State Board of Embalmers and Funeral Directors

September 27-29, 2011
Division of Professional Registration
3605 MO Blvd
Jefferson City Missouri 65109

OPEN AGENDA

September 27, 2011 10:00 a.m.

1. Call to Order

2. Roll Call

3. (Tab 1) Review and Approval of Open Agenda

4. (Tab 2) Review and Discussion of Proposed Rules

September 28, 2011 8:30 a.m.

5. (Tab 3) Review and Approval of Open Meeting and Mail Ballot Minutes

January 22, 2010 Meeting
February 4, 2010 Meeting
February 11, 2010 Meeting
March 30-31, 2010 Meeting
September 8-9, 2010 Meeting
October 27, 2010 Meeting
November 10, 2010 Mail Ballot
December 6-8 Meeting
December 16, 2010 Meeting
January 3, 2011 Mail Ballot
January 11, 2011 Meeting
February 1, 2011 Mail Ballot
March 3, 2011 Meeting
March 29, 2011 Mail Ballot
April 12, 2011 Mail Ballot
April 15, 2011 Mail Ballot
May 3, 2011 Mail Ballot
May 18, 2011 Meeting
June 1-2, 2011 Meeting
August 12, 2011 Meeting
August 31, 2011 Examination Committee Meeting
September 2, 2011 Mail Ballot

6. Update from Committee on Licensure

7. Executive Director Report

8. Legal Counsel Report

9. Continuing education (James Reinhard)

10. Discussion regarding Funeral Director apprenticeships (John McCulloch)

11. (Tab 4) Review and Discussion of Proposed Legislation

12. Open Discussion/Dialogue

13. (Tab 5) Probation Violation Hearing 11:00 a.m.
Ed Swarnes; Case 12-003-PV
Funeral Director License number 006143

LUNCH BREAK

14. (Tab 6) Probation Violation Hearing-1:15 p.m.
Oliver Family Funeral Home, LLC; Case EMB12-002-PV
Embalmer Apprentice number- 2010033177
Funeral Director license number- 2010033996

15. (Tab 7) Probation Violation Hearing 2:30 p.m.
Mark Bailey; Case EMB 12-001-PV
Embalmer license number 005979
Funeral Director license number 004441

16. (Tab 8) Disciplinary Hearing 3:15 p.m.
Brian Winters; Case 10-1911 EM
Embalmer license number 2006003630
Funeral Director license number 2006000604

CLOSED SESSION

September 29, 2011 8:30 a.m.

CLOSED

Adjournment

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Topic for Discussion

20 CSR 2120-2.005 General Rule

- **All licenses and registrations issued to any practicum, apprentice, registrant and/or licensee shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the person is working.**
- **Each Missouri licensed apprentice, registrant and licensee shall comply with all applicable state, county or municipal zoning ordinances and regulations.**
- **The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.**
- **The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations requirements as they apply to Missouri licensees.**

20 CSR 2120-1.010 General Organization

PURPOSE: This rule describes the board's operation and the methods and procedures where the public may obtain information and make submissions or requests.

[(1) Whenever used in this division, the word board means the State Board of Embalmers and Funeral Directors.

(2)](**1**) The board is a unit of the Division of Professional Registration.

[(3)] ***(2)*** The board is authorized [by section 333.111.1, RSMo] to adopt rules necessary for the transaction of its business and for the standards of service and practice to be followed in the professions of embalming and funeral directing.

[(4)] ***(3)*** The board has at least two (2) regularly scheduled business meetings each year and such other meetings as determined by the board. The time and location for all board meetings may be obtained by contacting the board office at PO Box 423, Jefferson City, MO 65102-0423*[.]* **or consult the boards website**

[(5)] ***(4)*** The meetings of the board shall be conducted in accordance with *Robert's Rules of Order*, Newly Revised, 10th Edition, so far as it is compatible with the laws of Missouri governing this board or the board's own resolutions as to its conduct.

[(6)] ***(5)*** All board meetings will be open to the public except as provided by law.

[(7)] ***(6)*** *[Members of the public may obtain information from the board, or make submissions to the board, by writing the board at]* **The boards address is** PO Box 423, Jefferson City, MO 65102-0423 *[or consulting the board's website.]* *[or by visiting http://pr.mo.gov/embalmers.asp]* .

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[(8)] ***(7)*** Examinations. After verification and approval by the board, application, scheduling, administration and payment for any examination required for licensure from the board shall be

made to the board's testing service, *[, currently the International Conference of Funeral Service Examining Boards, Inc]***.** *[,or its designee].* The testing service shall approve applications upon the board's verification and approval.

(A) Notification of intent to take an examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination, unless otherwise stated in a specific regulation. At its discretion, the board may waive such notice requirement for examination candidates for good cause, provided that no waiver can be provided by the board that may violate the rules of the testing service. If a reexamination is required or requested, there is a mandatory thirty (30)-day waiting period between each Missouri reexamination date.

(B) All Missouri examinations may be provided in a computer-based testing format, . *[,except oral examination. Oral examinations will be held at the location designated by the board.]* *[Other]* **E***[e]*xaminations shall be held at the locations designated by the testing service. A complete listing of the *[conference's]* **boards'** examination sites *[is at http://www.cfseb.org or]* is available at the board's *[office]* **website**.

[(9)] **(8)** 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 333.111 and 333.151.1, RSMo 2000, ***436.400-436.520****, and 536.023.3, RSMo Supp. 2006.* This rule originally filed as 4 CSR 120-1.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.151, RSMo 1965, amended 1981, 1999; and 536.023, RSMo 1975, amended 1976, 1997, 2004.*

20 CSR 2120-1.020 Board Member Compensation

PURPOSE: This rule fixes the compensation for the members of the State Board of Embalmers and Funeral Directors in compliance with the mandates of section 333.221.1, RSMo.

(1) Each member of the State Board of Embalmers and Funeral Directors shall receive **up to** the sum of fifty dollars ($50) as compensation for each day that member devotes to the affairs of the board.

(2) In addition to the compensation fixed in this rule, each member is entitled to reimbursement of his/her expenses necessarily incurred in the discharge of his/her official duties.

(3) No request for compensation provided in this rule shall be processed for payment unless sufficient funds are available for that purpose within the appropriations for this board.

(4) 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 333.111 and 333.221, RSMo 2000. This rule originally filed as 4 CSR 120-1.020. Emergency rule filed Sept. 17, 1981, effective Sept. 28, 1981, expired Dec. 28, 1981. Original rule filed Sept. 17, 1981, effective Feb. 11, 1982. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.020, effective Aug. 28, 2006*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 333.221, RSMo 1965, amended 1980, 1981.*

20 CSR 2120-1.030 Election and Removal of Officers

PURPOSE: This rule sets out the term of office and outlines the duties of the officers of the board and establishes a procedure for removal of a board member from serving as an officer of the board.

(1) Prior to April 1 of each year at a regularly scheduled meeting, the board shall elect a chairman, vice-chairman and secretary to serve as its officers.

(2) Any board member duly nominated and receiving a majority vote of the members serving on the board shall be considered elected as an officer.

(3) The terms of the officers elected shall commence on April 1 and expire on March 31 of the succeeding year.

(4) The officers elected by the board shall have the following duties:
(A) Chairman—shall chair the board meetings; advise the board's staff on the handling of complaints; call special board meetings; appoint committees of the board; may order, as s/he deems necessary, investigation of any complaint; may act on matters requiring immediate and necessary attention; make board member assignments; and any other duty which from time-to-time may be delegated by consent of the board;
(B) Vice-chairman—shall serve as chairman in the absence of the chairman; review all licensees' compliance with the terms of any disciplinary order or agreement; and any other duty which may from time-to-time be delegated by consent of the board; and
(C) Secretary—shall perform any duties that may from time-to-time be delegated by consent of the board.

(5) Any officer may be removed from office at any time upon a vote of a majority of the members of the board.

(6) The board, in its discretion, may have a special election to fill any office which for any reason becomes vacant.

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(7) Each board member, whether or not an officer of the board, may participate in any vote relating to the election or removal of officers.

AUTHORITY: sections 333.111.1, RSMo Supp. 1999 and 333.181, RSMo 1994. This rule originally filed as 4 CSR 120-1.030. Original rule filed Dec. 2, 1993, effective July 30, 1994. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2120-1.030, effective Aug. 28, 2006.*

**Original authority: 333.111.1., RSMo 1965, amended 1981, 1993, 1995 and 333.181, RSMo 1965.*

20 CSR 2120-1.040 Definitions

PURPOSE: This rule defines terms used throughout the board's regulations consistent with the practice act.

(1) Apprentice embalmer—an individual who is being trained as an embalmer under the immediate direction and personal supervision of a Missouri licensed embalmer for the "practice of embalming," the work of preserving, disinfecting, and preparing by arterial embalming, or otherwise, of dead human bodies or the holding of oneself out as being engaged in such work and has met the requirements for registration pursuant to sections 333.041 and 333.042, RSMo, and 20 CSR 2120-2.010.

(2) Apprentice funeral director—an individual who is being trained as a funeral director in a Missouri licensed funeral establishment under the supervision of a Missouri licensed funeral director in the "practice of funeral directing," the business of preparing, otherwise than by embalming, for the burial, disposal, or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision, or management of the operations of a Missouri licensed funeral establishment and has met the requirements for registration pursuant to **333.042 and** 20 CSR 2120-2.060.

Comment [H1]: Need to add Clarity about apprenticeship ending.

(3) Board—Missouri State Board of Embalmers and Funeral Directors created by the provisions of Chapter 333, RSMo.

(4) Conference- The International Conference of Funeral Service Examining Boards

[(4)] **(5)** Corporation—a business entity incorporated under the laws of Missouri or any other state with authority to do business in the state of Missouri.

[(5)] **(6)** 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:*

(A) The name of the deceased to be cremated;
(B) The name of the Missouri licensed establishment where the body is cremated;
(C) The date and time the body arrived at the crematory;
(D) The date and time the cremation took place;
(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

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(G) The name of the Missouri licensed funeral establishment, or other that was in charge of making the arrangements if from a different location] .

(7) Cremains- *[Cremated remains]*—**the bone fragments which remain after the cremation process is completed.**

Comment [H2]: 7-14 have been copied from 20 CSR 2120-2.071 (1)

(8)- Cremation—the technical*[heating]* **process which reduces remains to bone fragments through heat** *[and]* **evaporation and/or chemical process including alkaline hydrolysis; a final disposition of dead human remains.**

(9)Cremation box—a container into which *[cremated remains]* **cremains are placed for transportation or short-term storage.**

(10)Cremation chamber—the total functioning mechanical unit for the actual cremation process.

(11) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.

(12) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility and includes the entire room where a cremation chamber is located and any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber.

(13) Crematory Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.

(14) Cremation Urn—the receptacle into which the *[cremated remains]* **are placed for other than transportation or short-term storage**.

[(6)] (15) Disinterment—removal of dead human remains from the ground, grave, or tomb **mausoleum, niche, columbarium, or other place where dead human remains are interred.**

[(7)] **(16)** Embalmer—an individual holding an embalmer's license issued by the *[State]* Board *[of Embalmers and Funeral Directors]*.

[(8)] **(17)** Embalmer examination—an examination consisting of the following:
(A) National Board Funeral Service Arts Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board;
(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination 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;
(C) National Board Funeral Service Science Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and
(D) Missouri Law Section.

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[(9)] **(18)** Executive director—executive secretary of the board.
(19) External Investment Advisor- any licensed, qualified investment advisor approved and authorized by the trustee of the preneed trust and who holds no personal interest in any assets of the preneed trust and has no relationship, business or personal, with any person or entity who has any relationship, business or personal, with the preneed seller.

[(10)] **(20)** Function—the purpose for which a *[physical location]* **funeral establishment** may be used **as set forth in these rules**.

[(11)] **(21)** Funeral ceremony—a religious service or other rite or memorial ceremony for a decedent.

[(12)] **(22)** Funeral director—an individual holding a funeral director license issued by the *[State]* Board *[of Embalmers and Funeral Directors].*

[(13)] **(23)** Funeral director examination—an examination consisting of the following:
[(A) Missouri Law Examination; and
(B) Missouri Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; or
(C) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board]
(A) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.
(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination 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; and
(C) Missouri Law Examination.

[(14)] **(24)** Funeral director-in-charge—an individual licensed as a funeral director by the State Board of Embalmers and Funeral Directors responsible for the general management and supervision of a Missouri licensed funeral establishment in the state of Missouri. Each Missouri licensed funeral establishment shall have a Missouri licensed funeral director designated as the funeral director-in-charge.

[(15)] **(25)** Funeral establishment—a building, place, or premises licensed by the Missouri State Board of Embalmers and Funeral Directors devoted to or used in the care and preparation for burial, cremation, or transportation of the human dead and includes every building, place, or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

[(16)] **(26)** Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:
(A) Removal;
(B) Entering into contractual agreements for the provision of funeral services;
(C) Arranging, planning, conducting, and/or supervising visitations and funeral ceremonies;
(D) Interment;
(E) Cremation;

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(F) Disinterment;
(G) Burial; and
(H) Entombment.

[(17)] **(27)** Interment—burial **of dead human remains** in the ground *[or]*, entombment*[of dead human remains]*, **mausoleum, niche or other place were dead human remains are interred**.

[(18)] **(28)** Limited license—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

[(19)] **(29)** Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for final disposition.

[20)] **(30)** Reciprocity examination—shall consist of the Missouri Law Examination.

[21)] **(31)** Register log—a written record or log *[must be]* **maintained** *[kept in the reparation/embalming room of]* **in all** Missouri licensed funeral establishment available at all times in full view for a board inspector*[, which shall include the following:*
(A) The name of the deceased;
(B) The date and time the dead human body arrived at the funeral establishment;
(C) The date and time the embalming took place, if applicable;
(D) The name and signature of the Missouri licensed embalmer, if applicable;
(E) The name and signature of the Missouri registered apprentice embalmer, if any;
(F) The Missouri licensed embalmer's license number, if applicable;
(G) The Missouri apprentice embalmer registration number, if any; and
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location].

Comment [H3]: This has been moved to 20 CSR 2120-2.070 (27)

(22) Temporary Funeral Director – license valid for six months, to the surviving spouse or next f kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

[(22)] **(23)** 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 333.011, SB 1, Ninety-fifth General Assembly 2009 and section 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, effective Jan. 30, 2010.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

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20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship

PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.
(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee. **. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within** *[ten (10)]* **fifteen (15)** days of the change.

Comment [H4]: 4 & 5 were merged with 3

[(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.]

[(6] **(4) If the practicum student needs to extend the practicum a new application and fees will be applicable**. Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.

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[(7)] **(5)** After graduating from an accredited institution of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing *[s/he]* **he/she** is a graduate of that school. [*In addition, the applicant shall ensure that his/her official copy of the national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.]* **An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination 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.**

[(8)] **(6)** 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 *[n]***N**ational *[b]***B**oard 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 the jurisdiction of the board *[and]* **if** the **current** license *[is]* **remains** in active status **or the applicant was a registered embalmer apprentice or a registered funeral director apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months**. 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.

[(9)] **7)** The embalm*[ing]***er** examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

[(10) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination 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.

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(11)] **(8)** Those applicants achieving seventy-five percent (75%) **or greater** on each of the *[three (3)]* sections of the embalm*[ing]***er** examination will be deemed to have passed the board's embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant shall score at least seventy-five percent (75%) to pass.
[(12)] **(9)** After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the *[ing]***er** examination, *[*s/he*]* **he/she** then may apply for registration as an apprentice embalmer. *[In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination 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. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp]*.

[(13)] **(10)** Each apprentice embalmer shall provide to the board, on the application provided by the board, **the name(s) of the Missouri licensed embalmer(s) under whom** *[s/he]* **he/she will serve,** the name(s), location(s), and license number(s) of the licensed funeral establishment(s) where *[s/he]* **he/she** is serving as an apprentice. **Each supervisor must be licensed and registered with and approved by the board.** If the apprentice embalmer begins work at any other licensed funeral establishment **or has a change in supervisors** during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within *[ten (10)]* **fifteen (15)**business days after the change has been made. **Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website.**

[(14)] **(11)** The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer **and embalm twenty-five (25) dead human bodies**. *[During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working].*

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[(15) Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.]
[(16)] **(12)** An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, **devoted at least thirty (30) hours per week to his/her duties as an apprentice embalmer and has served at least twelve (12) consecutive months**, shall be submitted to the board at the time of completion of the apprenticeship period .*[and prior to the oral examination.]*
[(17)] **(13)** After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall *[appear for the oral examination. To appear for the oral examination, the embalmer applicant shall]*:
[(A)] Submit an application **for licensure as an embalmer** on a form supplied by the board and pay the applicable fees to the board*[; and*
(B) Successfully pass the oral examination administered by the board for licensure.

Comment [H5]: Add something that says apprenticeship is over and can't work as an apprentice.

(18) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.]
[19)] **(14)** After satisfactory completion of these requirements, an embalmer's license shall be issued to an *[apprentice]* embalmer **applicant** upon payment of the applicable fee and subject to the provisions of section 333. .*[121]***330**, RSMo.
[(20)] **(15)** An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board *[and the applicant shall be requiredto appear for the oral examination]* within five (5) years of the new date of application. No previous practicum, apprenticeship *[,]* **or** application*[,or Missouri Law section]* will be considered for a new application. However, the successful examination results of the National **or Missouri** *[Board]*Funeral Service Arts section, *[and]* the National Board Funeral Service Science section, **and the Missouri Law Section (if applicable) developed and furnished by the International Conference of Funeral Service Examining Boards, Inc.,** or designee of the board will be accepted.

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[(21)] **(16)** A Missouri licensed embalmer may engage in the practice of embalming *[in the state of Missouri]* only in **a** Missouri licensed funeral establishment*[s]*. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

[(22)] **(17)** A Missouri licensed embalmer 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.

[(23)] **(18)** Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

[(24)] **(19)** Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, **(if applicable) ,** and shall be required to complete a six (6) consecutive month period of apprenticeship during which time *[s/he]* **he/she** shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer's license under this section. No previous apprenticeship, application*[,]* or examination**(if applicable)**will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section ,[and] the National Board Funeral Science section, **and the Missouri Law Section (if applicable) developed and furnished by the International Conference of Funeral Service Examining Boards, Inc.,** or designee of the board will be accepted.

Comment [H6]: Need to reformat

[(25) After successful completion of the applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.

(26) 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 or place of business where they work, for inspection by any duly authorized agent of the board.

(27)] **(20)** 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, 333.081, [and 333.121, RSMo Supp. 2008, section] 333.091, *[SB 1, Ninety-fifth General Assembly 2009, and section 333.111,]* **and 43.543**, RSMo*[2000]* **Supp2009**..* *This rule originally filed as 4 CSR 120-2.010.* Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 26, 1976. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Amended: Filed April 6, 1978, effective July 13, 1978. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982.

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Rescinded and readopted: Filed Dec. 3, 1982, effective March 11, 1983. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 13, 1991, effective Jan. 13, 1992. Amended: Filed Oct. 16, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Aug. 30, 1995, effective Feb. 25, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. *Moved to 20 CSR 2120-2.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*

**Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.081, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981, 2009; and 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981, 2007.*

20 CSR 2120-2.020 Biennial License Renewal

PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmer's, funeral director's and funeral establishment's licenses.

(1) Each Missouri licensed embalmer or Missouri licensed funeral director shall notify the board within *[thirty (30)]* **fifteen (15)**days of each address change of the Missouri licensed funeral establishment at which *[s/he]* **he/she** is practicing and shall notify the board within *[thirty (30)]* **fifteen (15)** days of any termination or creation of an employment relationship with a Missouri licensed funeral establishment. Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.

