 attempted to do faxes one time and we got in  
10 a lot of trouble because we did a mass fax  
11 and it went to people's phone lines. The  
12 funeral directors got really mad at us because  
13 they -- it kept ringing all weekend.

14 CHAIRMAN: Yeah.

15 MS. EULER: Yeah.

16 MS. DUNN: So, I mean, if you prefer  
17 us to fax something, sometimes it's going to  
18 be more. So, do you want it to be faxed, Don?

19 MR. LAKIN: No. You can just go ahead  
20 and send it to my e-mail.

21 MS. DUNN: To your e-mail. Did you  
22 get the e-mail on this meeting?

23 MR. LAKIN: Yes.

24 MS. DUNN: Okay.

25 MR. LAKIN: And you got the e-mail on

1 my water pipe.

2 CHAIRMAN: You're in business. You've  
3 got it together. All right. Next subject.

4 (Several people talking simultaneously.)

5 CHAIRMAN: Okay. Board members, is  
6 there something that you are viewing that  
7 needs identified as could need an emergency  
8 rule or is really an important issue that you  
9 see that we just really need to get to quick  
10 before we get into the later meetings of  
11 isolating every microscopic aspect of it? Is  
12 there something that you're seeing that we  
13 have not touched on at the moment that you  
14 want to hear about? Don't see any hands,  
15 don't hear anything. Taking that as none at  
16 the moment?

17 MR. STALTER: Can I ask a question? I  
18 thought -- one of those issues that we talked  
19 about in the grandfather rulings --  
20 (inaudible) -- I've got to start implementing  
21 -- (inaudible) -- and it's going to take a  
22 while, you know. The way I look at the July  
23 10th date, we've got -- okay -- how far does  
24 that apply? Is it just -- (inaudible.) Are  
25 there other issues that affect them that --

1 (inaudible) -- how they administer these  
2 contracts, because it's big changes. And, you  
3 know, one of the -- (inaudible) -- I'll be  
4 meeting on Tuesday is saying what do we have  
5 to do on August 28th. I mean, that's -- you  
6 know, I think, what my advice was, we know, I  
7 think with -- (inaudible) -- we're off till  
8 July 10th because we don't want to force  
9 people to sell out just under this market.

10 MS. EULER: Right.

11 MR. STALTER: But what do we have to  
12 do -- (inaudible) -- when we receive payments  
13 on October 29th -- I mean, August 29th.

14 MS. EULER: October 29th would be my  
15 birthday, so just sign them over to me.

16 UNIDENTIFIED: That's on the record.

17 MS. EULER: So, you're talking about  
18 trust currently in existence.

19 MR. STALTER: No. I'm talking about  
20 -- you know, I can pretty well figure out what  
21 to do with -- (inaudible) -- all payments go  
22 in through the trust.

23 MS. EULER: Okay. Can you say it  
24 again?

25 MR. STALTER: Okay. What -- you know,

1 for the fiduciary now who has a much broader  
2 responsibility under SB 1 --

3 MS. EULER: Yes.

4 MR. STALTER: -- and he's supposed to  
5 receive all those payments.

6 MS. EULER: Yes.

7 MR. STALTER: Okay. You know, their  
8 question is, you know, do I have to implement,  
9 you know, these new administrative  
10 requirements on August 29th.

11 MS. EULER: Define for me what  
12 administrative requirements you're --

13 MR. STALTER: (Inaudible) -- that come  
14 through. In other words, now, you're going to  
15 put the trustee -- you know, he's got to  
16 receive all the payments and then start --  
17 we'll get requests for that 15 percent --  
18 (inaudible) -- so it's a whole new procedure.

19 MS. EULER: Right.

20 MR. STALTER: And that's a totally  
21 different, you know, computer program than  
22 what we've got under the old law.

23 MS. EULER: Right. And I think that  
24 those are questions that the Board is going to  
25 have to look at when they look at those

1 provisions of the statute. So, come back next  
2 week.

3 MR. STALTER: And the week after and  
4 the week after.

5 MS. EULER: Or two weeks. Yeah.  
6 Because there are a lot of questions. I mean,  
7 that was one of John's questions, too. There  
8 are a lot of questions surrounding the  
9 transition and the trustee duties and the  
10 trustee's investments, and we need to look  
11 very carefully at those because, one, there  
12 was never any intent, that I know of, in  
13 Senate Bill 1 to require trustees to sell off  
14 investments right now. That's why that  
15 provision is in there giving people until July  
16 of next year to get in compliance with that  
17 part. As to the other things, this Board is  
18 going to need to look at those, and we may  
19 need to do some emergency rules on those, but  
20 I don't have the answer for you right now.  
21 But send us those types of questions to Becky  
22 so we can incorporate them into our document  
23 that we're going to hand out at every meeting  
24 because it's those sorts of things that other  
25 people have those questions, too, or they

1 will, and it's good for the Board to know what  
2 people are looking at and what people have  
3 concerns or questions about interpretations  
4 because that helps tell the Board we need a  
5 rule on that.

