

State Board of Embalmers and Funeral Directors

June 1-2, 2011
Division of Professional Registration
3605 MO Blvd
Jefferson City Missouri 65109

OPEN MEETING MINUTES

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 1:10 p.m. on June 1, 2011

Roll Call

Board Members Present

D. Todd Mahn, Chairman
John McCulloch, Secretary
Martin Vernon, Member- Joined the meeting at 1:15 p.m.
Gary Fraker, Member
Archie Camden, Public Member

Board Members Absent

James Reinhard, Vice Chairman

Staff Present

Sandy Sebastian, Executive Director
Tabatha Lenzini, Administrative Assistant
Katie Orbals, Licensing Tech
Sharon Euler, Legal Counsel
Randall Jennings, Examiner
Michelle Hankinson, Examiner

A motion was made by Gary Fraker and seconded by Archie Camden to approve the amended open agenda. Motion carried with Gary Fraker, John McCulloch, and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting. Martin Vernon was absent from the vote.

A motion was made by Archie Camden and seconded by John to go in to closed session. Motion carried with Gary Fraker, John McCulloch, and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting. Martin Vernon was absent from the vote.

Closed Meeting. The Board may 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 (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

The Board reconvened in open session at 9:00 a.m. on June 2, 2011.

Don Otto gave an update on the situation in Joplin following the tornado. He briefed the Board on the process that is being used and how the DMORT team works. DMORT uses an 8 page identification processing form to identify bodies to ensure accuracy. Most people on the team have been through mass fatality training.

Tammy Meyer from the Department of Social Services-MO Healthnet Division gave a presentation on burial plan recovery which included information regarding recovering expenditures paid on behalf of the deceased and when those excess funds should be paid back to the state.

Executive Director Report

- Update on SB325-passed and there are portions that will impact 333 and 436.
- Discussion on discipline being placed on the website as a potential interpretation of a bill that passed that would impact the entire division.

Discipline Publication Committee

D. Todd Mahn requested an update from the committee appointed to research publication of Board disciplinary actions. Archie Camden reported that he and James Reinhard feel that discipline being published on the website is something that the Board needs to pursue and the staff should have flexibility to develop. A motion was made by Archie Camden and seconded by Gary Fraker to post discipline on the web. Motion carried with D. Todd Mahn, Gary Fraker, John McCulloch, and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting. Martin Vernon was absent from the vote.

Licensure Committee

D. Todd Mahn requested an update from the committee on Licensure. Martin Vernon reported that he and John McCulloch were still working on.

Preneed Financial Examination Processes

There was discussion by the Board and the public in attendance regarding this topic.

Discussion Regarding Legislative Proposals for 2012

Sandy presented an overview of the legislative proposals that we currently have in place. The Board as well as the public in attendance held discussions on each individual proposal.

333.3310

A motion was made by John McCulloch and seconded by Gary Fraker to approve proposed language for 333.310 (Attachment A). to help make a distinction between preneed that falls within Chapter 436 and Chapter 214. Motion carried with D. Todd Mahn, Gary Fraker, John McCulloch, and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting. Martin Vernon was absent from the vote.

333.325

Board advised staff to draft language touching on issues of apprenticeships to be reviewed at a later meeting. A copy of language reviewed at meeting is attached (Attachment B).

436.410

A motion was made by Martin Vernon and seconded by Archie Camden to approve language for 436.410 to shadow the same language as approved for 333.310 (Attachment C). Motion carried with D. Todd Mahn, Gary Fraker, John McCulloch, and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting. Martin Vernon was absent from the vote.

436.430

Discussion was held by the Board and public in attendance requiring 100% of preneed sales with no distribution until contract is fulfilled (Attachment D). A motion was made by John McCulloch and seconded by Martin Vernon to remove the language from the proposal requiring 100% trust and leave the language as it currently is. Gary Fraker and Archie Camden voted no and D. Todd Mahn voted no to break the tie. James Reinhard was absent for the entirety of the meeting. A motion was made by Gary Fraker and seconded by Archie Camden to pursue the language requiring 100% trust. Martin Vernon and James Reinhard voted no. D. Todd Mahn, chair, voted yes to break the tie. Motion carried. James Reinhard was absent for the entirety of the meeting.