(2) A nonrenewable license, not valid for active practice in Missouri, will be issued at no charge to a currently licensed embalmer, funeral director, or both, upon presentation of a signed notarized statement from the licensee attesting to the fact that the licensee is disabled and is no longer active in the practice of embalming, funeral directing, or both. If the licensee desires at some future date to return to active practice in Missouri, the board shall issue a valid renewal license upon payment of the current renewal fee and completion of the applicable renewal application form.

(3) The holders of expired Missouri embalmer's and funeral director's licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license shall be issued a new license by the board within two (2) years of the renewal date after the proper *[reactivation]* **delinquent** fees have been paid. Any Missouri embalmer's license and Missouri funeral director's license not renewed within two (2) years shall be void.

(4) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.

(5) The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for Missouri licensed funeral establishments shall be designated as January 1.

(6) 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 333.081, RSMo Supp. [2003] **2009** and 333.111.1, RSMo 2000.* This rule originally filed as 4 CSR 120-2.020. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 25, 1986. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.020, effective Aug. 28, 2006.*

**Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.022 Retired License

PURPOSE: This rule clarifies the requirements to retire from the practice of funeral directing and/or embalming.

(1) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that s/he will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1, RSMo.

(2) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wall-hanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

(3) 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 333.081, RSMo Supp. 2003 and 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.022. Original rule filed July 15, 1996, effective Jan. 30, 1997. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.022, effective Aug. 28, 2006.*

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Topic for Discussion

**Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111.1, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics

Comment [H7]: Talk with Ivra

PURPOSE: This rule outlines the procedure for registering renewal licenses with local registrars.

[(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer's or funeral director's license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.
(4)] **(1)** Each licensed embalmer who embalms a dead human body shall state on the death certificate that *[s/he]* **he/she** embalmed the dead human body described on the death certificate. Each statement **shall be attested to its accuracy either by signature or an electronic process approved by the board.** *[must be signed by the licensed embalmer.]*. If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.
5)] **(2)** Each **authentication** *[signature]* of a licensed embalmer on a death certificate must correspond with the *[same]* licensee's **authentication as approved and licensed by the board.** *[signature as registered with the local registrar of vital statistics.]*

[(6)[**(3)** 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 194.119, RSMo Supp.[2003] **2009,** *[and]* 333.091**, SB1, Ninety-fifth General Assemble 2009**, and 333.111, RSMo 2000.* *This rule originally filed as 4 CSR 120-2.030.* Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 24, 1986. Amended: Filed Aug. 4, 1986, effective Oct. 11, 1986. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. *Moved to 20 CSR 2120-2.030, effective Aug. 28, 2006.*

**Original authority: 194.119, RSMo 2003; 333.091, RSMo 1965, amended 1981; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

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20 CSR 2120-2.040 Licensure by Reciprocity

PURPOSE: This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.
(1) Applications for a Missouri embalmer's or funeral director's license by reciprocity shall be made on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website *[at http://pr.mo.gov/embalmers.asp].* **Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state**.

(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:
(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked, and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;
(B) Proof of his/her educational and professional qualifications, which shall be substantially equivalent to the requirements existing in Missouri at the time s/he was originally licensed;
(C) A certificate of state endorsement from the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;
(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination and the National Board Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or
(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and
(F) The reciprocity applicant will be required to successfully complete the *[reciprocity]* **Missouri Law Exam** 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 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 **or the applicant successfully completed the reciprocity examination within the last twenty-four (24) months**;
(G) A completed application for licensure for reciprocity provided by the board; and
(H) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

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(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:

(A) An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked, and unexpired funeral director or embalmer license in the other state or territory;

(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;

(C) Proof of his/her educational and professional qualifications;

(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 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 **or the applicant successfully completed the reciprocity examination within the last twenty-four months;**

(E) A completed application for licensure for reciprocity provided by the board; and

(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

[(4) Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.]

[(5)] **(4)** Applications for reciprocity licensure shall be completed and received by the board at least *[thirty (30)]* **fifteen 15** days prior to the date the candidate plans to sit for the examination and shall be accompanied by the applicable fee. Applications are deemed complete upon subcommission of any and all requisite forms required by the board, payment of requisite fees, and submission of all materials required by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board's website *[at http://pr.mo.gov/embalmers.asp]*.

*[(6)]***(5)** The board shall determine the sufficiency of the materials provided in the application for reciprocity and shall have the authority to make the final determination as to the standards and qualifications of the various states from which the applicants may be accepted by reciprocity and may reject any applicant on any lawfully permitted grounds.

[(7) 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 the office(s) or place(s) of business, for inspection by any duly authorized agent of the board.

(8)] **(6)** 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 333.051 and 333.111, RSMo 2000 and section**s** 333.091, 091**and 43.543**, *[SB 1, Ninety-fifth General Assembly]* **RSMo Supp** 2009.* *This rule originally filed as 4 CSR 120-2.040.* Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Sept. 5, 1990, effective

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March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. *Moved to 20 CSR 2120-2.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*

**Original authority: 333.051, RSMo 1965, amended 1981, 1998; 333.091, RSMo 1965, amended 1981, 2009; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.050 Miscellaneous Rules

PURPOSE: This rule incorporates miscellaneous rules pertaining to embalmer's and funeral director's licenses.

(1) All licensees may be represented before the board by an attorney. If the licensee desires to be represented by an attorney, the attorney shall be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.

(2) 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.

(3) All documents filed with the board shall become a part of its permanent files.

AUTHORITY: section 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.050. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.050, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.060 Funeral Directing

Comment [H8]: Re work the flow

PURPOSE: This rule outlines the provisions for the practice of funeral directing.

(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following to the board:
(A) Proof of being at least eighteen (18) years of age;
(B) Proof of possession of a high school diploma or equivalent;
(C) Evidence of being a person of good moral character;
(D) Proof of satisfactory completion of each section of the funeral director's examination;

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(E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating he/she is a graduate of an institute of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional, or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;
(F) Completed application form provided by the board;
(G) Proof of successful completion of the National Board Funeral Service Arts examination or the Missouri Funeral Service Arts examination, if applicable;
(H) Payment of all applicable fees;
(I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol; and
(J) Any other information the board may require.
(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. If the applicant has successfully completed the National Board Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required. Application forms can be obtained from the board office or the board's website *[at http://pr.mo.gov/embalmers.asp]*.

(3) Effective July 30, 2004, the funeral director examination developed by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, shall consist of the Missouri Law section and the Missouri Funeral Service Arts section. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Board Funeral Service Arts examination results will be accepted.

(4) To serve as an apprentice funeral director, the applicant shall file with the board a completed funeral director application on the form prescribed by the board **and pay applicable *fees*** *[and also shall complete an application to be registered as an apprentice funeral director on the form prescribed by the board and pay all applicable fees.]*. Application forms and a list of fees can be obtained from the board office or on the board's website [*at http://pr.mo.gov/embalmers.asp]*.

Comment [H9]: Breakdown what the apprenticeship entails

(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, e]* **E**ffective 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. **If the applicant fails to complete the apprenticeship; the applicant is not eligible to re-apply as a funeral director apprentice for two (2) years from the end date of the second apprenticeship.**

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(6) **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~~]* **s/he he/she is serving as an apprentice**. Upon **completed application, registration** *[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.]*

(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.

(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.

(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.
(C) Devoted at least a minimum of 15 hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director.

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

(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. **A mandatory thirty (30) day waiting period is required between all examinations.**

(12) All notifications for the funeral director's examination shall be in writing and received by the board at least *[forty-five (45)]* **fifteen (15)** days prior to the date the candidate plans to sit for the examination.

(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.

(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 the jurisdiction of the board if the current license remains in active status status **or the applicant was a registered funeral director apprentice or an embalmer apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months.**

(15) Any funeral director **or funeral establishment** 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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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]* **licensee** 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.

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(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 within twelve (12) months of the date that the board receives the new application]* **examination for another Missouri license within the jurisdiction of the board if the examination for another Missouri license within the jurisdiction of the board if the current license remains in active status or the applicant was a registered funeral director apprentice or an embalmer apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months.**

[(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.]

Comment [H10]: This was moved to The General Section

[(26)] **(25)** 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.

[(27)] **(26)** 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.

[(28)] **(27)** 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.

[(29)] **(28)** 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.

[(30)] **(29)** 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. 2008, section]

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333.091 and 43.543,[SB 1, Ninety-fifth General Assembly] ***RSMO Supp*** *2009, and section 333.111, RSMo 2000.* This rule originally filed as 4 CSR 120-2.060. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 2, 1983, effective April 12, 1984. Amended: Filed July 29, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Rescinded and readopted: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Amended: Filed Sept. 15, 2004, effective April 30, 2005. Moved to 20 CSR 2120-2.060, effective Aug. 28, 2006. Amended: Filed Feb. 16, 2006, effective Sept. 30, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*

**Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.042, RSMo 1993, amended 1998, 2001; 333.091, RSMo 1965, amended 1981, 2009; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.121, RSMo 1965, amended 1981, 2007.*

20 CSR 2120-2.070 Funeral Establishments

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.
(1) Application for a Missouri licensed funeral establishment license shall be made on the forms provided by the board and shall be accompanied by the appropriate fee. Applications are available from the board's office or the board's website *[at http://pr.mo.gov/embalmers.asp]*. Each application shall indicate which license classification is being sought.

(2) There shall be the following license classifications:
(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise. **Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090. Each Function A funeral establishment licensed for embalming shall maintain on the premises *[in the preparation room]* a register log.**

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(B) Function B establishments shall have authority to cremate **through the use of any mechanical or chemical means, including alkaline hydrolysis,** dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber **and/or functioning facilities for alkaline hydrolysis or other chemical process for final disposition of a dead human body,** except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains. **Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071. This function shall maintain on the premises in the cremation area a cremation log.**

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. **This function shall contain a separate area for the care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment.**

This function shall maintain on the Missouri premises the following documents:
(A) General price list;
(B) Preneed contracts which have been cancelled or fulfilled;
(C) ~~*[Purchase agreements]*~~ Written Statements of Goods and Services;
(D) Authorizations to embalm or cremate.
(E) Register Log;
~~***[(F) Preneeds Contracts]***~~

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment. **This function shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment. Each Function D funeral establishment shall maintain on the premises a register log.**

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(E) Function E establishment shall have authority to make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall not have the authority for the care and preparation of dead human bodies. This function shall a separate area for confidential conferences to arrange funeral services. The Function E establishment shall have on site tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain a restroom, available drinking water. The establishment is to be used only for arranging funerals and visitations to be conducted at another facility, no services shall be held at this establishment. Each Function E funeral establishment shall maintain on the premises a register log.

(3) If a Missouri licensed funeral establishment wishes to *[change or]* add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions, *[,other than a Function C,]*, it shall notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.
[(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.]
(4)A Missouri licensed funeral establishment shall not be used for any business purpose other than as a Missouri licensed funeral establishment, except as otherwise permitted by statue or rule.
A. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance, a separate street address, and no areas of the funeral home are shared with the other businesses.
B. It shall be permissible to engage in the business of being a preneed seller, preneed provider, preneed agent and/or the sale of life insurance at a Missouri licensed funeral establishment so long as all persons involved in such business hold the necessary licenses to engage in such business lawfully.

(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

(6) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.
(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes *[for a period of more than thirty (30)days],* the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within *[thirty (30)]* **fifteen (15)** days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed

funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

(8) Within thirty (30) days after an application for a Missouri licensed funeral establishment has been received in the board's office, the board shall cause the establishment to be inspected. The board shall act on the application and, within thirty (30) days after the application was received in the board's office, the applicant will be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension shall be received by the board prior to the expiration of the application or extension period.

Comment [H11]: Sandy adding to legislative proposal to remove 30 extension

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application *[within thirty (30) days]* **prior to** *[after]* the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

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(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or *[duly authorized]* agent of the board for the purpose of inspection **, investigation, examination or audit as authorized in Chapters 333 and 436** *[as provided by sections 333.061 and 333.101*], RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.
(12) Only one (1) **Missouri funeral establishment** license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule. **A letter must be received by the board from the establishment indicating the address of the facility they wish to operate from, a letter will be issued by the board upon approval, until that time the establishment shall not operate from the proposed location. A letter from the owner of the proposed site must also be sent to the board office.**

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.
(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333 .*[121]***330**, RSMo.
(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be **maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public and** kept free and clean of litter, dirt, debris, and clutter *[or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public]*.

[(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.]

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[(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090.]

[(17)] **(15)** No person shall be permitted in a preparation room during the course of embalming a dead human body except the employees of the Missouri licensed funeral establishment in that the human body is being embalmed, members of the family of the deceased, and persons authorized by the members of the family of the deceased, or any person otherwise authorized by law.

Comment [H12]: This was moved to 2A

[(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071.

(19) Each Function C establishment shall contain a separate area for the care and custody of dead human remains and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records.

(20) Each Function C or Function D establishment shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment.

Comment [H13]: Moved to .070 2 (C)

(21)] **(16)** According to section 333*.[121.2(17)]***330,** RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

Comment [H14]: Topic for discussion- Do we need Clarification on what can happen after the 24 hours?

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;

(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;

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(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (21)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

(22)] **(17)** Each Missouri licensed funeral establishment shall maintain documentation of the following information regarding authorization to embalm a body which is embalmed by or on behalf of the Missouri licensed funeral establishment—

(A) When authorization to embalm is given in writing:

1. The name of the deceased

[1] **(2)**. The name and signature of the person who is authorizing embalming;

[2] **(3)**.. The relationship of that person to the deceased;

[3] **(4)**. The time and date authorization to embalm was given; and

[4] **(5)**. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment; and

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;
2. The relationship of that person to the deceased;
3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;
4. The time and date authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

[(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:

(A) General price list;

(B) Preneed contracts which have been cancelled or fulfilled;

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.]

Comment [H15]: This was moved to -2.070. 2 (c)

(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log.

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[(25) Each Function B funeral establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 20 CSR 2120-2.071(1)(D), and maintain on the premises in the cremation area a cremation log. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations; Missouri Department of Natural Resources, statutes, rules and regulations; and all other applicable federal, city, county, and municipal statutes, rules and regulations.

(A) If a Function B establishment has only one (1) cremation chamber, and that chamber is not functioning, notification from the establishment shall be made to the board within ten (10) business days after the cremation chamber stops functioning.

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the third party making the arrangements on the cremation authorization form.

1. Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the entire room where the retort is located and any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber. This paragraph (25)(B)1. shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.

2. Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (25)(B)2. shall not apply if only the owners of the stock of a corporation changes.

3. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains.]

Comment [H16]: This has been deleted as it was a duplicate of what is in -2.071

[26)] **(19)]** All documents required by this rule to be maintained, shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

[27)] **(20)]** Each funeral establishment shall maintain a register log *[as defined by 20 CSR2120-1.040(21).] [The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room,] [**T**][t]he log shall be kept]* on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall *[contain the information required by 20 CSR 2120-1.040(21)].* **, include the following:**

(A) The name of the deceased;

(B) The date and time the dead human body arrived at the funeral establishment;

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(C) The date and time the embalming took place, if applicable;
(D) The name and signature of the Missouri licensed embalmer, if applicable;
(E) The name and signature of the Missouri registered apprentice embalmer, if any;
(F) The Missouri licensed embalmer's license number, if applicable;
(G) The Missouri apprentice embalmer registration number, if any; and
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

Comment [H17]: This was moved from 20 CSR 2120-1 .040 (21)

[28)] **(21)]** No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo. ***[(A)]*** **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.**

[29)] **(22)]** A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

[30)] **(23)** Whenever a dead human body is donated to a medical or educational institution for medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

[31)] **(24)]** 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.

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AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2008 and sections 333.091, 333.111, and 333.145, RSMo 2000. This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

**Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981, 2007; and 333.145, RSMo 1981.*

20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

(1) Definitions.
(A) **Cremains**- ~~*[Cremated remains]*~~ —the bone fragments which remain after the cremation process is completed.
(B) Cremation—the technical ~~*[heating]*~~ process which reduces remains to bone fragments through heat ~~*[and]*~~ evaporation **and/or chemical process including alkaline hydrolysis**; a final disposition of dead human remains.
(C) Cremation box—a container into which ~~*[cremated remains]*~~ **cremains** are placed for transportation or short-term storage.
(D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.
(E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.
(F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.
(G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.
(H) Short-term storage—storage for a period of thirty (30) days or fewer.
(I) Urn—the receptacle into which the ~~*[cremated remains]*~~ **cremains** are placed for other than transportation or short-term storage.

Comment [H18]: This was previously approved by the board to delete from this section and move to -1.040 Definitions, however legal feels that it should be in both areas.

(2) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

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(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:

(A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and

(B) Information regarding the cremation which shall include:

1. The full name of the deceased;
2. The last place of residence of the deceased;
3. The place of death of the deceased;
4. The place of birth of the deceased;
5. The date and place of the funeral;
6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
8. The date and time when cremation was begun;
9. The name and address of the person to whom the *[cremated remains]* **cremains** were released or the location where the *[cremated remains]* **cremains** were placed; and
10. If the *[cremated remains]* **cremains** were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the *[cremated remains]* **cremains** were shipped along with the receipt number.
11. If cremation is to be performed by chemical disposition, the written authorization shall also include:
a. Specific consent for cremation by chemical process with an explanation of the process to be utilized; and
b. Disclosures on the disposition of personal property including , but not limited to , jewelry, medical devices and any other items that might remain after the chemical disposition process is complete.

(4) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

(A) The name of the deceased to be cremated;

(B) The name of the Missouri licensed establishment where the body is cremated;

(C) The date and time the body arrived at the crematory;

(D) The date and time the cremation took place;

(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

(G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location.**; and**
(H) The type of cremation performed

Comment [H19]: This was previously approved by the board to delete from this section and move to - 1.040 Definitions, however legal feels that it should be in both areas.

(5) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

(6) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(7) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.
(8) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand **the** high temperatures and**/or chemicals used in the cremation and to protect the surrounding structure.** *[*protect the surrounding structure*]*. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers **and processes** shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, **state,** city, county, and municipal statutes, rules and regulations. **All persons operating a cremation chamber shall have received sufficient training so as to operate the cremation chamber in accordance with all laws and to protect the health, safety and welfare of employees and members of the public.**
(A) If a Function B has only one (1) cremation chamber and that chamber is not functioning, written notification shall be made to the board within ten (10) business days after the cremation chamber stops functioning.
(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form **and the type of cremation performed is as authorized in the written authorization to cremate.**
1. Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the entire room where the retort is located and

any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber. This paragraph *[(25)(B)1].* **shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.**

2. Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (25)(B)2. shall not apply if only the owners of the stock of a corporation changes.

3. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains

(9) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.

(10) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

(11) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.

(12) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease. **Each cremation box or urn into which the***[cremated remains]* **cremains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made, in accordance to 193.175.**

(13) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(14) No body shall be cremated**, except for cremation by chemical disposition,** with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(15) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

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[(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.]

(17) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(18) Following the completion of the cremation process, all residual of the cremation process including the *[cremated remains]* **cremains** and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(19) If the *[cremated remains]* **cremains** do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(20) If the *[cremated remains]* **cremains** will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(21) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of *[cremated remains]* **cremains** or the entry of foreign objects.

(22) If the *[cremated remains]* **cremains** are to be shipped, the cremation box shall be packed securely in a **sturdy shipping container such as a plastic or** corrugated cardboard box which is securely *[closed]* **sealed** with **adhesive seal** [*tape]* acceptable to the shipper.

(23) *[cremated remains]* **cremains** shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

(24) Each urn into which *[cremated remains]* **cremains** are placed shall be made of a durable material which shall enclose the cremated remains entirely.

