

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

February 4, 2010  
Division of Professional Registration  
3605 Missouri Blvd.  
Jefferson City, Missouri

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**Thursday, February 4, 2010 – 10:00 a.m. – OPEN MEETING**

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**Call to Order**  
**Roll Call**

- 1. Approval of Agenda**
- 2. SB 1 Implementation (Examination of Books and Records)**
- 3. SB 1 Open Discussion**
- 4. Rules – Effective January 30, 2010**
  - **20 CSR 2120-1.040 Definitions**
  - **20 CSR 2120-2.010 Embalmer’s Registration and Apprenticeship**
  - **20 CSR 2120-2.040 Licensure by Reciprocity**
  - **20 CSR 2120-2.060 Funeral Directing**
- 5. Future Board Meeting**
  - **March 31, 2010 – 9:00 a.m., Best Western, 1200 W. Gannon Drive, Festus, MO**
- 6. Emily Rowe, Unit Manager, MO HealthNet Program & Policy Unit, Family Services Division**
- 7. Open Discussion - Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business**

**Closed Meeting. The Board will move into closed session pursuant to Section 610.021 Subsection (14) and Section 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**

- 11. [a]Applicators[,];
- 12. [p]Plastic spatulas[,]; and
- 13. [e]Esthetic textbook. [All implements and materials contained in the student kits must be new.]

*AUTHORITY:* sections 329.025.1 and 329.040, RSMo Supp. [2006] 2008 and 329.030, RSMo 2000. Original rule filed Aug. 10, 2007, effective Feb. 29, 2008. Amended: Filed July 22, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment 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 amendment with the Board of Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at 573-751-8167, or via email at [cosba@pr.mo.gov](mailto:cosba@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.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2120—State Board of Embalmers and Funeral  
Directors  
Chapter 1—Organization and Description of Board**

**PROPOSED AMENDMENT**

**20 CSR 2120-1.040 Definitions.** The board is proposing to amend subsections (5)(E) and (F).

*PURPOSE:* This amendment allows a licensed embalmer to supervise.

(5) Cremation log—a written record or log kept in the cremation area available at all times in full view for a board inspector, which shall include the following:

(E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;

(F) The supervising Missouri licensed funeral director's license number or the supervising Missouri licensed embalmer's license number; and

*AUTHORITY:* sections 333.011, RSMo Supp. 2008, and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment 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 amendment with the Board of Embalmers and Funeral Directors, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155, or via email at [embalm@pr.mo.gov](mailto: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.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2120—State Board of Embalmers and Funeral  
Directors**

**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship.** The board is proposing to amend section (8).

*PURPOSE:* This amendment clarifies the exemption for the Missouri law examination.

(8) Effective July 30, 2004, the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license [within twelve (12) months of the date that the board receives the new application] within the jurisdiction of the board and the license is in active status. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

*AUTHORITY:* sections 333.041 [and], 333.081, and 333.121, RSMo Supp. [2006] 2008 and 333.091[,], and 333.111, [and 333.121,] RSMo 2000. This rule originally filed as 4 CSR 120-2.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed July 22, 2009.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment 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 amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155, or via email to [embalm@pr.mo.gov](mailto: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.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2120—State Board of Embalmers and Funeral  
Directors**

**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2120-2.040 Licensure by Reciprocity.** The board is proposing to amend subsections (2)(F) and (3)(D).

*PURPOSE: This amendment clarifies the exemption for the Missouri law examination.*

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory[,] is eligible to obtain licensure by reciprocity by meeting the following requirements of the board:

(F) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board [within twelve (12) months prior to applying for a license] for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by meeting the following requirements of the board:

(D) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board [within twelve (12) months prior to applying for a license] for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;

*AUTHORITY: sections 333.051, 333.091, and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed July 22, 2009.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment 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 amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155, or via email to 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.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2120—State Board of Embalmers and Funeral  
Directors**

**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2120-2.060 Funeral Directing.** The board is proposing to add a new section (5), renumber the sections thereafter accordingly, and amend newly renumbered section (14).

*PURPOSE: This amendment clarifies the exemption for the Missouri law examination.*

**(5) 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 February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.**

*[(5)](6)* Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.

