

OPEN AGENDA
Missouri State Board of Embalmers
and Funeral Directors

December 8-9, 2009
InterContinental Kansas City at the Plaza (Fairmont)
401 Ward Parkway – Room 141
Kansas City, Missouri

Tuesday, December 8, 2009 – 9:30 a.m. – 9:31 a.m.

Call to Order
Roll Call

1. Approval of Agenda

Closed Meeting. The Board will move into closed session 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) and Section 324.001.8 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.

Wednesday, December 9, 2009 – 9:00 a.m. – OPEN MEETING

Call to Order
Roll Call

- 2. Approval of Minutes**
- 3. Executive Director's Report**
- 4. Future Meeting Dates**
- 5. SB 1 Implementation**
Potential Emergency/Non-Emergency Rule Discussion

6. Department of Health/Delayed Implementation Electronic Death Certificate
7. Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business
8. Other

Closed Meeting. The Board will move into closed session 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) and Section 324.001.8 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.

Adjournment

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors

December 2-4, 2008
InterContinental Kansas City at the Plaza (Fairmont)
401 Ward Parkway – Pavilion 1
Kansas City, Missouri

Tuesday, December 2, 2008 – 10:00 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by James Reinhard, Chairman, at 10:00 a.m. on Tuesday, December 2, 2008, at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Missouri.

Roll Call

Board Members Present

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

Staff Present

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

Public Present

Kevin Lager, Central Investigations Unit

Closed Meeting

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

Tuesday, December 2, 2008 – 11:00 a.m.

The Open Meeting of the State Board of Embalmers and Funeral Directors was called to order by James Reinhard, Chairman, at 11:05 a.m. on Tuesday, December 2, 2008, at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Missouri.

Board Members Present

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

Staff Present

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

Public Present

David Broeker, Division Director
Connie Clarkston, Division of Professional Registration

Approval of Agenda

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

Approval of Minutes

March 11, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the March 11, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

April 7-9, 2008 Open Meeting Minutes – INCOMPLETE

April 7-9, 2008 Open Meeting Minutes were not completed for approval at this meeting.

April 10, 2008 Open Conference Call Meeting Minutes – INCOMPLETE

April 10, 2008 Open Meeting Minutes were not completed for approval at this meeting.

April 14, 2008 Open Conference Call Meeting Minutes – INCOMPLETE

April 14, 2008 Open Meeting Minutes were not completed for approval at this meeting.

April 16, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the April 16, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

April 22, 2008 Open Meeting Minutes – INCOMPLETE

April 22, 2008 Open Meeting Minutes were not completed for approval at this meeting.

April 23, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the April 23, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

April 28, 2008 Open Meeting Minutes – INCOMPLETE

April 28, 2008 Open Meeting Minutes were not completed for approval at this meeting.

May 7, 2008 Open Conference Call Meeting Minutes – INCOMPLETE

May 7, 2008 Open Meeting Minutes were not completed for approval at this meeting.

May 15, 2008 Open Meeting Minutes – INCOMPLETE

May 15, 2008 Open Meeting Minutes were not completed for approval at this meeting.

May 29, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the May 29, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

June 9, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the June 9, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

June 12, 2008 Open Conference Call Meeting Minutes – INCOMPLETE

June 12, 2008 Open Meeting Minutes were not completed for approval at this meeting.

June 19, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the June 19, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

July 8, 2008 Open Chapter 436 Review Committee Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the July 8, 2008 Open Chapter 436 Review Committee Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

July 15, 2008 Open Chapter 436 Review Committee Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the July 15, 2008 Open Chapter 436 Review Committee Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

July 24, 2008 Open Chapter 436 Review Committee Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the July 24, 2008 Open Chapter 436 Review Committee Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

July 29, 2008 Open Chapter 436 Review Committee Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the July 29, 2008 Open Chapter 436 Review Committee Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

August 12, 2008 Open Chapter 436 Review Committee Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the August 12, 2008 Open Chapter 436 Review Committee Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

August 18-20, 2008 Open Meeting Minutes – INCOMPLETE

August 18-20, 2008 Open Meeting Minutes were not completed for approval at this meeting.

August 26, 2008 Open Conference Call Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the August 26, 2008 Open Conference Call Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

September 4, 2008 Open Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the September 4, 2008 Open Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

September 8, 2008 Open Conference Call Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the September 8, 2008 Open Conference Call Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

September 23, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the September 23, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

October 14, 2008 Open Mail Ballot Meeting Minutes

Motion was made by John McCulloch and seconded by Gary Fraker to approve the October 14, 2008 Open Mail Ballot Meeting Minutes as submitted. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

Executive Director’s Report

Becky Dunn reported on the FY2009 Financial Statement as of October 31, 2008

	Year-To-Date	Projected	Remaining
FY 2009 Beginning Fund Balance	1,499,792.36		
Revenue	80,325.99	0.00	(80,325.99)
Expense and Equipment	53,765.02	0.00	(53,765.02)
Total Transfers	152,429.60	0.00	(206,166.12)
Ending Fund Balance	1,373,923.73		

FY 2009 OA Cost Allocation

Board Cost:

OA Expenditures	Auditor Expenditures	Governor Expenditures	Lt. Governor Expenditures	Sec. of State Expenditures	
\$585.00	\$0.00	\$130.00	\$25.00	\$567.00	
Atty General Expenditures	Gen Assembly Expenditures	Capitol Police	DOR Receipts		Total
\$0.00	\$1,804.00	\$81.00	\$654.00		\$3,846.00

Division Cost:

OA Expenditures	Auditor Expenditures	Governor Expenditures	Lt. Governor Expenditures	Sec. of State Expenditures	
\$88.19	\$0.00	\$19.63	\$3.84	\$85.48	
Atty General Expenditures	Gen Assembly Expenditures	Capitol Police	DOR Receipts		Total
\$0.00	\$272.13	\$12.24	\$0.00		\$481.51

FY2009 Total Cost:

\$4,327.51

Legal Counsel Report (Kimberly Grinston)

Kimberly Grinston, Board’s Legal Counsel, and Sharon Euler, Assistant Attorney General, had nothing new to report.

Rules and Regulations

- **New**

The Board reviewed drafted language as follows:

The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective January 1, 2009, an apprentice shall not be allowed to register with the Board for more than two apprenticeship periods, unless otherwise approved by the Board for good cause.

The Board also reviewed a draft of the examinations to include in the definition rule:

THE MISSOURI LAW EXAMINATION will test your knowledge of Chapter 333 RSMo, and the rules governing the practice of embalming, funeral director and funeral home licensing, together with government benefits, statutes and rules governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof. This examination will contain questions regarding Chapter 436 RSMo, relating to the preneed statutes and Chapters 193 and 194 RSMo relating to the Department of Health and Senior Services Statutes. This examination may also include questions regarding Federal Trade Commission rules and regulations and OSHA requirements as they apply to Missouri licensees. This is a written examination of fifty (50) multiple-choice questions and the candidate will be allowed one hour to complete this examination.

THE MISSOURI FUNERAL SERVICE ARTS EXAMINATION is based on the same question bank used for the Funeral Service Arts Section of the National Boards. The examination includes subtests on accounting, computers, management, funeral directing, funeral home management, merchandising, communications, counseling, history, psychology of funeral service, sociology of funeral service, business and funeral service law. This is a written examination of one hundred fifty (150) multiple-choice questions and the candidate will be allowed three hours to complete this examination.

A motion was made by Gary Fraker and seconded by Joy Gerstein to approve the drafted funeral director apprenticeship language as well as the draft of examinations to include in the definition rule. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition.

Annual Reporting Notice – Preneed Providers and Sellers

The Board was provided the Annual Report Information for registered preneed sellers in Missouri. A total of 17,186 contracts were sold with a total face value of \$76,323,952.83 for the 2007-2008 annual reporting period.

Embalmer/Funeral Director Renewal Update

The Executive Director reported there were 71 embalmers and 163 funeral directors who had not renewed their licenses for the 2008-2010 biennial renewal period.

Tax Compliance

The Board received twenty (27) Certifications of Non-Compliance from the Department of Revenue. The board will suspend the licenses of 14 embalmers and 13 funeral directors

effective January 3, 2009, by operation of law pursuant to Section 324.010 RSMo. for failure to file or failure to pay state taxes, unless they become compliant with the Department of Revenue.

DNR Letter

The Board reviewed a letter received from the Department of Natural Resources regarding backflow prevention. The backflow requirements were addressed and it was a directive of the board that inspectors will request to see an annual inspection certificate of backflow from establishments. Many comments were received from the meeting's public attendees.

Future Meeting Dates

March/April 2009/Festus, Missouri

The Board reviewed a 2009 calendar in order to plan for future meeting dates. The Board asked the Executive Director to check into board meeting room availability for March/April 2009 in Festus, Missouri.

Chapter 436 Review Committee Update

Connie Clarkston provided the Board a legislative update.

Senate Bill #1 was filed December 1, 2008, however the language was not available at that time. It was suggested to watch the Senate website for information.

The Board requested open communication during the legislative session.

The Department denied the Board's request for legal council language. Language for the Board's Legal Counsel will be placed in this bill also, and the Board is requesting public support.

ITEM #12 - CANCELLED

~~1:00 p.m. Deputy Receiver Donna Garrett/Guarantee Association Chuck Renn~~

~~Conference Call has been set up for this portion of the meeting by the Deputy Receiver for the public wishing to join discussion at 1:00 p.m.
Dial 800-467-2166 Passcode: 494821# (Be sure to enter the # sign at end of passcode)~~

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

- Scott Lindley inquired about the 30 days for receiving payment from NPS. He strongly requested a meeting with the Division of Finance and also inquired as to how the Board mandates the 30 day rule.
- Kimberly Grinston outlined the responsibilities of the Division/Department regarding legal issues that are public information.

Sharon Euler and Kimberly Grinston stated that the Board has no responsibility to regulate the Banks or Division of Finance.

Kimberly Grinston, Board's Legal Counsel, made a formal request to contact the Division of Finance further for public information at this time relating to NPS issues.

Ms. Grinston contacted the Division and was informed that they were processing claims, and there was no further public information at this time. They are working with

the Donna Garrett, Special Deputy Receiver. It was stated that if you wish to file a complaint, to do so with the Division of Finance or to contact Finance with questions on current updates.

- Sharon Euler stated that claims are being processed according to court order per Texas. Ms. Euler suggested directing that question to the Missouri Guaranty Association.
- Don Otto noted February 4, 2009 is MFDEA's Legislative Day in Jefferson City. He also announced the MFDEA Convention will be at the Lake of the Ozarks on May 27-29, 2009.

Closed Meeting

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

The State Board of Embalmers and Funeral Directors recessed during the Joint Committee Meeting held from 2:00p.m.-4:00p.m. on today's date.

Wednesday, December 3, 2008 – 9:00 a.m. – CLOSED MEETING

Thursday, December 4, 2008 – 9:00 a.m. – CLOSED MEETING

Adjournment

A motion was made by Gary Fraker and seconded by Martin Vernon to adjourn. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent from this portion of the meeting. The meeting adjourned at 11:15 a.m. on Thursday, December 4, 2008.

Executive Director: _____

Approved by the Board on: _____

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors

December 8, 2008 – 10:30 a.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

Monday, December 8, 2008 – 10:30 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by James Reinhard, Chairman, at 10:39 a.m. on Monday, December 8, 2008, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call

Board Members Present

James Reinhard, Chairman
Martin Vernon, Vice-Chairman
Gary Fraker, Secretary
Todd Mahn, Member
John McCulloch, Member

Board Members Absent

Joy Gerstein, Public Member

Staff Present

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

Closed Meeting

Motion was made by Todd Mahn and seconded by Martin Vernon to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and Section 324.001.8, RSMo for discussing complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; and Section 610.021 Subsection (1) RSMo and section 324.001.9 for deliberation on discipline. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent from the meeting in its entirety.

Adjournment

A motion was made by Gary Fraker and seconded by Martin Vernon to adjourn. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent from the meeting in its entirety. The meeting adjourned at 1:50 p.m. on Monday, December 8, 2008.

Executive Director: _____

Approved by the Board on: _____

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors
Conference Call

December 11, 2008 – 9:30 a.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

Thursday, December 11, 2008 – 9:30 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order via conference call, by James Reinhard, Chairman, at 9:42 a.m. on Thursday, December 11, 2008, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call

Board Members Present

James Reinhard, Chairman – via conference call
Martin Vernon, Vice-Chairman – via conference call
Gary Fraker, Secretary – via conference call
Todd Mahn, Member – via conference call
John McCulloch, Member – via conference call
Joy Gerstein, Public Member – joined at 9:55 – via conference call

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Tabatha Lenzini, Licensure Technician
Kimberly Grinston, Board's Legal Counsel – via conference call
Sharon Euler, Assistant Attorney General – via conference call

Closed Meeting

Motion was made by Gary Fraker and seconded by Martin Vernon to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 324.001.8, RSMo for discussing complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; and Section 610.021 Subsection (1) RSMo and section 324.001.9 for deliberation on discipline. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent from this portion of the meeting.

Adjournment

A motion was made by John McCulloch and seconded by Martin Vernon to adjourn. Motion carried with Martin Vernon, Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 10:15 a.m. on Thursday, December 11, 2008.

Executive Director: _____

Approved by the Board on: _____

OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors
Conference Call

December 16, 2008 – 1:00 p.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

Tuesday, December 16, 2008 – 1:00 p.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order via conference call, by James Reinhard, Chairman, at 1:08 p.m. on Tuesday, December 16, 2008, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call

Board Members Present

James Reinhard, Chairman – via conference call
Martin Vernon, Vice-Chairman – via conference call
Gary Fraker, Secretary – via conference call
Todd Mahn, Member – via conference call
Joy Gerstein, Public Member – via conference call

Board Members Absent

John McCulloch, Member

Staff Present

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

Public Present

David Broeker, Division Director
Linda Bohrer, Acting Department Director – via conference call
Mark Stahlhuth, Senior Counsel, Insurance Solvency & Company Regulation Division – via conference call
Fred Heese, Director, Insurance Solvency & Company Regulation Division – via conference call
Rich Weaver, Department Director, Division of Finance – via conference call
David Barrett, Division's Legal Counsel – left meeting at 1:10 p.m.
Keith Torneburg, Counsel, Division of Finance

Closed Meeting

Motion was made by Martin Vernon and seconded by Gary Fraker to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 324.001.8, RSMo for discussing complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; and Section 610.021 Subsection (1) RSMo and section 324.001.9 for deliberation on discipline. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, Todd Mahn, and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the meeting in its entirety.