A motion was made by Gary Fraker and seconded by Archie Camden to propose language stating the seller can take no distributions from the trust until the performance of the contract. Martin Vernon and John McCulloch voted no. Gary Fraker, Archie Camden and D. Todd Mahn voted yes. Motion carried. James Reinhard was absent for the entirety of the meeting.

436.435

The Board reviewed proposed language (Attachment E). A motion was made by Archie Camden and seconded by Gary Fraker to propose the language in the attachment. Motion carried with Gary Fraker, Martin Vernon and Archie Camden voting in favor.

John McCulloch voted in opposition. James Reinhard was absent for the entirety of the meeting.

333.061/333.315/333.320/333.325

The Board reviewed some proposed changes to the above statutes as cleanup (Attachment F). Motion was made by Gary Fraker and seconded by Archie Camden to approve the proposed changes. Motion carried with Gary Fraker, Martin Vernon, John McCulloch and Archie Camden voting in favor. James Reinhard was absent for the entirety of the meeting.

James D. "Lou" Moore- Case # 09-0430 EM- Disciplinary Hearing – 11:10 a.m.

Board vs. James D. "Lou" Moore

A disciplinary hearing for case number 09-0430 EM, Board vs. James D. "Lou" Moore was held at 11:10 a.m. at the Division of Professional Registration. The Board deliberated in closed session.

The Board recessed at 1:00 p.m. and returned at 1:25 p.m.

Duane E Harvey- Case EMB 11-003 PV-Probation Violation Hearing – 1:25 p.m.

Board vs. Duane Harvey

A probation violation for case number EMB 11-003 PV, Board vs Duane Harvey was held at 1:25 p.m. at the Division of Professional Registration. Mr. Harvey was not present for the hearing until 1:45. John McCulloch recused himself from the hearing and left the room. Kevin Lager was brought in as a witness on behalf of the Board. The Board deliberated in closed session.

Katherine Lewis-Bolch-Case EMB 11-004-PV-Probation Violation Hearing- 3:00 p.m.

Board vs. Katherine Lewis-Bolch

A probation violation for case EMB 11-004-PV, Board vs Duane Harvey was held at 3:00 p.m. The Board deliberated in closed session.

A motion was made by Martin Vernon and seconded by John McCulloch to go in to closed session. Motion carried with Gary Fraker, Todd Mahn, Martin Vernon, Archie Camden, John McCulloch. All approved no votes in opposition James Reinhard not present for the meeting.

Closed Meeting. The Board may 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 (14) 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

The Board adjourned at 4:15 on June 2, 2011.

Executive Director Sandy Sebastian

Approved by the Board on 9/27-29/2011

LANGUAGE PROPOSED BY BILL STALTER

Applicability of law.

333.310. The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator licensed pursuant to R.S.Mo. Section 214.275 who sells contracts or arrangements for funeral merchandise or services for which payments received by, or on behalf of, the purchaser are deposited either to an escrow account, or a preneed trust, governed by an agreement approved by the Office of Endowed Care Cemeteries ~~[required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo];~~ provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer. A cemetery operator claiming exemption pursuant to this section and R.S.Mo. Section 436.410 shall, concurrent with the application for renewal of licensure pursuant to R.S.Mo. Section 214.275 , file a statement of exemption with the State Board and the Office of Endowed Care Cemeteries. If requested by the State Board, the cemetery operator shall provide proof of licensure pursuant to R.S.Mo. 214.275.

Registration as a preneed agent required--application procedure--renewal of registration--expiration of registration.