6 CHAIRMAN: Does that work?

7 MR. STUART: Who will be directing the  
8 education to the Department of Finance so that  
9 they can tell their banks that our fiduciary  
10 charge with these new trustee laws? How are  
11 you going to get this word to them?

12 MS. EULER: The Division of Finance  
13 has their legal counsel. Her name is Christie  
14 Kincannon, she used to be in our office, and  
15 Christie has a copy of Senate Bill 1, and she  
16 and I have talked.

17 MR. STUART: Okay.

18 MS. EULER: So, I think that that's  
19 going to happen.

20 MR. STUART: The same with the  
21 Department of Insurance?

22 MS. EULER: The Department of  
23 Insurance also has legal counsel, and, yes,  
24 they have a copy of Senate Bill 1, as well.

25 MR. STUART: And they do now have

1 authority over these issues?

2 MS. EULER: The authorities haven't  
3 changed. Division of Finance still has  
4 authority over the banks, the Division of  
5 Insurance still has authority over insurance,  
6 and this Board has authority over the preneed  
7 sales.

8 MS. DUNN: And they can work  
9 cooperatively.

10 MS. EULER: And we -- and the three  
11 Divisions are to work cooperatively together.

12 MR. STALTER: Okay. But to take that a  
13 further step, the Division of Finance has  
14 already started working towards this and one  
15 of their -- they've got this what I call a  
16 cheat sheet that they've started to circulate  
17 to these fiduciaries, and one of the questions  
18 is: Does this trustee have a copy of every  
19 preneed contract? You know, somebody has got  
20 to talk with the Division of Finance about  
21 what the requirements are. And that's why  
22 some of these fiduciaries have already put out  
23 notices that they're going to terminate all  
24 their -- (inaudible) -- trusts.

25 MS. EULER: Well, we can talk to

1 Division of Finance.

2 MR. STALTER: I know. But they've  
3 also sent it out. We got it through an FDIC  
4 examiner.

5 MS. EULER: Really? Okay.

6 CHAIRMAN: Actually, just around the  
7 room. Do you guys see any topics that we  
8 haven't touched on here? I mean, I know  
9 there's lots of topics, but I mean really  
10 important ones, the big ones, the ones that  
11 we've got to address right now.

12 MR. STALTER: Really, a priority --  
13 (inaudible) -- I thought those were the ones,  
14 the licensing, you know, being educated, and  
15 then starting to address the fiduciary thing,  
16 because a lot of these guys are panicking --  
17 the banks are -- which would then, you know --  
18 these -- you know -- (inaudible) -- somewhere  
19 to go.

20 CHAIRMAN: Okay. Anybody else?

21 MR. STUART: In regards to renewing  
22 their license -- their provider license, if  
23 you're not going to be a seller and you're not  
24 going to have anybody sell for you, but you're  
25 honoring the old NPS, American Prearranged, or

1 Missouri Funeral Trust Plans, do we re-up as a  
2 provider? And that's all you do, just list  
3 them as your sellers that are no longer  
4 selling for you and state it that way? That's  
5 all you have to do?

6 MS. EULER: I think so.

7 MS. STUART: You think so?

8 MS. EULER: We'll just -- we'll talk  
9 about that when we get to that part.

10 MS. STUART: Okay. (Inaudible.)

11 MS. EULER: Put that in writing and  
12 send it to Becky so we make sure we have that.

13 MR. LAKIN: (Inaudible) -- because  
14 you've got four people here that she should be  
15 writing you -- (inaudible.)

16 MS. EULER: Put it all on one page.

17 MR. LAKIN: The other 7,000 funeral  
18 directors out there don't know about this.  
19 And if we tell them --

20 MS. EULER: You can tell them. --

21 MR. LAKIN: -- then you can get a lot  
22 of letters.

23 MS. EULER: That's okay.

24 MR. STUART: With all due respect,  
25 Sharon, I don't want to put it in writing. I

1 made it verbal. It's on the record. It's in  
2 the record here now. I don't see that it has  
3 to go any further. It's needed to be right  
4 here before you. I mean, I don't care about  
5 a formal written reply, but it will be  
6 addressed in your reply and handout, probably.

7 CHAIRMAN: That's the goal.

8 MR. STUART: Yeah.

9 MS. EULER: If it's submitted in  
10 writing, we will have it in front of us, so  
11 when we are putting that together, we can make  
12 sure everything is done because it takes a  
13 while for the transcript to be ready. We  
14 won't have it time when we're putting this  
15 together. So, it's up to you whether you  
16 submit it or not.