Adjournment

A motion was made by Gary Fraker and seconded by Joy Gerstein to adjourn. Motion carried with James Reinhard, Gary Fraker, Todd Mahn, and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was absent from this portion of the meeting. John McCulloch was absent from the meeting in its entirety. The meeting adjourned at 2:25 p.m. on Tuesday, December 16, 2008.

Executive Director: _____

Approved by the Board on: _____

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.

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 Preened
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: _____

Approved by the Board on: _____

MISSOURI STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS

TRANSCRIPTION OF MEETING

DIVISION OF PROFESSIONAL REGISTRATION
3605 MISSOURI BOULEVARD
JEFFERSON CITY, MISSOURI

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

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

6 MR. FRAKER: Here.

7 CHAIRMAN: Joy Gerstein?

8 MS. GERSTEIN: Here.

9 CHAIRMAN: John McCulloch?

10 MR. McCULLOCH: Here.

11 CHAIRMAN: Jim Reinhard?

12 MR. REINHARD: Here.

13 CHAIRMAN: Todd Mahn? Absent. All right.

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

24 MS. LENZINI: Licensure technician.

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

5 THE REPORTER: Kristy Bradshaw.

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

11 MS. DUNN: And if you would just say your name
12 and your organization clearly for the court reporter.

13 MR. LICKLIDER: Sam Licklider, Missouri
14 Funeral Directors and Embalmers Association.

15 MR. WARREN: Mark Warren -- (inaudible.)

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

18 MR. STALTER: Bill Stalter, Stalter Legal --
19 (inaudible.)

20 MS. BATTAGLER: Amy Battagler of Stuart
21 Enterprises.

22 MS. RUSSELL: Darlene Russell, CFL Preneed.

23 CHAIRMAN: And thank you all, again, for
24 coming today.

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

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

6 MR. FRAKER: I make the motion.

7 CHAIRMAN: Gary makes the motion.

8 MR. REINHARD: Second.

9 CHAIRMAN: Jim seconds. John?

10 MR. McCULLOCH: Yes.

11 CHAIRMAN: Yes. Joy?

12 MS. GERSTEIN: Yes.

13 CHAIRMAN: Yes. All right. Motion approved.

14 And now we need another motion for the approval of
15 the minutes.

16 MS. GERSTEIN: I so move.

17 CHAIRMAN: Joy moves.

18 MR. FRAKER: Second.

19 CHAIRMAN: Gary seconds. Jim?

20 MR. REINHARD: Yes.

21 CHAIRMAN: Yes. John?

22 MR. McCULLOCH: Yes.

23 CHAIRMAN: Yes. And the minutes are approved.

24 We are moving. Executive director, would you like

1 anything to say today in a report?

2 MS. DUNN: Actually, I don't have anything to
3 report today.

4 CHAIRMAN: Nothing to report today?

5 MS. DUNN: No.

6 CHAIRMAN: All right. Well, I guess that
7 falls under your category, a future date. So --

8 MS. DUNN: We have not posted these meetings
9 yet, but, tentatively, I'll give you a list of the
10 dates that we're looking at here at the Division.
11 August 5th at 9:00 a.m.; August 10th at 9:00 a.m. --
12 I'm sorry -- August 11th. Correction: August 11th at
13 9:00 a.m.; August 19th at 9:00 a.m.; August 25th at
14 9:00 a.m.; and September 2nd at 9:00 a.m.

15 CHAIRMAN: Any further discussion in the
16 dates? All right. Gary?

17 MR. FRAKER: Did you say August 25th or August
18 27th?

19 MS. DUNN: The agenda -- those were tentative.
20 We didn't have meeting rooms at the time. So, don't
21 pay attention to the agenda dates. The dates I just
22 read: August 5th, August 11th, August 19th, August
23 25th, and September 2nd.

24 CHAIRMAN: All right. Any other comments or

1 questions on dates? All right. We've had Mr. Lakin
2 join us. Everybody else got their formal
3 introduction. Would you like yours?

4 MR. LAKIN: No, not really.

5 CHAIRMAN: Okay.

6 MR. LAKIN: Not really.

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

8 MR. LAKIN: Huh?

9 MR. REINHARD: Nice shirt you're got on.

10 MR. LAKIN: Thank you.

11 MR. STALTER: It still has the tag on the
12 back.

13 MR. LAKIN: I look like an old man coming up
14 here, so I got to Springfield and thought I'd drink a
15 cup of coffee. I got my thermos jug out and got it
16 poured. Screwed the top off one of them free things
17 that you get at the convention. Screwed it --
18 (inaudible.) I had coffee all down my -- so I had to
19 stop at Wal-Mart somewhere to buy a shirt, but I did
20 get a bargain. It was only \$15, and it was regularly
21 \$19.95, because it was short-sleeved and the season is
22 over.

23 CHAIRMAN: There you go. You did well. You
24 did well. All right. Moving along. Under

1 legislation, I understand Becky and Connie will be
2 addressing us in this thought this morning.

3 MS. DUNN: Well, actually, Connie, we thought
4 we'd give you an opportunity to just give a brief
5 overview of the rule-making process.

6 MS. CLARKSTON: Okay. I've handed out a sheet
7 that goes through a flow sheet of the rule-making
8 process and put together what's in statute, what our
9 processes are, and summarizing it in a brief overview.

10 Obviously, rule -- (inaudible) -- is given by
11 legislative authority and there's three types of
12 rules: Either a new rule, an amendment, or a
13 rescission. And each of these types of rules --
14 (inaudible) -- may be rules which we'll be working
15 with. Once -- regardless of the type of rule that you
16 promulgate, the process from that point forward is
17 exactly the same. They all go through Division,
18 department, and governor's office approval. There's a
19 filing with the Secretary of State's Office, the Joint
20 Committee on Administrative Rules, and the Small
21 Business Regulatory Fairness Board, and then they
22 appear on a schedule with the Secretary of State's
23 Office and a publication called the "Missouri
24 Register." It is available on-line, and I'm sure that

1 we'll link that onto the Board's Web site for easy
2 access for our licensees. Once the rule appears in
3 the register, there is a 30-day comment period for
4 public comments to be submitted to the Board.

5 Following that 30-day comment period, the Board is
6 required to review the comments and respond to that,
7 and then we summarize those comments and the Board's
8 response into a document called "The Final Order of
9 Rule Making." That "Final Order of Rule Making,"
10 again, is on a time line because everything with rules
11 is statutorily driven by times and dates. So, we have
12 90 days to prepare a final order on file with the
13 Joint Committee on Administrative Rules. I'm sorry;
14 that's 60 days with them. Once we file it with JCAR,
15 they have 30 days in which they need to review that
16 and determine whether or not they will hold a hearing.

17 A hearing before JCAR could be called for any reason,
18 but they are statutorily driven on what they can
19 affect a rule for, and that's guided by Chapter 536.

20 Once the 30 days is over with, the Joint Committee on
21 Administrative Rules, regardless of whether or not
22 they hold a hearing, that rule -- if it -- if they
23 approve it, it goes on to the Secretary of State's
24 Office, again, for scheduling to be published in the

1 "Missouri Register." Once it's published in the
2 "Missouri Register," it then is published in the "Code
3 of State Regulations" and becomes, again, basically,
4 law within 30 days. So, once the publication occurs,
5 we have 30 days that we allow the office and
6 administration to get the rule books ready and get
7 those notifications out to the Boards, so there's --
8 or to the licensees and available, and then it becomes
9 law. So, that's a quick overview of the legislative
10 process -- or the rule process. Do you have any
11 questions?

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

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

1 emergency rule is limited in time, where a regular
2 rule is not, so that's the difference between the two.

3 But emergency rules are also guided by Chapter 536.

4 CHAIRMAN: Okay. Any comments, questions to
5 Connie? Scott?

6 MR. LINDLEY: Do you anticipate -- with that
7 question, do you anticipate this being an emergency
8 rule?

9 MS. CLARKSTON: I think that's up to the
10 determination of the Board.

11 CHAIRMAN: Are you talking about the entire
12 bill?

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

18 MR. KRAUS: And that's something that I think
19 the Board is going to address in this meeting and in
20 subsequent meetings. They'll be talking about that
21 directly.

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

24 MS. RUSSELL: I think there may be sections in

1 here that they may need to look at as an emergency
2 rule regarding funding and things of that nature, and
3 that -- I mean, like they said, it'll work out as
4 they're going down the agenda.

5 CHAIRMAN: We'll identify issues as we go that
6 might fall into that category, might not. It'll just
7 depend on where the discussion goes, I guess. So --
8 okay.

9 MR. LAKIN: Are you going to be able to make
10 rules without your ten members -- you, as five
11 members?

12 MS. DUNN: Yes.

13 CHAIRMAN: Yes.

14 MR. LAKIN: You will?

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

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

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

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

24 CHAIRMAN: Uh-huh.

1 MS. DUNN: Okay.

2 CHAIRMAN: Yeah. Once we get there. I
3 thought we'd do this next.

4 MS. DUNN: Okay.

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

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

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

20 MS. GERSTEIN: I will make a motion that Becky
21 --

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

23 MS. GERSTEIN: -- on this.

24 CHAIRMAN: Okay. Need a second.

1 MR. McCULLOCH: Second.

2 CHAIRMAN: John seconds it. Jim?

3 MR. REINHARD: Yes.

4 CHAIRMAN: Gary?

5 MR. FRAKER: Yes.

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

9 MS. DUNN: Okay.

10 CHAIRMAN: There was -- yes, sir?

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

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

19 CHAIRMAN: It was. He's actually speaking of
20 this, though.

21 MR. KRAUS: And if you want to make exception
22 to that for individual items, you can.

23 CHAIRMAN: Okay. Go ahead.

24 MR. LINDLEY: Did I hear you say that legal

1 counsel says that the Board has no legal basis or
2 standing in this; is that what -- I heard that right?

3 CHAIRMAN: That is our understanding; out of
4 the scope of the Board.

5 MR. LINDLEY: And the reason for that? Do you
6 know why?

7 CHAIRMAN: Do you guys want to define that or
8 --

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

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

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

18 CHAIRMAN: So, I guess, if he really wants on
19 the agenda with his attorney, get on the agenda about
20 it?

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

23 CHAIRMAN: To the Board.

24 MR. KRAUS: To the Board. Sure.

1 CHAIRMAN: Did that answer your question,
2 Scott?

3 MR. LINDLEY: Well --

4 CHAIRMAN: Within reason?

5 MR. LINDLEY: -- yeah. I mean, it's -- I mean
6 --

7 CHAIRMAN: Basically, the technical hoops.

8 MR. LINDLEY: What's that?

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

14 MR. LINDLEY: You just make an appointment.

15 CHAIRMAN: -- make an appointment.

16 MR. LINDLEY: Okay. That's fine. We'll do
17 it.

18 CHAIRMAN: All right. In closed.

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

20 MR. KRAUS: I'm not sure that would be in
21 closed.

22 CHAIRMAN: Specifically?

23 MS. EULER: I'm not sure that there's -- you
24 know, it falls within -- (inaudible) -- closed

1 sessions.

2 MR. KRAUS: Yeah. That wouldn't be in closed.

3 That would in open.

4 CHAIRMAN: Okay.

5 MR. KRAUS: Which is why I was saying in the

6 open forum today, if you want to make additional

7 comments in the open forum. You can make additional

8 comments on this or any other agenda item.

9 CHAIRMAN: Okay.

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

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

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

18 CHAIRMAN: I guess, if it's a debate between
19 legal counsels, whatever, and it is legal counsel
20 addressing it.

21 MR. LAKIN: (Inaudible.)

22 MR. KRAUS: I mean, if counsel wants to call
23 and talk to me to -- but, essentially, they're going
24 to -- they can, but they're, essentially, going hear

1 the same response because, essentially, that's asking
2 what's the substance of your attorney-client
3 communication, and I'm not going to reveal that, so --

4 MS. EULER: But if Scott would like an
5 opportunity to have his attorney present to meet with
6 the Board, the Board would accommodate that.

7 MR. KRAUS: Oh, sure.

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

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

10 MR. LINDLEY: I understand.

11 MS. EULER: If you would like to have your
12 attorney present to discuss with the Board, the Board
13 will accommodate that request.

14 MR. LINDLEY: Okay. So, does Robert need to
15 just call Becky or you or him, or what do you want to
16 do?

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

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

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

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

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

4 MS. DUNN: If you would prefer to have your
5 attorney here.

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

9 MS. DUNN: Okay.

10 MR. LINDLEY: I mean, you know, what do you
11 think?

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

13 MR. LAKIN: The problem is, Scott, they've
14 already discussed and they've already voted on it. It
15 really is not going to change what they just voted on.

16 MR. LINDLEY: I understand that.

17 CHAIRMAN: But if he wants his opportunity to
18 try to change our mind, well, he can.

19 MR. LAKIN: Well, then you shouldn't be voting
20 on it.

21 CHAIRMAN: No. I know. I know. I just said
22 that. Okay. Let's go on and then we'll see about
23 that one. All right. I think we have covered the
24 agenda items prior to the big discussion which is the

1 implementation process of Senate Bill 1. Dah, dah,
2 dah, dah. Yes. So --

3 MR. LAKIN: (Inaudible.)

4 CHAIRMAN: What's that?

5 MR. LAKIN: All right. Number one, in the
6 first -- I do -- I have not had a chance, Sharon, to
7 cross-reference the bills in 333 to what they have in
8 436, which I don't understand why they didn't change
9 the 333 bills and place -- put it into preneed. I
10 don't understand that at all. But number one that I
11 am very concerned about is a discrimination suit
12 against this Board and this law. The way I read this,
13 you have to be an owner of a funeral home in order to
14 be on this Board. Now, how are they going to produce
15 an audit of their -- it's not -- that needs to be
16 straightened up first thing before you go any farther
17 because you're going to have application for Board
18 members.

19 MS. EULER: And that is something that is
20 really within the purview of the governor's office.
21 And the way we've got this structured is today we want
22 to talk about setting out a game plan and talk about
23 what we need to do for emergency rules. And then
24 starting with the next meeting, we're going to go

1 section by section through the statute and how things
2 are going to be interpreted. And so, that section is
3 on the agenda for the next meeting, and we'll look at
4 that. Because there does need to be -- I think there
5 needs to be some rules related to that, but they also
6 need to be coordinated with the governor's office
7 because the governor's office is who does the
8 appointments.