*[(6)](7)* The funeral director apprentice registration authorizes the registrant to engage in the practice of funeral directing only during the period of apprenticeship. Once the apprenticeship is successfully completed as defined in this rule, the funeral director apprentice registration shall become null and void. Any Missouri licensed funeral director who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of funeral directing before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.121.2, RSMo.

*[(7)](8)* Each registered funeral director apprentice shall provide to the board, on the application prescribed by the board, the name(s), location(s), and license number(s) of each funeral establishment(s) where they are serving as an apprentice. The funeral director apprenticeship may be served at a funeral establishment licensed by a state, other than Missouri, upon submission of proof to the board that the out-of-state funeral home is licensed for the care and preparation for burial and transportation of human dead in this state or another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirement for admission to practice funeral directing in this state. The funeral director apprenticeship shall be served under the supervision of a Missouri licensed funeral director. If the funeral director apprentice changes funeral establishments during the course of the apprenticeship, the apprentice shall notify the board, on the form prescribed by the board, of the name(s), location(s), and funeral establishment(s) license number of the new apprenticeship location within ten (10) business days after the change has been made.

*[(8)](9)* Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and

(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that he/she has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.

*[(9)](10)* An apprentice will be eligible to take the funeral director examination after completion of the twelve (12) consecutive month period of apprenticeship.

**[(10)](11)** An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination.

**[(11)](12)** All notifications for the funeral director's examination shall be in writing and received by the board at least forty-five (45) days prior to the date the candidate plans to sit for the examination.

**[(12)](13)** A college accredited by a recognized national, state, or regional accrediting body may seek the approval of the State Board of Embalmers and Funeral Directors for a course of study in funeral directing by submitting a description of the program, the college catalog listing the course of study, and evidence that the program has been approved to be offered in that institution by the administration of the college and the Missouri Coordinating Board for Higher Education.

**[(13)](14)** An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license *[within twelve (12) months of the date that the board receives the new application] within the jurisdiction of the board if the current license remains in active status.*

**[(14)](15)** Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director[,] shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

**[(15)](16)** A Missouri licensed funeral director shall be present and personally shall supervise or conduct each funeral ceremony conducted by or from a Missouri licensed funeral establishment. A violation of this section will be considered misconduct in the practice of funeral directing.

**[(16)](17)** A Missouri licensed funeral director shall be present and personally shall supervise any disinterment, interment, entombment, or cremation as defined in 20 CSR 2120-1.040 conducted by a Missouri licensed funeral establishment. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete, the Missouri licensed funeral director is not required to stay with the body.

(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

**[(17)](18)** Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

**[(18)](19)** A funeral director or funeral establishment licensed in another state that enters the state of Missouri solely for the purpose of transporting a dead human body through Missouri to another state, country, or territory[,] shall not be deemed to be in the practice of funeral directing or required to obtain a license from the board. This regulation does not exempt any person or entity from complying with any applicable statutes or regulations governing the transportation of dead human bodies, including, but not limited to, Chapters 193 and 194, RSMo.

**[(19)](20)** A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:

(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;

(B) Embalming, cremation, care, or preparation; and

(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

**[(20)](21)** The taking of preliminary information by an unlicensed person will not be construed as the making of at-need funeral arrangements under this rule.

**[(21)](22)** No temporary Missouri funeral director license authorized under section 333.041.7, RSMo, will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased and/or disabled Missouri licensed funeral director was authorized to work. Violation of this rule will be deemed unauthorized practice of funeral directing.

**[(22)](23)** The business and practice of funeral directing may be conducted only from a fixed place or establishment which has been licensed by the board.

**[(23)](24)** Limited License.

(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director shall only engage in the activities of funeral directing authorized for a Function B funeral establishment.

(B) Every person desiring a limited license shall provide the following to the board:

1. Proof of being at least eighteen (18) years of age;
2. Proof of possession of a high school diploma or its equivalent;
3. Evidence of being a person of good moral character;
4. Proof of successful completion by achieving a score of seventy-five percent (75%) or better on the Missouri Law examination;
5. Completed application form as provided by the board;
6. Payment of applicable fees;
7. Payment of any fee charged by the Missouri Highway Patrol for a criminal history background check; and
8. Any other information the board may require.