17 MR. STUART: Okay.

18 MS. EULER: But if you do submit it,  
19 there's a better shot that we'll actually get  
20 it because we'll --

21 MR. STUART: Well, it's going be a  
22 great concern to a lot of people.

23 MS. EULER: There are some blank  
24 pieces of paper right there.

25 MR. KRAUS: Also, as we've been going

1 along, there's a number of us trying to take  
2 notes of things, too. But, of course, what we  
3 have down in our notes may or may not directly  
4 reflect what you meant, but we're going to try  
5 to incorporate that into our future documents  
6 that we'll be working off of.

7 MR. STUART: Well, as a follow-up  
8 question -- I'm sorry. Sharon, as a follow-up  
9 question, if you don't ask for a renewal of  
10 your provider form because those companies are  
11 no longer doing sales for you, are you in  
12 violation?

13 MS. EULER: Write that down.

14 MR. STUART: Well, I can't remember it.

15 MS. GERSTEIN: We have a court  
16 reporter. We're getting all this down.

17 MR. STUART: Okay. Well, that was the  
18 other question I had. Thank you.

19 MR. KRAUS: And, of course, the Board  
20 is going to be obtaining a copy of the  
21 transcript. Of course, she is not providing  
22 services for free; the Board is going to pay  
23 for that. And if anyone else wants a copy of  
24 the transcript, they can obtain that. They'll  
25 need to pay the same cost for that.

1 MR. LINDLEY: Do you know what's that  
2 going to be? I'll just give you my money now.

3 MS. DUNN: It depends on how many  
4 pages.

5 MR. KRAUS: That is copyrighted  
6 information, so we can't -- the Board can't  
7 just copy it and send it to people.

8 MR. LINDLEY: It's her job to send it  
9 out; right?

10 MS. DUNN: No.

11 MS. EULER: You can make requests to  
12 the company she works for.

13 MS. DUNN: You have to make a request;  
14 okay?

15 MS. LINDLEY: Yeah. That's fine.

16 MS. DUNN: And then, Bill, I know they  
17 said that -- Joy said that this is being  
18 transcribed, but the concern we have with your  
19 questions is if you want them addressed for  
20 the next meeting, we're not -- we may not have  
21 that transcription.

22 MR. STUART: I hear you. I'm sorry.

23 MS. DUNN: So, that's why we'd like as  
24 many notes as we can.

25 CHAIRMAN: Okay. Yes, ma'am?

1 MS. BATTAGLER: I'm not sure how  
2 emergency you consider this, but, you know,  
3 the law states that you have to have a  
4 signature of both the seller and the provider  
5 on every contract. Now, we have some  
6 third-party sellers -- we have a third-party  
7 seller -- (inaudible.) We have an agreement  
8 between the third-party seller and ourselves,  
9 but we don't -- this third-party seller does  
10 not get our signature on every one of their  
11 contracts because we already have that  
12 agreement. Is that going to be something that  
13 you're going to require, however, on those  
14 contracts --

15 MS. EULER: Write that down. Those  
16 are the circumstances we need to know.

17 MR. LAKIN: But you're a real good  
18 attorney.

19 (Several people talking simultaneously.)

20 CHAIRMAN: Other hot items? Big  
21 issues?

22 MR. LINDLEY: A point of clarification  
23 on what I said earlier, because Jim talked  
24 about it out there, is I think the reason some  
25 of this attendance is not what you wanted is

1 because of the exercise we went through all  
2 summer; okay? What the working people came up  
3 with and what ended up in the statute, it was  
4 a huge difference, and that really offended  
5 people, and I think that's a little bit of  
6 your challenge here. And I think the other  
7 challenge is, you know, I think they're going  
8 to be looking to get some of their coming back  
9 at you guys on these rules and I think that's  
10 where your biggest challenge is right now;  
11 okay? And I think you probably know that, and  
12 that's why I'm trying to say, you know, you --  
13 because I remember going through this back in  
14 the '80s. I mean, you know, the only people  
15 we couldn't get to the table were third-party  
16 sellers, and we agreed just to disagree and we  
17 went on. And, you know, then we went out and  
18 made tours all over the state and tried to  
19 give out as much information, and even  
20 involved those people in stuff that was going  
21 forward to make sure that the transition was  
22 as smooth and seamless as possible. Now, it's  
23 never going to be that way, but you're already  
24 starting off behind the eight ball because of  
25 the way that thing went all summer. I mean,

1       there was plenty of people here all summer.  
2       And, you know, they were giving input, but  
3       nothing showed up. And so, I think that's a  
4       little bit of your issue right here.