9 MR. LAKIN: This -- according to this thing,
10 this is going to go into law the 28th of August.

11 MS. EULER: Oh, right.

12 MR. LAKIN: Just the way it reads.

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

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

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

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

4 MS. EULER: Yeah.

5 MR. LAKIN: Okay.

6 CHAIRMAN: And add this behind it because this
7 is kind of like how -- not kind of like. This is the
8 way we would like to handle the ground rules for this,
9 and this will help. Comments, the Board would like to
10 have in written form where we can actually have those
11 and have some time for legal to look at those and put
12 in -- all the Board members put together their list of
13 questions. Legal has been looking at those and trying
14 to put everything in a real organized group so when we
15 get into these discussions of this section on this
16 date and this section on this date, and we would like
17 those same comments from all of you. If you have
18 concerns or questions, where they have time, we have
19 time to put it in, the thought was that if we could
20 get those comments or questions by Thursday prior to
21 that date, that that could then be added into the
22 compiled group of those comments from everyone where
23 it really could be addressed because a lot of our
24 questions will be the same from different individuals

1 coming together. We thought that made a lot of sense.

2 We thought, to try to keep this thing flowing really
3 orderly and smooth, we actually -- and I don't mean
4 any offense. I'm not picking on you, Don, because you
5 got the first one out there, but we really want to
6 hold the comments to the end. We actually have paper
7 and pen over here if you need something to write, keep
8 thoughts on, or whatever, to ask at the end, we will
9 have a comment time at the end, and we may have more
10 time than we think we'll have here, but, obviously, we
11 don't have the answers, either. That's why we're
12 here, to try to figure them out. So, what did I miss?
13 Oh, if you have comments, send them to you?

14 MS. DUNN: Uh-huh.

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

17 MS. DUNN: E-mail.

18 CHAIRMAN: In e-mail. So --

19 MS. EULER: I think Bill has a question,
20 though.

21 MS. DUNN: Bill Stalter has a question.

22 CHAIRMAN: Yes.

23 MR. STALTER: Martin, on this, the way we're
24 going to approach this, you could give them time, but

1 the problem that we tend to have is -- (inaudible.)

2 CHAIRMAN: Uh-huh. Well, they're already
3 written, you know.

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

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

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

20 MS. EULER: Yes.

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

24 MS. EULER: You know that piece of paper --

1 CHAIRMAN: You can leave them today.

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

3 MS. EULER: But we would -- we just set
4 Thursday as --

5 MR. STALTER: Okay.

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

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

18 MS. EULER: Yeah. Yeah.

19 MR. STALTER: Okay.

20 MS. EULER: That's the plan.

21 MR. KRAUS: And if we get them after that
22 time, then it's not that we're not going to consider
23 them, it's just we can't guarantee we'll able to get
24 them in and get them included.

1 MS. EULER: Right.

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

6 MS. EULER: Yes. Right.

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

10 CHAIRMAN: Sure.

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

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

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

19 MR. STALTER: I think you just did.

20 MR. LAKIN: No. Have you got a list of what
21 you're going to discuss next Thursday?

22 MS. EULER: Yeah.

23 CHAIRMAN: It's in the open agenda.

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

1 CHAIRMAN: All of the dates.

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

3 (inaudible.)

4 MS. EULER: We have group 1, group 2, and
5 group 3.

6 CHAIRMAN: And then the comments would be, you
7 know, applied appropriately to wherever that falls.

8 MR. KRAUS: And as we go forward, there's
9 bound to be some crossover between those groups
10 because they relate to each other, but that's just the
11 way we set them out to have some kind of organization
12 as to how we march through this.

13 CHAIRMAN: Okay? So, in that light, we would
14 like -- see how it goes here, at least -- hold the
15 questions till the end and maybe -- and, hopefully, it
16 will be more in the written form where we can really
17 put some thought in it. I did forget one thing that I
18 want to back up on, though. In the request from Brad
19 Speaks, and I was going to add something behind that,
20 there was a mention of Mr. Cowherd being the --
21 considered as the attorney for the Board. Senate Bill
22 1 did give the Board the authority to hire its own
23 legal counsel, and all I really want to say about that
24 is we will start pursuing that thought once we get the

1 information that it takes to go through that. And I
2 just want to address that thought that we will start
3 that process, so that's pretty much just an FYI, and
4 that's where that ends at the moment, so -- okay.
5 Okay. The way we thought we would start, at least,
6 this morning, is Earl and Sharon have put together,
7 I'll just call it presentation, for the start of this,
8 and give it to you guys and let's go.

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

11 CHAIRMAN: You're the man.

12 MR. KRAUS: I'll start off. And some of this
13 has been covered already, but I'll touch on it
14 briefly. First, Senate Bill 1 has been passed and
15 signed into law; it goes into effect August the 28th.
16 There is new provisions, there were repeal
17 provisions, there is amended provisions in there
18 covering a lot of different areas, so there's a lot to
19 cover by the Board. Particularly, to the extent of
20 potential rules, those can be regular rules that go
21 through the normal promulgation process, those can be
22 emergency rules like Connie was talking about. Of
23 course, any of those rules can only be to the extent
24 that it's implementing the current law or soon-to-be

1 current law on August 28th. It can't go beyond the
2 scope of that law. So, if someone says, well, I think
3 -- you know, if a particular Board member says, well,
4 I think doing this would be a good idea. Why, let's
5 just do a rule and say that. Well, if that's not
6 already set out in law and just simply further
7 implementing that, it's a whole new thing, we can't do
8 that. That's not -- it wouldn't be a properly
9 promulgated rule, and it would be rejected. So, we
10 want to keep that in mind when we are going forward,
11 of course, in implementing just what is in the law.
12 And that's even if some don't agree with what's in the
13 law, it's still the law and we all have to follow it.

14 So, as to an approach, we've kind of talked about
15 that some already. We've broken down the different
16 sections of the statute so that we can get comments
17 from the Board members, from the public, consider
18 those comments and questions, counsel and staff can
19 put together some type of proposals or
20 recommendations, hopefully, based on discussion today
21 among the Board. And I think that's what we were
22 hoping to do primarily in this meeting is have initial
23 discussions among the Board and get some direction as
24 to where the Board thinks we may want to go on

1 particular global ideas and issues. For example,
2 transition initially. What happens on August the
3 28th? What do people do? Are they -- can they
4 operate? Can they run their business? And some ideas
5 on how to address that initially in the short term,
6 and also in the long term. And maybe part of that is
7 done in emergency rule for the short term and by
8 regular rule in the long term and doing a combination
9 of both of those things. So, if we can get the
10 different comments and discussion and ideas, then at
11 the subsequent meeting, then we can walk through the
12 sections individually, have those comments in front of
13 everyone so everyone has thought they had the
14 opportunity to read and think about those ahead of
15 time and have a more productive discussion as to
16 what's the best way to do all this. There is a lot to
17 do in a relatively short amount of time, and that's
18 why we really condensed down how we would -- I think
19 the Board would normally set its meetings, without --
20 normally allow a lot more time between meetings and
21 more time for comment and all of that. But I think
22 everyone would agree it's important to get some kind
23 of clarity out there for the industry before the 28th.
24 Now, I think Connie mentioned that no rules,

1 emergency or otherwise, can be filed until the 28th
2 because the law isn't effective before then. You
3 can't promulgate a rule based on a statute that's not
4 in effect yet. So, the Board does have to wait until
5 then, but I think a lot can be prepared and ready to
6 just go file so that it could be filed right on the
7 28th, hopefully. So, that's kind of how we talked
8 about going forward. Some of the topics that we could
9 start off on, actually -- I mean, if the Board members
10 have certain topics they want to hit on, we could
11 start with those. Some that Sharon and I have talked
12 about that, I'm sure, everyone has thought about and
13 will want to address is the mission through the
14 transition initially. There are many different
15 options on how to address that. We could hit on that
16 first. There's the issue of fees to talk about.
17 There's annual reporting; a lot of different ways to
18 approach that. And I don't know if this would be one
19 of the easier ones to tackle first. I think one of
20 the harder ones, but educating licensees and the
21 public, too, as to what's -- what do I have to do
22 under this law? What does it really mean? What are
23 the really just important things? If you have to tell
24 me ten things, what's -- about this law, what would it

1 be? And how to share that with the public; is that
2 meetings, is that Web site, is that publications, is
3 that a combination of things? So, that's a big group
4 of things to swallow all at once. Martin, do you or
5 the Board have any one of those you want to jump on
6 first?

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

8 MR. KRAUS: Yeah. Go ahead.

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

1 there are a lot of people in Missouri who aren't happy
2 with one part of the law or another part of the law
3 or whatever. That ship has sailed, it's over. The
4 law is what it is and we need to work with it, with
5 what we've got moving forward.

6 CHAIRMAN: Okay. All right.

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

9 CHAIRMAN: You all?

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

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

16 MR. McCULLOCH: 436.435, page 21.

17 MR. STALTER: Okay. Of the trust?

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

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

23 MR. McCULLOCH: I'd just like to know what you
24 all think about that. I'd like to hear your take on

1 that.

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

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

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

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

13 MS. EULER: Okay.

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

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

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

21 MS. EULER: Yes.

22 CHAIRMAN: By point. In that agenda that you
23 look -- in meeting #3.

24 MR. McCULLOCH: Why do you think it's

1 important to wait till then or --

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

5 MR. McCULLOCH: Okay.

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

8 MS. EULER: Yes.

9 CHAIRMAN: -- in meeting #3 or whatever.

10 MS. EULER: Yes.

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

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

18 CHAIRMAN: Okay.

19 MR. KRAUS: And then, again, there are a lot
20 of different ways to address this. One potential
21 option may be -- and I'm not recommending this as the
22 way you should go forward, it's just as a starting
23 point -- is, basically, an arrangement to maintain the
24 status quo until permanent rules are in place. One

1 way to address that -- public rules which are
2 providing for licensing as required under the statute
3 -- there is not any way that I can think of to have
4 someone be able to have procedures put in place, have
5 someone fill out an application, have them file it,
6 have them do some undetermined fee, and then be
7 licensed on August 28th. It's not possible.

8 CHAIRMAN: Uh-huh.

9 MR. KRAUS: So, one potential way to address
10 that would be for the Board to -- and this would have
11 to be through emergency rule -- provide for there to
12 be either some type of temporary or provisional
13 license or some type of statement that the Board is
14 not going to be taking actions with regard to anyone
15 for operating without a license under the new statute
16 because there aren't any provisions for it yet, until
17 a certain date or until -- and that date can be a set
18 date. You can say August 31st -- or October 31st, or
19 December, or whenever you pick. And you could build
20 into that that such registrants should -- will need to
21 notify the Board in writing that that's their intent.
22 That gets them in as a temporary okay person. And
23 then, of course, they have to actually apply once
24 there is the application and the process set out, and

1 then -- and you could even set a date where you have
2 to apply by a certain date and, if you don't, you lose
3 your temporary status, but, if you do, you're still
4 good, and you would continued to be good until the
5 Board approves or denies the application; something
6 like that. That process then would allow someone who
7 is currently registered, currently fine to operate
8 before the Board or under the authority of the Board,
9 to continue doing that. They have to tell the Board,
10 hey, I'm intending to get licensed. As soon as you
11 tell me how I can get licensed, I'm going to do it.
12 Then they're still okay. Then the application process
13 is developed, they submit their application by the
14 stated deadline, so they're still okay. And then
15 until the Board rules on it, because it's going to
16 take some time for the Board to go through all those
17 and actually make a determination on each application,
18 then they're not penalized for having to wait for the
19 Board to get around to their application. But the
20 Board can still, if they're looking at one and there
21 is some problem with it, still has the authority to
22 say yes or no just like with every application. So,
23 that's one -- of course, that leaves out a whole lot
24 of details, but that's one overall potential approach

1 and you can build in different dates with that or
2 requirements as you see fit. And so, there's a
3 starting point.

4 CHAIRMAN: Okay. Anybody on the Board have a
5 question just about that thought of a starting point?

6 I actually came up with one, but --

7 MR. McCULLOCH: So, basically, anything you
8 do, you just do business as usual?

9 MR. KRAUS: Under that scenario, as long as
10 you provide whatever notification the Board determines
11 to the Board that you intend to continue -- that you
12 intend to get a license under the new statute, and
13 you're currently registered, then you would just
14 operate as usual until that happens. And after you --
15 let's say you get your license and you're approved,
16 then you continue doing business.

17 MS. EULER: And you would have to fill out the
18 application form by whatever date we say, but the
19 status quo would be maintained until your license
20 application is either denied or a new license is
21 issued. Does that make sense?

22 MR. McCULLOCH: Yeah. That makes sense to me.

23 CHAIRMAN: Guys, any other questions there?
24 You, Joy?

1 MS. GERSTEIN: No.

2 CHAIRMAN: Jim?

3 MR. REINHARD: No.

4 CHAIRMAN: No? I'm just curious, just as a
5 litmus test, even though we're saving comments till
6 the end, just out of that one thought of the
7 discussion, anybody out there have a question? I'm
8 just curious by hand. All right. Okay. I just
9 wanted to see. All right.

10 MR. KRAUS: And, of course, in subsequent
11 meetings, we'll be hitting details of all this and
12 discussing this again. But for initial discussion as
13 to whether this is an approach the Board is interested
14 in the concept, it's not interested in that concept,
15 would rather do something else, then I think to the
16 extent you have -- I mean, I'm -- this is kind of
17 being sprung on you, but to the extent you have
18 thoughts on that today, then I think that can help us
19 prepare for future meetings.

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

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

1 MR. KRAUS: Well --

2 MS. EULER: That is an option.

3 MR. McCULLOCH: That would be a poor option --

4 MS. EULER: Yes.

5 MR. KRAUS: That would be a poor option.

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

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

18 So, we were just trying to think of some ways to
19 maintain the status quo, keep everybody in business
20 while we transition to the new law.

21 MR. McCULLOCH: Okay.

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

24 MS. EULER: Yeah, a grace period.

1 MR. REINHARD: And explain -- okay. What
2 you're talking about here is, like, if they do charge
3 a fee per contract, like, oh, \$2. So, they go to \$25.
4 During the grace period, you wouldn't have to pay
5 that fee. Like, you're not going to have go back to
6 August 28th and pay forward. You just pay from
7 September or October or whatever, from there on.

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

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

21 MS. EULER: You need a rule.

22 MS. DUNN: -- an emergency rule would have to
23 be done.

24 MS. EULER: Yes.

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

3 MR. McCULLOCH: So, you're saying that the old
4 -- the way we are doing it now, that this new law
5 would actually say that you have to file two reports
6 then?

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

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

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

11 MR. McCULLOCH: Just go ahead and file your
12 regular deal.

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

15 MR. McCULLOCH: You shouldn't even have to
16 talk about it.

17 MS. EULER: Well, but --

18 MR. McCULLOCH: Should just be the way it is.

19 MS. EULER: Well, but we need a rule that says
20 that.

21 MR. McCULLOCH: Really?

22 MS. EULER: Yeah.

23 MR. McCULLOCH: (Inaudible.)

24 MS. EULER: Because the new -- that's why we

1 need a rule.