(25) Each Missouri licensed funeral establishment which comes into possession of *[cremated remains]* **cremains**, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the *[cremated remains]* **cremains** until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of *[cremated remains]* **cremains** in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the *[cremated remains]* **cremains** according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation. **Any Missouri licensed funeral establishment that comes into possession of unclaimed cremated remains may also dispose of these remains pursuant to Section 194.350, RSMo.**

(26) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

(27) 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: section[s] 333.061 [and 333.121], RSMo Supp. [2008] **2009, section 333.330, SB 1, Ninety-fifth General Assembly 2009,** and sections 333.111 and 333.145, RSMo 2000.* *This rule originally filed as 4 CSR 120-2.071.* Original rule filed May 29, 1987, effective Sept. 11, 1987. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Dec. 31, 2003, effective July 30, 2004. *Moved to 20 CSR 2120-2.071, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

**Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965 amended 1981, 2007; and 333.145, RSMo 1981.*

20 CSR 2120-2.080 Written Statement of Charges

PURPOSE: This rule establishes a minimum disclosure requirement to provide better safeguards to Missouri citizens purchasing funeral services and merchandise and in particular, purchases of caskets and outer burial containers by requiring specific identifying information to be included on the written statement of charges.

(1) Every Missouri licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral merchandise, shall give or cause to be given to the person(s) making such arrangements a written statement of charges for the funeral merchandise and funeral services selected.

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise. At a minimum, the written statement of charges shall contain the following:
(A) The **license number** name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;
(B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;
(C) The name, address and signature of the person making the at-need arrangements;
(D) The date of the signatures;
(E) The name of the deceased;
(F) The date of death;
(G) The price of the service(s) selected and the price of the supplemental (additional) items;
(H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
(I) The amount and description of all cash advance items; and
(J) The method of payment.
(3) A preneed **contract** shall not be substituted for the written statement of charges *[required*

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by the this rule.]

(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

(5) 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 333.111 and 333.145, RSMo 2000. This rule originally filed as 4 CSR 120-2.080. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Nov. 10, 1976, effective March 11, 1977. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1978. Rescinded: Filed Jan. 13, 1982, effective April 11, 1982. Readopted: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed May 3, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2120-2.080, effective Aug. 28, 2006.*

**Original authority: 331.111, RSMo 1965 amended 1981, 1993, 1995 and 333.145, RSMo 1981.*

20 CSR 2120-2.090 Preparation Rooms/Embalming Room

PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.

(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.
(3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. *[Floor drains shall be provided where the floor is to be subjected to cleaning by flooding.]*. All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.
(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to **containment backflow prevention devices,** plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.

(5) Sewage and Liquid Waste Disposal.
(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services **and Department of Natural Resources and any local laws.**.
(B) The following aspirators are approved for preparation rooms:
1. Electric aspirators;
2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society

of Sanitary Engineering **(ASSE)** or by the *Uniform Plumbing Code [and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table];[and*

3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.

Comment [H20]: Topic for discussion

(6) Solid Waste Disposal.
[(A)] **All waste materials** *[R]* refuse, bandages, cotton and other solid waste materials shall be kept in leakproof, nonabsorbent containers which shall be covered with tight-fitting lids *[prior to disposal.]*.

[(B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.]

(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.

(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments shall be maintained. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

(10) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction shall provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.

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(11) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility for Missouri licensed embalmers and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

(12) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(13) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

(14) 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 333.111.1, RSMo 2000 and 192.020 and 333.061, RSMo Supp. 2006. This rule originally filed as 4 CSR 120-2.090. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 13, 1984, effective Jan. 13, 1985. Amended: Filed June 2, 1986, effective Sept. 1, 1986. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed May 26, 1993, effective Nov. 8, 1993. Amended: Filed May 16, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.090, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

**Original authority: 192.020, RSMo 1939, amended 1945, 1951, 2004; 333.061, RSMo 1965, amended 1981, 2001; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

20 CSR 2120-2.100 Fees

PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 333, RSMo.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(A) Embalmer Practicum Student Registration Fee	$ 25	
(B) Embalmer *[Application Fee]* ***Apprentice Registration Fee***	$200	
(C) Embalmer License Fee	**$125**	
[(C) Embalmer Oral Examination Fee	*$125]*	
(D) Embalmer Reciprocity Application Fee	$300	
(E) Embalmer Biennial Renewal Fee	$200	
(F) Funeral Director *[Application]* **Apprentice Registration** Fee	$200	
(G) Funeral Director License Fee	**$100**	
[(G)] **(H)** Funeral Director Limited License Application Fee	$200	
[(H)] **(I)** Funeral Director Reciprocity Application Fee		$300
[(I)] **(J)** Funeral Director Biennial Renewal Fee		$200
[(J)] **(K)** Reactivation Fee (up to one (1) year after lapse)		$100

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[(K)] **(L)** Reactivation Fee (up to two (2) years after lapse)	$200
[(L)] **(M)** Establishment Application Fee	$300
[(M)] **(N)** Amended Establishment Application Fee	$ 25
[(N)] **(O)** Establishment Biennial Renewal Fee	$250
[(O)] **(P)** Reciprocity Certification Fee	$ 10
[(P)] **(Q)** Duplicate Wallhanging Fee	$ 10
[(Q)] **(R)** Collection Fee for Bad Checks	$ 25
[(R)] **(S)** Law Book Requests	$ 5*[*]*
[(S) Examination Review Fee	*$ 25]*
(T) Background Check Fee (amount determined by the Missouri State Highway Patrol)	
(U) Provider License Application Fee (if no Funeral Establishment license)	$200
(V) Provider License Application Fee (if also Funeral Establishment license)	$100
(W) Provider Annual Renewal Fee	$ 0
(X) Provider Delinquent Renewal Fee	$100
(Y) Seller License Application Fee	*[$200]* **$75**
(Z) Seller Annual Renewal Fee	$200
(AA) Seller Delinquent Renewal Fee	$200
(BB) Preneed Agent Registration Fee	$ 50
(CC) Preneed Agent Annual Registration Renewal Fee	$ 50
(DD) Preneed Agent Delinquent Renewal Fee	$ 50
[(EE) Preneed Seller Agent Law Examination Fee	*$ **]*
(FF) Seller per Contract Annual Reporting Fee *[(for contracts executed on or after August28, 2009)]*	$ 36
(HH) Amended Provider Application Fee	$ 25
(II) Amended Seller Application Fee	$ 25

*[*This fee will not apply to the initial copy of the law book which is automatically mailed to all applicants for licensure and to educational institutions of mortuary science. Furthermore, this fee will not be charged to licensees or any other individual, for additions or corrections to the law book after the initial copy is mailed.]*

**This fee is not yet determined by the board.

(2) All fees are nonrefundable.

(3) The provisions of this rule are severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force, unless otherwise determined by a court of competent jurisdiction.

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AUTHORITY: section 333.111.1, RSMo 2000 and section 333.340, RSMo Supp. 2010. This rule originally filed as 4 CSR 120-2.100. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. Emergency amendment filed April 7, 1982, effective April 17, 1982, expired Aug. 14, 1982. Amended: Filed April 13, 1982, effective July 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Aug. 9, 1982, effective Nov. 11, 1982. Amended: Filed Jan. 13, 1984, effective April 12, 1984. Amended: Filed Aug. 9, 1984, effective Jan. 13, 1985. Amended: Filed Feb. 7, 1985, effective May 11, 1985. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Amended: Filed Oct. 3, 1986, effective Jan. 12, 1987. Amended: Filed Dec. 2, 1986, effective March 12, 1987. Amended: Filed March 2, 1987, effective May 25, 1987. Amended: Filed March 16, 1988, effective July 28, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Dec. 2, 1988, effective March 11, 1989. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed March 12, 1991, effective Aug. 30, 1991. Amended: Filed Oct. 16, 1991, effective May 14, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed June 9, 1995, effective Dec. 30, 1995. Rescinded and readopted: Filed April 16, 1996, effective Nov. 30, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed Dec. 30, 1999, effective June 30, 2000. Amended: Filed Aug. 18, 2000, effective Feb. 28, 2001. Amended: Filed April 6, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.100, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Emergency amendment filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Amended: Filed Sept. 24, 2009, effective April 30, 2010. Emergency amendment filed July 26, 2010, effective Aug. 5, 2010, expired Feb. 24, 2011. Amended: Filed July 26, 2010, effective Jan. 30, 2011.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995 and 333.340, RSMo 2009.*

[20 CSR 2120-2.105 Preneed Fees
(Rescinded January 30, 2011)

AUTHORITY: sections 333.111(2), RSMo Supp. 1993 and 436.071, RSMo 1986. This rule originally filed as 4 CSR 120-2.105. Emergency rule filed Aug. 5, 1982, effective Aug. 15, 1982, expired Nov. 15, 1982. Original rule filed Aug. 5, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Moved to 20 CSR 2120-2.105, effective Aug. 28, 2006. Rescinded: Filed July 26, 2010, effective Jan. 30, 2011.]

20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of public complaints by the board, pursuant to the mandate of section 4.16(6) of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo.

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(1) The State Board of Embalmers and Funeral Directors shall receive and process each complaint made against any licensee, permit holder, registrant of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 333, RSMo. Any member of the public or the profession, or any federal, state or local officials may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and processed in the same manner as those originating within Missouri. No member of the State Board of Embalmers and Funeral Directors shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Executive Director, State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaint may be made based upon personal knowledge, or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints shall be made on forms provided by the board and available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making these communications will be provided with a complaint form and requested to complete it and return it to the board in written form. Any member of the administrative staff of the board or any member of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone or written communications received by the board, unless those communications are believed by that staff member to be false.

(4) Each complaint received under this rule shall be logged in a book and/or database maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook and/or database shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook and/or database shall be a closed record of the board.

(5) Each complaint received under this rule shall be acknowledged in writing. The acknowledgment shall state that the complaint is being referred to the board for consideration at its next regularly scheduled meeting. The complainant shall be informed as to whether the complaint is being investigated, and later, as to whether the complaint has been dismissed by the board, or is being referred to legal counsel for filing with the Administrative Hearing Commission. The complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and shall be provided with copies of the decisions (if any) of the Administrative Hearing Commission and the board at that time. Provided, that the provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the board.

(6) The chairman of the board, from time-to-time and as s/he deems necessary, may instruct the board inspector/investigator to investigate any complaint before the complaint has been considered at a regularly scheduled board meeting. The inspec-tor/investigator shall provide a report of any actions taken to the board at its next regularly scheduled meeting.

(7) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and shall not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint, or his/her legal counsel, upon written request to the board.

(8) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not the complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board, and whether or not any public complaint has been filed with the board.

(9) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect, or inure to the benefit of, those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of the provisions of Chapter 333, RSMo.

AUTHORITY: sections 333.111, RSMo 2000 and 620.010.15(6), RSMo Supp. 2003. This rule originally filed as 4 CSR 120-2.110. Original rule filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.110, effective Aug. 28, 2006.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 620.010, 1973 amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.*

20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of complaints filed against members of the board.

(1) Complaints against members of the board will be handled in the same manner as complaints against other licensees with minor variations specifically described in this rule.

(2) When a complaint against a board member is received by the staff, the staff shall take steps to make sure that the complaint is on the proper form(s) (that is, the Uniform Complaint Form). Once the complaint is received in the proper form, the complaint will be mailed to all members of the board except the member who is the subject of the complaint. The member who is the subject of the complaint will automatically receive a summary of the complaint and will receive all agendas or other notices pertaining to when and where the complaint will be discussed. If the member who is the subject of the complaint requests additional information in writing, that information will be provided by the staff in consultation with the chairman (or vice-chairman, if the chairman is the subject of the complaint). In no event will the member who is the subject of the complaint be given information by the board or its staff which would reveal the name of the complainant, unless the member would have access if s/he were not a member of the board. If the board member learns the complainant's identity from the complainant, other board members and the staff subsequently may include the complainant's name in communication with the board member.

(3) At the meeting when the complaint is discussed, the board member who is the subject of the complaint shall not be present during discussion of the complaint unless by vote or consensus the remaining board members request the presence of the board member in question. The board member shall not participate in discussion of the complaint as a member of the board but shall participate in the same manner as any other licensee who is invited to appear before the board to discuss a complaint. The board member may be asked to leave the room at any time during the discussion. The board member shall leave the room prior to any vote which will determine the manner in which the complaint will be handled.

(4) After the remaining board members have completed voting on all action to be taken as a result of the complaint, the board member may return to the room. At that time, the board chairman (or vice-chairman, if the chairman is the subject of the complaint) will inform the board member of the action which the board has decided to take.

(5) If the board decides to have the complaint investigated, a copy of the investigative report will be mailed to all board members except the board member who is the subject of the complaint. The board member who is the subject of the complaint will be sent a copy of any notice or agenda which indicates that the investigative report will be discussed. The meeting at which the investigative report is discussed will follow the same procedures outlined in section (4) for the meeting at which the complaint is discussed.

(6) If the board chooses to take no further action as a result of the complaint or the investigative report, the board member will be informed of this decision. The board member will not subsequently have access to the investigative report or the complaint unless the member would have that access if s/he were not a member of the board.

(7) If the board chooses to refer the case to the attorney general's office, the board member will be informed of that fact. The board member will not be allowed access to the complaint or investigative report by virtue of his/her status as a board member. If the attorney assigned to the case chooses to release these documents to the board member or if the attorney is required for legal reasons to release these documents to the board member, the board member will be permitted access to the documents released by the attorney.

(8) The board member will not be present during any discussion of the case once the board has voted to refer the case to the attorney general's office. The exception to this rule will be only for prearranged formal meetings to discuss settlement, if the attorneys for both parties agree. The other board members will not discuss the case with the board member who is the subject of the case except at the formal meeting.

(9) The board member has the right to be represented by counsel at all formal or informal proceedings. Admissions made by the board member at or outside a board meeting may be used against the board member at hearing.

(10) The board member shall not have access to that portion of the minutes of any meeting which reflects discussion, motions or votes related to the complaint or case against the board member. These minutes shall be kept separately as special closed minutes and shall not be shared with the board member by the other board members or the staff unless the board member would be entitled to access to the minutes if s/he were not a board member.

(11) The provisions of sections (1)–(10) of this rule shall apply to any complaint against a Missouri licensed funeral establishment at which a member of the board is employed or with which a member of the board is associated.

(12) The provisions of sections (1)–(10) of this rule shall apply to any complaint against any preneed registrant by which a member of the board is employed or with which a member of the board is associated, including, but not limited to, a complaint against a preneed seller who sells for a Missouri licensed funeral establishment with which a member of the board is associated. A board member will be considered to be employed by or associated with a preneed registrant if the board member receives a salary or wages from the preneed registrant or if a board member has an ownership interest in a preneed registrant. However, these procedures shall not apply to a board member who only receives commissions from the preneed registrant. Each member of the board shall keep the board's executive director notified of the preneed registrants by which the board member is employed and with which the board member is associated.

(13) The remaining members of the board may vote to exclude a member from participating in any matter based upon a conflict of interest. The vote must be a majority vote of all of the members present and voting except the member who is the subject of the vote. Participation shall include, but not be limited to, receipt of materials, presence during discussion and voting.

AUTHORITY: section 333.111, RSMo 2000. This rule originally filed as 4 CSR 120-2.115. Original rule filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed April 16, 1990, effective Nov. 30, 1990. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.115, effective Aug. 28, 2006.*

**Original authority: 333.111, RSMo 1965, amended 1981, 1993.*

20 CSR 2120-2.120 Public Records

PURPOSE: This rule establishes standards of compliance with Chapter 610, RSMo, as it relates to public records of the State Board of Embalmers and Funeral Directors.

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(1) All public records of the State Board of Embalmers and Funeral Directors shall be open for inspection and copying by the general public at the board's office during normal business hours, holidays excepted, except for those records closed pursuant to section 610.021, RSMo. All public meetings of the State Board of Embalmers and Funeral Directors, not closed pursuant to the provisions of section 610.021, RSMo, will be open to the public.

(2) The State Board of Embalmers and Funeral Directors establishes the executive director of the board as the custodian of its records as required by section 610.023, RSMo. The executive director is responsible for maintaining the board's records and for responding to requests for access to public records and may appoint deputy custodians as necessary for the efficient operation of the board.

(3) When the custodian believes that requested access is not required under Chapter 610, RSMo, the custodian shall inform the requesting party that compliance cannot be made, specifying what sections of Chapter 610, RSMo, require that the record remain closed. Correspondence or documentation of the denial shall be copied to the board's general counsel. The custodian also shall inform the requesting party that s/he may appeal directly to the board for access to the records requested. The appeal and all pertinent information shall be placed on the agenda for the board's next regularly scheduled meeting. If the board reverses the decision of the custodian, the board shall direct the custodian to advise the requesting party and supply access to the information during regular business hours at the requesting party's convenience.

(4) The custodian shall maintain a file that will contain copies of all written requests for access to records and responses to these requests. The requests shall be maintained on file with the board for a period of one (1) year and will be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

(5) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records. The fee charged by the board shall be as follows:
(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and
(B) The board may require payment for these fees prior to making the copies.

AUTHORITY: sections 333.111, 610.010–610.035 and 620.010.14, RSMo 2000. This rule originally filed as 4 CSR 120-2.120. Original rule filed Nov. 1, 2001, effective April 30, 2002. Moved to 20 CSR 2120-2.120, effective Aug. 28, 2006.*

*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 610.010–610.035, see **Missouri Revised Statutes**; and 620.010, RSMo 1973, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.

20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193

PURPOSE: This rule explains that the use of the term "final disposition" in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with the definition of the term in Chapter 193, RSMo.

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with its use in Chapter 193, RSMo.

AUTHORITY: sections 193.015, 333.011(10), 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 193.015, RSMo 1984, amended 2005; 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.340, RSMo 2009; 436.405, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-2.140 Financial Welfare Cause for Injunction

PURPOSE: This rule states that serious danger to an individual's financial welfare is cause for the State Board of Embalmers and Funeral Directors to seek an injunction pursuant to section 333.335.1(2), RSMo.

(1) For purposes of section 333.335, RSMo, the Missouri State Board of Embalmers and Funeral Directors shall be entitled to seek injunctive relief against any person from engaging in any business or practice authorized by a registration or authority, permit, or license issued under this chapter in a manner that presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant.

(2) For purposes of section 333.335, RSMo, serious danger to the welfare of any resident or client or customer shall include, but is not limited to, the financial welfare of the resident, client, or customer.

AUTHORITY: sections 333.335, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.335, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-2.150 Payment Not Determining Factor of Practice of Funeral Directing

PURPOSE: This rule explains that the receipt of payment for providing funeral services is not the determining factor in identifying the practice of funeral directing.

(1) In determining whether a person, pursuant to section 333.011(6), RSMo, is engaging in the practice of funeral directing pursuant to section 333.011(8), RSMo, the board shall consider all activities listed in section 333.011(8), RSMo.

(2) Receipt of payment by any person for any or all services provided pursuant to this chapter or Chapter 436, RSMo, shall not be the determining factor in determining whether the person is engaging in the practice of funeral directing.

AUTHORITY: sections 333.011(8), 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*
**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

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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 made pursuant to a contract whereby such merchandise is either:
1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or
2. 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) 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 or per decision of the Administrative Hearing Commission or any court; and (D) The cemetery does not offer ~~[for sale caskets or]~~ funeral services that may only be provided by a Missouri licensed funeral director or embalmer.

[20 CSR 2120-3.010 Preneed Seller Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed sellers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . .." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed sellers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed sellers must be made on the forms provided by the board and must be accompanied by the applicable preneed seller registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed sellers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered seller registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept seller registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the registration will be cancelled.

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(5) Each person seeking registration as a preneed seller will be required to submit a partial annual report at the time of registration, containing—1) the name and address of the financial institution in Missouri in which it will maintain the trust accounts required under Chapter 436, RSMo and the account numbers of those trust accounts, 2) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of the trust account designated by depository and account number and 3) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of its books and records relating to the sale of preneed contracts and name and address of the person designated by the seller as custodian of those books and records.