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older; ~~and possesses a high school diploma or equivalent thereof;~~

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

~~(6) Upon acceptance of the completed application and fees by the board, the applicant shall have twelve consecutive months to successfully complete the requirements for registration or the application for registration shall be canceled. Applicants shall serve an apprenticeship for at least twelve consecutive months under the supervision of a Missouri licensed preneed seller. Upon successful completion of the Missouri law examination as designated by the Board, the applicant will be eligible for registration and the apprenticeship may cease. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has served under the supervision of a Missouri licensed preneed seller.~~

3. Each preneed agent shall apply to renew his or her registration on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001, RSMo. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board by rule;

(2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and

(3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of

preneed contracts as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

Applicability exceptions.

436.410. The provisions of sections 436.400 to 436.52[0]5 shall not apply to any contract or other arrangement sold by a cemetery operator **licensed pursuant to section 214.275, who sells, contracts or otherwise makes arrangements for funeral merchandise or funeral related services** for which payments received **from, or on behalf of, the purchase are deposited either to an escrow account, or a preneed trust governed by the provision of Chapter 214, provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangements sold by the operator includes services that may only be provided by a licensed funeral director or embalmer. A cemetery operator claiming exemption pursuant to this section and section 333.310, shall, concurrent with the application for renewal of licensure pursuant to section 214.275, file a statement with the board and also with the office of endowed care cemeteries. If requested by the board, the cemetery operator shall provide proof of licensure under Chapter 214 to the board.** [by or on behalf of the purchaser are required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214; provided that a cemetery operator shall comply with sections 436.400 to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.]

Trust-funded preneed contract requirements.

436.430. 1. A trust-funded guaranteed preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges except as authorized by the provisions of chapter 333, RSMo, and this chapter or other state or federal law.

[3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after five percent of the total amount of the preneed contract has been deposited into the trust. The trustee shall make this distribution to the seller within fifteen days of the receipt of the request.]

[4. In addition to the origination fee, the trustee may distribute to the seller an amount up to ten percent of the face value of the contract on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.]

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

6. The financial institution referenced herein may neither control, be controlled by, nor be under common control with the seller or preneed agent. The terms "control", "controlled by" and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities. This presumption may be rebutted by a showing to the board that control does not in fact exist.

7. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trustee maintains adequate records that individually and separately identify the payments, earnings, and distributions for each preneed contract.

8. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, other circumstances of the trust, and all other requirements of sections 436.400 to 436.520.

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the

investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

10. The seller and provider of a trust-funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as stipulated in the contract between the seller and provider **upon performance of the contract**. Income of the trust, excluding expenses allowed under this subsection, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

11. Providers shall request payment by submitting a certificate of performance to the seller certifying that the provider has rendered services under the contract or as requested. The certificate shall be signed by both the provider and the person authorized to make arrangements on behalf of the beneficiary. If there is no written contract between the seller and provider, the provider shall be entitled to the market value of all trust* assets allocable to the preneed contract. Sellers shall remit payment to the provider within sixty days of receiving the certificate of performance.

12. If a seller fails to make timely payment of an amount due a provider under sections 436.400 to 436.520, the provider shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the provider from the trust all amounts to which the seller would be entitled to receive for the preneed contract.

13. The trustee of a preneed trust, including trusts established before August 28, 2009, shall maintain adequate books and records of all transactions administered over the life of the trust and pertaining to the trust generally. The trustee shall assist the seller who established the trust or its successor in interest in the preparation of the annual report described in section 436.460. The seller shall furnish to each contract purchaser, within thirty days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract including the principal and interest paid to date.

14. A preneed trust, including trusts established before August 28, 2009, shall terminate when the trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

Compliance of contracts entered into prior to effective date--investment of trust property and assets--loans against assets prohibited.

436.435. 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification. **The trustee shall set out such determination in writing, to be included in the books and records that are made available to the Board and its agents and designees.**

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio;
- (5) The expected total return from income and the appreciation of capital;
- (6) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of ~~August 29, 2009~~ **August 28, 2009**, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

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

333.061. 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

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

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

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

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

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

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

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

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

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section [333.121] 333.330. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section [333.121] 333.330 shall be followed.