2 MR. McCULLOCH: That's crazy.

3 MS. EULER: To make this not crazy.

4 UNIDENTIFIED: Right.

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

8 MR. McCULLOCH: I thought it wasn't affecting
9 the old stuff.

10 MS. EULER: Yes.

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

15 MR. McCULLOCH: From the 29th through October
16 1st, you would have to file a report?

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

20 MR. McCULLOCH: Okay.

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

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

24 MS. EULER: That's why we thought as a

1 suggestion to the Board that it made sense, like he
2 was saying, to maintain the status quo until October
3 31st of this year because nobody is set up
4 bookkeepingwise to do an annual report based on the
5 new law because nobody knew when it was going to be
6 here.

7 MR. REINHARD: Well, that brings up a point,
8 though --

9 MR. McCULLOCH: This department is not set up
10 for it.

11 MS. EULER: Right.

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

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

19 MS. EULER: Right.

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

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

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

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

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

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

20 MS. EULER: Exactly. Exactly.

21 MR. KRAUS: And to this point in talking about
22 transition with regard to licensure, that's what I was
23 referring to.

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

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

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

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

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

18 MR. McCULLOCH: It seems like the obvious to
19 me.

20 CHAIRMAN: Well, obviously, we're going to
21 have to micromanage every detail of this to get down
22 to every single issue.

23 MS. EULER: Yeah. Right.

24 CHAIRMAN: So, we kind of started out that

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

10 MS. GERSTEIN: I tend to believe that, along
11 with Earl, you're going to be working on new rules,
12 new dates, different things like that for the future.

13 Why confuse the matter by putting new things in now
14 that's only going to last till August 28th. I think
15 it would be better, also, just that I don't know --
16 I'm a public member, guys; it might not be easier for
17 you -- but, to me, in my mind, it would be better to
18 continue -- put in the emergency rule to continue at
19 status quo until that date and you're ready to submit
20 the new things that we have to do. Why submit new --
21 small new things now that's going to change in less
22 than four months.

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

1 MS. EULER: Yes.

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

4 MS. GERSTEIN: Right.

5 MR. KRAUS: File emergency rules on the 28th
6 that address the interim time period until permanent
7 rules with regard to licensure are in place.

8 MS. GERSTEIN: Right.

9 MR. KRAUS: Typically, as Connie was saying,
10 when we file -- if we were to file emergency rules,
11 and along with that filing, we would file the
12 permanent rules, the emergency rules would take effect
13 ten days later; the permanent rules wouldn't take
14 effect until six months later.

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

16 MR. KRAUS: Hopefully, there wouldn't be a lag
17 time between the end of the emergency rule and the
18 beginning of a permanent rule, hopefully.

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

22 MS. EULER: So, is what you're saying is that
23 your thought would be that everybody who is currently
24 registered as a preneed seller would either remain so,

1 but if they want to practice after October 31st, that
2 you would like to see that be the deadline, so --
3 because that's the renewal date in the new statute so
4 that we start with the renewal process, new licenses
5 issued by October 31st?

6 MS. GERSTEIN: Now, that item, I think we need
7 to discuss.

8 MS. EULER: Okay.

9 MS. GERSTEIN: But I'm not -- what I'm saying
10 is that it's going to be confusing enough for them
11 when the new -- when the old switches over. We add
12 some -- a lot of new stuff with the old, it's going to
13 be a whole lot more confusing.

14 MS. EULER: Yeah.

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

18 MS. EULER: Yeah. Yeah.

19 CHAIRMAN: Okay. Board, anybody else with a
20 thought on that? I have one and that would be to you.

21 And what kind of ramifications -- are there any
22 ramifications if we just take no -- if we, basically,
23 say we're just going to keep marching on as we do
24 while we're pulling this together, are there

1 ramifications of that?

2 MR. KRAUS: You mean, doing no emergency rules
3 at all?

4 CHAIRMAN: Well, or making the emergency rule,
5 but as far as -- well, I guess that is the
6 ramification.

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

10 CHAIRMAN: I mean, that makes total sense to
11 me to do that, but I'm just asking, is there a blind
12 side here I'm not seeing that there's a problem with
13 that?

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

19 CHAIRMAN: Well, no.

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

21 CHAIRMAN: You know, the current law, I guess,
22 or whatever.

23 MS. EULER: Well, but there are people who
24 might interpret, you know, where it says we're not

1 going to prosecute anybody, "Oh."

2 MR. KRAUS: Yeah. Until you see somebody do
3 something really bad, you want to prosecute them where
4 you said you wouldn't.

5 MS. EULER: Yeah.

6 CHAIRMAN: Okay. So --

7 MS. EULER: That's why there needs to be a
8 rule.

9 CHAIRMAN: Okay.

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

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

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

20 MS. EULER: Yeah.

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

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

4 MS. EULER: Right.

5 MR. KRAUS: Right.

6 MS. EULER: And therein lies the problem.

7 MR. KRAUS: And that's the problem. But that
8 doesn't mean it's not a violation. It's just you're
9 not doing what you're supposed to do and neither is
10 the Board.

11 MR. McCULLOCH: I don't think anybody can be
12 covered, though.

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

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

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

24 MS. GERSTEIN: So, the emergency rule will

1 protect you until the new rule goes into effect?

2 MS. EULER: Until you can get your application
3 processed and license issued.

4 MS. DUNN: In a reasonable time frame for
5 everybody.

6 MS. EULER: Yeah.

7 MR. KRAUS: And the reason I started on the
8 registration licensure issue is because I think that
9 the statute builds in a lot of discretion with the
10 Board as to how that process is going to work. And
11 so, I think the Board does have the ability to set
12 out, well, for this period, we're going to do this,
13 and then we're going to do this, and then we're going
14 to permanently do this from here forward. That may or
15 may not be the case with regard to other issues in the
16 statute like payments with regard to trust accounts
17 and that sort of thing.

18 CHAIRMAN: I'm going to break stride here for
19 a second in our ground rules because I'm just -- I
20 feel like I should -- I want to litmus test it. We
21 want to keep this thing orderly and precise and
22 micromanaged on single subjects, so we're not shotgun,
23 chasing rabbits all over the place, because we'll be
24 here till next Saturday if we even think that way. So

1 -- but I'm curious. The ones that you all raised
2 hands, give us your question. Short, sweet, and let's
3 see what we can do with it.

4 MS. EULER: On transition issues.

5 CHAIRMAN: On transition, what we're just
6 talking about right there. Anybody? Go.

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

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

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

1 continue to sell even though they haven't taken a
2 test, it's three things need to be covered, just like
3 the renewal. That would be are you -- have you been
4 convicted of a felony -- the same questions you ask on
5 the renewal application, just to streamline it, to
6 make sure you're not -- the Board is not giving a go-
7 ahead to somebody who has been convicted of a felony
8 or has your license been disciplined.

9 MR. KRAUS: A couple of basic questions.

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

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

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

20 MR. KRAUS: Okay.

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

23 MR. KRAUS: You asked.

24 MS. RUSSELL: Yes. Yes. I'm just trying to

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

4 MR. KRAUS: All right.

5 CHAIRMAN: Go ahead.

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

19 CHAIRMAN: So do we. Understand. Anybody
20 else? Scott?

21 MR. LINDLEY: I would suggest that you issue
22 the temporary license or application only if they had
23 one prior; okay -- no new ones -- so that everybody
24 that's operating can still continue to operate and

1 that you put, like, if it's January 15th, the day you
2 think you're going to have all these rules done, then
3 that be the date, or if it's next May, or whatever it
4 is, that you do that and, you know, you require the
5 same thing. Yeah, we want to know where your bank is,
6 we want to know, you know, how many contracts you've
7 sold, and we want to know who you've got selling for
8 you, and that sort of thing, and send a fee in based
9 on what it was last time on the old section, and
10 temporarily operate on that old section law until you
11 get these rules done. And along with that, I think
12 you need to do that today, and I think you need to get
13 e-mails and communications out to all these companies
14 and people immediately so they know what's going on.
15 And that way, this confusion is over with before you
16 start into this rule-making process, and you're going
17 to save yourselves a lot of grief with people and
18 companies and everything else. And I think you're
19 going to be as -- under the law, you'll be as covered
20 as you can be.

21 CHAIRMAN. Okay. Next? Anybody?

22 MR. WARREN: I think you have to have
23 something -- some notice of intent to apply. You
24 know, there was the law. It's the discretion of the

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

16 CHAIRMAN: Okay.

17 MR. LAKIN: If you had joint contracts prior
18 to this and you don't have a license because you
19 didn't have to have a license with joint contracts,
20 what are you going to do with those type of people?
21 And this completely goes against what Scott said
22 because Scott just wants the ones that are in business
23 now to have that, but those of us that had a joint CD,
24 what do you expect those people to do? And, you know,

1 there are several of those people out there, and
2 especially anymore. Due to the present circumstances
3 of the preneed, there's a lot of people that have
4 that. Would you just make an application that you --
5 you know, because I cannot read by this law -- and
6 this has nothing to do with it, and that's why I hate
7 to mention that, but I cannot figure out whether you
8 need a preneed provider's license with joint contracts
9 under the new statute. Can somebody tell me -- that
10 could answer the question that I'm asking.

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

13 MS. EULER: Yeah.

14 MR. LAKIN: No. But in regard to getting
15 licensed or make applications for a license, if you
16 have to have a license for joint contracts. If you
17 don't have to have one, there is no need to worry.
18 The people that have joint accounts don't have to
19 worry about it then. So, it is on this issue.

20 CHAIRMAN: Okay.

21 MR. REINHARD: Anybody got an answer for him?
22 Sharon?

23 MS. EULER: Yes.

24 MR. STALTER: Well, I'll talk first. Because,

1 I mean, a lot of this is if -- your application form
2 is kind of like your first opportunity to really start
3 to educate the licensees. In this case, our sellers
4 aren't licensed, they're registrants, you know.

5 UNIDENTIFIED: That's a good point.

6 MR. STALTER: So, we've got to license sellers
7 and providers, you know. And then a lot of these guys
8 relied upon somebody else like this, you know. If
9 we're doing contracts, we don't have to do this. So,
10 I think your application forms will be important, too.

11 This might be the first time they're ever reading
12 something that's -- you know, that you're telling them
13 it's important to the Board. And, basically, I think
14 that they're going to certify, they're going to just
15 use their best efforts, but we know it's going to be
16 six months before we start getting down into -- you
17 know, till it's going to be enforced. But it is, like
18 -- like I said, a provisional license, you know.

19 We're going to -- we just need to get all the names
20 down of who intends to sell. And beyond that then,
21 you know, we'll start educating them.

22 CHAIRMAN: And your point well taken in the
23 thought that I guarantee you 90 percent of them think
24 their registration is a license. So, anybody else

1 with just a comment?

2 MS. RUSSELL: Just one quick thing. It's
3 important for the funeral directors, you know. They
4 know that if you have a funeral-director's license,
5 you do not have to take the exam, you know. But
6 letting them know that, you know, you'll be obtaining
7 other information from them as required, but the most
8 important part is getting the individual agents who
9 have their livelihood at stake right now, you know.
10 So, I mean, letting the funeral director -- if you've
11 got a funeral director, you're okay, in a sense. But
12 if you're -- you know, if you've got the people out
13 there that don't have a funeral-director's license,
14 you know, they're really worried.

15 CHAIRMAN: Sure.

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

17 CHAIRMAN: Absolutely. So, Board, anything
18 following? Should we even pursue that thought? A
19 request has been made that we take a short break, so
20 we'll break.

21 (Off the record)

22 CHAIRMAN: Everybody is back, so let's
23 proceed. During the break, I spoke with staff, and
24 we've got a little concept here that could be

1 beneficial, I think. So, I'm just going to ask that
2 that be --

3 MS. EULER: Summarized?

4 CHAIRMAN: -- summarized. Yeah. There's the
5 good word.

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

7 CHAIRMAN: Yeah, go ahead.

8 MS. EULER: Earl and I kind of put our heads
9 together, and what we're hearing the Board say -- and
10 please correct me if I'm wrong -- but what we're
11 hearing the Board saying is that, one, the Board wants
12 to do something to make sure that business continues
13 on August 28th; two, that the Board would like to have
14 some sort of process, like, I think we've marked the
15 term notice of intent to apply. That the Board could
16 develop a form, notice of intent to apply, ask a few
17 questions, name, rank, and serial number, what kind of
18 license do you intend to apply for. And once people
19 submit that form, they have a short-term provisional
20 permit to operate until such time as their application
21 process goes forward. It would be a good for a very
22 short period of time. The Board should work on
23 getting forms together for the application process,
24 maybe even have the applications ready by October 1,

1 potential deadline.

2 CHAIRMAN: At least a goal.

3 MS. EULER: A goal, so that the provisional
4 permits could be for a month. Licenses. And so,
5 everybody who will need a license under the new law --
6 that includes people who are currently registered as
7 preneed sellers or providers, people who will be
8 joint-account-funded contracts who will need a seller
9 license, people who sell insurance under contract, all
10 of those people will need a seller license, agents who
11 will need to be registered, all of those people would
12 fill out this one form, check the box, and a copy of
13 that would serve as their permit until such time as we
14 get the application processed.

15 CHAIRMAN: And the thought being that possibly
16 that form of notice of intent could be maybe, like, on
17 the Web site by, like, next week, or something like
18 that.

19 MS. EULER: Yes. Yeah.

20 CHAIRMAN: Okay. So --

21 MS. EULER: Does that summarize what the Board
22 is thinking? Would you like to direct us to draft an
23 emergency rule?

24 MR. FRAKER: I'd like to see us maybe pin down

1 the date today. I think if we do nothing other than -
2 - (inaudible) -- selling, possibly, or at least give
3 them some direction -- (inaudible.)

4 MS. EULER: Okay. Give us date.

5 MR. REINHARD: Well, I think we -- and we've
6 got short staff here now. We've got a problem there,
7 so, I mean, I think we need to be aware of that. So -
8 -

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

13 MS. DUNN: The form?

14 CHAIRMAN: Just the form.

15 MS. DUNN: Uh-huh.

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

18 MS. DUNN: On the Web site?

19 CHAIRMAN: And that would be good, again, just
20 a date that was chatted was, if that would be good
21 till October 1st, with the real form being, hopefully,
22 in place by that date and that point in time where
23 people could really apply. So --

24 MS. GERSTEIN: Is that feasible?

1 CHAIRMAN: We think. It would be a goal.

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

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

7 MS. DUNN: Yes.

8 CHAIRMAN: Connie has a comment.

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

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

18 MS. DUNN: Permit.

19 CHAIRMAN: Permit.

20 MS. EULER: Permit. Thank you.

21 CHAIRMAN: Yeah. Lose the license.

22 MS. EULER: And they need to apply by October
23 1st. And so long as they apply, their temporary stays
24 into effect until the Board denies or grants.