(6) The board will acknowledge receipt of each application for registration as a preneed seller if the application is completed properly and is accompanied by the preneed registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed contract sellers will be provided to any person upon request.

AUTHORITY: section 333.111.1, RSMo 1986. This rule originally filed as 4 CSR 120-3.010. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.010, effective Aug. 28, 2006.*

**Original authority: 333.111.1, RSMo 1965, amended 1981.]*

20 CSR 2120-3.010 Preneed Seller License

(1)Applications for licensure as a Preneed Seller must be made on the forms provided by the board and must be accompanied by the applicable preneed seller licensure fee, and a Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

(2) Each application for licensure will expire two (2) years after the receipt

[20 CSR 2120-3.020 Preneed Provider Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed providers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . ." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed providers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable preneed provider registration fee.

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(3) The board office will contact persons who have submitted applications for registration as preneed providers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered provider registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept provider registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the provider registration will be cancelled.

(5) Each establishment which is licensed separately by the state board as a funeral establishment must register separately as a preneed provider, if the establishment will perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract. Nothing in this rule will require registration of funeral establishments as preneed providers if the establishment will not perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract.

(6) The board will acknowledge receipt of each application for registration as a preneed provider, if the application is completed properly and is accompanied by the preneed provider registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed providers will be provided to any person upon request.

AUTHORITY: section 333.111.1, RSMo 1986. This rule originally filed as 4 CSR 120-3.020. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.020, effective Aug. 28, 2006.*

**Original authority: 333.111.1, RSMo 1965, amended 1981.]*

20 CSR 2120-3.020 Preneed Provider License
Applications for licensure as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable preneed provider licensure fee and a Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

[20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to accept notification of intent to sell assets or cease doing business from persons registered as preneed sellers or preneed providers, or both. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . ." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in accepting notifications of intent to sell assets or cease doing business from registered preneed sellers or providers, or both.

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(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.

(3) As part of the notification, each registered seller must inform the board of the actions it has taken or will take to ensure that the trust assets of the seller will be set aside and used to serve outstanding preneed contracts sold by the seller and each registered provider must inform the board of the actions it has taken or will take to ensure that the provider's obligations under preneed contracts will be satisfied.

(4) In its discretion, the board may take reasonable and necessary actions to ensure that the provider's obligations under preneed contracts will be satisfied or that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller.

(5) Failure of the board to take action regarding any sale or termination of business within thirty (30) days of receipt of notification for providers and within sixty (60) days of receipt of notification for sellers will constitute a waiver of the board's authority under Chapter 436, RSMo.

(6) Forms for submitting notifications of intent to sell assets or cease doing business will be provided upon request.

AUTHORITY: section 333.111.1, RSMo 1986. This rule originally filed as 4 CSR 120-3.030. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.030, effective Aug. 28, 2006.*

**Original authority: 333.111.1, RSMo 1965, amended 1981].*

20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)
(1) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.
(2) As part of the notification, each licensed seller must inform the board of the actions it has taken or will take to ensure that the trust assets of the seller will be set aside and used to serve outstanding preneed contracts sold by the seller and each licensed provider must inform the board of the actions it has taken or will take to ensure that the provider's obligations under preneed contracts will be satisfied.

20 CSR 2120-3.105 Filing of Annual Re-ports

PURPOSE: This rule prescribes the board's process for the filing of annual reports under the revised sections of Chapters 333 and 436, RSMo.

(1) For sellers:
(A) For the annual report due on October 31, 2009, sellers registered with the board prior to August 28, 2009, in lieu of filing the annual report required by section 436.460, RSMo, may file an annual report, on the form provided by the board, containing all the information required by section 436.021.2, RSMo 2000. This report shall report all preneed contracts executed since the reporting period the seller reported in its report due on October 31, 2008, through August 27, 2009. This

annual report shall be accompanied by a fee of two dollars ($2) per preneed contract sold for the reporting period; and

(B) For the annual report due on October 31, 2010, sellers shall report all contracts executed from August 28, 2009, through August 31, 2010. Thereafter, the annual report shall report all contracts sold between September 1 of the year preceding the annual report through August 31 of the reporting year. Each annual report filed for reporting years ending October 31, 2010, and thereafter shall also be accompanied by the annual fee as established in 20 CSR 2120-2.100.

(2) For providers:

(A) For the annual report due as set out below, providers shall file an annual report as provided by section 333.315.3(4), RSMo, covering the reporting period as set out below:

1. For report due October 31, 2009, the reporting period shall be from the date of the provider's last annual report though August 27, 2009. No annual fee shall be required for this reporting period;

2. For report due October 31, 2010, the reporting period shall be August 28, 2009, through August 31, 2010, and accompanied by the renewal fee in 20 CSR 2120-2.100; and

3. For reports due successive years, reporting period shall be September 1 through August 31 and shall be accompanied by the renewal fee established in 20 CSR 2120-2.100.

Preneed Seller Failure to Renew

(1)Each preneed seller shall file a completed renewal on or by October 31st each year, if the license is not renewed by this date the license shall expire.
(2)Each preneed seller shall file a completed annual report by October 31st each year, if this is not filed the license shall be automatically suspended until the time the completed annual report is filed and all applicable fees have been paid.

(A) If the license is suspended the applicant must file the annual report and renewal and pay the delinquent fee established by the board before the license is issued.
(B) If the applicant fails to file the renewal from every reporting period and pay the delinquent fee within two (2) years from date of expiration the license shall become void and the applicant will have to reapply.

If the license is not current you are not allowed to act as a preneed seller in any capacity, such as maintain an active trust account.

Preneed Provider Failure to Renew:

(1)Each preneed provider shall file a completed annual report on or by October 31st each year, if the license is not renewed by this date the license shall expire.

(A) If the license expires the applicant must file the annual report pay the delinquent fee established by the board before the license is issued.
(B)If the applicant fails to file the annual report from every reporting period and pay the delinquent fee within two (2) years from date of expiration the license shall become void and the applicant will have to reapply.

AUTHORITY: sections 333.315, 333.320, 333.340, 436.460, and 436.520, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010.*

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**Original authority: 333.315, RSMo 2009; 333.320, RSMo 2009; 333.340, RSMo 2009; 436.460, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.115 Contact Information

PURPOSE: This rule details the requirements for preneed providers, sellers, and agents for providing the board with current contact information.

(1) Preneed providers, sellers, and agents shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times.

(2) Preneed providers, sellers, and agents shall notify the board within thirty (30) days of any such change by submitting written notice with the new information. The written notice shall comply with the board's rules regarding written notice.

AUTHORITY: sections 333.320, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.320, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

Preneed Contract Requirements

Authority: 436.425, RSMo.

1. Each preneed seller shall sequentially number its preneed contracts.
2. Sequentially numbered means contracts shall be numbered in a consecutive series.
3. A preneed seller may number the contracts in one series or may use more than one series of numbers to identify contracts sold by particular agents or with particular providers or similar designations.
4. Numbers on contracts that are not part of a series assigned by the preneed seller shall not satisfy the requirement of sequentially numbered preneed contracts. Examples of unacceptable numbering include using the number the bank assigns to a joint account, an insurance company assigns to an insurance policy or a randomly generated number placed on the contract.
5. The preneed seller must be able to account and provide to the Board, upon request, a record showing all numbers used for preneed contracts by the seller and whether each numbered contract was used for a completed contract or was voided, for whatever reason. This record requirement can be met by maintenance of a database or similar computer record showing each number used in the series and whether that number is for a completed contract or a voided contract or the record can be maintained by a written log book, register or other means that records each number within the preneed contract number series and whether that contract was used for a completed contract or voided.

20 CSR 2120-3.120 Display of License

PURPOSE: This rule states that preneed sellers, providers, and preneed agents must prominently display their license or registration to practice issued by the Missouri State Board of Embalmers and Funeral Directors.

(1) All licenses or registrations, and any and all duplicate copies thereof, issued by the Missouri State Board of Embalmers and Funeral Directors shall be prominently displayed at all times in a conspicuous location or manner easily accessible to the public for each office or place of business of the licensee or registrant.

(2) All licenses or registrations shall be available at all times for inspection by any duly authorized agent of the Missouri State Board of Embalmers and Funeral Directors.

(3) The Missouri State Board of Embalmers and Funeral Directors may cause a complaint to be filed with the Administrative Hearing Commission pursuant to section 333.330, RSMo, for failure of a licensee or registrant to display his or her license or registration as required by section 333.091, RSMo, and this regulation.

AUTHORITY: sections 333.330, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.330, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.125 Corporate Ownership of a Licensee

PURPOSE: This rule prescribes the requirements regarding corporation applications for a preneed provider or seller's license.

(1) A corporate applicant for either a seller or provider license shall certify to the board that each of its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo, if he or she applied for licensure as an individual.

(2) In any proceeding, the applicant shall have the burden to demonstrate to the board that its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo.

AUTHORITY: sections 333.315, 333.320, 333.340, and 436.456, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010.*

**Original authority: 333.315, RSMo 2009; 333.320, RSMo 2009; 333.340, RSMo 2009; and 436.456, RSMo 2009.*

20 CSR 2120-3.200 Seller Obligations

PURPOSE: This rule clarifies the duties of the seller of a preneed contract.

(1) Except as otherwise provided in sections 436.400 to 436.520, RSMo, and any rules validly promulgated pursuant to those sections—
(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract;

(B) A purchaser may make payments on any preneed contract by making the payment directly to the trustee, the insurance company, or the financial institution where the joint account is held, as applicable, in lieu of paying the seller; and

(C) All sellers shall designate an individual to serve as manager in charge of the seller's business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.

AUTHORITY: sections 333.340, 436.415, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.340, RSMo 2009; 436.415, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.300 Provider Includes Funeral Establishment

PURPOSE: This rule establishes that a provider in a preneed contract includes, but is not limited to, a funeral establishment that has agreed to undertake the obligations of a preneed contract under sections 436.400 to 436.520, RSMo.

(1) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.520, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo.

(2) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.

AUTHORITY: sections 333.011(10), 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.305 Funeral Director Agent Registration

PURPOSE: This rule establishes the reporting requirement for any funeral directors serving as preneed agents.

(1) Any funeral director acting as a preneed agent shall report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit preneed contracts to the board on a form prescribed by the board.

(2) Any funeral director shall also identify himself or herself as acting as a preneed agent on his or her biennial report form to the board by checking the appropriate box on the form prescribed by the board.

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AUTHORITY: sections 333.325.4, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

Preneed Agent Application:

Any individual who desires to be registered as a preneed agent shall:

a. Make application with the board on the forms provided by the board and pay applicable fees
b. Pass the Missouri Law exam with a score of 75% or greater.

Each application for registration will expire two (2) years after the receipt of payment unless the registration has been issued.

Preneed Agent Funeral Director:

Any individual that is currently licensed by the board as a funeral director and desires to be registered as a preneed agent shall:

a. Make application with the board on the forms provided by the board.

Each application for registration will expire two (2) years after the receipt of payment unless the registration has been issued.

Preneed Agent Renewal:

(1) Each preneed agent shall file a renewal on or by December 31st each year on the forms provided by the board.
(2) The renewal shall contain:
  a. The current address, telephone number and email address of the applicant;
  b. The name of the Missouri licensed preneed seller they are currently working for, this section must be completed or the renewal will not be processed.
(3) If the renewal is not filed by December 31st the registration shall expire. If the applicant wishes to reinstate the registration they shall:
  a. File the reinstatement application
  b. Pay the renewal fee and the delinquent fee

Preneed Agent/Funeral Director Renewal:

(1) Each preneed agent/funeral director shall file a renewal on or by December 31st each year on the forms provided by the board.
(2) The renewal shall contain:
  a. The current address, telephone number and email address of the applicant;
  b. The name of the Missouri licensed preneed seller they are currently working for, this section must be completed or the renewal will not be processed.

If the applicant fails to reinstate the registration within two (2) years the registration shall become void.

(3) If the renewal is not filed by December 31st the registration shall expire. If the applicant wishes to reinstate the registration they shall:
  a. File the reinstatement application
  b. Pay the delinquent fee

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If the applicant fails to reinstate the registration within two (2) years the registration shall become void.

**Original authority: 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.310 Change in Seller Affiliation

PURPOSE: This rule explains the provider's obligation for a change in seller affiliation under a preneed contract.

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller's preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:
(A) Name and address of the provider;
(B) License number of the provider;
(C) Name and address of the seller; and
(D) Effective date of the authorization or agreement.

(2) This notice may be provided to the board electronically, but the original signed document shall be provided to the board by mail or hand delivery.

AUTHORITY: sections 333.325.4, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.400 Preneed Agents—Requirements of Agent's Seller

PURPOSE: This rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the State Board of Embalmers and Funeral Directors.

AUTHORITY: sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.405 Preneed Agents—Missouri Law Exam

PURPOSE: This rule prescribes the process for certifying preneed seller agents to take the Missouri Law exam as a requirement for registration.

(1) All preneed agents registering with the board shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam.

(2) Successful completion of the Missouri Law exam shall be a prerequisite to registration.

(3) This exam may be taken any time after filing the Notice of Intent to Apply.

(4) Preneed agent applicants must successfully complete the Missouri Law exam on or before March 31, 2010, prior to the expiration of the Notice of Intent to Apply.

(5) The Missouri Law exam covers the following:
(A) Knowledge of Chapter 333, RSMo;
(B) Rules governing the practice of em-balming, funeral directing, and funeral home licensing along with government benefits, statutes, and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies;
(C) Knowledge of sections 436.400 to 436.520, RSMo, relating to preneed statutes;
(D) Knowledge of Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes; and
(E) Questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administra-tion (OSHA) requirements as they apply to Missouri licensees.

(6) Notification of intent to take this examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.

AUTHORITY: sections 333.325.5 and 333.340, RSMo Supp. 2009. Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, terminated Nov. 2, 2009. Emergency rule filed Oct. 23, 2009, effective Nov. 2, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010.*

**Original authority: 333.325, RSMo 2009 and 333.340, RSMo 2009.*

20 CSR 2120-3.410 Preneed Agent's Seller Must Be Licensed

PURPOSE: This rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the Missouri State Board of Embalmers and Funeral Directors.

AUTHORITY: sections 333.011(9), 333.320, 333.325, 333.340, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009; 333.320, RSMo 2009; 333.325, RSMo 2009; 333.340, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.505 Types of Financing; Other Financing Still Preneed

PURPOSE: This rule identifies the acceptable funding mechanisms for preneed contracts.

(1) Preneed contracts shall only be funded by:
(A) A preneed trust as defined by section 436.405.1(8), RSMo;
(B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or

(C) A joint account as defined by section 436.405.1(4), RSMo.

(2) Preneed contracts funded by any other mechanism shall be non-compliant with the requirements of sections 436.400 to 436.520, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.520, RSMo.

AUTHORITY: sections 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.340, RSMo 2009; 436.405, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.515 Single Premium Annuity Contracts

PURPOSE: This rule states that while only single premium annuity contracts can fund an insurance-funded preneed contract, purchasers may purchase replacement single premium annuity contracts during the contract period.

(1) An insurance-funded preneed contract may be funded by an insurance policy or a single premium annuity contract.

(2) An insurance-funded preneed contract may not be funded by an annuity other than a single premium annuity contract.

(3) If a purchaser funds an insurance-funded preneed contract with a single premium annuity contract, the purchaser may replace the single premium annuity contract with another single premium annuity contract at any time in the duration of the preneed contract.

(4) Any replacement single premium annuity contract must meet all the requirements of the initial annuity contract, Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, and any other requirements under state or federal law.

AUTHORITY: sections 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.340, RSMo 2009; 436.405, RSMo 2009; and 436.520, RSMo 2009.*

20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee

PURPOSE: This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.

(1) An independent financial advisor, as provided in section 436.440.6, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.

AUTHORITY: sections 333.340, 436.440.6, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

**Original authority: 333.340, RSMo 2009; 436.440, RSMo 2009; and 436.520, RSMo 2009.*

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Topic for Discussion

20 CSR 2120-3.205 Mandatory Consumer Disclosures
PURPOSE: This rule sets forth the mandatory consumer disclosures that must be provided to each purchaser of a preneed contract.
(1) Each purchaser of a preneed contract shall be provided the following written mandatory consumer disclosures at or before the time the consumer signs the contract unless otherwise provided by rule:
(A) This Contract is a Legally Binding Document
1. Before you sign this contract, you should read it and make sure you understand all terms and conditions. You may wish to consult with your legal counsel before you sign this contract.
(B) Right to Receive a Copy of this Contract
1. You have a right to receive a copy of this contract and any accompanying documents related to this contract such as any life insurance policies or evidence of a joint account.
(C) Right to Change Providers
1. The law gives you the right to change the provider named in this contract. The provider is the funeral home or other service provider who will provide the goods and services at the time of your death. If you want to change providers, you must provide both the seller and provider named in this contract with written notice that you wish to change providers and you must include the name and address of who you want to be your new provider. You may NOT be billed for any additional fees or charges to change providers. A change in providers requires the agreement of the new provider and may require a new preneed contract. Your seller and provider can help you determine whether a new contract is required or not.
(D) Qualifying for Public Assistance
1. If you decide to seek qualification to receive Medicaid or other public assistance, you may sign an agreement to make this contract irrevocable at any time. Even if you have agreed to make this irrevocable as part of your qualification for public assistance, you still may change providers at any time and make changes to the goods and services at any time. However, you cannot cancel this contract and cannot receive any refund.
(E) Your Right to Cancel this Contract
1. You have a right to cancel this contract at any time before your death. If you cancel this contract, you may not be entitled to receive all funds paid on this contract. If you want to cancel this contract, you must give the seller named in this contract written notice that you wish to cancel this contract.
2. If your contract is funded with a joint account, you must also provide written notice to the financial institution where your account is held. The financial institution must give you the principal in the account within fifteen (15) days of your request. Interest will be distributed as provided in this contract.
3. If your contract is funded with an insurance policy, canceling the contract will NOT cancel the insurance policy. You must follow the policies of the insurance companies to cancel the insurance policy. If you cancel the insurance policy, you will receive only the cash surrender value of the policy which may be less than what you have paid into the policy.
4. If your contract is funded with a trust, you must also provide written notice to the trustee. The trustee shall then distribute all funds held on your behalf in the trust within fifteen (15) days.

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Topic for Discussion
(F) Seller's Right to Cancel This Contract
1. The seller may cancel this contract if you fail to make any installment payment within sixty (60) days of when it is due. Before the seller can cancel the contract, the seller must provide you with written notice of the intent to cancel the contract and you may bring your account current within thirty (30) days of notice. If you don't pay the balance within thirty (30) days, then the seller can provide the funds to the provider at the time of death to be credited towards your funeral services or the seller can cancel the contract and will refund you eighty-five percent (85%) of your contract payments made.
(G) What Happens if I Die Before My Contract is Paid in Full?
1. If you die before the contract is paid in full, your survivors have the option in trust funded or joint account funded contracts to pay the balance due on the contract and receive all goods and services that have been price guaranteed. If the balance is not paid, the amount paid on your contract will be applied to the price of your funeral based on the provider's current prices.
2. If your preneed contract is funded through an insurance policy, you should consult your insurance policy.
AUTHORITY: sections 333.340, 436.425, 436.456, 436.457 and 436.520, as amended by Senate Bill 1 (2009)

20 CSR 2120-3.520 Trustee Investment Restrictions
PURPOSE: This rule identifies the investment restrictions of a trustee under a trust funded preneed contract.
(1) A trustee shall not make decisions to invest any trust fund under a preneed contract with those individuals or entities contained in sections 436.445(1) through (4), RSMo, who are, or may be, related to that preneed contract or trust;
(2) The trustee investment restrictions contained in sections 436.445(1) through (4), RSMo, shall not apply to those individuals or entities related to other preneed contracts or trusts.
AUTHORITY: sections 333.340 and 436.445, as amended by Senate Bill 1, 95th General Assembly First Regular Session (2009).