(C) Every limited licensee shall provide the board with the name, location, and license number of each Function B funeral establishment where he/she is employed.

(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by

section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

[(24)](25) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office(s) or place(s) of business where they work, for inspection by any duly authorized agent of the board.

[(25)](26) Should an individual desire to obtain a Missouri funeral director's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make new application and pay all applicable fees to the board. No previous apprentice, application, or examination will be considered for the new application. However, the board shall accept the successful completion of the National Board Funeral Service Arts or the Missouri Funeral Service Arts examination for new application.

[(26)](27) A Missouri licensed funeral director may engage in the practice of funeral directing in the state of Missouri only in Missouri licensed funeral establishments. Each Missouri licensed funeral director shall inform the board in writing, in a timely manner, of each Missouri licensed funeral establishment name(s), location(s), and license number(s) where the Missouri licensed funeral director is engaged in funeral directing.

[(27)](28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

[(28)](29) Person Deemed to be Engaged in the Practice of Funeral Directing.

(A) No person shall be deemed by the board to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of the dead human body of a member of one's own family or next of kin as provided by section 194.119, RSMo, provided that the activity is not conducted as a business or for business purposes.

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.

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

**AUTHORITY:** sections 333.041, 333.042, and 333.121, RSMo Supp. [2007] 2008 and sections 333.091 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.060. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed July 22, 2009.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment 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 amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155, or via email to [embalm@pr.mo.gov](mailto: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.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2267—Office of Tattooing, Body Piercing, and  
Branding  
Chapter 2—Licensing Requirements**

**PROPOSED AMENDMENT**

**20 CSR 2267-2.010 Licenses.** The office is proposing to amend subsection (2)(C).

**PURPOSE:** This amendment further defines the requirements of the apprenticeship currently set forth in the rule.

(2) No person shall tattoo, body pierce, and/or brand another person, use or assume the title of tattooist, body piercer, and/or brander, designate or represent themselves to be a tattooist, body piercer, and/or brander unless he or she has obtained a license from the division for the profession practiced. An application for a practitioner license shall be notarized, accompanied by the appropriate fee, and evidence of having successfully completed the following:

(C) An apprenticeship, which shall include at least three hundred (300) documented hours of practical experience that includes at a minimum fifty (50) completed procedures in each area that the applicant has filed an application for licensure. The documented work shall be certified and supervised by a currently licensed Missouri practitioner or by a practitioner who is licensed to practice tattooing, body piercing, and/or branding in another state, territory, or commonwealth whose requirements for licensure are substantially equivalent to the requirements for licensure in Missouri. A supervising practitioner shall register a person needing to meet the requirement set forth in 20 CSR 2267-2.010(2)(C) by submitting an affidavit acknowledging the supervisory relationship on a form prescribed by the office. The affidavit shall be submitted by the supervising practitioner within ten (10) business days of beginning the supervisory relationship. The supervising practitioner shall be present during the entire procedure and shall be licensed in the same field of practice in which the applicant has filed a license application. Proof of having completed the apprenticeship requirement set forth in this section shall be submitted on forms prescribed by the office. The apprentice shall notify the office in writing within ten (10) business days of the termination of the supervisory relationship; or

**AUTHORITY:** section 324.522, RSMo Supp. [2007] 2008. This rule originally filed as 4 CSR 267-2.010. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. Moved to 20 CSR 2267-2.010, effective Aug. 28, 2006. Amended: Filed April 10, 2008, effective Nov. 30, 2008. Amended: Filed July 22, 2009.

**Schnieders, Pam**

**From:** Dunn, Becky  
**Sent:** Tuesday, January 26, 2010 2:33 PM  
**To:** Schnieders, Pam  
**Subject:** Open Agenda

Emily Rowe, Unit Manager, MO HealthNet Program & Policy Unit, Family Services Division

The questions received from the Board and responses follow.