1 CHAIRMAN: Now, in saying what you just said,
2 we're actually going to mail something out to that
3 individual or this is just fill out the intent and
4 send back?

5 MS. EULER: They need to fill out the intent.
6 They need to download it off the Board's Web site and
7 send it in.

8 CHAIRMAN: But we --

9 MS. EULER: We're not going to mail anything
10 out.

11 CHAIRMAN: Okay.

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

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

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

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

21 MR. McCULLOCH: Why the rush?

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

24 MR. McCULLOCH: They're not going to be.

1 You're going to let them continue on. You're just
2 going to try to get these forms.

3 MS. EULER: That's why we need a rule for.
4 That's what we need a rule for.

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

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

8 MS. EULER: Right.

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

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

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

16 MR. LAKIN: How are you --

17 MR. KRAUS: But we can -- the Board -- we
18 could draft wording --

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

22 MR. KRAUS: We could draft wording in that
23 rule that is filed on the 28th that discusses the
24 Board's position with respect to those ten days.

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

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

10 MS. EULER: Uh-huh. And that that temporary
11 permit covers you from August 28th until whatever
12 date.

13 MS. DUNN: They would address in the emergency
14 rule.

15 MS. EULER: Right.

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

18 MS. EULER: Right.

19 CHAIRMAN: Okay. So, anybody with a question
20 in that regard or a motion to proceed in that way or
21 comments?

22 MR. KRAUS: Thoughts about other dates?

23 MR. LINDLEY: I think your October 1st is
24 pretty -- you know, is a tough thing for you. I

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

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

15 MS. DUNN: Well, if we could get a motion of
16 the Board for the attorneys to draft, and then if we
17 can think about this date that is reasonable for staff
18 and the profession, then we can modify the date at the
19 next meeting because staffing and the ability to do
20 what we're talking about is one thing, and the
21 profession to be able to comply. And then the other
22 thing is, direct them to write the rule and let's work
23 with that date. I think that would be reasonable.

24 MR. McCULLOCH: I'll make that motion,

1 whatever you just said.

2 CHAIRMAN: John made the motion.

3 MR. McCULLOCH: How's that?

4 MR. REINHARD: Yes.

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

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

8 MS. HAYES: I need the motion.

9 MR. McCULLOCH: It's what she just said.

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

12 MS. GERSTEIN: Whatever Becky said.

13 MS. EULER: I believe what I understood you to
14 say is that your motion is to direct staff to draft a
15 rule to provide for some temporary practice provisions
16 --

17 MR. McCULLOCH: Yeah.

18 MS. EULER: -- including submission of a
19 notice of intent to apply for a license, check the
20 boxes to which license people want to apply for, some
21 basic questions that it would cover the ten days from
22 August 28th till the time the emergency rule went into
23 effect, would include a date by which time they need
24 to file their application, which may or may not be

1 October 1, and would apply to everybody who needs a
2 license or a registration, whether it's an agent, a
3 seller, or a provider.

4 MR. McCULLOCH: That's exactly what I said.

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

6 MR. STALTER: Something to work with.

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

10 MR. McCULLOCH: That is. That is.

11 MR. FRAKER: The only thing I would add to
12 that is I think it's important this needs to be going
13 today. This needs to be started or at least the
14 industry needs to know that it's in the works.

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

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

18 MR. FRAKER: Leave the discussion open and it
19 would be publicly available.

20 MS. EULER: Uh-huh.

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

24 MS. EULER: When we get a rule drafted, we can

1 probably get it posted on the Web site.

2 MR. KRAUS: Of course, that will generate more
3 questions.

4 MS. EULER: Yeah.

5 UNIDENTIFIED: Well, people need to get
6 answers.

7 MS. GERSTEIN: It's not leaving them out there
8 with nothing.

9 UNIDENTIFIED: Right. Right. That's true.

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

12 CHAIRMAN: Joy and Jim, all voted yea? So, it
13 was done. All right. I guess, actually, next
14 subject.

15 MR. KRAUS: Yeah. Which, again, can be a
16 number of different items. Do you have ?
17 Sharon?

18 CHAIRMAN: The most important.

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

21 MR. McCULLOCH: Say it again.

22 MS. EULER: The annual reports; do we want to
23 do a rule -- a temporary rule on annual report and
24 saying that for this reporting year, you'll file a

1 report like last year?

2 MR. STALTER: That's what I think, yeah.

3 Status quo.

4 MR. McCULLOCH: Yeah.

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

7 MR. McCULLOCH: I would. I would like to make
8 that motion that we keep the status quo on the annual
9 report; is that okay?

10 MR. REINHARD: Second.

11 CHAIRMAN: Jim seconds. Gary?

12 MR. FRAKER: Yes.

13 CHAIRMAN: Joy?

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

15 CHAIRMAN: It is passed.

16 MR. KRAUS: And, again, that's for a draft
17 rule.

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

19 MR. KRAUS: Not a final decision.

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

23 MR. FRAKER: They're going to be paying the
24 fee anyway.

1 MS. EULER: Okay. Just thought I'd bring it
2 up.

3 MS. DUNN: You know, the only concern I would
4 have is -- of course, it's the vote of the Board.
5 One, we need money to operate, but, secondly, I don't
6 want to confuse the profession with setting a fee and
7 then another fee and then another fee and another fee.
8

9 CHAIRMAN: I agree.

10 MS. DUNN: So, we might consider that when
11 we're -- as we proceed with the discussion of the
12 rule.

13 MS. EULER: I just know that sometimes people
14 take things more seriously if there's money attached
15 to it.

16 MS. DUNN: Okay.

17 MS. EULER: And you could credit them towards
18 their application fee with what they pay with the
19 preliminary, but I just throw that out. It's an
20 option. I'm just throwing it in as an option. That's
21 my job. I'm not the decision maker.

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

24 MR. LAKIN: Sharon, is the Hancock Amendment

1 still in effect, or we never did -- I want to know
2 about the Hancock Amendment.

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

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

8 MS. EULER: No. Next topic.

9 MR. KRAUS: Well, but, you know, that does
10 lead to something that we had talked about, which is
11 fees.

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

13 MR. KRAUS: I am moving on. That's an
14 excellent segue, Sharon and Don. We talked about
15 talking about fees, not necessarily setting any kind
16 of dollar amounts today because we're going to go
17 through in subsequent meetings and talk about various
18 specific sections. But if the Board wanted to, you
19 could have a discussion as, again, conceptwise, like
20 is the goal of today. Talk about how you envision the
21 fees as they relate to each other. Do you envision
22 there being an equal breakdown of all the different
23 fees across the feat? Or do you envision the ones for
24 applications being higher and the contract being

1 lower, or the contracts being higher and the
2 applications being lower, renewal fees being higher
3 than the rest? I mean, there's a lot of different
4 ways to address that. That may not be something that
5 we want to get into today, and, of course, that's up
6 to the Board, but I think related to that -- and,
7 Connie, I don't know if you want to --

8 MS. EULER: And that is --

9 MR. KRAUS: -- address anything generically
10 today as to how money goes from the Board to the
11 Division to the Board, how that works and the sweeping
12 and that sort of thing.

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

17 MR. KRAUS: Okay. All right.

18 MS. CLARKSTON: And have a more detailed
19 conversation, I think that would be more fruitful.

20 MR. KRAUS: Because it is a very involved
21 process as to money coming in for fees, the upper
22 limits of how much the Board can have, how that's
23 split then, how it relates to the Division, and how
24 the Division pays for some things, the Board pays for

1 other things, and then it's billed back. But we can
2 address that. That is -- it's a significant
3 discussion.

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

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

9 MS. DUNN: Okay.

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

12 MS. DUNN: Uh-huh.

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

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

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

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

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

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

14 MS. EULER: Right.

15 MS. CLARKSTON: And just from someone that
16 works on projections, just so the Board is aware and
17 so Becky is aware, when you do that, it becomes a
18 little more difficult to do your projections and plan
19 ahead. So, we do have to take that into
20 consideration, obviously, Becky, for your planning on
21 knowing the size of your -- the entities and your
22 sellers that will be submitting fees. So, you know,
23 we can look at some areas, obviously, with Sherri, but
24 just be aware that's going to take some additional

1 considerations for the Board.

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

19 MS. CLARKSTON: And, additionally, I think
20 it's important to note that this Board was, prior to
21 Senate Bill 1 and the fall of NPS and all of that, was
22 getting close to having to consider a fee increase for
23 its licensees. So, that factoring in with the events
24 of the last year and a half puts you in a different

1 position. But I think once, if Becky and I can visit
2 with Sherri, and kind of look at scenarios, maybe we
3 can bring something forth to next week's meeting.

4 MS. EULER: Does everybody on the Board know
5 who Sherri is?

6 MS. CLARKSTON: Sherri is our financial chief
7 executive officer, so she oversees all the financial
8 aspects for the Division and assists the Boards. She
9 also does five-year projections, and this is getting a
10 little bit kind of off subject, but I think it will
11 make sense. When we look at five-year projections, we
12 also have to make sure that your fund balance doesn't
13 exceed statutory limits, and all of the Boards have a
14 statutory limit of three times your appropriation. If
15 it's -- if we collect more money than that, all the
16 money from licensees' fees are swept into general
17 revenue, so we try to protect licensees from the
18 appearance of paying double taxes, so we try to set
19 fees at a level to keep you at a safe balance, but
20 also have enough reserves, should you have a big case
21 or unexpected expenses come up, that you have the fees
22 to cover that. So, it's a magic act, I think,
23 sometimes, and Sherri does a wonderful job of that.
24 It just requires a lot of input from the executive

1 director, a lot of work on Sherri's part and her
2 financial wizards that she works with, to come up with
3 ideal situations and fees and fee structures, and we
4 monitor those very, very closely.

5 CHAIRMAN: So, in hearing the bringing Sherri
6 in and explaining those issues, who is it -- Sherri,
7 you -- that with Becky's assistance that could at
8 least -- and like Earl mentioned, we could do it this
9 way, we could do it that way -- can we get some
10 possible avenues to accomplish this?

11 MS. CLARKSTON: I think that we can present a
12 couple of options for the Board to look at, obviously.
13 I think that the way we looked at the fiscal note was
14 we tried to look at different scenarios of
15 implementation, and figuring the expenses for that and
16 projecting revenue to cover those expenses. That's
17 the bottom line. We need to bring in enough revenue
18 to cover your expenses, and how we come up with that
19 revenue is up to the discretion of the Board. The
20 only thing I caution, and I just say it publicly
21 because it is an option for the Board to put forth a
22 sliding scale. But if we do that, there's
23 consequences for your staff to do that, so I just want
24 you to be aware of that. But it is options, I think,

1 that we can present next week and work with Sherri.
2 Sherri is out next week. Becky, we may need to do it
3 the following week.

4 MS. DUNN: Okay.

5 CHAIRMAN: Whatever works.

6 MS. CLARKSTON: Okay.

7 MS. GERSTEIN: I would like to make a motion
8 that Sherri and you and Becky get together, work on
9 three different options, and number them by the best
10 option, the second, and the third, it would be best
11 for us to work with, with the effect that it would
12 have on the Board. So, like, option third is, in
13 fact, the worst scenario. And because Sherri is out,
14 to bring it back in two weeks.

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

17 MS. GERSTEIN: Okay. So, you need three
18 weeks.

19 MS. CLARKSTON: Becky and I can do a lot of
20 the preliminary work and work on that and get with
21 Sherri. If it's not available next week, I think
22 Becky can communicate to the Board we need a little
23 more time, but we will certainly try to meet those
24 deadlines.

1 MS. GERSTEIN: Okay. Back to my motion.

2 CHAIRMAN: Or at least an update by next week.

3 So, motion on the floor. Somebody second.

4 MR. FRAKER: I'll second it.

5 CHAIRMAN: Gary seconds. John?

6 MR. McCULLOCH: (Mr. McCulloch nods head
7 affirmatively.)

8 CHAIRMAN: Jim?

9 MR. REINHARD: Yes.

10 CHAIRMAN: Okay.

11 MS. CLARKSTON: If I could add one more thing.

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

24 CHAIRMAN: Locked in stone. Okay.

1 MR. KRAUS: And I assume, Connie, that's also
2 true that all of the revenue projections are then --
3 the projected revenue needed is, of course, a
4 projection.

5 MS. CLARKSTON: It is a projection.

6 MR. KRAUS: And it may turn out to be high, it
7 may turn out to be low, but it's a projection, and so,
8 with that, as we discover what is really going to
9 happen.

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

13 MS. CLARKSTON: Uh-huh. And I believe --

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

16 MS. CLARKSTON: There is a rule-making
17 process.

18 MR. KRAUS: Every time you change a fee, you
19 have to change the rule.

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

24 MS. DUNN: Uh-huh.

1 MS. CLARKSTON: And that's a good time to
2 visit about these. Additionally, because of the way
3 that we do the financial projections within the
4 Division, that's an ongoing communication between
5 Sherri and Becky, and so, those are monitored very,
6 very closely. So, if, at any time, it looks like
7 we're going to get you into a sweep, Becky is alerted
8 and then things start taking place.

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

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

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

17 CHAIRMAN: Okay. That sounds good.

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

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

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

8 MS. CLARKSTON: But if a Board is unable to
9 meet their obligations to pay their expenses, there
10 may be reason to file an emergency which allows the
11 same effect; correct?

12 MR. KRAUS: We would need to look at that.

13 MS. CLARKSTON: We would need to look at that.

14 MR. KRAUS: Yeah.

15 MS. CLARKSTON: But that is something to
16 consider.

17 MS. DUNN: Now, Earl and Sharon, do you need a
18 directive for rule-making on anything with regard to
19 the fees or anything at this time? No. I just wanted
20 to get back on track.

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

22 CHAIRMAN: Okay. So far, it's you guys are
23 just going to look at it, come back with some
24 thoughts, and then we'll go into the rule-making

1 thought, I guess. Okay. All right. I'm going to
2 break again, as in stride. Quickly, to the point, I
3 liked what happened a while ago. Quick comment on
4 fees. Anybody?

5 MS. RUSSELL: I think you have to have a fee
6 with your application for them to consider it serious,
7 you know, your intent for applying -- that you're
8 applying.

9 CHAIRMAN: Okay.

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

16 CHAIRMAN: Good point.

17 MR. LINDLEY: There's -- you know, there's
18 going -- there is not going to be any resources in
19 this operations, basically, anymore once these, you
20 know, rules hit -- very little; okay? And so, you're
21 going to have to take into consideration that this is
22 -- a lot of these fees and everything are going to
23 have to come out of operation expenses of the funeral
24 home; okay? So, I would be very gingerly going about

1 that kind of in the beginning. And I think you're
2 going to have a huge push back when these joint-
3 account owners find out that they've got to register
4 and do all that kind of stuff and everything else, and
5 you need to prepare yourself for that.