5               MR. LAKIN: And everybody is mad at  
6       the Board. Ninety percent of the funeral  
7       directors are mad at the board on account of  
8       they went along with this new Senate Bill 1,  
9       which I know better than that. But that don't  
10      stop the funeral directors out there, the  
11      little old country funeral directors, well, I  
12      don't know why the Board let something like  
13      that go through. I don't, either, but I said,  
14      well, you know --

15             CHAIRMAN: They don't understand the  
16      legal system then.

17             MS. EULER: But the legislature has  
18      passed the bill.

19             MR. LAKIN: That's correct.

20             MS. EULER: It is what it is, and this  
21      Board's charge is to enforce that law as the  
22      regulators.

23             MR. LAKIN: Sharon, I understand that,  
24      but the funeral directors out there don't.

25             MS. EULER: Well, and that's fine.

1 They can come to these meetings; they're not.

2 MR. LAKIN: They need to, but they  
3 don't.

4 MS. EULER: That's their choice.

5 CHAIRMAN: And I would even address the  
6 roundtable thought, not as in challenging it,  
7 but that that really -- even as hard as it  
8 was and as crazy as it got, that really was  
9 nothing more than informational gathering and  
10 what's your idea to give to them to pick and  
11 choose or decide to do whatever they want to  
12 do with, which we could almost say has the  
13 same effect right here because we will be the  
14 ones that decide now that we have it within  
15 reason of the law. So, you know, it's their  
16 choice as to whether they want the ear --  
17 before the ear decides or not, I guess. So,  
18 anybody else?

19 MR. LINDLEY: Just trying to help out.

20 CHAIRMAN: Oh, and I appreciate it. I  
21 do. Anybody got comments? Are we at a point  
22 of adjournment?

23 MS. DUNN: You can make motion and go  
24 back and close, if you like.

25 CHAIRMAN: Did we make it all the way

1 around the room? Did anybody else -- did I  
2 miss anybody?

3 MR. STUART: Are you ready for another  
4 subject now? Public comment or a question to  
5 you?

6 CHAIRMAN: I'm ready.

7 MS. EULER: I assume my work here is  
8 done.

9 MR. STUART: A comment to the Board  
10 regarding the implementation of this  
11 electronic death certificate. Can we discuss  
12 -- make a comment to you about that now, or  
13 is that out of order today?

14 UNIDENTIFIED: Is that out of order at  
15 this point?

16 MS. DUNN: We have other on the agenda.

17 MR. STUART: Oh, it is on the agenda.

18 CHAIRMAN: I don't think it's out of  
19 order, but --

20 MS. EULER: Is it within the Board's  
21 purview? I mean, the electronic  
22 death-certificate filing is really a  
23 Department of Health issue.

24 MR. STUART: Well, I've heard rumors  
25 that the Board was going to have to make an

1 emergency rule change to allow the funeral --  
2 the embalmer, in his own handwriting,  
3 signature to be changed to go onto the  
4 electronic transmittal. Is that -- did I hear  
5 that rumor right?

6 MR. LAKIN: It will have to be.

7 MR. STUART: Okay.

8 CHAIRMAN: I didn't hear emergency  
9 rule, but --

10 MS. DUNN: Bill, do you want this to  
11 be an agenda -- do you want to wait till we  
12 get finished with Senate Bill 1 today and go  
13 -- or do you want to --

14 CHAIRMAN: Let's hold that. Let's  
15 hold that. Okay. Let's just say anything  
16 else in regard to Senate Bill 1.

17 UNIDENTIFIED: Anything at all?

18 CHAIRMAN: Anything. Whether it's --  
19 well, we can't go --

20 MS. EULER: That's relevant.

21 CHAIRMAN: Yeah. That's relevant.  
22 Yes. That's wide open. You know, I'm really  
23 proud of how this has went today. We -- I  
24 personally was -- I mean, I just had all kinds  
25 of visions this thing could be chasing rabbits

1 a thousand different ways and just, no, hush,  
2 we can't talk about that. And, right now,  
3 isolating -- this has been perfect, so I'm  
4 proud. So, with that thought in mind, we're  
5 going to go on then unless anybody else wants  
6 -- okay. We'll call that the conclusion of  
7 the moment of Senate Bill 1, and we do want  
8 your comments. We want those so we can  
9 address this thing and do it right. As Sharon  
10 said, we've got to do it. It's not a choice.  
11 So -- okay. So, entertain a motion to --

12 MS. DUNN: No. Bill would like to  
13 bring a --

14 CHAIRMAN: Okay. All right. So,  
15 we'll move into just the open discussion and  
16 there you go.

17 MR. STUART: Well, following up on my  
18 earlier question, if I can talk to the Board  
19 or ask the Board's consideration of an  
20 important issue to me and, not only to me, but  
21 to the families that we serve, and your  
22 challenge as Board members to protect the  
23 public. The Health Department registrar  
24 regarding death and birth records, Alberta  
25 Cross, has made an alleged comment that