Proposed rule

Authority: Sections 333.041, 333.042, 333.051, 333.061, 333.081, 333.320, 333.325, 333.315 and 436.460, RSMo

Purpose: Various provisions of Chapters 333 and 436 require that certain reports, applications and renewals be filed with the Board. This rule clarifies when a document shall be deemed to have been filed with the Board.

1. **When any provision of Chapter 333 or 436, RSMo, provides for an application, a renewal, annual report or other request for authority to be filed with the Board before that license, permit, registration, or other authorization will be issued by the Board, the renewal, application, annual report or other request for authority must be deemed filed in accordance with this rule.**
2. **No annual report, application for licensure, registration, permit, or other request for authorization or renewal for any license, registration, permit or other request for authorization shall be deemed to be "filed" with the Board until such time as**

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Topic for Discussion

such application, renewal, request, or annual report has been accepted by the Board as complete.

3. **To be deemed complete, at a minimum, an annual report, application, renewal or other request for authority shall be signed and notarized and all applicable sections completed with any and all attachments as requested by the Board and any applicable fees have been tendered and paid to the Board.**
4. **Whether an annual report, application, request for authority or renewal shall be deemed complete and "filed", shall be at the sole discretion of the Board.**

What constitutes a pre-need contract

A preneed contract is any contract or other arrangement that provides for the final disposition of a dead human body, funeral or burial services or facilities or funeral merchandise where such disposition, services, facilities or merchandise are not immediately required.

1. **A preneed contract is formed whenever a preneed seller, a preneed provider, cemetery, funeral establishment or any other person receives any consideration in any form to be used as payment for the provision of goods, services, facilities or funeral merchandise related to the final disposition of a dead human body when those goods and/or services are not immediately required.**
2. **A preneed contract is formed when any entity receives an assignment of life insurance policy or is named as the beneficiary on a life insurance policy when the entity agrees, either in writing or by other agreement of the parties, to use those proceeds to pay for provision of goods, services, facilities or funeral merchandise related to the final disposition of a human body when those goods and/or services are not immediately required.**
3. **A preneed contract is formed when any entity receives an assignment of any type of financial account or is named as the beneficiary or pay on death or transfer on death on any type of financial account when the entity agrees, either in writing or by other agreement of the parties, to use those proceeds to pay for provision of goods, services, facilities or funeral merchandise related to the final disposition of a human body when those goods and/or services are not immediately required.**
4. **No preneed contract is formed if an entity is named as the beneficiary or assignee of any life insurance policy or financial account if the entity had no knowledge and no reason to have knowledge of its status on the policy or account prior to the time of death of the customer.**
5. **No preneed contract is formed if a customer selects all goods, services, facilities and funeral merchandise for the customer's funeral if the customer provides no form of payment any person or entity as a pre-payment.**
6. **A new preneed contract is formed if a new seller assumes or accepts transfer of funds from a previous seller and the new seller writes a new preneed contract with the consumer.**
7. **If a person or entity enters into a preneed contract by accepting as payment an assignment of a life insurance policy, designation as a beneficiary on a life insurance policy, transfer or pay on death designation on a financial account, that person or entity must be licensed as a preneed seller and shall prepare a written contract with the consumer in full compliance of all statutes and applicable regulations.**

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8. If a person or entity enters into a preneed contract by accepting as payment an assignment of a life insurance policy, designation as a beneficiary on a life insurance policy, transfer or pay on death designation on a financial account those contracts shall be reported to the Board on the annual report and remittance of the required per contract fee shall be due.

Rule requiring notification of consumers for new trustee

1. If a preneed contract is assigned or otherwise transferred to a new seller (for example, what is sometimes called a "rollover"), either the new or old preneed seller shall provide written notice to each preneed purchaser of the transfer of the contract and shall include, at a minimum, the name, address, telephone number of the new seller, the effective date of the transfer and shall also include a copy of Sections 436.456 and 436.458, RSMo, notifying the purchaser of his/her right to cancel or transfer his/her preneed contract and also of his/her right to select an alternative provider. It shall be sufficient notice, under this rule if the preneed seller mails, by regular mail, a copy of the notice to the last address known to the seller of the preneed purchaser.
2. If a preneed seller moves to a preneed trustee other than the trustee identified in the preneed contract, the preneed seller shall provide written notice to each preneed purchaser of the change in the trustee and include in this notice the name, address and phone number of the new trustee, the date of the transfer, and a copy of Sections 436.456 and 436.458, RSMo, notifying the purchaser of his/her right to cancel or transfer his/her preneed contract and also of his/her right to select an alternative provider. It shall be sufficient notice, under this rule if the preneed seller mails, by regular mail, a copy of the notice to the last address known to the seller of the preneed purchaser.

Abandoned preneed funds, duty of seller
1. It shall be the duty of the seller to periodically, at least once a year, review its active preneed contracts and make a good faith effort to determine whether any preneed beneficiaries have died with no claim made for the preneed funds held either in joint account or trust.
2. If a preneed beneficiary has died and no claim for the preneed funds has been made to the seller within one year from the date of the death of the beneficiary, the seller shall notify, in writing, the trustee or financial institution holding the funds of this potential abandonment and request the trustee to distribute the preneed funds being held to the estate of the beneficiary, to MoHealthNet as repayment for state funds received by the beneficiary per Chapter 208, RSMo, and/or to the State Treasurer as unclaimed property in accord with the provisions of Chapter 447, RSMo, or in accord with any other law, as applicable.
3. The seller shall maintain records evidencing the periodic review and also maintain a copy of all notifications of potential abandonment made to all trustees or financial institutions.

Confidentiality of Preneed Records Obtained by the Board Through Financial Examination, Audit or Investigation

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Topic for Discussion
Purpose: The purpose of this rule is to ensure confidentiality of consumer records and confidential data of licensees and registrants.

Authority: Section 436.525, RSMo.
1. Upon completion of any financial exam, audit or investigation involving preneed records, the Board members may be provided with a summary of the results of the exam, audit or investigation and any such summary shall not include information made confidential per Section 436.525, RSMo, unless such information is required for the Board to evaluate whether the Board should take further action.
2. The Board's Executive Director shall be the custodian of all records received and maintained by the Board related to any financial examination, audit or investigation involving preneed records.
3. No individual member of the Board shall be given access to review the work papers of the examiners, auditors or investigator related to the examination, audit or investigation of preneed records unless such access has been specifically approved by the Board, as a body. Work papers shall include any records or information obtained from any licensee, registrant or any other source that includes any information made confidential by Section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet or other record prepared by the examiner, auditor or investigator from information and records obtained from the licensee, registrant or other source that contains information made confidential by Section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.
4. If the subject of any financial examination, audit or investigation is a person or entity that is a competitor either directly or indirectly within the same geographical region as an individual board member or is a person or entity with whom an individual Board member has a business interest or a past or current business relationship, then that Board member shall recuse him or herself from all matters related to the Board's review or action on that matter and shall have no access to the summary report or any other records from the financial examination, audit or investigation and shall not take part in any meeting or other proceeding involving that subject of exam, audit or investigation. Any recused Board member under this rule may have access to any matter that would be available to any member of the public, and access, as needed, to provide evidence in any litigation or proceeding as any other fact witness would have.

State Board of Embalmers and Funeral Directors

January 22, 2010 – 12:30 p.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

OPEN MEETING MINUTES

Friday, January 22, 2010-12:30 p.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 12:55 p.m. on Friday, January 22, 2010 via conference call at the Division of Professional Registration Building, located at 3605 Missouri Blvd, Jefferson City, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
John McCulloch, Member
James Reinhard, Member

Board Members Absent
D. Todd Mahn, Secretary-Joined at 1:30 p.m.
Joy Gerstein, Public Member- Joined at 1:05 p.m.

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General

Closed Meeting
Motion was made by Gary Fraker and seconded by James Reinhard 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) 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 Gary Fraker, James Reinhard and John McCulloch voting in favor with no votes in opposition. D. Todd Mahn and Joy Gerstein were absent during this vote.

January 22, 2010-2:00 p.m.

Motion was made by Gary Fraker and seconded by Joy Gerstein 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 (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency. Motion carried with Gary Fraker, D. Todd Mahn, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Executive Director: _____

Approved by the Board on: _____

State Board of Embalmers and Funeral Directors

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

OPEN MEETING MINUTES

Thursday, February 4, 2010- 10:00 a.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 10:05 a.m. on Thursday, February 4, 2010, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
James Reinhard, Member
John McCulloch, Member
Joy Gerstein, Public Member- Left the meeting at 2:00 p.m.

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General
Connie Clarkston, Director of Budget and Legislation
Don Eggen, Chief Investigator

Approval of Agenda
A motion was made by Gary Fraker and seconded by Todd Mahn to approve the open agenda. Motion carried with all voting in favor with no votes in opposition.

Senate Bill 1 Implementation (Examination of Books and Records)
Requesting the approval of six (6) FTE's, 1 attorney, 1 licensure technician, 1 investigator, 1 auditing manager, and 2 fiscal analysts. A motion was made by Gary Fraker and seconded by James Reinhard to accept the proposal suggested by Martin Vernon and request a list of all preneed contracts as well as a supporting document from a financial institution, an insurance company, etc. and follow-up with a financial review. Motion carried with all voting in favor with no votes in opposition.

Senate Bill 1 Open Discussion
A motion was made by John McCulloch and seconded by James Reinhard to draft a proposed rule defining the word "purchaser" to mean "the person making arrangements". Motion carried with all voting in favor with no votes in opposition.

Rules – Effective January 20, 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**

The Board had discussion regarding whether to change the rules stating that once a licensee has taken and successfully passed the Missouri law are they required to retake the Missouri law examination, whether or not they keep an active license. Todd Mahn stated he would like to research this on his own and bring back to the March 2010 meeting for discussion.

Future Board Meeting

- **March 31, 2010 – 9:00 a.m., Best Western, 1200 W. Gannon Drive, Festus, MO**

This was provided for informational purposes only.

Emily Rowe, Unit Manager, MO HealthNet Program & Policy Unit, Family Services Division
Earl Kraus, Senior Legal Counsel, reviewed with the Board responses received from Emily Rowe, Unit Manager for Division of Family Services to questions on "spending down", individuals on state aid and the purchasing of preneed funeral plans, Chapter 208 and public assistance, etc., and her offer to meet with the Board.

Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business
Don Otto stated that the Missouri Funeral Directors and Embalmers Association would not be submitting any legislation this year to revise SB1. He stated that the Association may be introducing legislation to make it easier for funeral establishments to dispose of cremated remains.

Members of the public were going to address any concerns relating to the Continuing Education Proposal Rule in writing to the Board.

Closed Meeting
A motion was made by Gary Fraker and seconded by Joy Gerstein 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) 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 Gary Fraker, Todd Mahn, James Reinhard John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Adjournment

A motion was made by Todd Mahn and seconded by Gary Fraker to adjourn. Motion carried with Martin Vernon, James Reinhard, John McCulloch, and Todd Mahn voting in favor with no votes in opposition. The meeting adjourned at 4:30 p.m. on Thursday, February 4, 2010 . Joy Gerstein was absent from the closed portion of the meeting from 2:00 p.m.

Executive Director: _____

Approved by the Board on: _____

State Board of Embalmers and Funeral Directors

February 11, 2010
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

OPEN MEETING MINUTES

Thursday, February 11, 2010- 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 12:05 p.m. via conference call on Thursday, February 11, 2010, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
James Reinhard, Member
John McCulloch, Member
Joy Gerstein, Public Member

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Tabitha Lenzini, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Connie Clarkston, Director of Budget and Legislation
Don Eggen, Chief Investigator

Comments Regarding Rule 20 CSR 2120-3.405 – Preneed Agents – Missouri Law Exam (Keith A Wenzel)
Connie Clarkston gave an overview of what follows a rules publication in the Missouri Register. She stated following the rules publication there is a 30-day comment period. During that 30-day comment period, the board is bound to accept comments that the public may submit. The Board today will review the comments submitted on Rule 20 CSR 2120-3.405, respond to those comments received and have those published in the Missouri Register. Ms. Clarkston stated the Board reviews each comment received, and makes a change with regard to a comment received or makes no changes and then justifies why no changes were made to the rule as written.

Verbal comments from the public were:

- Testing and examinations be focused upon those things that a person would need to know in selling a funding product prior to the time of need.
- Doesn't see any difference in preneed and at need.
- Doesn't want to see the preneed test turn into a test to get a funeral director's license in order to see preneed.
- Doesn't think that a preneed agent should have to be as knowledgeable as a funeral director.
- Need stricter protection for consumers and harder rules for agents.
- The requirement that preneed agents take the Missouri law examination is in the statute. Thinks for some people there is a mistaken assumption that all preneed agents are also insurance salesmen or have an insurance license and that is not the case. A large number of people have applied to be preneed agents who do not have an insurance license because they're not selling an insurance product, they're doing trust or joint accounts. It is incorrect to say that the only thing in those lists of statutes that affects preneed agents is 436. Large sections of Chapter 333 apply to preneed agents. That's where they are licensed. The current test, a little less than half of it, covers preneed.
- Everybody should register with the State Board, whether its trust or whether its insurance.
- During the work group meetings this summer the acting director of insurance stated that just because you've got an insurance license doesn't mean you know anything about funerals or preneed and she supported the concept of having to take a test before you were registered.
- Hopes the Board will stand the ground with the regulations set out, stiffen this up, protect the consumers of Missouri and do them an honor by making everybody be on the same playing field.
- Sell only through licensed funeral directors. Come on the side of the Board regulation as it currently stands and the application as it currently stands.
- Can anyone state that an agent out representing a funeral home has ever been accused of taking advantage of a consumer and stolen money and continue to hold their license.
- Within the parameters of the statute, if there was a test that would allow somebody to become a preneed agent without having, in essence, to take the test to become a funeral director that would be favored
- Even though the statute might provide for the examination, the Board can determine the form of that examination, the subjects to be covered, and that's the concern is that maybe this form of examination goes beyond what the legislature intended.
- The examination needs to be more specific to what they're going to be held accountable for on a daily basis.

Written comments from the following are attached to the minutes:

- Jimmy T. Hollingshad, CPC
- Donald Otto, Executive Director, MFDEA

- Keith A. Wenzel, Attorney

A motion was made by Todd Mahn and seconded by Gary Fraker to move forward with the rulemaking process with no changes made to Rule 20 CSR 2120-3.405 – Preneed Agents. Motion carried with Todd Mahn, Gary Fraker, Joy Gerstein and Martin Vernon voting in favor and John McCulloch voting in opposition. James Reinhard abstained from the vote.

Adjournment

A motion was made by Joy Gerstein and seconded by Gary Fraker to adjourn. Motion carried with Martin Vernon, James Reinhard, John McCulloch, and Todd Mahn voting in favor with no votes in opposition. The meeting adjourned at 1:25 p.m. on Thursday, February 11, 2010.

Executive Director: _____

Approved by the Board on: _____

State Board of Embalmers and Funeral Directors

March 30-31, 2010
Best Western, Jefferson Room
1200 Gannon Drive
Festus, MO 63028

OPEN MEETING MINUTES

Tuesday, March 30, 2010 - 9:30 a.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 10:05 a.m. on Tuesday, March 30, 2010 in the Jefferson meeting room of the Best Western, located at 1200 Gannon Drive, Festus, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
John McCulloch, Member
Joy Gerstein, Public Member

Board Member Absent
James Reinhard, Member

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pamela Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel

Closed Meeting
Motion was made by John McCulloch and seconded by Joy Gerstein 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) 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. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Wednesday, March 31, 2010 – 9:00 a.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 9:10 a.m. on Wednesday, March 31, 2010 in the Jefferson meeting room of the Best Western, located at 1200 Gannon Drive, Festus, Missouri.

Roll Call

Board Members Present

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

Board Members Absent

James Reinhard

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Pamela Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General

Approval of Agenda

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

Approval of Open Meeting and Mail Ballot Minutes

Motion was made by Gary Fraker and seconded by Todd Mahn to approve the following Open Meeting and Mail Ballot Minutes as submitted. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

March 30-April 1, 2009 Open Meeting Minutes

August 4-5, 2009 Open Meeting Minutes
August 11, 2009 Open Meeting Minutes
August 19, 2009 Open Meeting Minutes
August 25, 2009 Open Meeting Minutes

Executive Director's Report

Becky Dunn reported on the FY2010 Financial Statement as of February 28, 2010

	Year-To-Date	Projected	Remaining
FY 2010 Beginning Fund Balance	$1,111,382.33		
Revenue	346,279.86	1,023,412.00	677,132.14
Expense and Equipment	76,205.02	145,393.00	69,187.98
Total Transfers	276,560.22	583,800.19	307,239.97
Ending Fund Balance	**1,104,896.95**		

FY 2010 OA Cost Allocation

Board Cost:	**OA Expenditures**	**Auditor Expenditures**	**Governor Expenditures**	**Lt. Governor Expenditures**	**Sec. of State Expenditures**	
	$578.36	$0.00	$119.16	$24.22	$576.75	
	Atty General Expenditures	**Gen Assembly Expenditures**	**Capitol Police**	**DOR Receipts**		**Total**
	$0.00	$1,694.34	$88.12	$3,935.85		**$7,016.80**
Division Cost:	**OA Expenditures**	**Auditor Expenditures**	**Governor Expenditures**	**Lt. Governor Expenditures**	**Sec. of State Expenditures**	
	$82.40	$0.00	$16.98	$3.45	$82.17	
	Atty General Expenditures	**Gen Assembly Expenditures**	**Capitol Police**	**DOR Receipts**		**Total**
	$0.00	$241.40	$12.55	$0.00		**$438.95**
FY2010 Total Cost:						**$7,455.75**

Duane E. Harvey - Disciplinary Hearing

The Board held a Disciplinary Hearing at 11:27 a.m. for Duane E. Harvey. Duane E. Harvey was present, with no legal counsel present. Sharon Euler, Assistant Attorney General represented the State of Missouri and Earl Kraus, Senior Legal Counsel, was advisor to the board on procedural and evidentiary matters. Board members present were Martin Vernon, Gary Fraker, Todd Mahn, and Joy Gerstein. John McCulloch recused from the discussion and vote. James Reinhard was absent for the entirely of the meeting.

SB1 Implementation
The Board reviewed the public's comments pertaining to Senate Bill 1, and discussion was held.

Future Meeting
Martin Vernon suggested a need to identify changes to SB1. Comments from the public will be needed to gather this information. A motion was made by John McCulloch and seconded by Joy Gerstein to plan a meeting for SB1 Clearing House. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Rules
The board discussed having a Temporary License for Preneed Agent. Earl Kraus advised the board that this would require a statute change.

The board discussed putting a length of time of how long a Preneed Agent Application is good for, to complete process and pass the examination. A motion was made by Todd Mahn and seconded by Gary Fraker to table this matter until a later date. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor, and Joy Gerstein voting no in opposition. James Reinhard was absent for the entirely of the meeting.

A motion was made by John McCulloch and seconded by Joy Gerstein to draft an emergency rule to extend the Notice of Intent period. After discussion was held, John McCulloch and Joy Gerstein rescinded their motion.

The board discussed having a Preneed Agent Apprenticeship, and suggested drafting a rule. Earl Kraus and Sharon Euler advised the board there is no statutory authority to have such rule. A motion was made by Todd Mahn and seconded by John McCulloch to draft a rule to have Preneed Agent apply for a temporary license and give 6 months to pass the Missouri Law Exam. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor, and Joy Gerstein voting no in opposition. James Reinhard was absent for the entirely of the meeting.