6 CHAIRMAN: Guys, anything?

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

11 MR. STUART: (Inaudible.)

12 MS. DUNN: Thank you, Don.

13 CHAIRMAN: We'll be here next week and hear
14 the proposals of what it takes to keep this Board
15 floating, so -- and I'll even add, other than Joy, but
16 she can relate because of her personal family business
17 and all that, but everybody around this table, it's
18 affecting them, too, so it's -- what we're talking
19 about is coming home, so -- okay. Next and most
20 needed to talk about subject?

21 MR. KRAUS: Well, this will be changing gears
22 a little bit, but we can have a discussion as to how
23 the Board would like to, how the Board has time to,
24 how the Board would prefer to and to what extent to

1 educate licensees and the public. Some of the things
2 that could potentially include would be, of course,
3 open meetings like this, potentially separate
4 meetings, essentially public hearings, where it would
5 just be a forum for the public. There's Web site
6 postings, there's publications, there's taking it on
7 the road, you know, going around the state, either the
8 Board or certain people, and there's a lot of
9 different options there. And, of course, different
10 ones involve different amounts of time and cost. So,
11 that's something to --

12 CHAIRMAN: Okay.

13 MR. KRAUS: But I think if that discussion is
14 to be had, the earlier you have that discussion, the
15 better, so whatever you want to do to get started with
16 that.

17 MS. EULER: Uh-huh. So people know what to
18 expect.

19 CHAIRMAN: Board, any comments? Well,
20 obviously, computer and e-mail and that, just checking
21 the Web site of the Board is probably going to
22 expedite, even to the licensees, just you check your
23 own e-mail on a daily basis. Maybe it's time to start
24 checking the Board's notices on a daily basis.

1 MS. EULER: Does the Board want Earl and I and
2 staff to prepare some informational brochures this
3 weekend?

4 UNIDENTIFIED: Yes.

5 CHAIRMAN: Board?

6 MR. FRAKER: I think that's a good idea,
7 certainly.

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

10 MS. DUNN: No.

11 CHAIRMAN: That affects fees.

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

14 MS. EULER: Yeah.

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

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

19 MS. DUNN: And mailings are -- there's going
20 to be some new postal restrictions that are going to
21 cause postal increases for us. So, anything we can
22 prepare and post on our Web site and encourage
23 individuals to download is going to be --

24 MS. GERSTEIN: Okay. Then let's clarify this.

1 You're talking about a brochure for -- to put on the
2 Web site?

3 MS. EULER: Right.

4 MS. GERSTEIN: Okay. I think that's a good
5 idea.

6 MS. DUNN: Yes.

7 MS. GERSTEIN: I was -- wouldn't think the
8 mailing, no.

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

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

13 MS. EULER: What would you like us -- okay.

14 MR. STALTER: Can we make suggestions?

15 CHAIRMAN: We'll go there. Let's finish the
16 motion that we do it. Joy made a motion. Somebody
17 second.

18 MS. GERSTEIN: But if he has a suggestion, I
19 don't mind waiting for my motion. Does your
20 suggestion have to do with my motion?

21 CHAIRMAN: Does the suggestion have to do with
22 the motion that she made?

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

1 CHAIRMAN: Okay. But it's not going to affect
2 her motion to --

3 MR. STALTER: No.

4 CHAIRMAN: Okay. Go ahead.

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

6 MR. KRAUS: It would be my understanding that
7 something like that prepared by Sharon and I would
8 describe, basically, what's in the statute. I think
9 it would be difficult for -- I don't know that we
10 would be able to include specific legal advise as to
11 we think this section means this.

12 MS. EULER: Right. Right.

13 MR. KRAUS: That's not what this kind of
14 document would say, but it could say, you know, here's
15 what you have to do -- here's what's set out in the
16 statute, bullet point, bullet point, bullet point,
17 bullet point, as kind of a shorthand for people to
18 look at.

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

22 MS. EULER: Here's an alert.

23 MR. KRAUS: Yeah. Oh, yeah.

24 CHAIRMAN: Because if we have to wait till

1 it's all finished before we do that, then -- okay.

2 So, still a motion on the floor. Did you second?

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

5 CHAIRMAN: Was there?

6 MS. GERSTEIN: I have a question on my own
7 motion.

8 CHAIRMAN: Okay.

9 MS. GERSTEIN: Now, who is going to work on
10 this brochure?

11 MR. KRAUS: I will.

12 MS. GERSTEIN: And you'll pass it through
13 Becky or --

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

15 MS. GERSTEIN: Okay. Okay. Then I stand with
16 my motion.

17 CHAIRMAN: Okay.

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

19 CHAIRMAN: Need a second.

20 MR. McCULLOCH: Tell me what the motion is
21 again.

22 CHAIRMAN: Basically, that Earl and Sharon
23 would create -- basically, to notify licensees of
24 what's going on with it. I mentioned the thing about

1 work in progress. I visually see that myself as maybe
2 here are a few things about where we're at today.
3 Next week, maybe some other things could be added to
4 it. I may not have that exactly right, but where --
5 this is -- you guys are working on it.

6 MR. McCULLOCH: And this is going out over the
7 Internet.

8 MR. KRAUS: Over the Internet.

9 CHAIRMAN: On the Board Web site.

10 MR. KRAUS: If we're getting a lot of
11 questions on a certain topic, we can put something up
12 about that.

13 MR. McCULLOCH: I'll second that.

14 CHAIRMAN: All right. So, John seconded.
15 Gary?

16 MR. FRAKER: Yes.

17 CHAIRMAN: Jim?

18 MR. REINHARD: Yes.

19 CHAIRMAN: There you have it. Okay. Now,
20 again, I like what happened. We keep it short. We
21 keep it -- any comments? Scott?

22 MR. LINDLEY: I think that's great. I think
23 we need a lot of industry application to that process,
24 and not -- and I think you need to be open to

1 accepting a lot of that industry application to make
2 it a balanced situation for not only the profession,
3 but for the consumer, too, because, you know, what
4 Earl and Sharon deem to be great, you know, you've got
5 to be out there and practicing and knowing what these
6 people are doing and thinking and everything else,
7 because something that we can come up with doesn't
8 sometimes always work very well. And, you know, I --

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

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

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

22 MS. EULER: Right.

23 MS. GERSTEIN: Right.

24 CHAIRMAN: Good point.

1 MR. LINDLEY: As long as it works that way.

2 MR. STALTER: Well, they have to -- I mean,
3 this is how it does work.

4 MR. LINDLEY: I understand.

5 MR. STALTER: Okay.

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

11 MR. LINDLEY: And my point is --

12 CHAIRMAN: Well, there's four others around
13 this table.

14 MR. STUART: (Inaudible) -- there's eight of
15 us.

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

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

22 CHAIRMAN: I agree with that.

23 MS. DUNN: I know.

24 MR. LINDLEY: My comment on that is, Jim, how

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

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

22 MR. LINDLEY: I understand that.

23 CHAIRMAN: So -- Darlene?

24 MS. RUSSELL: Way back when Senate Bill 644

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

12 MR. LAKIN: This bill is going to make
13 everybody honest.

14 MS. BATTAGLER: We hope so.

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

16 CHAIRMAN: That's right. It's in the record.
17 It's in the record.

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

19 CHAIRMAN: Okay. Next? Have you guys got --

20 MR. KRAUS: Well, we talked about putting a
21 few things together. I didn't know if there was any
22 other discussion as for or against doing other things.

23 MS. EULER: Does the Board want to consider
24 sending speakers out to various parts of the state?

1 Do we want to do anything like that? Do you want to
2 think about doing things like that?

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

5 MS. EULER: Right. We're just throwing
6 options out.

7 MR. KRAUS: We're just throwing options out
8 for discussion.

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

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

14 MR. STUART: No.

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

17 MR. McCULLOCH: They don't go to the district
18 meetings now.

19 MS. EULER: No.

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

23 MS. EULER: Should we develop something to
24 send out with our inspectors so they know what to

1 expect?

2 MR. McCULLOCH: I'm telling you: Salespeople
3 know.

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

6 MS. DUNN: Sharon suggested possibly some
7 information with the inspection process.

8 CHAIRMAN: That's a good one.

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

11 MR. LAKIN: I think it's your responsibility.
12 It's not a motion. It's the Board's responsibility
13 to get this out to the licensees. However, when you
14 look down at it, your responsibility is to the
15 consumers and to get their right law to the --

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

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

21 MS. DUNN: Oh. Because of your backflow.

22 UNIDENTIFIED: It's a decision, plumbing or a
23 computer.

24 MS. GERSTEIN: Do I need to make that a

1 motion?

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

7 MS. EULER: Uh-huh.

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

10 MR. LAKIN: Don't you think, though, when the
11 inspector gives it to a -- whoever is in charge of
12 running the inspection, showing inspection, don't you
13 think that they'll probably pay a little more
14 attention to it, Becky?

15 MS. DUNN: Sure.

16 MR. LAKIN: I don't think funeral directors
17 get up in the morning and say I'm going to go to the
18 Web site. (Inaudible) -- Web site right away this
19 morning. I think, generally, they have more things to
20 do than that. But if the inspector handed them a
21 piece of paper at the time of inspection, I think they
22 would be impressive to -- I think they would come
23 closer to reading it.

24 MS. DUNN: Okay.

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

2 CHAIRMAN: I agree with that.

3 MS. DUNN: That occurs throughout the entire
4 year, though?

5 CHAIRMAN: Do what?

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

9 (Several people talking simultaneously.)

10 CHAIRMAN: Just a comment of my own in the
11 thought of notifying. You know, we can't just have
12 massive mailings all the time and whatever, but in the
13 list of possibilities, you know, it might be worth one
14 mailout from the Board or something that says, look,
15 you all better start looking for this stuff and see
16 what's going on. Just, you know, giant print on one
17 piece of paper or something.

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

23 CHAIRMAN: Yeah. Something like that.

24 Something like that.

1 MS. GERSTEIN: Over and above having this go
2 out with the inspectors?

3 CHAIRMAN: Yes. I think it's fine. The
4 inspectors maybe could carry a broader version or
5 something that really --

6 MS. EULER: And the application forms.

7 MS. GERSTEIN: I'll be honest with you. I get
8 a lot of mail. I get a little postcard in the mail.
9 Unless it's from something I'm waiting for, I lay it
10 to one side. I'm lucky if I look at that postcard in
11 a week.

12 CHAIRMAN: But if it gets your interest, you
13 know.

14 MS. EULER: But if I get a postcard from the
15 Missouri Bar, I open it. And I would think funeral
16 directors would be the same way if you get something
17 from the State.

18 MS. GERSTEIN: Are you guys the same way?

19 UNIDENTIFIED: Yeah.

20 MS. GERSTEIN: Okay.

21 CHAIRMAN: Any other just thoughts,
22 suggestions, Board? Okay. Do you guys have the next
23 subject or --

24 MS. HAYES: Is there a motion or is it just

1 directive. Sending out to the inspectors and postcard
2 thing, is that a motion or is that a directive?

3 CHAIRMAN: Can we do a directive? So, need a
4 motion then?

5 MR. KRAUS: To put one together.

6 MS. EULER: Yes.

7 CHAIRMAN: Motion then to put one together
8 that the inspectors or whatever would use.

9 MR. FRAKER: So moved.

10 CHAIRMAN: Gary makes that motion.

11 MR. McCULLOCH: Second.

12 CHAIRMAN: John seconds it. Joy? Yes. Jim?
13 Yes. Okay. So, that sounds good. All right. Do
14 you all have the next subject to isolate?

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

17 CHAIRMAN: We are.

18 MR. KRAUS: We are.

19 CHAIRMAN: But that's later, obviously.

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

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

24 MR. KRAUS: We'll try to bring something to

1 the next meeting.

2 CHAIRMAN: Try something for the next meeting?

3 Okay. Hopefully, we will try for next meeting.

4 MS. GERSTEIN: To at least alert them that
5 this is happening.

6 CHAIRMAN: Okay.

7 MS. DUNN: And if the information that we're
8 going to distribute for the agendas, if everyone is
9 okay with it, we'll just send it on the e-mail like we
10 have been because we have short time frames. And,
11 Don, I'm sorry.

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

14 MR. LINDLEY: Do we have faxes?

15 MS. DUNN: Do we have faxes? Well, we
16 attempted to do faxes one time and we got in a lot of
17 trouble because we did a mass fax and it went to
18 people's phone lines. The funeral directors got
19 really mad at us because they -- it kept ringing all
20 weekend.

21 CHAIRMAN: Yeah.

22 MS. EULER: Yeah.

23 MS. DUNN: So, I mean, if you prefer us to fax
24 something, sometimes it's going to be more. So, do

1 you want it to be faxed, Don?

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

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

6 MR. LAKIN: Yes.

7 MS. DUNN: Okay.

8 MR. LAKIN: And you got the e-mail on my water
9 pipe.

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

12 (Several people talking simultaneously.)

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

23 MR. STALTER: Can I ask a question? I thought
24 -- one of those issues that we talked about in the

1 grandfather rulings -- (inaudible) -- I've got to
2 start implementing -- (inaudible) -- and it's going to
3 take a while, you know. The way I look at the July
4 10th date, we've got -- okay -- how far does that
5 apply? Is it just -- (inaudible.) Are there other
6 issues that affect them that -- (inaudible) -- how
7 they administer these contracts, because it's big
8 changes. And, you know, one of the -- (inaudible) --
9 I'll be meeting on Tuesday is saying what do we have
10 to do on August 28th. I mean, that's -- you know, I
11 think, what my advice was, we know, I think with --
12 (inaudible) -- we're off till July 10th because we
13 don't want to force people to sell out just under this
14 market.

15 MS. EULER: Right.

16 MR. STALTER: But what do we have to do --
17 (inaudible) -- when we receive payments on October
18 29th -- I mean, August 29th.

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

21 UNIDENTIFIED: That's on the record.

22 MS. EULER: So, you're talking about trust
23 currently in existence.

24 MR. STALTER: No. I'm talking about -- you

1 know, I can pretty well figure out what to do with --
2 (inaudible) -- all payments go in through the trust.

3 MS. EULER: Okay. Can you say it again?

4 MR. STALTER: Okay. What -- you know, for the
5 fiduciary now who has a much broader responsibility
6 under SB 1 --

7 MS. EULER: Yes.

8 MR. STALTER: -- and he's supposed to receive
9 all those payments.

10 MS. EULER: Yes.

11 MR. STALTER: Okay. You know, their question
12 is, you know, do I have to implement, you know, these
13 new administrative requirements on August 29th.