1 effective January 1st, there will no longer be  
2 death certificates available at the local  
3 registrar. I believe it's unlawful for her to  
4 implement that because the law clearly states  
5 that it has to be done, and they haven't  
6 changed that law, to my knowledge. The law  
7 currently is not being complied with regarding  
8 the death certificate staying in that local  
9 registrar's office for 24 hours. She sent out  
10 a mandate approximately 12 months ago saying  
11 that every night, those death certificates are  
12 to be transmitted to her via the mail, which  
13 is a violation of the law, as I understand the  
14 law. I would like for the Board to keep in  
15 mind, as protection of the citizens of this  
16 state, that if we are asked to change our  
17 license to comply with this new expanded  
18 electronic transmission of death certificates,  
19 that we recognize that the doctors are not  
20 being required to do anything in the form of  
21 compliance whatsoever by Board rule, Healing  
22 Arts Board, or any other rule at this time,  
23 and her statement is they will not be. So,  
24 I'd like for the Board to also consider that  
25 -- their mission of protecting of the

1 citizens. This isn't about us, the funeral  
2 directors, it is "somewhat about us" because  
3 we -- many of us have to take assignments to  
4 get paid. But it's for the families we serve  
5 and for the state citizens that need these  
6 very important little pieces of paper to start  
7 their life after they've lost a loved one.  
8 And, also, for the Board's edification or  
9 knowledge, Oklahoma has pilot projects on this  
10 electronic expansion of the death certificate.  
11 It is already currently being electronically  
12 transmitted from Jeff City out to the local  
13 county registrars after they get it on file.  
14 But, anyhow, in Oklahoma, they're trying to go  
15 further with the expansion of that. And as  
16 they are piloting the project, they have not  
17 changed their laws, their rules. I mean, in  
18 other words, everything stays the same. And  
19 in Illinois, they are piloting there, but  
20 everything is originated at the local county  
21 registrar. In other words, if you are a pilot  
22 project, you still get to work with your desk  
23 doctor and you do it with your registrar, and  
24 you get your certified that same day right  
25 there. Nothing going through the capital.

1 And she wants to shut us off of that January  
2 1st where we have to send or carry our  
3 hand-delivered death certificate down to her,  
4 get in line behind the 250 that come in every  
5 day, and then wait. And that is just a  
6 terrible, terrible situation for our consumers  
7 and for our charge as citizens -- I mean,  
8 protectors of the citizens as your Board  
9 members have to be. And I appreciate you  
10 letting me say that to you because this is a  
11 catastrophe coming if we can't get input. And  
12 I have tried for a year and a half to have  
13 input with her, have compromise with her.  
14 It's set up at the local level to do it, it's  
15 in the law to do it, and why we can't get any  
16 help on this is just beyond me, but I hope  
17 that the Board can try to help the citizens of  
18 the state.

19 MS. GERSTEIN: People who deal with  
20 that at the registrar's, is there a Board? Do  
21 they have a Board?

22 MR. LAKIN: The Health Department.

23 MS. CLARKSTON: The Health Department.

24 MR. STUART: But the problem is --  
25 yeah. It's the Health -- the county registrar

1 -- I found this out by accident. I didn't  
2 realize this. I thought they worked -- the  
3 county worked -- he's the -- what do you call  
4 it, the local county health director in our  
5 city, and I thought he was -- worked for our  
6 county. But under the registrar system, he's  
7 an appointed deputy registrar of the State of  
8 Missouri Health Department. That's how they  
9 have authority over this county registrar, and  
10 that's how she's going to pull this away from  
11 him. But I think the statute is -- she's  
12 violating the statute right now. She's --  
13 (inaudible) -- she's taking the death  
14 certificate out of the county in 24 hours,  
15 sooner than that. She is also not returning  
16 it electronically back to them in 24 hours as  
17 mandated by law. And I don't know, but that's  
18 where we are.

19 MR. LAKIN: Has this Board been  
20 contacted by the Department of Health to  
21 change their rule or statute in regard to an  
22 embalmer's signature?

23 MS. DUNN: No.

24 MR. LAKIN: You've had no contact.

25 MS. DUNN: No.

1 MR. LAKIN: Okay. That's --

2 MS. DUNN: But I will tell you that  
3 Connie has been working with the Department of  
4 Health, at the request of the Board, and I  
5 understand that the Board of Healing Arts is  
6 going to put this matter on their October  
7 agenda. I'm assuming it would be an open,  
8 but, Connie -- I know that we've been --

9 MS. CLARKSTON: And I can follow up  
10 with Tina possibly next week and update and  
11 see if we can get a time and find out.

12 MS. DUNN: We can certainly  
13 communicate that open meeting to -- because we  
14 knew how important that was to the profession,  
15 so Connie has been working on that. And as  
16 far as I know, they have it on the October  
17 agenda -- the Board of Healing Arts.