Closed Meeting at 12:32 pm
A motion was made by Todd Mahn and seconded by Joy Gerstein to 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. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Wednesday, March 31, 2010 – 3:39 p.m.

The meeting of the Missouri State Board of Embalmers and Funeral Directors reconvened in open session at approximately 3:39 p.m. on Wednesday, March 31, 2010. The meeting was called to order by Martin Vernon, Chairman, in the Jefferson meeting room of the Best Western, located at 1200 Gannon Drive, Festus, Missouri.

Roll Call

Board Members Present

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

Board Members Absent

James Reinhard

Staff Present

Becky Dunn, Executive Director
Lori Hayes, Inspector
Pamela Schnieders, Administrative Assistant
Don Eggen, Division Central Investigative Unit
Earl Kraus, Senior Legal Counsel

Rules – continued

The board discussed forming a subcommittee to come up with ideas for the board to give a
Missouri Law Exam for Preneed Agent and other possibilities to expedite the process. A motion was made by John McCulloch and seconded by Gary Fraker to have John McCulloch and Martin Vernon be members of this subcommittee. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent for this portion of the meeting. James Reinhard was absent for the entirely of the meeting.

The board reviewed the following rules for possible changes to the existing rule. Areas bolded are new language and those in brackets will be deleted.

Existing Rule
20 CSR 2120-2.060 Funeral Directing
[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.**

Draft new language:
(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 the jurisdiction of the board if **(1)** the current license remains in active status[.], **or (2) the applicant was a registered funeral director apprentice at the time of the examination and such examination occurred within the last 24 months.**
A motion was made by John McCulloch and seconded by Gary Fraker to approve and proceed with filing the rule as drafted. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent for this portion of the meeting. James Reinhard was absent for the entirely of the meeting.

Existing Rule
20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship
(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 **and the license is in active status .** [within twelve (12) months of the date that the board receives the new application.] 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.

Draft new language:
20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship
(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 the jurisdiction of the board if (1)** [and] the **current** license [is] **remains** in active status**, or (2) the applicant was a registered embalmer apprentice at the time of the examination and such examination occurred within the last 24 months**. 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.

A motion was made by John McCulloch and seconded by Gary Fraker to approve and proceed with filing the rule as drafted. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent for this portion of the meeting. James Reinhard was absent for the entirely of the meeting.

Existing Rule

20 CSR 2120-2.040 Licensure by Reciprocity

(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;

Draft new language:

(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 for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if **(1)** the original Missouri license remains in active status[;]**, or (2) the applicant successfully completed the reciprocity examination within the last 24 months;**

A motion was made by John McCulloch and seconded by Gary Fraker to approve and proceed with filing the rule as drafted. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent for this portion of the meeting. James Reinhard was absent for the entirely of the meeting.

The board reviewed the following draft rule, not approved by the board. Areas bolded are new language and those in brackets will be deleted.

PROPOSED RULE

(rule #) Purchaser approval of payment certification after disposition

PURPOSE: This rule clarifies the certification and approval of payment process following disposition.

To the extent the purchaser must approve the certification that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, if the purchaser is deceased or is otherwise unavailable, ~~then the person taking financial responsibility for the final disposition expenses shall be authorized to act on behalf of the purchaser. If no person is taking financial responsibility,~~ then the person **with** ~~authorized to exercise~~ the right of sepulcher of the beneficiary shall be authorized to act on behalf of the purchaser to approve the certification required under the statute. ~~such approval is not required where the purchaser and the beneficiary are the same person.~~

AUTHORITY: sections 333.340 and 436.455.

A motion was made Gary Fraker and seconded by John McCulloch to approve the rule as drafted and give Earl Kraus authority to make changes in the language to reference the right of sepulcher. Motion carried with Gary Fraker, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. Todd Mahn was absent for this portion of the meeting. James Reinhard was absent for the entirely of the meeting.

The board reviewed the following draft rule, not approved by the board. Areas bolded are new language and those in brackets will be deleted.

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 for endowed care cemeteries.

(1) Pursuant to section 333.310, RSMo, a cemetery shall be exempt from the licensure requirements of section 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 section 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 excepted 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: section 333.340 and 436.410, as amended by Senate Bill 1, 95th General Assembly, First Regular Session (2009). Emergency amended filed_____, effective _____, and expires _____, *Original rule filed: _____.*

A motion was made by Gary Fraker and seconded by John McCulloch to table this draft rule until after we find out what happens to Chapter 214 in legislative session. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Fingerprinting draft rule

The board reviewed the following draft rule for fingerprints upon initial application with the board.

DRAFT

Rule re: Fingerprints upon initial application with the Board

Title: All applicants for licensure or registration with the Board shall provide proof of submitting fingerprints to the Missouri State Highway Patrol.

Purpose: This rule describes the requirement of all applicants for licensure or registration with the Board to provide proof of submitting his or her fingerprints to the Missouri State Highway Patrol or the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check.

(1) All applicants for licensure or registration with the Missouri Board of Embalmers and Funeral Directors shall, upon application with the Board after (DATE), provide proof of having submitted fingerprints to the Missouri State Highway Patrol's approved vender for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check.

(2) Any fees due to fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor.

(3) Applicants seeking renewal of a license or registration with the Board shall be exempt from this requirement.
Authority: 333.031, 333.041, 333.042, 333.051, 333.061, 333.111, 333.315, 333.320, 333.325, 333.340, and 436.520.
A motion was made by Gary Fraker and seconded by Todd Mahn to proceed with rule as drafted. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Legislative Update
The board was provided a handout of the Professional Registration Bill Status Report as of March 29, 2010. This was provided for informational purposes.

Professional Registration
Bill Status Report
03-29-2010 - 11:19:55

Embalmers		
HB 1582	Sutherland	Requires statements of no tax due from the Department of Revenue as a prerequisite to the issuance or renewal of certain state and local licenses or the receipt of a payment from the State Legal Expense Fund.
	Bill History:	02-04-10 H Public hearing completed

SUMMARY: Beginning January 1, 2012, this bill requires statements of no tax due from the Department of Revenue as a prerequisite to the issuance or renewal of state and local business and occupation licenses or to the receipt of payments from the State Legal Expense Fund. The department director may enter into an agreement with any state agency responsible for issuing business and occupation licenses to provide the names and tax identification numbers of applicants for these licenses. Tax delinquencies may result in the suspension of licenses.
NOTE: Possible amendment to the bill for a revision to section 324.010, RSMo to correct the intersection references for Chapter 436.

HB 1845	Wells	Changes the laws regarding endowed care cemeteries.
	Bill History:	01-28-10 H Read second time

SUMMARY: The bill:
1) Allows the division to bring suit in Cole County against cemetery operators;
(2) Requires all contracts sold by cemetery operators for cemetery services or for graves, cemetery markers, and crypts to meet certain requirements. If these requirements are not met, all payments will be recoverable by the purchaser plus 10% interest and any reasonable collection costs including attorney fees;
(3) Requires any person, entity, or political subdivision that purchases, receives, or holds real estate used for the burial of human remains, excluding a family burial ground, to notify the Office of Endowed Care Cemeteries within

the department of the name, location, and address of the real estate before October 1, 2010, or within 30 days of acquiring the land;

(4) Exempts cemetery operators from the provisions of Chapter 436, RSMo, regarding prearranged funeral contracts but prohibits them from adjusting or establishing prices for items with the intent of evading the trust or escrow provisions of the chapter. Provisions related to deposits into endowed care trust funds based on the sales price of certain products are revised;

(5) Removes the provisions requiring a financial institution serving as the trustee of an endowed care trust to be located in Missouri but requires all activities of the trust to be controlled by Missouri law and all funds held in trust to remain in Missouri;

(6) Requires a cemetery operator to notify the division in writing at least 20 days prior to selling a majority of its assets;

(7) Allows, for agreements entered into after August 28, 2010, a cemetery prearranged merchandise products contract to be canceled within 30 days of receipt of the executed contract and requires all payments to be fully refunded;

(8) All expenses of administering a trust, including, without limitation, trustee's fees, expenses in establishing the trust, legal and accounting fees, investment expenses, taxes, and other necessary and reasonable expenses shall be paid from trust income, and shall not be paid from trust principal.

(9) Allows the division to direct a trustee, financial institution, or escrow agent to suspend the distribution of money from an endowed care trust fund if the cemetery operator is not licensed, has failed to file an annual report, or has failed to file a corrective action plan after an audit has revealed a deficiency; and

(10) Exempts, if a cemetery was owned by a city, any subsequent cemetery owner from liability for any deficiency existing prior to the city's ownership.

NOTE: Similar to SB754.

HB 2231	Wasson	Changes the laws regarding the disposition of cremated human remains by a licensed funeral establishment.

Bill History: 03-23-10 H Set on the House Calendar

SUMMARY: Allows a licensed funeral establishment to dispose of cremated human remains in accordance with a cremation contract except if otherwise prohibited by law.

HB 2290	Wasson	Specifies that the value of certain life insurance policies will not be considered an asset when determining eligibility and the amount of benefits under federally aided state public assistance programs.

Bill History: 03-23-10 H Set on the House Calendar

SUMMARY: Supporters say that life insurance policies which are used to pay the cost of irrevocable preneed funeral contracts are currently included as assets when

determining eligibility for public assistance. The bill specifies that these policies should not be included in an applicant's current assets.

HB 2305	Kelly	Authorizes the transfer of specified maximum amounts of money from a list of 23 state funds to the General Revenue Fund by June 30, 2011.
	Bill History:	03-15-10 H Read second time

SUMMARY: This bill authorizes the transfer of specified maximum amounts of money from a list of 23 state funds to the General Revenue Fund by June 30, 2011. The following boards within Professional Registration are included in the bill: Endowed Care Cemetery Audit; State Board of Accountancy; State Board of Registration for the Healing Arts; State Board of Nursing; Board of Pharmacy; Licensed Professional Counselors; State Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects; Athletic Fund; Board of Cosmetology and Barber Examiners; Marital and Family Therapist Fund; Respiratory Care Practitioners Fund; Missouri Board of Occupational Therapy; and Dietitian Fund.
NOTE: Similar to SB1000.

HB 2320	Ruzicka	Allows $9,999 in an irrevocable trust for certain funeral expenses to not be considered an asset when determining eligibility for public assistance.

SUMMARY: This bill specifies that in determining eligibility and the amount of benefits to be granted under federally aided state public assistance programs, any amounts up to $9,999 placed in an irrevocable trust to pay for funeral services, facilities, and merchandise which are not part of a preneed funeral contract will not be taken into account or considered an asset of the beneficiary. Funds remaining after paying the specified funeral expenses must be paid to the state up to the amount of public assistance provided with any remaining moneys given to those designated in the trust.
NOTE: Similar to SB1025.

SB 753	Dempsey	Allows county commissions to invest cemetery trust funds in certificates of deposit.
	Bill History:	03-03-10 H Read second time

SB 754	Dempsey	Modifies provision related to cemeteries.
	Bill History:	03-15-10 H Read second time

NOTE: Similar to HB8145.

SB 991	Scott	Eliminates, combines, and revises certain state boards, commissions, committees, and councils.
	Bill History:	03-23-10 S Set on the Senate Calendar

SB 1000	Green	Transfers certain stated amounts from twenty-three funds to the state general revenue fund.
	Bill History:	03-03-10 S Hearing conducted

NOTE: Similar to SB2305.

SB 1025	Goodman	Allows $9,999 in an irrevocable trust for certain funeral expenses to not be considered an asset when determining eligibility for public assistance.
	Bill History:	03-04-10 S Referred to Senate Committee on Senate-General Laws

NOTE: Similar to HB2320.

Preneed Seller/Provider/Funeral Director Agent/Agent - Licensure and Registration update (Lori Hayes)
The board has approved 1029 preneed agent registrations.
930 are preneed agent funeral director registrations
99 are preneed agent registrations

The board has 383 pending preneed agents applicants.
149 are pending preneed agent funeral director applicants
234 are pending preneed agent applicants

Funeral Director/Embalmer Renewals
As of today's date, the board has approved 761 embalmer and funeral director renewal licenses. 162 licensees renewed by paper, and 599 renewed online.

MFDEA Update Don Otto
This years Missouri Funeral Director and Embalmer Association Convention will be held in conjunction with Kansas and Nebraska. The convention will be held May 2-5, 2010 in Overland Park, Kansas. Don Otto advised the board that he was at the hearing yesterday on the electronic death certificate bill that they are supporting. The hearing went really well. A representative of the Department of Health and Senior Services was there and pretty much said they are fine with the bill.

11:00 am Personal Appearance/Representative from MO HealthNet Program & Policy Unit /Question and Answers
Emily Rowe, Missouri Department of Health/ Mo HealthNet Program met with the board on today's date. Documents provided by Emily Rowe to the Board are as follows:
1)Board Meeting Talking Points/March 31. 2009
2)Policy Clarification on Assignment of Life Insurance to Fund Burial Contracts, and
3)Summary Paper Prepared by Third Party Liability Unit on Burial Plans.

Election of Officers
Chairman:
A motion was made by Todd Mahn and seconded by Joy Gerstein to nominate and vote in by acclamation Gary Fraker as Chairman of the State Board of Embalmers and Funeral Directors. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.
Vice-Chairman:
A motion was made by Todd Mahn and seconded by Joy Gerstein to nominate and vote in by acclamation Todd Mahn as Vice-Chairman of the State Board of Embalmers and Funeral Directors. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.
Secretary:
A motion was made by Todd Mahn and seconded by Joy Gerstein to nominate and vote in by acclamation John McCulloch as Secretary of the State Board of Embalmers and Funeral Directors. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Closed Meeting
A motion was made by Gary Fraker and seconded by John McCulloch to 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. Motion carried with Gary Fraker, Todd Mahn, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entirely of the meeting.

Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business
No discussion was held.

Other
No discussion was held.

Adjournment

A motion was made by Gary Fraker and seconded by Todd Mahn to adjourn the meeting. Motion carried with Gary Fraker, Todd Mahn, and John McCulloch voting in favor with no votes in opposition. Joy Gerstein was absent for this portion of the meeting. James Reinhard was absent for the entirety of the meeting. The meeting adjourned at 8:00 p.m. on Wednesday, March 31, 2010.

Executive Director: _____

Approved by the Board on: _____

State Board of Embalmers and Funeral Directors

September 8-9, 2010
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

Open Meeting Minutes

Wednesday, September 8, 2010
The meeting of the State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 8:20 a.m. on Wednesday September 8, 2010 at the Division of Professional Registration, 3605 Missouri Blvd, Jefferson City, Missouri.

Roll Call
Board Members Present
Gary Fraker, Chairman
John McCulloch, Secretary
James Reinhard, Member
Martin Vernon, Member
Joy Gerstein, Public Member

Board Members Absent
D. Todd Mahn, Vice Chairman

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Sharon Euler, Board's Legal Counsel

Approval of Agenda
A motion was made by Martin Vernon and seconded by Joy Gerstein to approve the open agenda. Motion carried with John McCulloch and James Reinhard voting in favor with no votes in opposition. D. Todd Mahn was absent from the vote.

Approval of Open Meeting and Mail Ballot Minutes
A motion was made by Joy Gerstein and seconded by Martin Vernon to approve the following open meeting and mail ballot minutes. Motion carried with John McCulloch and James Reinhard voting in favor with no votes in opposition. D. Todd Mahn was absent from the vote.

June 18, 2009 Open Mail Ballot Minutes
July 1, 2009 Open Mail Ballot Minutes
November 17, 2009 Open Mail Ballot Minutes
November 23, 2009 Open Mail Ballot Minutes

December 8-9, 2009 Open Meeting Minutes
December 30, 2009 Open Mail Ballot Minutes
January 12, 2010 Open Mail Ballot Minutes
March 17, 2010 Open Mail Ballot Minutes
April 13, 2010 Open Mail Ballot Minutes
April 19, 2010 Open Mail Ballot Minutes
April 27, 2010 Open Mail Ballot Minutes
May 10, 2010 Open Mail Ballot Minutes
June 1, 2010 Open Mail Ballot Minutes
June 21, 2010 Open Mail Ballot Minutes
June 24, 2010 Open Mail Ballot Minutes
July 6, 2010 Open Mail Ballot Minutes
July 9, 2010 Open Mail Ballot Minutes
July 13, 2010 Open Mail Ballot Minutes
July 23, 2010 Open Mail Ballot Minutes
July 30, 2010 Open Mail Ballot Minutes
August 6, 2010 Open Mail Ballot Minutes
August 11, 2010 Open Mail Ballot Minutes

Legal Counsel Update
Sandy Sebastian introduced Sharon Euler as the new Division counsel, she will be serving as legal counsel for the Board of Embalmers & Funeral Directors.

Closed Meeting
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) 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. Motion carried with James Reinhard and Martin Vernon voting in favor with no votes in opposition. D. Todd Mahn was absent for the vote.

Thursday, September 9, 2010-9:15 a.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 10:00 a.m. on Thursday September 9, 2010 at the Division of Professional Registration, 3605 Missouri Blvd, Jefferson City, Missouri.

Roll Call
Board Members Present
Gary Fraker, Chairman
D. Todd Mahn, Vice Chairman
John McCulloch, Secretary
James Reinhard, Member
Martin Vernon, Member
Joy Gerstein, Public Member

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Sharon Euler, Board's Legal Counsel

Executive Director Report
Sandy Sebastian reported that she was in the process of hiring new staff.

Year End Statistics (July 1, 2009 – June 30, 2010)
It was shared with the Board that the year end statistics had been posted on the Board's website. This was for informational purposes only.

Rules
Information relating to the Emergency Rule regarding new fees being effective August 5, 2010 was shared with the Board.

Discussion was held regarding a previously approved drafted rule relating to fingerprinting new applicants and not renewal applicants, the questionable legality of not fingerprinting both, and the fact the Division planned to explore the potential of modifying the language in the existing statute. Following discussion a motion was made by James Reinhard and seconded by Joy Gerstein to withdraw the proposed fingerprinting rule and revisit this rule in the future. Motion carried with John McCulloch and Martin Vernon voting in favor with no votes in opposition. D. Todd Mahn was absent from the vote.

Legislation
No updates at this time

Preneed Provider, Preneed Seller, Preneed Funeral Director, Preneed Agent renewal status
The board reviewed statistics regarding renewals of Preneed Providers, Preneed Sellers, Preneed Funeral Director Agents and Preneed Agents. 2054 renewals were sent out. As of this date 345 have been approved, some are on hold, and 1653 have not been received in the Board office. This was for informational purposes only.

Preneed Provider and Preneed Seller Self Reporting Forms Update
The board reviewed an update on the Preneed Provider and Preneed Seller Self Reporting Forms. This was for informational purposes only.

Dept. of Health and Senior Services - Electronic Registration System Update
Ivra Cross from the Department of Health and Senior Services presented an update to the board and is giving monthly updates to the industry on electronic registration system for filing death certificates. Ivra introduced Michelle Zeilman who has joined Vital Records to assist Ivra Cross. This was for informational purposes only. No vote was taken.

American Veterans STLA
The Better Business Bureau has requested affirmation that this is okay. Sharon Euler, Legal Counsel, advised that this is not within the Boards jurisdiction.

Location of December Board Meeting
A motion was made by James Reinhard and seconded by Martin Vernon to hold the December 2010 Board Meeting in Springfield with tentative dates of December 7, 8, & 9. A notice will be posted on the website when dates are confirmed. Motion carried with Gary Fraker, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. D. Todd Mahn was absent for the vote.

Legal Counsel Introduction
Gary Fraker introduced Sharon Euler as new counsel with the Division who will be serving the Board as general counsel.