14 MS. EULER: Define for me what administrative
15 requirements you're --

16 MR. STALTER: (Inaudible) -- that come
17 through. In other words, now, you're going to put the
18 trustee -- you know, he's got to receive all the
19 payments and then start -- we'll get requests for that
20 15 percent -- (inaudible) -- so it's a whole new
21 procedure.

22 MS. EULER: Right.

23 MR. STALTER: And that's a totally different,
24 you know, computer program than what we've got under

1 the old law.

2 MS. EULER: Right. And I think that those are
3 questions that the Board is going to have to look at
4 when they look at those provisions of the statute.
5 So, come back next week.

6 MR. STALTER: And the week after and the week
7 after.

8 MS. EULER: Or two weeks. Yeah. Because
9 there are a lot of questions. I mean, that was one of
10 John's questions, too. There are a lot of questions
11 surrounding the transition and the trustee duties and
12 the trustee's investments, and we need to look very
13 carefully at those because, one, there was never any
14 intent, that I know of, in Senate Bill 1 to require
15 trustees to sell off investments right now. That's
16 why that provision is in there giving people until
17 July of next year to get in compliance with that part.

18 As to the other things, this Board is going to need
19 to look at those, and we may need to do some emergency
20 rules on those, but I don't have the answer for you
21 right now. But send us those types of questions to
22 Becky so we can incorporate them into our document
23 that we're going to hand out at every meeting because
24 it's those sorts of things that other people have

1 those questions, too, or they will, and it's good for
2 the Board to know what people are looking at and what
3 people have concerns or questions about
4 interpretations because that helps tell the Board we
5 need a 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 they
9 can tell their banks that our fiduciary charge with
10 these new trustee laws? How are you going to get this
11 word to them?

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

16 MR. STUART: Okay.

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

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

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

24 MR. STUART: And they do now have authority

1 over these issues?

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

7 MS. DUNN: And they can work cooperatively.

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

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

22 MS. EULER: Well, we can talk to Division of
23 Finance.

24 MR. STALTER: I know. But they've also sent

1 it out. We got it through an FDIC examiner.

2 MS. EULER: Really? Okay.

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

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

15 CHAIRMAN: Okay. Anybody else?

16 MR. STUART: In regards to renewing their
17 license -- their provider license, if you're not going
18 to be a seller and you're not going to have anybody
19 sell for you, but you're honoring the old NPS,
20 American Prearranged, or Missouri Funeral Trust Plans,
21 do we re-up as a provider? And that's all you do,
22 just list them as your sellers that are no longer
23 selling for you and state it that way? That's all you
24 have to do?

1 MS. EULER: I think so.

2 MS. STUART: You think so?

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

5 MS. STUART: Okay. (Inaudible.)

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

8 MR. LAKIN: (Inaudible) -- because you've got
9 four people here that she should be writing you --
10 (inaudible.)

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

12 MR. LAKIN: The other 7,000 funeral directors
13 out there don't know about this. And if we tell them
14 --

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

16 MR. LAKIN: -- then you can get a lot of
17 letters.

18 MS. EULER: That's okay.

19 MR. STUART: With all due respect, Sharon, I
20 don't want to put it in writing. I made it verbal.
21 It's on the record. It's in the record here now. I
22 don't see that it has to go any further. It's needed
23 to be right here before you. I mean, I don't care
24 about a formal written reply, but it will be addressed

1 in your reply and handout, probably.

2 CHAIRMAN: That's the goal.

3 MR. STUART: Yeah.

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

11 MR. STUART: Okay.

12 MS. EULER: But if you do submit it, there's a
13 better shot that we'll actually get it because we'll -
14 -

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

17 MS. EULER: There are some blank pieces of
18 paper right there.

19 MR. KRAUS: Also, as we've been going along,
20 there's a number of us trying to take notes of things,
21 too. But, of course, what we have down in our notes
22 may or may not directly reflect what you meant, but
23 we're going to try to incorporate that into our future
24 documents that we'll be working off of.

1 MR. STUART: Well, as a follow-up question --
2 I'm sorry. Sharon, as a follow-up question, if you
3 don't ask for a renewal of your provider form because
4 those companies are no longer doing sales for you, are
5 you in violation?

6 MS. EULER: Write that down.

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

8 MS. GERSTEIN: We have a court reporter.
9 We're getting all this down.

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

12 MR. KRAUS: And, of course, the Board is going
13 to be obtaining a copy of the transcript. Of course,
14 she is not providing services for free; the Board is
15 going to pay for that. And if anyone else wants a
16 copy of the transcript, they can obtain that. They'll
17 need to pay the same cost for that.

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

20 MS. DUNN: It depends on how many pages.

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

24 MR. LINDLEY: It's her job to send it out;

1 right?

2 MS. DUNN: No.

3 MS. EULER: You can make requests to the
4 company she works for.

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

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

7 MS. DUNN: And then, Bill, I know they said
8 that -- Joy said that this is being transcribed, but
9 the concern we have with your questions is if you want
10 them addressed for the next meeting, we're not -- we
11 may not have that transcription.

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

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

15 CHAIRMAN: Okay. Yes, ma'am?

16 MS. BATTAGLER: I'm not sure how emergency you
17 consider this, but, you know, the law states that you
18 have to have a signature of both the seller and the
19 provider on every contract. Now, we have some third-
20 party sellers -- we have a third-party seller --
21 (inaudible.) We have an agreement between the third-
22 party seller and ourselves, but we don't -- this
23 third-party seller does not get our signature on every
24 one of their contracts because we already have that

1 agreement. Is that going to be something that you're
2 going to require, however, on those contracts --

3 MS. EULER: Write that down. Those are the
4 circumstances we need to know.

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

6 (Several people talking simultaneously.)

7 CHAIRMAN: Other hot items? Big issues?

8 MR. LINDLEY: A point of clarification on what
9 I said earlier, because Jim talked about it out there,
10 is I think the reason some of this attendance is not
11 what you wanted is because of the exercise we went
12 through all summer; okay? What the working people
13 came up with and what ended up in the statute, it was
14 a huge difference, and that really offended people,
15 and I think that's a little bit of your challenge
16 here. And I think the other challenge is, you know, I
17 think they're going to be looking to get some of their
18 coming back at you guys on these rules and I think
19 that's where your biggest challenge is right now;
20 okay? And I think you probably know that, and that's
21 why I'm trying to say, you know, you -- because I
22 remember going through this back in the '80s. I mean,
23 you know, the only people we couldn't get to the table
24 were third-party sellers, and we agreed just to

1 disagree and we went on. And, you know, then we went
2 out and made tours all over the state and tried to
3 give out as much information, and even involved those
4 people in stuff that was going forward to make sure
5 that the transition was as smooth and seamless as
6 possible. Now, it's never going to be that way, but
7 you're already starting off behind the eight ball
8 because of the way that thing went all summer. I
9 mean, there was plenty of people here all summer.
10 And, you know, they were giving input, but nothing
11 showed up. And so, I think that's a little bit of
12 your issue right here.

13 MR. LAKIN: And everybody is mad at the Board.
14 Ninety percent of the funeral directors are mad at the
15 board on account of they went along with this new
16 Senate Bill 1, which I know better than that. But
17 that don't stop the funeral directors out there, the
18 little old country funeral directors, well, I don't
19 know why the Board let something like that go through.

20 I don't, either, but I said, well, you know --

21 CHAIRMAN: They don't understand the legal
22 system then.

23 MS. EULER: But the legislature has passed the
24 bill.

1 MR. LAKIN: That's correct.

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

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

6 MS. EULER: Well, and that's fine. They can
7 come to these meetings; they're not.

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

9 MS. EULER: That's their choice.

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

22 MR. LINDLEY: Just trying to help out.

23 CHAIRMAN: Oh, and I appreciate it. I do.

24 Anybody got comments? Are we at a point of

1 adjournment?

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

4 CHAIRMAN: Did we make it all the way around
5 the room? Did anybody else -- did I miss anybody?

6 MR. STUART: Are you ready for another subject
7 now? Public comment or a question to you?

8 CHAIRMAN: I'm ready.

9 MS. EULER: I assume my work here is done.

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

14 UNIDENTIFIED: Is that out of order at this
15 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 order,
19 but --

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

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

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

5 MR. LAKIN: It will have to be.

6 MR. STUART: Okay.

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

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

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

16 UNIDENTIFIED: Anything at all?

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

19 MS. EULER: That's relevant.

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

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

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

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

13 MR. STUART: Well, following up on my earlier
14 question, if I can talk to the Board or ask the
15 Board's consideration of an important issue to me and,
16 not only to me, but to the families that we serve, and
17 your challenge as Board members to protect the public.

18 The Health Department registrar regarding death and
19 birth records, Alberta Cross, has made an alleged
20 comment that effective January 1st, there will no
21 longer be death certificates available at the local
22 registrar. I believe it's unlawful for her to
23 implement that because the law clearly states that it
24 has to be done, and they haven't changed that law, to

1 my knowledge. The law currently is not being complied
2 with regarding the death certificate staying in that
3 local registrar's office for 24 hours. She sent out a
4 mandate approximately 12 months ago saying that every
5 night, those death certificates are to be transmitted
6 to her via the mail, which is a violation of the law,
7 as I understand the law. I would like for the Board
8 to keep in mind, as protection of the citizens of this
9 state, that if we are asked to change our license to
10 comply with this new expanded electronic transmission
11 of death certificates, that we recognize that the
12 doctors are not being required to do anything in the
13 form of compliance whatsoever by Board rule, Healing
14 Arts Board, or any other rule at this time, and her
15 statement is they will not be. So, I'd like for the
16 Board to also consider that -- their mission of
17 protecting of the citizens. This isn't about us, the
18 funeral directors, it is "somewhat about us" because
19 we -- many of us have to take assignments to get paid.
20 But it's for the families we serve and for the state
21 citizens that need these very important little pieces
22 of paper to start their life after they've lost a
23 loved one. And, also, for the Board's edification or
24 knowledge, Oklahoma has pilot projects on this

1 electronic expansion of the death certificate. It is
2 already currently being electronically transmitted
3 from Jeff City out to the local county registrars
4 after they get it on file. But, anyhow, in Oklahoma,
5 they're trying to go further with the expansion of
6 that. And as they are piloting the project, they have
7 not changed their laws, their rules. I mean, in other
8 words, everything stays the same. And in Illinois,
9 they are piloting there, but everything is originated
10 at the local county registrar. In other words, if you
11 are a pilot project, you still get to work with your
12 desk doctor and you do it with your registrar, and you
13 get your certified that same day right there.
14 Nothing going through the capital. And she wants to
15 shut us off of that January 1st where we have to send
16 or carry our hand-delivered death certificate down to
17 her, get in line behind the 250 that come in every
18 day, and then wait. And that is just a terrible,
19 terrible situation for our consumers and for our
20 charge as citizens -- I mean, protectors of the
21 citizens as your Board members have to be. And I
22 appreciate you letting me say that to you because this
23 is a catastrophe coming if we can't get input. And I
24 have tried for a year and a half to have input with

1 her, have compromise with her. It's set up at the
2 local level to do it, it's in the law to do it, and
3 why we can't get any help on this is just beyond me,
4 but I hope that the Board can try to help the citizens
5 of the state.

6 MS. GERSTEIN: People who deal with that at
7 the registrar's, is there a Board? Do they have a
8 Board?

9 MR. LAKIN: The Health Department.

10 MS. CLARKSTON: The Health Department.

11 MR. STUART: But the problem is -- yeah. It's
12 the Health -- the county registrar -- I found this out
13 by accident. I didn't realize this. I thought they
14 worked -- the county worked -- he's the -- what do you
15 call it, the local county health director in our city,
16 and I thought he was -- worked for our county. But
17 under the registrar system, he's an appointed deputy
18 registrar of the State of Missouri Health Department.
19 That's how they have authority over this county
20 registrar, and that's how she's going to pull this
21 away from him. But I think the statute is -- she's
22 violating the statute right now. She's -- (inaudible)
23 -- she's taking the death certificate out of the
24 county in 24 hours, sooner than that. She is also not

1 returning it electronically back to them in 24 hours
2 as mandated by law. And I don't know, but that's
3 where we are.

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

7 MS. DUNN: No.

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

9 MS. DUNN: No.

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

11 MS. DUNN: But I will tell you that Connie has
12 been working with the Department of Health, at the
13 request of the Board, and I understand that the Board
14 of Healing Arts is going to put this matter on their
15 October agenda. I'm assuming it would be an open,
16 but, Connie -- I know that we've been --

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

20 MS. DUNN: We can certainly communicate that
21 open meeting to -- because we knew how important that
22 was to the profession, so Connie has been working on
23 that. And as far as I know, they have it on the
24 October agenda -- the Board of Healing Arts.

1 MS. CLARKSTON: I'm sorry to interrupt.
2 They've also been discussing ways to educate their
3 physicians. I know Tina had lengthy conversations
4 with Department of Health. I don't know the outcomes
5 of that.

6 MR. STUART: Well, we'd like to educate them,
7 Connie, but they won't educate. They did take -- for
8 40 minutes, all she talked about -- and this was a
9 great deal last week when we got to go. For 40
10 minutes, she told us the government's problems, the
11 government's needs, and government's ways to do this.
12 She not one second talked about the bereaved family
13 that is not going to get their death certificate in a
14 timely manner. That's not her concern. And now that
15 I know her trouble, my compromise is very workable for
16 her, but they didn't tell us that for a year and a
17 half. They just kept saying fabrications, Homeland
18 Security. Homeland Security went like this, federal,
19 and then the state man called Ms. Cross and talked to
20 her. She doesn't use his name in -- Homeland Security
21 name anymore. He put a stop to that. And that's all
22 I'm saying. Nobody mentions who we're all about here.
23 We're about -- I know you and government have
24 headaches, more headaches than I could ever imagine

1 right in a little -- you know, in a small country
2 town. But -- and her problems are immense, too, and
3 there's 60,000 deaths a year she has to worry with.
4 But we're willing to work, but we couldn't get that
5 across for a year and a half, and that's all I'm
6 hoping, that maybe the Board could get some compromise
7 because the situation is sitting in the county right
8 there, and we'll help her. I volunteered to help if
9 we could get a small compromise.

10 CHAIRMAN: Expand on your Oklahoma -- and
11 you're next -- on your Oklahoma thought, the pilot
12 part. You --

13 MR. STUART: In Oklahoma, they're doing pilot
14 projects, and while they do pilot projects, nobody is
15 being denied the working way it's going.

16 CHAIRMAN: Just the way it's typical
17 happening.

18 MR. STUART: Nobody is being --

19 CHAIRMAN: Okay. Okay.

20 MR. STUART: -- banged -- arbitrarily banged.
21 No, they're not doing that. In Illinois, it's the
22 same way. However, Illinois is what we patterned our
23 law change in '83 to get our local death certificates
24 locally instead of going, like they're wanting to do

1 January 1st, where you have to send everything over
2 here to Jeff City and wait for you to get the release
3 back to your county to go get your death certificate.