18 MS. CLARKSTON: I'm sorry to interrupt.  
19 They've also been discussing ways to educate  
20 their physicians. I know Tina had lengthy  
21 conversations with Department of Health. I  
22 don't know the outcomes of that.

23 MR. STUART: Well, we'd like to  
24 educate them, Connie, but they won't educate.  
25 They did take -- for 40 minutes, all she

1 talked about -- and this was a great deal last  
2 week when we got to go. For 40 minutes, she  
3 told us the government's problems, the  
4 government's needs, and government's ways to  
5 do this. She not one second talked about the  
6 bereaved family that is not going to get their  
7 death certificate in a timely manner. That's  
8 not her concern. And now that I know her  
9 trouble, my compromise is very workable for  
10 her, but they didn't tell us that for a year  
11 and a half. They just kept saying  
12 fabrications, Homeland Security. Homeland  
13 Security went like this, federal, and then the  
14 state man called Ms. Cross and talked to her.  
15 She doesn't use his name in -- Homeland  
16 Security name anymore. He put a stop to that.  
17 And that's all I'm saying. Nobody mentions  
18 who we're all about here. We're about -- I  
19 know you and government have headaches, more  
20 headaches than I could ever imagine right in a  
21 little -- you know, in a small country town.  
22 But -- and her problems are immense, too, and  
23 there's 60,000 deaths a year she has to worry  
24 with. But we're willing to work, but we  
25 couldn't get that across for a year and a

1 half, and that's all I'm hoping, that maybe  
2 the Board could get some compromise because  
3 the situation is sitting in the county right  
4 there, and we'll help her. I volunteered to  
5 help if we could get a small compromise.

6 CHAIRMAN: Expand on your Oklahoma --  
7 and you're next -- on your Oklahoma thought,  
8 the pilot part. You --

9 MR. STUART: In Oklahoma, they're  
10 doing pilot projects, and while they do pilot  
11 projects, nobody is being denied the working  
12 way it's going.

13 CHAIRMAN: Just the way it's typical  
14 happening.

15 MR. STUART: Nobody is being --

16 CHAIRMAN: Okay. Okay.

17 MR. STUART: -- banged -- arbitrarily  
18 banged. No, they're not doing that. In  
19 Illinois, it's the same way. However,  
20 Illinois is what we patterned our law change  
21 in '83 to get our local death certificates  
22 locally instead of going, like they're wanting  
23 to do January 1st, where you have to send  
24 everything over here to Jeff City and wait for  
25 you to get the release back to your county to

1 go get your death certificate.

2 CHAIRMAN: Sure.

3 MR. STUART: And that would be turning  
4 the clock back 35 years or whatever.

5 CHAIRMAN: So -- okay. Do you see --  
6 because here's what -- this is perfect-world  
7 scenario. I understand that. But, you know,  
8 she kept using those words the other day of,  
9 you know, encourage your doctor to participate  
10 and all of that. And, actually, even though I  
11 know how crazy that is, I can sit here and,  
12 verbatim, talk through -- and you can, too,  
13 I'm sure -- to how you had a special issue  
14 one time and you called your doctor and he did  
15 jump on board with you. And I processed a  
16 paper death certificate in two days once. I  
17 took it the same day I typed it, and filed it  
18 the next day and had my certifieds because the  
19 doctor and their staff person understood that  
20 these people had really a bad problem and they  
21 helped me. Now, I'm not -- that's not the  
22 typical world and we all know that, but it can  
23 happen. So --

24 MR. STUART: What do you mean, it's not  
25 typical?

1           CHAIRMAN: Well, you know what I mean.  
2           What you're -- the --

3           MR. STUART: I do it in one day.

4           CHAIRMAN: Okay.

5           MR. STUART: Many of us out there are  
6           doing it the same day. I mean, that's why we  
7           got the local health departments able to serve  
8           any --

9           CHAIRMAN: Okay. Okay. Well, if  
10          that's true then and you can get that  
11          accomplished, as long -- from what I remember  
12          hearing, from what -- in the processing of  
13          that death certificate, as long as the  
14          computer system does not isolate a problem  
15          with it, it should just flow on through.  
16          They'll never even look at it.