Open Discussion/Dialogue
Members of the public in attendance discussed with the Board the following items:

- Concerns relating to section E of the preneed provider annual report and the lack of statutory language authorizing the board to ask for some of the information.
- Concerns relating to information being requested on the preneed seller annual report.
- Questions regarding information being maintained confidential if submitted on the voluntary self reporting forms
- Concerns that insurance funded preneed are done as spend down and that those should not be subject to the $36.00 contract fee.
- Issues with public administrator cases when writing preneed contracts.
- Questions relating to insurance contracts versus insurance preneed contracts and what is not reportable.

- Questions of whether or not accepting money from a customer constitutes a preneed contract.

Gary Fraker, chair, requested that individuals put their concerns in writing to the Board.

Other
No further business at this time.

Adjournment
A motion was made by Joy Gerstein and seconded by John McCulloch to adjourn the meeting. Motion carried with no votes in opposition. The meeting adjourned at 11:25 a.m. on Thursday, September 9, 2010.

Executive Director: _____

Approved by the Board on: _____

Missouri State Board of Embalmers and Funeral Directors

October 27, 2010
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

OPEN MEETING MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman at 10:08 a.m.

Roll Call
Board Members Present
Gary Fraker, Chairman
D. Todd Mahn, Vice Chairman
John McCulloch, Secretary
James Reinhard, Member
Martin Vernon, Member
Joy Gerstein, Public Member- Joined at 10:16

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Tabitha Lenzini, Administrative Assistant
Sharon Euler, Division Legal Counsel
Randall Jennings, Examiner
Michelle Hankinson, Examiner

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

Electronic Death Certificate Discussion
Discussion was held with the Board and public in attendance, including Ivra Cross from Vital Records regarding the process of electronic death certificates. The Board advised that a statute change would have to be made prior to being allowed.

Executive Director Report
Sandy Sebastian gave an update on the examination process and opened up the floor for discussion on the matter.

NPS
Sharon Euler, Legal Counsel gave an update on NPS stating that at this time there were no indictments on the July motion for injunction.

11:00 a.m. Probation Violation Hearing
Board vs. Ronald Marts and Matron, L.L.C., DBA Marts Memorial Services
The Board received a request to extend the hearing for Ronald Marts and Matron, LLC, DBA Marts Memorial Services and this request was granted. No hearing was held.

Discussion regarding the examination/audit process
There was discussion by the Board and the public in attendance regarding this topic.

A motion was made by Martin Vernon and seconded by John McCulloch to allow examiners to review businesses which may not currently hold a Preneed Seller license, but have reported having joint accounts prior to SB 1. Motion carried with Martin Vernon, John McCulloch, James Reinhard, Joy Gerstein and D. Todd Mahn voting in favor with no votes in opposition.

A motion was made by D. Todd Mahn and seconded by John McCulloch to allow examiners to review Preneed Provider records at the time of audit, as well as seller records. Motion carried with Martin Vernon, John McCulloch, James Reinhard, Joy Gerstein and D. Todd Mahn voting in favor with no votes in opposition.

Closed Session
A motion was made by Martin Vernon and seconded by John McCulloch to move into closed session to consult with legal counsel.

The Board reconvened in open session at 2:48p.m.

Adjournment
A motion was made by Martin Vernon and seconded by D. Todd Mahn to adjourn. Motion carried with D. Todd Mahn, Gary Fraker, John McCulloch, Martin Vernon and James Reinhard voting in favor with no votes in opposition.

Open Minutes
Missouri State Board of Embalmers and Funeral Directors
November 10, 2010
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
Gary Fraker, Chairman
D. Todd Mahn, Vice-Chairman
John McCulloch, Secretary
James Reinhard, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

State Board of Embalmers and Funeral Directors

December 16, 2010
Fletcher Daniels State Office Building
615 E 13th St., Suite 502
Kansas City, MO 64106

Open Meeting Minutes

Thursday, December 16, 2010 – 2:30 p.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Member, at 2:36 p.m. on Thursday December 16, 2010 at the Fletcher Daniels State Office Building, 615 E 13th St., Suite 502, Kansas City, MO 64106.

Roll Call
Board Members Present
Martin Vernon, Member
James Reinhard, Member
Archie Camden, Public Member
D. Todd Mahn, Vice Chairman, by phone
Gary Fraker, Chairman, by phone Joined at 4:46 p.m.

Staff Present
Sandy Sebastian, Executive Director
Tabatha Lenzini, Administrative Assistant
Lori Hayes, Inspector, by phone
Don Eggen, CIU, by phone
Randall Jennings, Examiner, by phone
Kevin Lager, Inspector
Ed Frownfelter, Assistant Attorney General

Ronald Marts/Martron LLC, dba Marts Memorial Services
The purpose of the meeting was to continue the probation violation hearing relating to Ron Marts and Marton LLC dba Marts Memorial Services that began during the Board's December 8-9, 2010 meeting. Sharon Euler, Division Legal Counsel, represented the State of Missouri and Ed Frownfelter Assistant Attorney General was advisor to the Board on procedural and evidentiary matters.

Prior to the hearing starting, Sam Mirable, counsel for Ron Marts/Martron LLC dba Marts Memorial Services approached the Board and requested a closed session to attempt to settle the matter.

Closed Meeting
Motion was made by James Reinhard and seconded by Archie Camden 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. Motion carried with James Reinhard, Archie Camden, D. Todd Mahn and Martin Vernon voting in favor with no votes in opposition. Gary Fraker and John McCulloch were not present for the vote.

The Board reconvened in open session at 3:52 p.m. and announced that the probation violation hearing would proceed as scheduled. At that time Ron Marts and his counsel, Sam Mirable, left the meeting by their choice and did not participate in the hearing.

The Board continued the probation violation hearing with Sharon Euler, Division legal counsel, requesting the Board to withdraw any exhibits presented by Sam Mirabile, counsel for Ron Marts/Marton Memorial Services, LLC, in the portion of the probation violation hearing that took place on December 8-9, 2010 as there were no copies left for the court reporter or the Board.

Closed Meeting

Motion was made and seconded 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. Motion carried with James Reinhard, Archie Camden, D. Todd Mahn and Martin Vernon voting in favor with no votes in opposition. Gary Fraker and John McCulloch were not present for the vote.

A motion was made by Martin Vernon and seconded by Archie Camden to adjourn the meeting. Motion carried with Gary Fraker, D. Todd Mahn, Martin Vernon, James Reinhard and Archie Camden voting in favor with no votes in opposition. John McCulloch was not present for the meeting. The meeting adjourned at 5:15 p.m.

Executive Director: _____

Approved by the Board on: _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
January 3, 2011
3605 Missouri Boulevard
Jefferson City, Missouri

MAIL BALLOT

Board Members
Daniel T. Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

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

January 11, 2011
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

Tuesday January 11, 2011

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 10:05 a.m. on Tuesday, January 11, 2011, via conference call at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call
Board Members Present
Gary Fraker, Chairman via conference call
Todd Mahn, Vice-Chairman via conference call
John McCulloch, Secretary via conference call
James Reinhard, Member via conference call
Archie Camden, Public Member via conference call
Martin Vernon, Public Member via conference call, joined late at 10:10 a.m.

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Sharon Euler, Division Legal Counsel via conference call

Closed Meeting
Motion was made by John McCulloch 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 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 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 Gary Fraker, Todd Mahn, John McCulloch, and James Reinhard, and Archie Camden voting in favor with no votes in opposition.

Adjournment

A motion was made by Martin Vernon and seconded by John McCulloch to adjourn the meeting. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, James Reinhard, and Archie Camden voting in favor with no votes in opposition. The meeting adjourned at 2:25 p.m.

Executive Director: _____

Approved by the Board on: _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
February 1, 2011
3605 Missouri Boulevard
Jefferson City, Missouri

MAIL BALLOT

Board Members
Gary Fraker, Chairman
Daniel T. Mahn, Vice-Chairman
John McCulloch, Secretary
James Reinhard, Member
Martin Vernon, Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

State Board of Embalmers and Funeral Directors

March 3, 2011
Division of Professional Registration
3605 MO Blvd
Jefferson City, MO 65109

OPEN MEETING MINUTES

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman at 9:12 a.m. on March 3, 2011.

Roll Call
Board Members Present
D. Todd Mahn, Vice Chairman
John McCulloch, Secretary by Conference Call
Martin Vernon, Member
Archie Camden, Public Member
James Reinhard, Member

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Tabatha Lenzini, Administrative Assistant
Sharon Euler, Legal Counsel
Randall Jennings, Examiner
Michelle Hankinson, Examiner

A motion was made by James Reinhard and seconded by D. Todd Mahn to approve agenda
Motion carried with Gary Fraker, John McCulloch, Martin Vernon, and Archie Camden voting in favor with no votes in opposition.

Electronic Death Certificate Update-
Ivra Cross was scheduled to meet with the Board however was unable to attend due to scheduling conflict. A member of the public stated that there would need to be a discussion if the funeral director needs to sign the death certificate; Chapter 333 may need to be changed where it currently states “person acting as such needs to sign;” and that Lexi from the Department of Health told them to go ahead and accept a death certificate that is not signed by a funeral director or embalmer due to the electronic death certificate system.

Sandy Sebastian introduced Lisa Wildhaber as new Examiner Supervisor.

Executive Director Report-

- Update on Marts Memorial Services- stay was lifted 3-11-2011 at 5:00 p.m. Sharon Euler, Legal counsel stated that the court appointed an interim manager and that the manager reported that concerns were still not fixed.
- Sharon updated on Brandtonies stating that they were sentenced to 7 years in prison.
- Sandy Sebastian updated on revenue collected for preneed and stated it is now on website and shows 15,209 contracts sold in the reporting period totaling $547,524.00. A member of the public questioned what would be done with the money and asked if it would go back to general revenue. Sandy stated that should the amount in the fund reach more than 2-3 times appropriation than sweep to general revenue could occur but that the fund is monitored.

Statistics

Statistics for 2010 were shared with the Board and have also been put on the website. This was handed out for informational purposes only, no votes were taken.

Legislation Status Update

- SB 340 and HB 668 bills will make changes to 333 if they pass.
- Don Otto- MFDEA likes what is in 340, however does not like one area where it references logs and register books. The association would like this rewritten to clearly state what the board is expecting from the establishments. The association is looking at cleanup language pertaining to chapter 436 where bank is to refund the money in 15 days. Banks are saying that they can not do that. The association looks to propose something like within 15 days the funeral director will get money to consumer. They are also looking at proposing that the provider and seller will notify the Board where records are kept. Mr. Otto stated that they will give final wording to Sharon Euler and Sandy Sebastian before submitting.

Preneed Financial Examination

Examiners Randall Jennings and Michelle Hankinson addressed the public on the process of the financial examinations. Informational only, no votes were taken.

Election of Officers

A motion was made by James Reinhard and seconded by Archie Camden to nominated D.Todd Mahn as chair. Motion carried with Gary Fraker, Martin Vernon and John McCulloch voting in favor with no votes in opposition.

A motion was made by Archie Camden and seconded by Martin Vernon to nominate James Reinhard as Vice Chairman. Motion carried with Gary Fraker, D. Todd Mahn and John McCulloch voting in favor with no votes in opposition.

A motion was made by D. Todd Mahn and seconded by James Reinhard to nominate John McCulloch for Secretary. Motion carried with Gary Fraker and Martin Vernon voting in favor. Archie Camden voted no in opposition.

Discussion of June, 2011 meeting
D. Todd Mahn mentioned that it should be held in Jefferson City. Sandy is going to look at dates and schedule the meeting.

Open Discussion/Dialogue

- Don Otto stated that at St. Francois there is a problem with preneed and is transferring them to another funeral home, problem is the correspondence with them. They would like a new seller to take over responsibility of the contracts. MFDEA would like the Board to work with the Attorney General's office to come up with an arrangement. The seller is located out of sate and does not want to have any seller responsibility. MFDEA would like the Board to say that all funds have to be in Missouri so that they can be audited. Most of the contracts are under new law.
- Brian Boyer stated that an official letter went out to the families at St. Francois that their contracts have been moved to another seller, but those establishments do not have anything in writing. Boyer would like the Board to stand behind them and contact Saber Management so the consumer can be protected. Boyer has been told that if he pursues this that Saber Management will turn them in to the Attorney General's Office. D. Todd Mahn asked if they were filing a claim with Saber when somebody passes. Boyer stated that he is not sending checks anymore on someone who wants to transfer their contract to another establishment.
- Ken McGhee commented that he would like for the Board to consider positing discipline on web. He believes that it creates transparency to protect the industry and the public as well as consistency and fairness. He would also like the Board to do web casting of the meetings for people that can not come to the meeting but might be able to log in to the meeting. Mr. McGhee would also like the Board to consider doing a web cast. Gary Fraker agrees that the best way to understand is to be a part of the meeting.
- Don Lakin asked why there are so many violations at establishments. Lori Hayes stated it could be contributed to issues with the backflow and register log. Mr. Lakin also stated that he believes that the state exam questions are out of line. He believes that the board should look at the questions and be able to review the exam.
- Don Otto extended an invitation to the June 6-7 association meeting in Columbia, Missouri. Mr. Otto would like to have the Board give an update on what has been happening in the industry.
- Darlene Russell stated that the seller they are using for their provider is charging them $100.00 and asked if the funeral home can pass this fee along to the consumer.
- Bill Williams with Funeral Services, Inc. is a third party administrator not a preneed seller out of Tallahassee, Florida. They would like to start working with Missouri and regulators. He sated that they work in several different states and it has worked very well.

A motion was made by Martin Vernon and seconded by Archie Camden to go in to closed session. Motion carried with Gary Fraker, D. Todd Mahn, John McCulloch and James Reinhard voting in favor with no votes in opposition.

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 610.021Subsection (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.

A motion was made by Archie Camden and seconded by D. Todd Mahn to adjourn the meeting. Motion carried with Gary Fraker, John McCulloch, James Reinhard and Martin Vernon voting in favor with no votes in opposition. The meeting adjourned at 3:57 on March 3, 2011.

Executive Director: _____

Approved by the Board on: _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
March 29. 2011
3605 Missouri Boulevard
Jefferson City, Missouri

MAIL BALLOT

Board Members
Daniel T. Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
April 12, 2011
3605 Missouri Boulevard
Jefferson City, Missouri

MAIL BALLOT

Board Members
Daniel T. Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
April 15, 2011
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
Daniel T. Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
May 3, 2011
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
Daniel T. Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

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 Ortbals, 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 610.021Subsection (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 thoses excess dunds 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 610.021Subsection (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.

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.

Attachment A

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 the 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

Attachment B

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.

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

Attachment D

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.

Attachment E

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

State Board of Embalmers and Funeral Directors

August 12, 2011
Division of Professional Registration
3605 MO Blvd
Jefferson City Missouri 65109

OPEN MEETING MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn at 12:25 p.m. on August 12, 2011.

Roll Call

Board Members Present
D. Todd Mahn, Chairman
James Reinhard, Vice Chair-Via conference call
John McCulloch, Secretary- via conference call
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Katie Ortbals, Licensure Technician
Lisa Wildhaber, Examiner Supervisor
Randall Jennings, Examiner
Michelle Hankinson, Examiner

Approval of Agenda
A motion was made by Gary Fraker and seconded by Martin Vernon to approve the amended open agenda. Motion carried with D. Todd Mahn, Gary Fraker, Martin Vernon, Archie Camden and James Reinhard voting in favor. John McCulloch was not present for the vote.

Legislative Proposal Discussion
Discussion was held in regards to legislative proposals regarding discipline on other professional licenses being used as grounds for discipline on a license or application regulated by our Board.
A motion was made by James Reinhard and seconded by Archie Camden to allow Board staff to pursue legislation regarding such. Motion carried with D. Todd Mahn,

Gary Fraker, Martin Vernon, Archie Camden and James Reinhard voting in favor. John McCulloch was not present for the vote.

Legal Counsel Report
Sharon Euler updated on the Board on pending litigation on the following:

Update on Buescher hearing. A judge has remanded this case be returned to the board for a new hearing. The Board office has not received any documents from the Attorney General's office at this time, but hope to have it by September meeting. The Attorney General's office is working on coming to an agreement with Buescher on the consumer case. At this time the consumers have either gotten their money back or transferred it if desired. No outstanding contracts are known of.

Update on NPS case. The Assistant United States Attorney intervened in civil case, therefore no under-oath statements have been taken at this time.

Ronald Marts/ Marts Memorial Service did not appeal the revocation order, so therefore that case is closed.

Licensure Committee
Martin Vernon and John McCulloch are still working on reviewing and reworking the license types. Combining some if possible was a review requested to be evaluated. They will be meeting with Chairman D. Todd Mahn to get further direction on issue.

Financial Examination Committee
D. Todd Mahn, Chair, appointed James Reinhard and Archie Camden to a new committee to have a more expeditious review of the financial examinations. The committee will work closely with staff on the examination process and will review reports, deferring matters to the full Board when they feel necessary.

NFDA Conference
The Board discussed the agenda for the NFDA conference and nominated James Reinhard and D. Todd Mahn to go to the meeting. This must be requested and approved by the Division prior to attending.

Open Discussion
Members of the public questioned the Board on the financial examination process; specifically if the exam would entail contracts that predated 1983 prior to when contracts were required by law. Sharon Euler indicated that the more information individuals provide to the Board the more thorough exam can be completed.

A motion was made by Archie Camden and seconded by Martin Vernon to go into closed session at 12:55 p.m.

A motion was made by Gary Fraker and seconded by Archie Camden to adjourn the meeting at 2:50 p.m. on August 12, 2011.

State Board of Embalmers and Funeral Directors
September 2, 2011
3605 Missouri Boulevard
Jefferson City, Missouri

Open Mail Ballot Minutes

Board Members
D. Todd Mahn, Chairman
James Reinhard, Vice-Chairman
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _____

Approved by Board on _____

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
Petitioner,	)	
VS	)	CASE NO. EMB 12-003 -PV
EDDIE SWARNES	)	
Respondent.	)	

NOTICE OF PROBATION VIOLATION HEARING

PLEASE TAKE NOTICE that the Missouri State Board of Embalmers and Funeral Directors shall hold a hearing for the purpose of determining the truth of the allegations set forth in the attached Probation Violation Complaint and, if the allegations are true, whether or not disciplinary action should be taken. The hearing will be held on **Wednesday, September 28, 2011 at 11:00a.m.** or as soon thereafter as the matter may be heard, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri 65109. Please be advised that your failure to appear at the hearing at the above-noted time and place will result in the hearing being held in your absence.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo 2009 and 324.042, RSMo 2009.

MISSOURI STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS

By: Sandy Sebastian
Sandy Sebastian
Executive Director

SEAL

Dated: August 31, 2011

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

FILED

AUG 3 1 2011

Board of Embalmers & Funeral Directors

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
PETITIONER,	)	
V.	)	CASE NO. EMB-12-003-PV
EDDIE J. SWARNES, 3923 THOLOZAN ST. LOUIS, MISSOURI 63116	)	
RESPONDENT.	)	

PROBATION VIOLATION COMPLAINT

COMES NOW, the State Board of Embalmers and Funeral Directors (the "Board") and for its Probation Violation Complaint against Respondent Eddie J. Swarnes ("Swarnes" or "Licensee"), states:

The Parties and Licenses

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo[1], for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.

2. Eddie J. Swarnes is an individual who has registered his address with the Board as 3923 Tholozan, St. Louis, Missouri 63116.

3. Swarnes holds funeral director license number 006143.

[1] All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

4. Swarnes and the Board entered into the "Settlement Agreement between State Board of Embalmers and Funeral Directors and Eddie Swarnes" (the "Settlement Agreement") signed by Swarnes on September 9, 2007 and by the Board on September 17, 2007.