What is the process commonly called "spending down"? Is this the correct term to use? If not, what term should the Board use in discussing this with their licensees and the public? What term should preneed funeral contract sellers use when entering into a preneed contract with a person who is "spending down"?

The process commonly referred to as "spending down" is the process by which an individual spends down their available resources to under the Medicaid maximum resource limit. In Missouri using the term "spend down" to refer to the spending of resources to under the maximum limit is a little confusing to use because Missouri has a MO HealthNet for the Aged, Blind, and Disabled program where individuals whose income exceeds 85% of the federal poverty level can still qualify for coverage by "spending down" their income by paying the difference between their net countable income and 85% FPL directly to the MO HealthNet Division or by incurring medical expenses equivalent to the difference. However as long as the distinction is made that you are referring to spenddown of assets, not income it is appropriate to use this term.

- Can a person who is spending down use their funds to purchase a preneed funeral plan? If so, what is the right way to go about this? What should one avoid? Are there any DSS procedures, policies or regulations of which the Board should be particularly aware? Yes, they can use their funds to purchase a preneed funeral plan. In fact there are no limitations on what they can purchase to spend down their funds, but they do need to keep an accounting of what the funds are spent on and keep receipts. One should avoid giving away or transferring funds to others as this can result in a transfer of property penalty.

- For individuals going on state aid who are purchasing a preneed funeral plan, should the preneed plan seller have the purchaser fill out and sign an irrevocable waiver? And that is all that will be required to satisfy spend down requirements? If that is not how to handle the situation then what is the procedure they should follow? If it is the right process, are there special waiver forms they should use? By signing an irrevocable waiver the preneed funeral plan is not considered to be an available resource when determining the individual's Medicaid eligibility. There are no special forms they need to sign, the irrevocable waiver is sufficient.

- What about where a person received public assistance, bought a preneed funeral plan and adhered to the proper spend down process. When this person died, her funeral was provided by another funeral home and the preneed contract provider (nor the funds) were utilized for her disposition. Many years later, the person's family discovers the existence of preneed funeral plan and funds and asks for a refund. Can the funeral home refund the money or should it go to the state? If the state, how would that work? This is a question more for the MO HealthNet Division's Third Party Liability Unit who work with Estate recovery issues. I will defer this question to them for response.

- Is there a specific person, telephone number, or e-mail to whom licensees or the public may be referred by the Board regarding questions about spending down? They may contact Emily Rowe MO Family Support Division MO HealthNet Program and Policy Unit Manager at 573-526-0607 or [Emily.S.Rowe@dss.mo.gov](mailto:Emily.S.Rowe@dss.mo.gov).
- Is there a descriptive document on this topic that the Board can make available or link to on its website? Policy regarding preneed funeral policies can be found in our Income maintenance Policy Manual at [http://www.dss.mo.gov/fsd/iman/dec1973/1030-015-00\\_1030-025-00.html#1030.020.10.15](http://www.dss.mo.gov/fsd/iman/dec1973/1030-015-00_1030-025-00.html#1030.020.10.15).
- When a person who has a preneed funeral contract (who purchased the contract while following appropriate spend down requirements) dies, and the funeral services provider is paid from the preneed contract funds, and there is money left over, those extra funds go to the state. Is this correct? How does this work? What needs to be done to ensure this happens? This is a question more for the MO HealthNet Division's Third Party Liability Unit who work with Estate recovery issues. I will defer this question to them for response.
- Last legislative session, SB 1 was passed. It includes several references to chapter 208 or public assistance. Do you see any issues with these provisions as they relate to spend down? (e.g., sections 436.425.3, 436.450.8, RSMo) This was reviewed by FSD and no issues related to spend down were identified.

Thank you for passing this information/inquiry along to those who deal with this on a regular basis. Please let me know if those who deal with this (Sandy Nelson or Emily Rowe -- sorry if I've misspelled) think these are best responded to by letter or if they would rather attend a Board meeting and speak with the Board directly (or both). I am sure that the Board would be happy to meet in person as they may have follow up questions but please let me know your preference.

Emily Rowe  
Unit Manager  
MO HealthNet Program & Policy Unit  
615 Howerton Court  
P.O. Box 2320  
Jefferson City, Mo 65102-2320