17          MR. STUART: It should. It should,  
18          and I agree with it should.

19          CHAIRMAN: And you would have your  
20          death certificates the next day.

21          MR. STUART: But why do you need to  
22          take it through Jeff City to be the scorer?  
23          Leave the scorer right there at your local  
24          health department so you all can -- you, your  
25          input. Oh, it's Dr. Joe Blow. The computer

1 says Dr. Joe Blow, filed back, gone to  
2 Australia for three weeks. Oh. Now, what is  
3 the computer going to do with that? Discard  
4 it and sit there. But if I'm on the local  
5 level, finding out Dr. Joe Blow is gone to  
6 Australia, I go get the other physician in the  
7 building that signs off on the death that  
8 occurred in the hospital or the nursing home,  
9 and puts down at the bottom attending  
10 physician's name, Dr. Joe Blow, Australia for  
11 three weeks. No. I mean, that's how you do  
12 these things that the computer cannot at all  
13 -- electronically, you cannot -- you have to  
14 have human input. Jeff City will not be able  
15 to understand that because they're gone for  
16 the day or their man is sick or their lady is  
17 sick or whatever. And we, at the local level,  
18 can solve these things with our people  
19 instantly. And that's all I'm saying, is a  
20 compromise could be worked out. It's on  
21 board. It is not a complicated mess. Now  
22 that she told us her issues, her government  
23 problems, she needs to score -- get the doctor  
24 -- it's not only getting him to sign it, it's  
25 educating him the way they want him to sign it.

1           CHAIRMAN:    Sure.

2           MR. STUART:   And we didn't know this  
3           for a year and a half.  They wanted perfectly  
4           record-keeping for all the -- she told us all  
5           these bizarre people that want all these  
6           causes of death to be defined down to about,  
7           what, 12 or 16, Scott?

8           MR. LINDLEY:   Yeah.

9           MR. STUART:   Yeah.  She wants it boxed  
10          in that category, and I guess it all goes back  
11          to how much funding our state probably gets  
12          back from federal or whatever.  And so, it's a  
13          complicated matter for her, as government goes  
14          in her job.

15          CHAIRMAN:    Well, I had said you were  
16          next.

17          MR. LAKIN:    No.  You -- (inaudible.)

18          CHAIRMAN:    Okay.  All right.  Scott?

19          MR. LINDLEY:   Yeah.  And what her  
20          problem is, is that -- and it's the same  
21          problem in '83 that she's got today.  They  
22          have categories; okay?  And they get their  
23          death certificates scored by CDC.  They get  
24          monies back based on their scoring and  
25          complying and doing things that they want, and

1 I perfectly understand that. But I think it's  
2 just -- I talked to the software guy and I  
3 asked him if those codes could just be put out  
4 there to the locals and if -- I think there's,  
5 like, 73 cause-of-death codes, I think he told  
6 me. I wasn't supposed to be talking to him.  
7 In fact, she admonished me for talking to him,  
8 and him, both. But there is -- they're trying  
9 to bracket these codes into, like, 73 causes  
10 of death and whatever it is. And I think the  
11 guy can send those out, you know, to the  
12 locals. And if they don't match the box, or  
13 the opposite of that would be if they send it  
14 in and it glitches, then that one has got to  
15 be done somehow. There's got to be some  
16 interaction between the locals and down there  
17 to make sure that whatever the problem is,  
18 they get it fixed, and you're going to know  
19 right then that you've got an issue when you  
20 take it out. So, in other words, when Bill  
21 walks out there, you know, it's going to be --  
22 he's going to pretty much know if he's going  
23 to have an issue with that death certificate.  
24 And I kind of got the drift from that guy  
25 that there probably could be some of that

1 going on. And, you know, he even said that  
2 they could set up a paper trial thing for guys  
3 that wanted -- families that wanted to be  
4 paper and that. And that was what I  
5 suggested. Okay, let's do it this way and  
6 that way, and then let's just run the  
7 statistical data to see who actually performs  
8 the best.

9 MR. STUART: And then quality of  
10 service to your consumers, the State assists.  
11 That's all we're saying. We hear her problem  
12 now, but she won't allow our problem to come  
13 through.

14 CHAIRMAN: But how do we fix that  
15 because we have no authority in any of that?

16 MR. STUART: Well, you fix it when she  
17 -- if she asks you for emergency change of our  
18 licensing law, you say, whoa, stop. You  
19 haven't shown good faith to our licensees who  
20 are trying to work out a reasonable  
21 compromise. The Department of Revenue does  
22 this every night at the local license bureau,  
23 but the people get their license plate. They  
24 go home with their license plate. If they  
25 come in with their five documents, they walk

1 out -- (inaudible) -- they walk out with that  
2 plate. All I'm saying is, at the local level,  
3 I won't hold up the family. They'll get their  
4 certified and if we want to play games over  
5 this 74 problems that they're having in the  
6 computer to accept the cause of death that Dr.  
7 Joe Blow signed wrong, in the meantime, the  
8 families could care less. The banker gets his  
9 CD -- I mean, cashes the CD so you can buy  
10 grocers when they lost their loved one.

11 CHAIRMAN: Because all they're looking  
12 for is the seal.

13 MR. STUART: That -- yeah. Well,  
14 unfortunately, only two people recognize the  
15 death; the family and the funeral director.  
16 But the insurance company that has the money,  
17 uh-uh, we don't recognize that death. The  
18 banker, uh-uh, we don't recognize that death  
19 unless we have this little piece of paper with  
20 a seal on it.