5. In the Settlement Agreement, Swarnes and the Board agreed that Swarnes funeral director's license was subject to discipline due to the finding by the Circuit Court of the City of St. Louis that Swarnes violated certain provisions of Chapter 436, RSMo, and that Swarnes failed to trust properly preneed funds entrusted to him by consumers in the case of *State of Missouri v. Eddie J. Swarnes, et al.*, case number 05CC-003584.

6. Contained within the Settlement Agreement is the disciplinary order that placed Swarnes' funeral director license on probation for a period of five years beginning on October 2, 2007 and continuing until October 1, 2012 and subject to certain enumerated terms and conditions.

7. The terms and conditions of probation are set forth in paragraph II.2 found on pages 2 through 5 of the Settlement Agreement.

8. Subparagraph "D." of the terms and conditions of probation requires Swarnes to file periodic written reports of compliance and states:

> Swarnes shall submit written reports to the Board no later than January 1 and July 1 of the disciplinary period stating truthfully whether there has been compliance with all of the requirements of this settlement agreement. It is Swarnes' responsibility to ensure that the reports are submitted by the dates set forth above. The first such report is due by January 1, 2008.

9. The Board received Swarnes' written reports of compliance for January 1, 2008, July 1, 2008, January 1, 2009, and July 1, 2009.

10. Swarnes filed no written reports of compliance with the Board due on or before January 1, 2010, July 1, 2010, January 1, 2011, and July 1, 2011.

Jurisdiction and Venue

11. The Board possesses jurisdiction over this matter pursuant to Section 324.042, RSMo, and pursuant to Section II, paragraphs 3, 4, and 7 on pages 6 and 7 of the Settlement Agreement.

12. Venue is proper.

Relevant Statutes

13. Section 324.042, RSMo, states:

> Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

Violations of terms and conditions of probation

14. Swarnes violated condition D of Section II, paragraph 2 on pages 5 and 6 of the Settlement Agreement by failing to file timely his written reports of compliance due on January 1, 2010, July 1, 2010, January 1, 2011 and July 1, 2011.

15. Cause exists to impose further discipline on the funeral director license of Eddie J. Swarnes.

WHEREFORE, Petitioner asks that the Board provide notice and opportunity to be heard to Respondent pursuant to the provisions of Chapters 333 and 536, RSMo, and thereafter issue its findings of fact, conclusions of law and order imposing further

discipline on the funeral director license of Respondent and for such other relief as the Board deems just and proper.

Respectfully submitted,

Sharon K. Euler
Missouri Bar No. 42950

Legal Counsel
Division of Professional Registration
Fletcher Daniels State Office Building
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ATTORNEY FOR THE BOARD

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
Petitioner,	)	
VS	)	CASE NO. EMB 12-002 -PV
OLIVER FAMILY FUNERAL HOME, LLC	)	
Respondent.	)	
SERVE: JOHN OLIVER,	)	
Registered Agent	)	

NOTICE OF PROBATION VIOLATION HEARING

PLEASE TAKE NOTICE that the Missouri State Board of Embalmers and Funeral Directors shall hold a hearing for the purpose of determining the truth of the allegations set forth in the attached Probation Violation Complaint and, if the allegations are true, whether or not disciplinary action should be taken. The hearing will be held on **Wednesday, September 28, 2011 at 1:15p.m.** or as soon thereafter as the matter may be heard, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri 65109. Please be advised that your failure to appear at the hearing at the above-noted time and place will result in the hearing being held in your absence.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo 2009 and 324.042, RSMo 2009.

MISSOURI STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS

By: Sandy Sebastian
Sandy Sebastian
Executive Director

SEAL

Dated: August 31, 2011

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

FILED

AUG 3 1 2011

E. Embalmers
& Funeral Directors

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
PETITIONER,	)	
V.	)	CASE NO. EMB 12-002-PV
OLIVER FAMILY FUNERAL HOME, LLC, 102 E. SNEED CENTRALIA, MISSOURI 65240	)	
RESPONDENT.	)	

SERVE: JOHN OLIVER, REGISTERED AGENT
3778 COUNTY ROAD 2000
AUXVASSE, MISSOURI 65231

PROBATION VIOLATION COMPLAINT

COMES NOW, the State Board of Embalmers and Funeral Directors (the "Board") and for its Probation Violation Complaint against Respondent Oliver Family Funeral Home, LLC ("Oliver Funeral Home" or "Licensee"), states:

The Parties and Licenses

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo[1], for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.

[1] All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

2. Oliver Funeral Home is a Missouri limited liability company that has registered its address with the Board as 102 E. Sneed, Centralia, Missouri 65240.

3. Oliver Funeral Home holds preneed seller license number 2010027221.

4. On August 4, 2010, the Board issued its "Order of the State Board of Embalmers and Funeral Directors Issuing a Probationary Preneed Seller License to Oliver Funeral Home" (the "Probated Seller Order").

5. In the Probated Seller Order, the Board found cause to deny the application of Oliver Funeral Home for a preneed seller's license due to Oliver Funeral Home practicing as a preneed seller between November 1, 2009 and July 19, 2010 when it held no such license.

6. In lieu of denial, the Board issued Oliver Funeral Home a preneed seller license on probation for five years beginning on August 4, 2010 and ending on August 3, 2015 and subject to certain terms and conditions set forth in the Probated Seller Order.

7. In Section III, paragraph D, on page 5 of the Probated Seller Order, a condition of probation requires that Oliver Funeral Home (referred to as OFH) must submit periodic written reports and compliance and states:

> OFH shall submit written reports to the Board by no later than January 1 and July , during each year of the Disciplinary period, stating truthfully whether there has been compliance with all terms and conditions of this Order. A copy of the required report may be obtained from the Board.

8. Section III, paragraph M, on page 5 of the Probated Seller Order states:

> Any failure by OFH to comply with any condition of discipline set forth herein constitutes a violation of this Order.

9. Oliver Funeral Homes' first written report of compliance was due with the Board on or before January 1, 2011 and its second report was due on or before July 1, 2011.

10. The Board received no written report of compliance from Oliver Funeral Home on or before January 1, 2011 or on or before July 1, 2011.

11. As of the date of filing this Complaint, Oliver Funeral Home has filed no written report of compliance with the Board as required as a condition of probation for its preneed seller license.

Jurisdiction and Venue

12. The Board possesses jurisdiction over this matter pursuant to Section 324.042, RSMo, and pursuant to Section III, paragraphs H, I, K and M, on page 6 of the Probated Seller Order.

13. Venue is proper.

Relevant Statutes

14. Section 324.042, RSMo, states:

> Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

Violations of terms and conditions of probation

15. Oliver Funeral Home violated condition C of Section III, on page 5 of the Probated Seller Order by failing to file timely its written report of compliance due on January 1, 2011 and July 1, 2011.

16. Cause exists to impose further discipline on the preneed seller license of Oliver Funeral Home.

WHEREFORE, Petitioner asks that the Board provide notice and opportunity to be heard to Respondent pursuant to the provisions of Chapters 333 and 536, RSMo, and thereafter issue its findings of fact, conclusions of law and order imposing further discipline on the preneed seller license of Respondent and for such other relief as the Board deems just and proper.

Respectfully submitted,

Sharon K. Euler
Missouri Bar No. 42950

Legal Counsel
Division of Professional Registration
Fletcher Daniels State Office Building
615 East 13th Street, Suite 510
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ATTORNEY FOR THE BOARD

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
Petitioner,	)	
VS	)	CASE NO. EMB 12-001 -PV
MARK BAILEY	)	
Respondent.	)	

NOTICE OF PROBATION VIOLATION HEARING

PLEASE TAKE NOTICE that the Missouri State Board of Embalmers and Funeral Directors shall hold a hearing for the purpose of determining the truth of the allegations set forth in the attached Probation Violation Complaint and, if the allegations are true, whether or not disciplinary action should be taken. The hearing will be held on **Wednesday, September 28, 2011 at 2:30p.m.** or as soon thereafter as the matter may be heard, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri 65109. Please be advised that your failure to appear at the hearing at the above-noted time and place will result in the hearing being held in your absence.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo 2009 and 324.042, RSMo 2009.

MISSOURI STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS

By: Sandy Sebastian
Sandy Sebastian
Executive Director

SEAL

Dated: August 31, 2011

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

FILED

AUG 31 2011

By Embalmers & Funeral Directors

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
PETITIONER,	)	
V.	)	CASE NO. EMB12-001-PV
MARK BAILEY, 12705 NW 145TH STREET PLATTE CITY, MISSOURI 64079	)	
RESPONDENT.	)	

PROBATION VIOLATION COMPLAINT

COMES NOW, the State Board of Embalmers and Funeral Directors (the "Board") and for its Probation Violation Complaint against Respondent Mark Bailey ("Bailey" or "Licensee"), states:

The Parties and Licenses

1. The Board is an agency of the state of Missouri created and established by Section 333.151, RSMo[1], for the purposes of executing and enforcing the provisions of Chapter 333, RSMo, and the portions of Chapter 436, RSMo, related to preneed funeral contracts.

2. Bailey is an individual who resides at 12705 NW 145th Street, Platte City, Missouri 64079.

3. Bailey holds funeral director license number 004441 and embalmer license number 005979. Both licenses are current and active.

[1] All statutory references are to the Revised Statutes of Missouri (2000), as amended, unless otherwise indicated.

4. The Board and Bailey entered into a "Settlement Agreement Between the Missouri State Board of Embalmers and Funeral Directors and Mark Bailey" (the "Settlement Agreement"). Bailey signed the Settlement Agreement on February 23, 2010 and the Board signed it on March 1, 2010. The Settlement Agreement went into effect on March 16, 2010.

5. The Settlement Agreement placed Bailey's funeral director and embalmer licenses on probation for a period of 5 years, subject to compliance with certain terms and conditions of probation.

6. One of the terms and conditions of probation set forth in paragraph 21.H. on page 10 of the Settlement Agreement states:

> Bailey and the Executive Director shall submit written reports to the Board by no later than January 1 and July 1 during each year of the Disciplinary Period stating truthfully whether there has been compliance with all terms and conditions of this Settlement.

7. The Board received no written report of compliance from Bailey on or before July 1, 2010, January 1, 2011 nor July 1, 2011.

8. As of the date of filing this Complaint, Bailey has filed no written report of compliance with the Board as required as a condition of probation.

Jurisdiction and Venue

9. The Board possesses jurisdiction over this matter pursuant to Section 324.042, RSMo, and pursuant to paragraphs 22, 23, and 26 on pages 10 and 11 of the Settlement Agreement.

10. Venue is proper.

Relevant Statutes

11. Section 324.042, RSMo, states:

> Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

Violations of terms and conditions of probation

12. Bailey violated condition "H." of paragraph 21, on page 10 of the Settlement Agreement by failing to file timely his written reports of compliance due on July 1, 2010, January 1, 2011 and July 1, 2011.

13. Cause exists to impose further discipline on the funeral director and embalmer licenses held by Bailey.

WHEREFORE, Petitioner asks that the Board provide notice and opportunity to be heard to Respondent pursuant to the provisions of Chapters 333 and 536, RSMo, and thereafter issue its findings of fact, conclusions of law and order imposing further discipline on the funeral director and embalmer licenses of Respondent and for such other relief as the Board deems just and proper.

Respectfully submitted,

Sharon K. Euler
Missouri Bar No. 42950

Legal Counsel
Division of Professional Registration
Fletcher Daniels State Office Building
615 East 13th Street, Suite 510
Kansas City, Missouri 64106

Telephone: 816-889-3687
Telefax: 816-889-2345
E-mail: Sharon.euler@pr.mo.gov

ATTORNEY FOR THE BOARD

BEFORE THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS
STATE OF MISSOURI

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
Petitioner,	)	
vs	)	CASE NO. 10-1911 EM
BRIAN WINTERS,	)	
Respondent.	)	

NOTICE OF DISCIPLINARY HEARING

PLEASE TAKE NOTICE that the Missouri State Board of Embalmers and Funeral Directors is in receipt of the July 27, 2011 decision of the Administrative Hearing Commission, State of Missouri, in the case of *State Board of Embalmers And Funeral Directors vs Brian Winters, Case Number 10-1911*EM, wherein the Administrative Hearing Commission found that cause to take disciplinary action against your funeral director license under Sections 333.121.2(3) and (12).

Now therefore, the State Board of Embalmers and Funeral Directors shall, pursuant to Section 621.110, RSMo 2009 hold a hearing for the purpose of determining the appropriate disciplinary action. The hearing will be held on **Wednesday, September 28, 2011 at 3:15p.m.**, or as soon thereafter as the matter may be heard, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri 65109. Please be advised that your failure to appear at the hearing at the above-noted time and place will result in the hearing being held in your absence.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo 2009 and 324.042, RSMo 2009.

MISSOURI STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS

By: Sandy Sebastian
Sandy Sebastian, Executive Director

SEAL

Dated: September 1, 2011

Before the
Administrative Hearing Commission
State of Missouri

000127 AUG-2

STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS,	)	
Petitioner,	)	
vs.	)	No. 10-1911 EM
BRIAN WINTERS,	)	
Respondent.	)	

RECEIVED
AUG 02 2011
STATE BOARD OFFICE

DECISION

We hold that Brian Winters is subject to discipline because he failed to disclose to the State Board of Embalmers and Funeral Directors ("the Board") information regarding his revoked license in Illinois. Winters is also subject to discipline because he failed to disclose to the Board that he pled guilty to mail fraud.

Procedure

On October 8, 2010, the Board filed a complaint seeking discipline against Winters. On April 14, 2011, we served Winters with our notice of complaint and notice of hearing. We held a hearing on June 23, 2011. Stephanie White Thorn, Assistant Attorney General, represented the Board. Although notified of the time and place of the hearing, Winters was not present for the hearing. Our reporter filed the transcript on June 30, 2011.

RECEIVED
JUL 28 2011
ATTORNEY GENERAL'S OFFICE

Findings of Fact

1. Winters has held a Missouri funeral director's license since January 10, 2006. Winters has also held a Missouri embalmer's license since February 7, 2006. At all relevant times these licenses were and are current and active.

2. Between December 12, 1993, and August of 1995, Winters was an Illinois-licensed funeral director working for Russell Memorial Chapel located in East St. Louis, Illinois.

3. Between December 12, 1993, and August of 1995, Winters was part of a scheme to defraud purchasers of prearranged funeral plans, the federal government, and Russell Memorial Chapel of more than $30,000.

4. Winters accomplished the fraud by selling pre-arranged funerals on behalf of Russell Memorial Chapel and then failing to pay over to Russell Memorial Chapel the funds he had received.

5. Winters also falsified and forged assignment forms that he mailed to insurance companies and the United States government. By mailing these fraudulent assignment forms, he caused others to mail to him funds to which he was not entitled.

6. On February 4, 1997, Winters pled guilty in the United States District Court, Southern District of Illinois, to the charge of mail fraud.

7. Winters was committed to the United States Bureau of Prisons for 16 months, followed by three years of supervised release.

8. Winters was assessed $50.00 and ordered to pay restitution of $36,854.62.

9. On August 26, 1998, Winters' Illinois funeral director/embalmer license was revoked. The basis for the discipline was Winters' felony conviction for mail fraud in the United States District Court, Southern District of Illinois.

10. On March 29, 2004, Winters applied for both an embalmer and funeral director license through the Board. In both of these applications Winters did not reveal that he had been subjected to discipline when asked. Winters also failed to reveal that he had been charged with and convicted of a felony when asked on the applications.

11. On March 23, 2006, Winters applied to renew both his embalmer and funeral director license through the Board. In both of these applications Winters did not reveal that he had been subject to discipline when asked. Winters also failed to reveal that he had been charged with and convicted of a felony when asked on the applications.

12. On April 1, 2008, Winters applied to renew both his embalmer and funeral director license through the Board. In both of these applications Winters did not reveal that he had been subject to discipline when asked. Winters also failed to reveal that he had been charged with and convicted of a felony when asked on the applications.

Conclusions of Law

We have jurisdiction to hear the complaint.[1] The Board has the burden of proving that Winters has committed an act for which the law allows discipline.[2] The Board meets this burden by substantial evidence of probative value or by inferences reasonably drawn from the evidence.[3]

Cause for Discipline

The complaint cites the provisions of § 333.330.2 allowing discipline for:

> (3) Use of fraud, deception, misrepresentation...in securing any certificate of registration or authority, permit, or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;
>
> * * *

[1]Section 621.045. Statutory references are to RSMo Supp. 2010 unless otherwise noted.
[2]*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).
[3]*Farnham v. Boone*, 431 S.W.2d 154 (Mo. 1968).

> (12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact [.]

Use of Fraud, Deception, Misrepresentation in Securing License - Subdivision (3)

Fraud is an intentional perversion of truth to induce another to act in reliance upon it.[4] It necessarily includes dishonesty, which is a lack of integrity or a disposition to defraud or deceive.[5] Deception means an act designed to cheat someone by inducing their reliance on misrepresentation.[6] A misrepresentation is a falsehood or untruth made with the intent and purpose of deceit.[7]

On at least six occasions Winters failed to disclose to the Board his prior felony conviction, his prior attainment of licensure in the state of Illinois, and the subsequent discipline of his licenses in Illinois. Winters' failure to disclose these facts caused the Board to render him licenses to practice in Missouri. The Board necessarily relies on the statements of it applicants in determining their fitness to be licensed within the State. The candor and truthfulness of applicants is essential to the integrity of the licensing process. If the Board was made aware of Winters' conviction and discipline in Illinois prior to its issuing and repeated renewals of Winters' licenses, the Board would have had grounds for denial pursuant to § 333.121.2(2) and (8), RSMo 2000.

Therefore, we hold that Winters is subject to discipline under § 333.330.2(3) for fraud, deception, and misrepresentation.

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[4]*Hernandez v. State Bd. of Regis'n for Healing Arts*, 936 S.W.2d 894, 899 n.2 (Mo. App., W.D. 1997).
[5]MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 359 (11th ed. 2004).
[6]*State ex rel. Nixon v. Telco Directory Publishing*, 836 S.W.2d 596, 600 (Mo. banc 1993).
[7]*Id.* at 794.

Causing Issuance of a License based on a
Material Mistake of Fact – Subdivision (12)

A mistake of fact is "an erroneous belief not in accord with the facts."[8] The dictionary definition of "material" is "of real importance or great consequence : SUBSTANTIAL . . . ESSENTIAL . . . requiring serious consideration by reason of having a certain or probable bearing[.]"[9] The initial license and subsequent renewal licenses were issued to Winters based on a material mistake of fact that Winters was never convicted of a felony nor had a license disciplined in another jurisdiction. Winters repeatedly failed to disclose to the Board his prior felony conviction and the discipline of his licenses in Illinois. Based on its belief that Winters' statements on his applications were in fact true, the Board provided Winters with licensure.

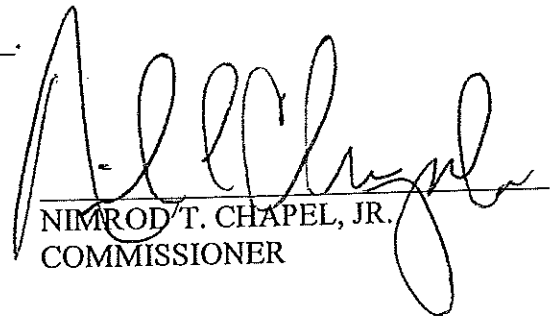
We hold that Winters is subject to discipline under § 333.330.2(12) for causing issuance of a license based on a material mistake of fact.

Summary

Winters is subject to discipline under § 333.330.2(3) and (12).

[8] *In re Estate of Hysinger*, 785 S.W.2d 619, 624 (Mo. App., E.D. 1990).
[9] WEBSTER'S THIRD NEW INT'L DICTIONARY 1392 (unabr. 1986).

SO ORDERED on July 27, 2011.



NIMROD T. CHAPEL, JR.
COMMISSIONER