Provider license required--application procedure--renewal of licensure--expiration of license.

333.315. 1. No person shall be designated as a provider or agree to perform the obligations of a provider under a preneed contract unless, at the time of such agreement or designation, such person is licensed as a preneed provider by the board. Nothing in this section shall exempt any person from meeting the licensure requirements for a funeral establishment as provided in this chapter.

2. An applicant for a preneed provider license shall:

- (1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;
- (2) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;
- (3) Identify the name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;
- (4) Identify the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;
- (5) File with the state board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider; and
- (6) If the applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual.

3. Each preneed provider shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

- (1) File an application for renewal on a form established by the board [by rule];
- (2) Pay a renewal fee in an amount established by the board by rule, however no renewal fee shall be required for any funeral establishment whose Missouri license is current and active;
- (3) Be authorized and registered with the Missouri secretary of state to conduct business in Missouri;
- (4) File an annual report with the state board which shall contain:

- (a) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;
- (b) The business name or names used by the provider and all addresses from which it engages in the practice of its business;
- (c) The name and address of each seller with whom it has entered into a written agreement since last filing an annual report with the board authorizing the seller to designate or obligate the licensee as the provider in a preneed contract; and
- (d) Any information required by any other applicable statute or regulation enacted pursuant to state or federal law.

4. A license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

Seller license required--application procedure--renewal of licensure--expiration of license.

333.320. 1. No person shall sell, perform, or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of the sale, performance, agreement, or designation, such person is licensed by the board as a seller and authorized and registered with the Missouri secretary of state to conduct business in Missouri.

2. An applicant for a preneed seller license shall:

- (1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule;
- (2) Be an individual resident of Missouri who is eighteen years of age or older, or a business entity registered with the Missouri secretary of state to transact business in Missouri;
- (3) If the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;
- (4) Meet all requirements for licensure;
- (5) Identify the name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;
- (6) Identify the name and address of each licensed provider that has authorized the seller to designate such person as a provider under a preneed contract;

(7) Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;

(8) Identify the name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained; and

(9) File with the board a written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller.

3. Each seller shall apply to renew his or her license on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A license which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

(1) File an application for renewal on a form established by the board [by rule];

(2) Pay a renewal fee in an amount established by the board by rule; and

(3) File annually with the board a signed and notarized annual report as required by section 436.460.

4. Any license which has not been renewed as provided by this section shall expire. A licensee who fails to apply for renewal [within two years of the renewal date] may apply for reinstatement **within two years of the renewal date** by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board by rule.

Registration as a preneed agent required--application procedure--renewal of registration--expiration of registration.

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older;

- (3) Be otherwise eligible for registration under section 333.330;
- (4) Have successfully passed the Missouri law examination as designated by the board;
- (5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

3. Each preneed agent shall apply to renew his or her registration on or before October thirty-first of each year or a date established by the division of professional registration pursuant to section 324.001. A registration which has not been renewed prior to the renewal date shall expire. Applicants for renewal shall:

- (1) File an application for renewal on a form established by the board [by rule];
- (2) Pay a renewal fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license renewal; and
- (3) Provide the name and address of each seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.

4. Any funeral director acting as a preneed agent shall be required to report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit the sale of preneed contracts as part of their [biennial] renewal form. Each funeral director preneed agent shall be included on the board's registry.

5. Any registration which has not been renewed as provided by this section shall expire and the registrant shall be immediately removed from the preneed agent registry by the board. A registrant who fails to apply for renewal may apply for reinstatement within two years of the renewal date by satisfying the requirements of subsection 3 of this section and paying a delinquent fee as established by the board.

ALSO

333.315, 333.320, 333.325.....remove the October 31st deadline for renewal - especially 333.325 to allow sellers to renew prior to agents to facilitate the relationship process in PROMO