21 CHAIRMAN: Right.

22 MR. STUART: And that is instrumental  
23 in many people's lives, sometimes to buy  
24 groceries, because people have in their head  
25 to do certain things certain ways. And their

1       checking accounts are tied up because it's  
2       transfer on death.  And, well, we've got to  
3       get -- we don't have that piece of paper.  
4       So, that's the crucial part of this whole mess  
5       is we're willing to work with her now.  I  
6       mean, I always was.  But it can be  
7       accomplished easily without an upside-down  
8       mess.  And the Board, if they're asked to do  
9       anything emergencywise on this signature,  
10      unless you have heard that they categorically  
11      will demand doctors to sign these certificates  
12      within the 72-hour law that is there in place,  
13      I would say the Board ought to say unless you  
14      get equalization, why should we be the  
15      whipping boys.  We're doing this for them for  
16      free.

17               CHAIRMAN:  Sure.

18               MR. REINHARD:  I make a motion not to  
19      be the whipping boy.  Come on, John, second it.

20               MR. McCULLOCH:  I would second that.

21               CHAIRMAN:  All right.  Got a second.

22      Joy?

23               MS. GERSTEIN:  I'm not sure what I'm  
24      voting on, but --

25               CHAIRMAN:  That we're not the whipping

1 boy.

2 MR. REINHARD: I agree with you, Bill.  
3 And if it comes to that point, I think the  
4 Board needs to stand up.

5 MR. STUART: And you're doing it for  
6 not your licensees, you're doing it for your  
7 citizens. That's who you're here to protect,  
8 the citizens.

9 MS. GERSTEIN: Okay. I vote yes.

10 CHAIRMAN: You already did.

11 MS. DUNN: That's not a -- she's  
12 taking it down directly, so tell her.

13 CHAIRMAN: That was silly. Ms. Court  
14 Reporter, that was silly. Even though it's on  
15 the recorded record. Me even saying it was  
16 silly is on the recorded record.

17 UNIDENTIFIED: That's ruled silly.

18 CHAIRMAN: That's ruled silly. That's  
19 right.

20 MS. GERSTEIN: Well, she'll get a kick  
21 out of it when she has to listen to it.

22 CHAIRMAN: Any other open thoughts,  
23 discussion? Guys? Guys? Guys? Close it  
24 down? Well, that will then conclude the  
25 Senate Bill 1 discussion. Open discussion is

1 concluded, and I'm being directed that we need  
2 a motion to go back into closed.

3 MS. GERSTEIN: I so make that motion.

4 MR. McCULLOCH: Second.

5 CHAIRMAN: For the purpose of  
6 consulting with attorneys for legal advice.  
7 So, Joy made the motion, John seconded. Jim  
8 says yes; Gary says yes. All right. Thank  
9 you, guys, for coming, and, again, I  
10 appreciate how this has went.

11 (Off the record)

I, Kristy B. Bradshaw, a Certified Court Reporter in the State of Missouri, do hereby certify that the foregoing transcript constitutes a full, true and correct record of said proceedings that were held on July 30, 2009; that said proceedings were recorded by me and afterwards transcribed under my direct supervision.

Given at my office this 12<sup>th</sup> day of August, 2009.

  
KRISTY B. BRADSHAW, CCR

Hayes, Lori

Subject: FW: Request

**From:** Brad Speaks [  
**Sent:** Friday, July 24, 2009 5:09 PM  
**To:** PR.Embalm  
**Cc:** Euler, Sharon; Dunn, Becky; lindleyfh@gmail.com  
**Subject:** Request

To the State Board of Funeral Directors and Embalmers:

I would like to formally ask that the Missouri State Board of Funeral Directors and Embalmers request that the Attorney General for the State of Missouri file a motion for hearing in the Texas court before Mr. Collins (the Special Master that has been appointed in the NPS debacle), in regards to the 7 items listed below:

1. Payment of claims from NPS
2. Timing of claims payment
3. Ongoing consumer payments on contracts
4. Missouri banks and their liability, and the class action lawsuits on behalf of Missouri funeral homes
5. Expenses of the CFA in pursuing this matter
6. Access to teleconference report conferences with the SDR
7. The SDR's intent to send a letter to all consumers re: claims against NPS.

I further request that the state board hire Mr. Robert Cowherd as the board's attorney so that he can work on this ongoing issue for the consumers of Missouri and the funeral providers who have been harmed. There is much at stake and Mr. Cowherd is extremely well-versed in the matters surrounding these issues and I feel that he is ideally qualified to stand up for the interests of the harmed parties on behalf of the State Board. This move would make a lot of sense, now that the board is empowered to hire it's own attorney.

Most sincerely,  
Brad

*Brad Speaks* | President