4 CHAIRMAN: Sure.

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

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

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

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

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

4 CHAIRMAN: Okay.

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

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

15 MR. STUART: It should. It should, and I
16 agree with it should.

17 CHAIRMAN: And you would have your death
18 certificates the next day.

19 MR. STUART: But why do you need to take it
20 through Jeff City to be the scorer? Leave the scorer
21 right there at your local health department so you all
22 can -- you, your input. Oh, it's Dr. Joe Blow. The
23 computer says Dr. Joe Blow, filed back, gone to
24 Australia for three weeks. Oh. Now, what is the

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

21 CHAIRMAN: Sure.

22 MR. STUART: And we didn't know this for a
23 year and a half. They wanted perfectly record-keeping
24 for all the -- she told us all these bizarre people

1 that want all these causes of death to be defined down
2 to about, what, 12 or 16, Scott?

3 MR. LINDLEY: Yeah.

4 MR. STUART: Yeah. She wants it boxed in that
5 category, and I guess it all goes back to how much
6 funding our state probably gets back from federal or
7 whatever. And so, it's a complicated matter for her,
8 as government goes in her job.

9 CHAIRMAN: Well, I had said you were next.

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

11 CHAIRMAN: Okay. All right. Scott?

12 MR. LINDLEY: Yeah. And what her problem is,
13 is that -- and it's the same problem in '83 that she's
14 got today. They have categories; okay? And they get
15 their death certificates scored by CDC. They get
16 monies back based on their scoring and complying and
17 doing things that they want, and I perfectly
18 understand that. But I think it's just -- I talked to
19 the software guy and I asked him if those codes could
20 just be put out there to the locals and if -- I think
21 there's, like, 73 cause-of-death codes, I think he
22 told me. I wasn't supposed to be talking to him. In
23 fact, she admonished me for talking to him, and him,
24 both. But there is -- they're trying to bracket these

1 codes into, like, 73 causes of death and whatever it
2 is. And I think the guy can send those out, you know,
3 to the locals. And if they don't match the box, or
4 the opposite of that would be if they send it in and
5 it glitches, then that one has got to be done somehow.

6 There's got to be some interaction between the locals
7 and down there to make sure that whatever the problem
8 is, they get it fixed, and you're going to know right
9 then that you've got an issue when you take it out.
10 So, in other words, when Bill walks out there, you
11 know, it's going to be -- he's going to pretty much
12 know if he's going to have an issue with that death
13 certificate. And I kind of got the drift from that
14 guy that there probably could be some of that going
15 on. And, you know, he even said that they could set
16 up a paper trial thing for guys that wanted --
17 families that wanted to be paper and that. And that
18 was what I suggested. Okay, let's do it this way and
19 that way, and then let's just run the statistical data
20 to see who actually performs the best.

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

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

3 MR. STUART: Well, you fix it when she -- if
4 she asks you for emergency change of our licensing
5 law, you say, whoa, stop. You haven't shown good
6 faith to our licensees who are trying to work out a
7 reasonable compromise. The Department of Revenue does
8 this every night at the local license bureau, but the
9 people get their license plate. They go home with
10 their license plate. If they come in with their five
11 documents, they walk out -- (inaudible) -- they walk
12 out with that plate. All I'm saying is, at the local
13 level, I won't hold up the family. They'll get their
14 certified and if we want to play games over this 74
15 problems that they're having in the computer to accept
16 the cause of death that Dr. Joe Blow signed wrong, in
17 the meantime, the families could care less. The
18 banker gets his CD -- I mean, cashes the CD so you can
19 buy grocers when they lost their loved one.

20 CHAIRMAN: Because all they're looking for is
21 the seal.

22 MR. STUART: That -- yeah. Well,
23 unfortunately, only two people recognize the death;
24 the family and the funeral director. But the

1 insurance company that has the money, uh-uh, we don't
2 recognize that death. The banker, uh-uh, we don't
3 recognize that death unless we have this little piece
4 of paper with a seal on it.

5 CHAIRMAN: Right.

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

22 CHAIRMAN: Sure.

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

1 MR. McCULLOCH: I would second that.

2 CHAIRMAN: All right. Got a second. Joy?

3 MS. GERSTEIN: I'm not sure what I'm voting
4 on, but --

5 CHAIRMAN: That we're not the whipping boy.

6 MR. REINHARD: I agree with you, Bill. And if
7 it comes to that point, I think the Board needs to
8 stand up.

9 MR. STUART: And you're doing it for not your
10 licensees, you're doing it for your citizens. That's
11 who you're here to protect, the citizens.

12 MS. GERSTEIN: Okay. I vote yes.

13 CHAIRMAN: You already did.

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

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

20 UNIDENTIFIED: That's ruled silly.

21 CHAIRMAN: That's ruled silly. That's right.

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

24 CHAIRMAN: Any other open thoughts,

1 discussion? Guys? Guys? Guys? Close it down?

2 Well, that will then conclude the Senate Bill 1

3 discussion. Open discussion is concluded, and I'm

4 being directed that we need a motion to go back into

5 closed.

6 MS. GERSTEIN: I so make that motion.

7 MR. McCULLOCH: Second.

8 CHAIRMAN: For the purpose of consulting with

9 attorneys for legal advice. So, Joy made the motion,

10 John seconded. Jim says yes; Gary says yes. All

11 right. Thank you, guys, for coming, and, again, I

12 appreciate how this has went.

13 (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 _____ day of _____,
2009.

KRISTY B. BRADSHAW, CCR

2010

JANUARY 2010	FEBRUARY 2010	MARCH 2010	APRIL 2010
<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>
MAY 2010	JUNE 2010	JULY 2010	AUGUST 2010
<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>
SEPTEMBER 2010	OCTOBER 2010	NOVEMBER 2010	DECEMBER 2010
<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>SUN MON TUE WED THU FRI SAT</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>

2011

<p>JANUARY 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>FEBRUARY 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	<p>MARCH 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>APRIL 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>
<p>MAY 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>JUNE 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>JULY 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>AUGUST 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>
<p>SEPTEMBER 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>OCTOBER 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>NOVEMBER 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>DECEMBER 2011</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>

DRAFT RULE – NOT APPROVED

Annual reporting per contract fee may be collected from purchaser.

PURPOSE: This rule establishes that an amount up to the seller per contract annual reporting fee as established in 20 CSR 2120-2.100(1)(EE) may be received or collected by the seller from the purchaser of a preneed contract if that amount is remitted to the Board of Embalmers and Funeral Directors as required by law.

A seller or preneed agent may receive or collect an amount up to but not exceeding the seller per contract annual reporting fee as established in 20 CSR 2120-2.100(1)(EE) from the purchaser of a preneed contract if that amount is remitted to the Board of Embalmers and Funeral Directors as required by law. Any such amount received or collected by the seller or preneed agent may be in excess of what is required to be paid to fund the preneed contract.

AUTHORITY: Sections 333.340, 436.460.5, 333.011(9) and (11), and 436.405(7) and (9), as amended by Senate Bill 1, 95th General Assembly, First Regular Session (2009).

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

PROPOSED RULE

20 CSR 2120-2.160 Cemetery Exception

PURPOSE: This rule describes the exception to preneed contract requirements under sections 436.400 to 436.520, RSMo for endowed care cemeteries.

- (1) Pursuant to section 333.310, RSMo, a cemetery shall be exempt from the licensure requirements of sections 333.315 and 333.320, RSMo when all of the following conditions are satisfied—
- (A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;
 - (B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are either: ~~made pursuant to a contract whereby such merchandise is either~~
 - 1. Subject to the provisions of Section 214.320 or other provision of Chapter 214 that requires the funds be deposited into an endowed care fund; or ~~Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or~~
 - 2. For funeral merchandise that is owned by the purchaser and before the death of the beneficiary the merchandise is either installed on the cemetery premises or delivered to the purchaser, such as grave markers, urns, monuments or tombstones. ~~Made to be delivered to an interment right or grave subject to section 214.320, RSMo that is owned by the purchaser and identified in the contract.~~
 - (C) After completion of an examination or audit, the Office of Endowed Care Cemeteries has made no finding of non-compliance with sections 214.385 or 214.387, RSMo. ~~The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo by the Office of Endowed Care Cemeteries pursuant to a completed examination or audit; and~~
 - (D) The contract does not include preneed payments for services that may only be provided by a licensed funeral director or embalmer nor does it include any funeral merchandise not exempted by this rule. ~~The cemetery does not offer for sale caskets or services that may only be provided by a Missouri licensed funeral director or embalmer.~~

*AUTHORITY: sections 333.340 and 436.410, as amended by Senate Bill 1, 95th General Assembly, First Regular Session (2009). Emergency amendment filed [REDACTED], effective [REDACTED], and expires [REDACTED]. *Original rule filed: [REDACTED].*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at 573-751-0813 or via email at embalm@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

STALTER LEGAL SERVICES, LLC

WILLIAM R. STALTER
wastal@swbell.net

9300 METCALF AVENUE, SUITE 202
OVERLAND PARK, KANSAS 66212

TELEPHONE (913) 378-9920
FAX (913) 378-9924

December 4, 2009

Missouri State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
PO Box 423
Jefferson City, MO 65102-0423

Dear Board Members:

Because SB1 has flaws and ambiguities, policy decisions will be necessary regarding what (and how) to implement and what should be changed. The authority, and responsibility, for such policy decisions are vested with you, not with the Division or the Attorney General's Office.

Please recall that the authority for preneed oversight was the first issue addressed by the Chapter 436 Working Group last summer. Representatives for the consumers, the Division and the Attorney General's Office were afforded an opportunity to make recommendations to have preneed oversight transferred to an independent agency within the Division, but they chose you. The record from that meeting will reflect that the Group acknowledged that preneed is complex, and that an industry board would be better equipped than an independent agency to provide oversight.

Appropriately, the State Board's initial SB1 priority has been to enable the preneed industry to continue to operate. However, many of the proposed rules have gone beyond the immediate licensing needs. During the August meetings, you questioned, or were questioned by the public regarding, the need for certain proposals. Frequently, the answer was that you were approving the proposal on the advice of counsel.

Although I found several of the proposed emergency rules objectionable, I limited my criticism for the sake of keeping the Board on track for the crucial issues. Whether intended or not, some of the emergency rules lay the groundwork for policies that may not be in the best interests of either the industry or the consumer. But because many of the proposals were based on legal advice given in closed sessions, I don't know whether to criticize the State Board or the advice given by its attorneys.

With legal advice having played a crucial role in the policy decisions made by the State Board, I recommended the Attorneys' Forum as a means to provide input to your attorneys before they formulate proposals (as opposed to providing criticism afterwards). In response to your instructions, and my prompting, Mr. Krauss appropriately advises that the State Board should set policy. I agree, but that begs the question of how the industry is to effectively participate in policy discussions when policy decisions are based on legal advice given in a closed session.

December 4, 2009

Page 2

If the State Board should choose to pursue policy discussions regarding SB1, I offer two proposals to address the immediate needs: a voluntary compliance program and an alternative trust program.

Missouri's funeral homes have transacted preneed transactions for 27 years with little oversight or guidance. While most small operators have probably deposited the appropriate funds to a trust or a joint account, many will have used non-compliant preneed documents. Funeral directors have suggested that inspectors have looked the other way so long as the money could be accounted for. But, the State Board can no longer apply different standards to licensees. Rather than charge these operators with violations regarding contracts written twenty years ago, offer a voluntary compliance program similar to those for ERISA plans. The program would be for the operator who tried to comply, but failed for the lack of appropriate guidelines or assistance.

The joint account was preserved under SB1 as the small operator's alternative. However, the structure does not work for most operators. There are a substantial number of operators who simply offer preneed as an accommodation. There are alternatives that would not require seller licensing, such as the trust-funded programs found in England and Australia. Establishing such a program would require cooperation and assistance from the State Board.

If the day for policy discussions has passed, and the decision has been made to begin enforcing SB1, the State Board needs to appreciate that many of us do not agree with your interpretations of SB1. If it is your decision to implement audits, then it would behoove the State Board to revisit its past with regard to audit procedures.

There seems to be an impression that NPS somehow brought an end to the Board's audits. NPS may have played a factor, but I participated in a challenge of the State Board's audit procedures in 1993. When the independent CPA firm engaged by the Division advised a client that its 'preneed exam' would last from 3 to 6 months, I met with the CPA who was to conduct the audit. The CPA could not answer my basic questions regarding Chapter 436 requirements. I subsequently discovered he not been provided 'agreed upon procedures' or definitive guidelines by either the Division or the State Board.

Though your auditors will be better versed on SB1, they will face a legacy of technical violations with regard to many well-intended operators. While small operators may lack resources to challenge an audit, larger operators will contest any questionable interpretations that are incorporated by your audit guidelines.

I urge you to table the audit powers until crucial policy issues can be explored.

Sincerely,

William Stalter



Missouri Department of Health and Senior Services

P.O. Box 570, Jefferson City, MO 65102-0570 Phone: 573-751-6400 FAX: 573-751-6010
RELAY MISSOURI for Hearing and Speech Impaired 1-800-735-2966 VOICE 1-800-735-2466

Margaret T. Donnelly
Director



Jeremiah W. (Jay) Nixon
Governor

November 9, 2009

Dear Colleague:

In 2004, legislation was passed in Missouri that required the Missouri Department of Health and Senior Services (DHSS), to develop and maintain an electronic system to register births and deaths.

As you may be aware, DHSS has moved forward in developing the electronic system. Weekly work sessions are being held with the contractor to customize software to meet Missouri's needs.

Training and testing for the birth component began in September, 2009. Unfortunately, the scheduled training and testing for providers of the death component will need to be delayed for additional development and in-house testing. As a result of this delay issuance of certified copies of death certificates by local agencies will remain in effect until further notice.

The DHSS is committed to providing a quality system that will register vital events more timely, improve quality of data, eliminate unnecessary corrections to the records, provide a more complete and accurate legal document and provide a more secure environment to deter fraud. The system will also address modern issues such as integration with electronic health records and rapid response to bioterrorism and pandemic health events.

Please contact the DHSS, Bureau of Vital Records at (573)526-0348 if you have questions.
Thank you for your continued interest and support.

Sincerely,


Margaret T. Donnelly
Director

/mdd

cc: Glenda R. Miller, Director
Division of Community and Public Health

www.dhss.mo.gov

Healthy Missourians for life.

The Missouri Department of Health and Senior Services will be the leader in promoting, protecting and partnering for health.

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER: Services provided on a nondiscriminatory basis.